

OKLAHOMA STATUTES  
TITLE 74. STATE GOVERNMENT

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4. Be employed in any of the positions authorized by this section if a relative within the third degree of consanguinity or affinity sells to or otherwise provides acquisitions to any agency subject to The Oklahoma Central Purchasing Act or is interested in any business entity which does so, except that such relative, excluding a spouse or child, may own Five Thousand Dollars (\$5,000.00) worth or less, or one percent (1%) or less, whichever amount is the lesser amount, of the stock of a corporation or any business entity which sells to or otherwise provides acquisitions to any state agency subject to The Oklahoma Central Purchasing Act. ....	127
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#### §74-1. Office - Location of.

The governor shall keep his office at the seat of government, in which shall be transacted the business of the executive department of the state.

R.L.1910, § 8051.

#### §74-2. May remove officers appointed.

The Governor shall have power to remove any officers appointed by him, in case of incompetency, neglect of duty, or malfeasance in office; and may then fill the same as provided in cases of vacancy.

R.L.1910, § 8052.

##### §74-2.1. Filing of Gubernatorial appointments with Senate.

All Gubernatorial appointments to state agencies, boards and commissions which require confirmation by the Senate and which occur when the Legislature is not in session shall be filed by the Governor with the President Pro Tempore of the Senate within ten (10) days of the time said appointments are made by the Governor. Laws 1981, c. 272, § 43, eff. July 1, 1981.

##### §74-2.2. Vacancies requiring legislative confirmation - Interim appointments.

A. When a vacancy occurs in any position in state government and appointment to the position for a full term is subject to confirmation by one or both houses of the Legislature, such

confirmation shall be required for the appointment to fill the vacancy for the unexpired term.

B. A person whose nomination has been submitted to the Legislature may be appointed to hold such office on an acting or interim basis and may assume the duties of the office and receive any compensation or travel reimbursement allowed by law for the position pending confirmation by one or both houses of the Legislature. No person whose nomination has been withdrawn by the Governor or other appointing authority after the effective date of this act or rejected by one or both houses of the Legislature after the effective date of this act shall be eligible to hold such office on an acting or interim basis. Provided, such person shall be eligible for acting or interim appointment if requested by the appropriate house or houses of the Legislature.  
Added by Laws 1988, c. 303, § 36, emerg. eff. July 1, 1988.

§74-2.3. "Congressional district" defined.

A. Except where otherwise specified by law, the term "congressional district", when used with respect to the appointment of a member of a state board, commission, authority, or other statutory entity, shall mean the district as most recently configured by law.

B. For entities which subsection A of this section renders out of compliance with specific statutory requirements, subsequent appointments shall be so made as to cause compliance to be effected at the earliest possible date.  
Added by Laws 1992, c. 364, § 1, emerg. eff. June 4, 1992.

§74-2.4. Change in number of congressional districts - Conflicts in board membership requirements.

If a change in the number of congressional districts creates a conflict between a requirement that a board, commission, authority, or other statutory entity shall have a specified number of members and a requirement that one or more members shall be appointed from each congressional district, the appointing authority shall make appointments as follows:

1. If the conflict has been created by a decrease in the number of districts, the appointing authority shall make additional appointments as necessary to maintain a full board and may make said additional appointments without regard to the appointee's district of residence; and

2. If the conflict has been created by an increase in the number of districts, the appointing authority shall make only such appointments as are necessary to maintain a full board, doing so in such fashion that the members are distributed among the districts to the greatest possible extent.

Added by Laws 1992, c. 364, § 13, emerg. eff. June 4, 1992.

§74-3. Repealed by Laws 2016, c. 174, § 2.

§74-3.1. Recording of official acts

Official acts of the Governor shall be recorded and maintained by the Secretary of State. Such official records shall be available to the public as provided by law.

Added by Laws 2016, c. 174, § 1.

§74-4. Military record to be kept.

The Governor shall cause a military record to be kept, in which shall be made an entry of every act done by him as commander in chief.

R.L.1910, § 8054.

§74-5. Repealed by Laws 2016, c. 174, § 3.

§74-6. May employ counsel for State.

The Governor shall have power to employ counsel to protect the rights or interests of the state in any action or proceeding, civil or criminal, which has been, or is about to be commenced, and the counsel so employed by him may, under the direction of the Governor, plead in any cause, matter, or proceeding in which the state is interested or a party, may prosecute offenses against the law of the state, and may institute and conduct proceedings before grand juries; provided, that nothing herein contained shall limit the power of courts of record to appoint an attorney to prosecute criminal actions in such courts when the district attorney is disqualified or unable to act.

R.L.1910, § 8056.

§74-7. Maintenance of Governor's mansion.

The Governor of the State of Oklahoma is hereby authorized, at the expense of the state, and within the limitations of the appropriation authorized below, to maintain in such manner as the governor deems necessary and appropriate, the mansion provided for his occupancy by the State of Oklahoma and to pay all expenses connected with said occupancy. Such expenses shall include food, entertainment and such other expenditures as would be necessary and proper for the Governor, the family and the guests of the Governor when the duties of the Office of Governor dictate such expenditures. The expense of the occupancy and upkeep of the Governor's Mansion shall be from funds appropriated annually by the Legislature from the General Revenue Fund for such purposes. The funds shall be paid monthly upon a claim approved by the Governor of Oklahoma. The Governor shall deposit such funds in a separate account and shall keep a separate record of all expenditures. At the end of the

fiscal year, the Governor shall submit an itemized report, or final accounting, of such expenditures to the State Auditor and Inspector. Such report shall be a public record and shall be made available for inspection upon demand.

Added by Laws 1929, c. 272, p. 395, § 1, emerg. eff. June 13, 1929. Amended by Laws 1983, c. 334, § 7, emerg. eff. June 30, 1983; Laws 1992, c. 332, § 8, eff. July 1, 1992; Laws 1999, c. 165, § 1, eff. Nov. 1, 1999.

§74-8. Governor - Incapacity - Devolution of powers and duties.

A. The Office of Governor, with its compensation, shall devolve upon the Lieutenant Governor or the person who is next in succession to the Office pursuant to the provisions of Section 15 of Article VI of the Oklahoma Constitution if the Governor transmits to the President Pro Tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his Office. The Lieutenant Governor or other successor shall hold the Office until the Governor transmits to the President Pro Tempore of the Senate and the Speaker of the House of Representatives a written declaration that he is able to perform the powers and duties of his Office.

B. If a majority of a committee, comprised of the State Auditor and Inspector, State Treasurer, Superintendent of Public Instruction, Chairman of the Corporation Commission and Insurance Commissioner, transmits to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor its written declaration that the Governor is unable to discharge the powers and duties of his Office, then the Office, with its compensation, shall devolve upon the Lieutenant Governor or other successor in forty-eight (48) hours unless the Governor transmits to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the members of the committee a written declaration to the contrary within the same forty-eight-hour time period.

C. If, within forty-eight (48) hours after the Governor transmits such a declaration, a majority of the committee provided in subsection B of this section transmits to the President Pro Tempore of the Senate and the Speaker of the House of Representatives a written declaration that the Governor is unable to perform the powers and duties of his Office, then the Legislature shall convene within seventy-two (72) hours. If a resolution declaring probable justification for a determination that inability exists is not adopted by two-thirds (2/3) of the members of each house of the Legislature within seventy-two (72) hours after the Legislature convenes, then the Governor shall continue to hold the Office.

If such a resolution is adopted by two-thirds (2/3) of the members of each house of the Legislature within seventy-two (72) hours after the Legislature convenes, then a copy of the resolution shall be transmitted immediately to the Supreme Court.

D. The Supreme Court shall determine the issue of the inability of the Governor, by preference and with priority over all other matters, under such rules as it shall adopt. If the Supreme Court determines that the Governor is unable to perform the powers and duties of his Office, then the Office, with its compensation, shall devolve upon the Lieutenant Governor or other successor. If the Supreme Court determines that the Governor is able, then he shall continue to hold the Office.

E. If the Office has devolved upon the Lieutenant Governor or other successor pursuant to the provisions of this act, and a majority of the committee provided in subsection B of this section transmits to the President Pro Tempore of the Senate and the Speaker of the House of Representatives a written declaration that the Governor is able to perform the powers and duties of his Office, then the Supreme Court shall determine the issue pursuant to the provisions of subsection D of this section.

F. When the Office has devolved upon the Lieutenant Governor or other successor, the provisions of this act shall also apply to the person holding the Office.

Added by Laws 1985, c. 111, § 1, emerg. eff. May 28, 1985.

#### §74-9.2. SECTION 74-9.2 Other necessary committees - Expenses.

In the event the United States of America becomes actually at war with any foreign power, or to cooperate with the National Defense Program, the Governor may, if necessity demands, appoint committees as the need may arise to deal with defense problems affecting this state and may pay the expenses of same out of any contingency fund appropriated for the use of the Governor.

Laws 1941, p. 439, § 2.

§74-9.11. Repealed by Laws 2016, c. 174, § 4.

#### §74-9.21. Creation of office.

There is hereby established an agency of the executive branch of state government to be known as the Office of Disability Concerns.

Added by Laws 1980, c. 135, § 1. Amended by Laws 2007, c. 98, § 4, eff. Nov. 1, 2007.

#### §74-9.22. Powers and duties.

The Office of Disability Concerns shall have the following powers and duties:

1. To identify the needs of people with disabilities on a continuing basis and to attempt to meet those needs;

2. To serve as a referral and information source for people with disabilities seeking services and for agencies seeking assistance in their provision of services;

3. To generate community awareness and support of programs for people with disabilities;

4. To advise and assist the Governor and the Legislature in developing policies to meet the needs of people with disabilities; and

5. To assist agencies in meeting the requirements of Public Law 93-112, and subsequent amendments thereto, as the same pertain to people with disabilities.

Added by Laws 1980, c. 135, § 2. Amended by Laws 1996, c. 132, § 1, eff. Nov. 1, 1996; Laws 2007, c. 98, § 5, eff. Nov. 1, 2007.

§74-9.23. Director - Appointment, duties and compensation of employees

A. The Office of Disability Concerns shall be administered by a Director who shall be appointed by the Governor and serve at the pleasure of the Governor. Such appointment shall be subject to Senate confirmation within thirty (30) days after the appointment or the convening of the next legislative session, if the Legislature is not in session on the date of appointment.

B. The Director shall and is hereby authorized to appoint and fix the duties and compensation of employees, not otherwise prescribed by law, and otherwise direct the work of the staff in performing the functions and accomplishing the purposes of the Office of Disability Concerns.

C. The Director, subject to the approval of the State Purchasing Director, may use purchase cards for invoices relating to telecommunication services.

Added by Laws 1980, c. 135, § 3. Amended by Laws 2007, c. 98, § 6, eff. Nov. 1, 2007; Laws 2016, c. 218, § 1, eff. Nov. 1, 2016.

§74-9.24. Additional duties.

The Office of Disability Concerns shall be responsible for the following duties:

1. To carry out the responsibilities of the Governor's Advisory Committee on Employment of People with Disabilities;

2. To provide referral assistance, continuing needs assessment and to advise and assist private and public agencies in statewide policy development concerning people with disabilities; and

3. To implement the provisions of Public Law 93-112, and subsequent amendments thereto, as such pertain to people with disabilities.

Added by Laws 1980, c. 135, § 4. Amended by Laws 1986, c. 169, § 5, operative July 1, 1986; Laws 1996, c. 132, § 2, eff. Nov. 1, 1996; Laws 2007, c. 98, § 7, eff. Nov. 1, 2007.

§74-9.25. Assistance of Governor's advisory committees.

The Office of Disability Concerns shall be assisted by the Governor's Advisory Committee on Employment of People with Disabilities and the Governor's Advisory Committee to the Office of Disability Concerns.

Added by Laws 1980, c. 135, § 5. Amended by Laws 1996, c. 132, § 3, eff. Nov. 1, 1996; Laws 2007, c. 98, § 8, eff. Nov. 1, 2007.

§74-9.26. Governor's Advisory Committee to the Office of Disability Concerns.

The Governor's Advisory Committee to the Office of Disability Concerns shall be composed of forty (40) members who shall be appointed by the Governor. Such members shall serve at the pleasure of the Governor. Twenty of such members shall be people with disabilities or the parents of people with disabilities. All members of the Committee traveling on authorized state business may be reimbursed for expenses incurred in such travel in accordance with the State Travel Reimbursement Act, Section 500.1 et seq. of this title.

Added by Laws 1980, c. 135, § 6. Amended by Laws 1996, c. 132, § 4, eff. Nov. 1, 1996; Laws 2007, c. 98, § 9, eff. Nov. 1, 2007.

§74-9.27. Rules and regulations.

The Office of Disability Concerns is hereby authorized to make necessary rules and regulations to carry out the provisions of this act.

Added by Laws 1980, c. 135, § 7. Amended by Laws 2007, c. 98, § 10, eff. Nov. 1, 2007.

§74-9.27A. Client Assistance Program.

The office is hereby authorized to conduct the Client Assistance Program for the State of Oklahoma under the terms of Section 112 of the Rehabilitation Act of 1973 as amended as long as federal funds are available. The office is authorized to pursue legal and administrative remedies necessary to operate this program.

Added by Laws 1986, c. 169, § 4, operative July 1, 1986. Amended by Laws 1987, c. 206, § 7, operative July 1, 1987; Laws 1987, c. 236, § 1, emerg. eff. July 20, 1987.

§74-9.28. Transfer of powers and duties, etc. of Governor's Advisory Committee on Employment of People with Disabilities.

All the powers, duties, functions, records, employees, property, matters pending and funds of the Governor's Advisory Committee on Employment of People with Disabilities are hereby transferred to the Office of Disability Concerns.

Added by Laws 1980, c. 135, § 8. Amended by Laws 1996, c. 132, § 5, eff. Nov. 1, 1996; Laws 2007, c. 98, § 11, eff. Nov. 1, 2007.

§74-9.29. The Governor's Advisory Committee on Employment of People with Disabilities - Creation.

There is hereby created within the Office of Disability Concerns a division for "The Governor's Advisory Committee on Employment of People with Disabilities".

Added by Laws 1957, p. 522, § 1, emerg. eff. May 24, 1957. Amended by Laws 1980, c. 135, § 9. Renumbered from § 301 of Title 40 by Laws 1980, c. 135, § 16. Amended by Laws 1996, c. 132, § 6, eff. Nov. 1, 1996; Laws 2007, c. 98, § 12, eff. Nov. 1, 2007.

§74-9.30. Purpose of act - Cooperation with other agencies.

The purpose of this act is to carry on a continuing program to promote the employment of the physically, mentally, emotionally, and otherwise people with disabilities of Oklahoma by creating statewide interest in the rehabilitation and employment of people with disabilities, and by obtaining and maintaining cooperation with all public and private groups and individuals in this field. The Governor's Committee shall work in close cooperation with the President's Committee on Employment of People with Disabilities to more effectively carry out the purpose of this act, and with state and federal agencies having responsibilities for employment and rehabilitation of people with disabilities.

Added by Laws 1957, p. 522, § 2, emerg. eff. May 24, 1957.

Renumbered from Title 40, § 302 by Laws 1980, c. 135, § 16. Amended by Laws 1996, c. 132, § 7, eff. Nov. 1, 1996.

§74-9.31. Governor's Advisory Committee on Employment of People with Disabilities - Membership - Appointment - Vacancies - Travel expenses.

The Governor's Advisory Committee on Employment of People with Disabilities shall consist of not more than seventy-five (75) members composed of state leaders of industry, business, agriculture, labor, veterans, women, religious, educational, civic, fraternal, welfare, scientific, and medical and other professions, groups or individuals who shall be appointed by the Governor for a term of two (2), four (4) or six (6) years. Vacancies on the Committee shall be filled by the Governor. All members of the Committee traveling on authorized state business may be reimbursed for expenses incurred in such travel in accordance with the State Travel Reimbursement Act, Section 500.1 et seq. of this title.

Added by Laws 1957, p. 523, § 3, emerg. eff. May 24, 1957. Amended by Laws 1980, c. 135, § 10. Renumbered from Title 40, § 303 by Laws 1980, c. 135, § 16. Amended by Laws 1996, c. 132, § 8, eff. Nov. 1, 1996.



§74-9.32. Executive committee.

The Governor's Advisory Committee on Employment of People with Disabilities shall elect from its membership, a chair, vice-chair, secretary-treasurer, and eight other members to serve on the executive committee. The officers shall be elected for a term of one (1) year, but may succeed themselves. The administrative powers and duties of the Committee shall be vested in the executive committee. An organizational meeting shall be held within sixty (60) days after fifty members of the Committee have been appointed and qualified. The full Committee shall meet semiannually, but, at the request of the chair or executive committee, special meetings may be called. The executive committee shall meet quarterly, but special meetings may be called by the chair or six members of the executive committee.

Added by Laws 1957, p. 523, § 5, emerg. eff. May 24, 1957. Amended by Laws 1980, c. 135, § 11. Renumbered from Title 40, § 305 by Laws 1980, c. 135, § 16. Amended by Laws 1996, c. 132, § 9, eff. Nov. 1, 1996.

§74-9.33. Office of Disability Concerns Revolving Fund.

There is created in the State Treasury a revolving fund for the Office of Disability Concerns to be designated as the "Office of Disability Concerns Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all nonfederal monies received by the Office of Disability Concerns, including receipts, from any state agency or institution, gifts, contributions, donations and bequests. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Office of Disability Concerns to perform duties as prescribed by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1957, p. 523, § 6, emerg. eff. May 24, 1957. Amended by Laws 1980, c. 135, § 12. Renumbered from § 306 of Title 40 by Laws 1980, c. 135, § 16. Amended by Laws 1988, c. 174, § 4, operative July 1, 1988; Laws 2007, c. 98, § 13, eff. Nov. 1, 2007; Laws 2012, c. 304, § 693.

§74-9.34. Gifts, donations, bequests or grants.

The Office of Disability Concerns shall accept, hold in trust, and authorize the use of any grant or devise of land, or any donations or bequests of money or other personal property made to the Office so long as the terms of the grant, donation, bequest or will are carried out. The Office may invest and reinvest any funds and money, lease, or sell any real or personal property, and invest

the proceeds for the purpose of promoting the well-being of people with disabilities unless prohibited by the terms of the grant, donation, bequest, gift, or will. If, due to circumstances, the requests of the person or persons making the grant, donation, bequest, gift, or will cannot be carried out, the Office shall have the authority to use the remainder thereof for the purposes of this act. Said funds shall be deposited to the revolving fund to carry out the provisions of this act. Such gifts, donations, bequests, or grants shall be exempt for tax purposes. The Office shall report annually to the Governor all monies and properties received and expended by virtue of this section.

Added by Laws 1957, p. 523, § 7, emerg. eff. May 24, 1957. Amended by Laws 1980, c. 135, § 13. Renumbered from § 307 of Title 40 by Laws 1980, c. 135, § 16. Amended by Laws 1996, c. 132, § 10, eff. Nov. 1, 1996; Laws 2007, c. 98, § 14, eff. Nov. 1, 2007.

§74-9.35. Nonpartisan and nonprofit character of Committee.

The Governor's Advisory Committee on Employment of People with Disabilities shall be nonpartisan, nonprofit, and shall not be used for the dissemination of partisan principles, nor for the promotion of the candidacy of any person seeking public office or preferment. Added by Laws 1957, p. 524, § 8, emerg. eff. May 24, 1957. Amended by Laws 1980, c. 135, § 14. Renumbered from Title 40, § 308 by Laws 1980, c. 135, § 16. Amended by Laws 1996, c. 132, § 11, eff. Nov. 1, 1996.

§74-9.41. Repealed by Laws 2000, c. 251, § 4, eff. July 1, 2000.

§74-10. Compensation when acting as Governor.

The Lieutenant Governor when serving as acting Governor during the absence of the Governor from the state shall be paid for his services as acting Governor at the same rate of pay as the Governor. Added by Laws 1947, p. 585, § 1, emerg. eff. May 16, 1947.

§74-10.1. Short title.

Sections 1 through 5 of this act shall be known and may be cited as the "Executive Branch Reform Act of 1986". Added by Laws 1986, c. 207, § 1, emerg. eff. June 6, 1986.

§74-10.2. Purpose of act.

The purpose of the Executive Branch Reform Act of 1986 is to organize the various departments, agencies, boards, commissions and other entities of the executive branch of state government into a cabinet system of government in order to improve the effectiveness, efficiency and accountability of state government. Added by Laws 1986, c. 207, § 2, emerg. eff. June 6, 1986.

§74-10.3. Cabinet system to be created.

A. Within forty-five (45) days of assuming office, each Governor may create a cabinet system for the executive branch of state government. The cabinet system may be an organizational framework created by executive order which includes all executive agencies, boards, commissions, or institutions and their assignments to specific cabinet areas. The cabinet system shall consist of no more than fifteen cabinet areas and each cabinet area shall consist of executive agencies, boards, commissions, or institutions with similar programmatic or administrative objectives. One cabinet area shall consist of the Oklahoma Department of Veterans Affairs, its institutions and other executive agencies, boards, commissions and institutions which are related to veterans. The Governor's cabinet shall be in effect until the Legislature supersedes each specific cabinet area or department by providing by law for specific cabinet areas or departments, or removes by law the authority of the Governor to create a cabinet area. At any time during the Governor's term of office, the cabinet may be modified at the sole discretion of the Governor subject to Senate confirmation as provided by subsection B of this section.

B. The Governor shall appoint, with the advice and consent of the Senate, a Secretary to head each cabinet area. The Secretary appointee for the cabinet area consisting of the Oklahoma Department of Veterans Affairs and other related veterans entities shall be an honorably discharged veteran and be eligible to receive benefits from the United States Department of Veterans Affairs. A cabinet Secretary may be appointed as a position funded by the Office of the Governor from funds available to that office, or appointed as a cabinet Secretary from among the agency heads within the cabinet area. The cabinet Secretaries shall:

1. Advise the Governor of any policy changes or problems within the area they represent;
2. Advise the entities represented of any policy changes or problems as directed by the Governor; and
3. Coordinate information gathering for the Legislature as requested.

C. The cabinet Secretaries shall serve at the pleasure of the Governor, however, the appointment or removal of a cabinet Secretary who is also an agency head shall not otherwise affect the status of the other duties of the agency head. Whenever a Secretary position becomes vacant, the Governor shall appoint a successor within thirty (30) calendar days pursuant to the provisions of subsection B of this section. If the Legislature is not in session at the time of appointment it shall be subject to the advice and consent of the Senate upon convening of the next regular session of the Legislature.

Added by Laws 1986, c. 207, § 3, emerg. eff. June 6, 1986. Amended by Laws 1989, c. 27, § 2, operative July 1, 1989; Laws 2003, c. 371, § 1; Laws 2005, c. 65, § 1, eff. Nov. 1, 2005; Laws 2005, c. 428, § 1, emerg. eff. June 6, 2005; Laws 2009, c. 451, § 22, eff. April 5, 2010; Laws 2012, c. 127, § 1, eff. Nov. 1, 2012.

NOTE: Laws 2003, c. 189, § 1 repealed by Laws 2003, c. 371, § 4. Laws 2012, c. 304, § 694 repealed by Laws 2013, c. 15, § 100, emerg. eff. April 8, 2013.

NOTE: Laws 2009, c. 451, § 26, provides: "The provisions of Sections 3 through 15, 17 through 20, 22 and 23 of this act shall be effective and shall become operative on the effective date of the appointment of the first Chief Information Officer by the Governor as provided for in Section 2 of this act." The first Chief Information Officer was appointed by the Governor on April 5, 2010.

§74-10.4. Repealed by Laws 2014, c. 49, § 1, eff. Nov. 1, 2014.

#### §74-10.5. Salaries.

Notwithstanding other limits established by law, the following cabinet Secretaries may be annually compensated for their services, payable monthly, as follows:

1. The Secretary of Human Resources and Administration may receive a maximum salary of Seventy Five Thousand Dollars (\$75,000.00);

2. The Secretary of Agriculture may receive a maximum salary of Seventy Thousand Dollars (\$70,000.00);

3. The Secretary of Commerce and Tourism may receive a maximum salary of Seventy Thousand Dollars (\$70,000.00);

4. The Secretary of Education may receive a maximum salary of Sixty-five Thousand Dollars (\$65,000.00);

5. The Secretary of Energy may receive a maximum salary of Seventy Thousand Dollars (\$70,000.00);

6. The Secretary of Finance and Administration may receive a maximum salary of Ninety Thousand Dollars (\$90,000.00);

7. The Secretary of Health and the Secretary of Human Services may receive a maximum salary of Eighty Thousand Dollars (\$80,000.00);

8. The Secretary of Safety and Security may receive a maximum salary of Eighty-five Thousand Dollars (\$85,000.00);

9. The Secretary of State may receive a maximum salary of Sixty-five Thousand Dollars (\$65,000.00). However, if the Secretary of State is designated as a cabinet Secretary, the salary of the Secretary of State may be increased to an amount not to exceed the highest salary provided for a cabinet Secretary pursuant to this section; and

10. The Secretary of Veterans Affairs may receive a maximum salary of Sixty-five Thousand Dollars (\$65,000.00).

Added by Laws 1997, c. 384, § 2, eff. July 1, 1997. Amended by Laws 2000, c. 418, § 13, eff. July 1, 2000; Laws 2003, c. 371, § 2.

§74-10.6. Renumbered as § 51.1 of this title by Laws 2004, c. 157, § 8, emerg. eff. April 26, 2004.

§74-18. Attorney General as chief law officer.

The Attorney General shall be the chief law officer of the state.

Laws 1939, p. 44, § 1.

§74-18a. Oath of office.

Before the Attorney General enters upon the duties of his office, he shall execute the constitutional oath of office, which oath shall be filed in the office of the Secretary of State.

Laws 1939, p. 44, § 2; Laws 1973, c. 131, § 1, emerg. eff. May 10, 1973; Laws 1980, c. 159, § 32, emerg. eff. April 2, 1980.

§74-18b. Duties of Attorney General - Counsel of Corporation Commission as representative on appeal from Commission

A. The duties of the Attorney General as the chief law officer of the state shall be:

1. To appear for the state and prosecute and defend all actions and proceedings, civil or criminal, in the Supreme Court and Court of Criminal Appeals in which the state is interested as a party;

2. To appear for the state and prosecute and defend all actions and proceedings in any of the federal courts in which the state is interested as a party;

3. To initiate or appear in any action in which the interests of the state or the people of the state are at issue, or to appear at the request of the Governor, the Legislature, or either branch thereof, and prosecute and defend in any court or before any commission, board or officers any cause or proceeding, civil or criminal, in which the state may be a party or interested; and when so appearing in any such cause or proceeding, the Attorney General may, if the Attorney General deems it advisable and to the best interest of the state, take and assume control of the prosecution or defense of the state's interest therein;

4. To consult with and advise district attorneys, when requested by them, in all matters pertaining to the duties of their offices, when the district attorneys shall furnish the Attorney General with a written opinion supported by citation of authorities upon the matter submitted;

5. To give an opinion in writing upon all questions of law submitted to the Attorney General by the Legislature or either branch thereof, or by any state officer, board, commission or department, provided, that the Attorney General shall not furnish

opinions to any but district attorneys, the Legislature or either branch thereof, or any other state official, board, commission or department, and to them only upon matters in which they are officially interested;

6. At the request of the Governor, State Auditor and Inspector, State Treasurer, or either branch of the Legislature, to prosecute any official bond or any contract in which the state is interested, upon a breach thereof, and to prosecute or defend for the state all actions, civil or criminal, relating to any matter connected with either of their Departments;

7. Whenever requested by any state officer, board or commission, to prepare proper drafts for contracts, forms and other writing which may be wanted for the use of the state;

8. To prepare drafts of bills and resolutions for individual members of the Legislature upon their written request stating the gist of the bill or resolution desired;

9. To enforce the proper application of monies appropriated by the Legislature and to prosecute breaches of trust in the administration of such funds;

10. To institute actions to recover state monies illegally expended, to recover state property and to prevent the illegal use of any state property, upon the request of the Governor or the Legislature;

11. To pay into the State Treasury, immediately upon its receipt, all monies received by the Attorney General belonging to the state;

12. To keep and file copies of all opinions, contracts, forms and letters of the office, and to keep an index of all opinions, contracts and forms according to subject and section of the law construed or applied;

13. To keep a register or docket of all actions, demands and investigations prosecuted, defended or conducted by the Attorney General in behalf of the state. The register or docket shall give the style of the case or investigation, where pending, court number, office number, the gist of the matter, result and the names of the assistants who handled the matter;

14. To keep a complete office file of all cases and investigations handled by the Attorney General on behalf of the state;

15. To report to the Legislature or either branch thereof whenever requested upon any business relating to the duties of the Attorney General's office;

16. To institute civil actions against members of any state board or commission for failure of such members to perform their duties as prescribed by the statutes and the Constitution and to prosecute members of any state board or commission for violation of

the criminal laws of this state where such violations have occurred in connection with the performance of such members' official duties;

17. To respond to any request for an opinion of the Attorney General's office, submitted by a member of the Legislature, regardless of subject matter, by written opinion determinative of the law regarding such subject matter;

18. To convene multicounty grand juries in such manner and for such purposes as provided by law; provided, such grand juries are composed of citizens from each of the counties on a pro rata basis by county;

19. To investigate any report by the State Auditor and Inspector filed with the Attorney General pursuant to Section 223 of this title and prosecute all actions, civil or criminal, relating to such reports or any irregularities or derelictions in the management of public funds or property which are violations of the laws of this state;

20. To represent and protect the collective interests of all utility consumers of this state in rate-related proceedings before the Corporation Commission or in any other state or federal judicial or administrative proceeding;

21. To represent and protect the collective interests of insurance consumers of this state in rate-related proceedings before the Insurance Commissioner or in any other state or federal judicial or administrative proceeding; and

22. To investigate and prosecute any criminal action relating to insurance fraud, if in the opinion of the Attorney General a criminal prosecution is warranted, or to refer such matters to the appropriate district attorney.

B. Nothing in this section shall be construed as requiring the Attorney General to appear and defend or prosecute in any court any cause or proceeding for or on behalf of the Oklahoma Tax Commission, the Board of Managers of the State Insurance Fund, or the Commissioners of the Land Office.

C. In all appeals from the Corporation Commission to the Supreme Court of Oklahoma in which the state is a party, the Attorney General shall have the right to designate counsel of the Corporation Commission as the Attorney General's legally appointed representative in such appeals, and it shall be the duty of the Corporation Commission counsel to act when so designated and to consult and advise with the Attorney General regarding such appeals prior to taking action therein.

Added by Laws 1939, p. 44, § 3, emerg. eff. May 21, 1939. Amended by Laws 1976, c. 130, § 1, emerg. eff. May 24, 1976; Laws 1979, c. 30, § 53, emerg. eff. April 6, 1979; Laws 1979, c. 241, § 17, operative July 1, 1979; Laws 1982, c. 26, § 1, operative Oct. 1, 1982; Laws 1987, c. 39, § 1, eff. Nov. 1, 1987; Laws 1991, c. 17, § 3, eff. Sept. 1, 1991; Laws 1992, c. 294, § 14, eff. Sept. 1, 1992;

Laws 1993, c. 349, § 32, eff. Sept. 1, 1993; Laws 1995, c. 328, § 12, eff. July 1, 1995; Laws 1996, c. 295, § 1, eff. July 1, 1996; Laws 1999, c. 344, § 4, emerg. eff. June 8, 1999; Laws 2010, c. 37, § 4, eff. Nov. 1, 2010; Laws 2017, c. 18, § 1, eff. Nov. 1, 2017.

§74-18c. Employment of attorneys, authority of boards or officials - Defense of actions by Attorney General.

A. 1. Except as otherwise provided by this subsection, no state officer, board or commission shall have authority to employ or appoint attorneys to advise or represent said officer, board or commission in any matter.

2. The provisions of this subsection shall not apply to the Corporation Commission, the Council on Law Enforcement Education and Training, the Consumer Credit Commission, the Board of Managers of the State Insurance Fund, the Oklahoma Tax Commission, the Commissioners of the Land Office, the Oklahoma Public Welfare Commission also known as the Commission for Human Services, the State Board of Corrections, the Oklahoma Health Care Authority, the Department of Public Safety, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, the Transportation Commission, the Oklahoma Energy Resources Board, the Oklahoma Merit Protection Commission, the Office of Management and Enterprise Services, the Oklahoma Water Resources Board, the Department of Labor, the Department of Agriculture, Food, and Forestry, the Northeast Oklahoma Public Facilities Authority, the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Public Employees Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Conservation Commission, the Office of Juvenile Affairs, the State Board of Pharmacy, and until January 1, 2022, the Oklahoma Department of Veterans Affairs.

3. The provisions of paragraph 2 of this subsection shall not be construed to authorize the Office of Juvenile Affairs to employ any attorneys that are not specifically authorized by law.

4. All the legal duties of such officer, board or commission shall devolve upon and are hereby vested in the Attorney General; provided that:

- a. the Governor shall have authority to employ special counsel to protect the rights or interest of the state as provided in Section 6 of this title, and
- b. liquidation agents of banks shall have the authority to employ local counsel, with the consent of the Bank Commissioner and the Attorney General and the approval of the district court.

B. At the request of any state officer, board or commission, except the Corporation Commission, the Board of Managers of the CompSource Oklahoma, Oklahoma Tax Commission and the Commissioners



of the Land Office, the Grand River Dam Authority, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Public Employees Retirement System, the Uniform Retirement System for Justices and Judges and the Interstate Oil and Gas Compact Commission, the Attorney General shall defend any action in which they may be sued in their official capacity. At the request of any such state officer, board or commission, the Attorney General shall have authority to institute suits in the name of the State of Oklahoma on their relation, if after investigation the Attorney General is convinced there is sufficient legal merit to justify the action.

C. Any officer, board, or commission which has the authority to employ or appoint attorneys may request that the Attorney General defend any action arising pursuant to the provisions of The Governmental Tort Claims Act.

D. Nothing in this section shall be construed to repeal or affect the provisions of the statutes of this state pertaining to attorneys and legal advisors of the several commissions and departments of state specified in subsection B of this section, and all acts and parts of acts pertaining thereto shall be and remain in full force and effect.

Added by Laws 1939, p. 46, § 4, emerg. eff. May 21, 1939. Amended by Laws 1947, p. 585, § 1, emerg. eff. April 23, 1947; Laws 1982, c. 35, § 2, emerg. eff. March 26, 1982; Laws 1985, c. 294, § 7, emerg. eff. July 24, 1985; Laws 1991, c. 335, § 28, emerg. eff. June 15, 1991; Laws 1994, c. 382, § 47, eff. Sept. 1, 1994; Laws 1995, c. 76, § 3, eff. July 1, 1995; Laws 1995, c. 352, § 194, eff. July 1, 1995; Laws 1996, c. 3, § 18, emerg. eff. March 6, 1996; Laws 1997, c. 296, § 1, eff. Sept. 1, 1997; Laws 1998, c. 230, § 3, eff. Nov. 1, 1998; Laws 1999, c. 1, § 30, emerg. eff. Feb. 24, 1999; Laws 2002, c. 438, § 4, eff. July 1, 2002; Laws 2005, c. 405, § 8, eff. July 1, 2005; Laws 2010, c. 55, § 1, eff. Nov. 1, 2010; Laws 2012, c. 304, § 695; Laws 2016, c. 31, § 1, emerg. eff. April 11, 2016.

NOTE: Laws 1985, c. 283, § 5 repealed by Laws 1991, c. 335, § 37, emerg. eff. June 15, 1991. Laws 1994, c. 242, § 47 repealed by Laws 1995, c. 1, § 40, emerg. eff. March 2, 1995. Laws 1995, c. 1, § 29 repealed by Laws 1995, c. 260, § 3, eff. July 1, 1995. Laws 1995, c. 260, § 2 repealed by Laws 1996, c. 3, § 25, emerg. eff. March 6, 1996. Laws 1998, c. 203, § 3 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999.

§74-18c-2. Repealed by Laws 1995, c. 180, § 2, eff. July 1, 1995.

§74-18d. District attorneys, aiding and requiring aid of.

The Attorney General shall have authority to require the aid and assistance of district attorneys in their respective counties in the matters hereinbefore enumerated and may in any case brought to the Supreme Court or Criminal Court of Appeals from their respective counties demand and receive the assistance of the district attorney from whose county such case is brought. Any district attorney desiring the assistance of the Attorney General in any matter shall request the Governor for such assistance, and upon receiving the direction of the Governor to render such assistance, the Attorney General shall proceed immediately, compatible with the performance of his own duties to render the assistance.  
Laws 1939, p. 46, § 5.

§74-18e. Criminal actions - Quo warranto - Appearance before grand juries.

In addition to the above powers and duties, the Attorney General shall, when requested by the Governor, have power and authority to institute and prosecute criminal actions and actions in the nature of quo warranto; and shall, when requested by the Governor, compatible with the performance of his other duties, appear before and assist grand juries in their investigations.  
Laws 1939, p. 47, § 6.

§74-18f. Investigations.

The Attorney General shall have authority to conduct investigations and it shall be the duty of the Department of Public Safety of the State of Oklahoma, when so directed by the Governor of the State of Oklahoma, to furnish him with investigators from the personnel of said Department, to assist in such investigations and to assemble evidence for the Attorney General in any cases to be tried or in any matters to be investigated. Likewise, it shall be the duty of the State Auditor and Inspector, upon request of the Attorney General, to furnish him with experienced auditors and/or accountants from the personnel of his department to make audits and check records for the Attorney General in any case to be tried or in any matter being investigated by the Attorney General. The cost of such services shall be borne by the entity audited.  
Added by Laws 1939, p. 47, § 7, emerg. eff. April 21, 1939. Amended by Laws 1979, c. 30, § 136, emerg. eff. April 6, 1979; Laws 1997, c. 136, § 2, eff. July 1, 1997.

§74-18g. Appearance not waiver of immunity of State.

The appearance of the Attorney General in any matter, proceeding or action in any court, before any commission, board or officer, shall not be construed to waive the immunity of the State of Oklahoma from being sued.  
Laws 1939, p. 49, § 13.

§74-181. Collection of fees for legal services from certain agencies.

The Office of the Attorney General may levy and collect a reasonable fee from the Department of Consumer Credit, the Office of Management and Enterprise Services, the Teachers' Retirement System of Oklahoma, the Oklahoma Public Employees Retirement System, the Oklahoma Development Finance Authority, the Oklahoma Industrial Finance Authority, the Oklahoma Student Loan Authority, the Department of Mental Health and Substance Abuse Services, the Oklahoma Health Care Authority, the Board of Regents of Oklahoma Colleges, the Oklahoma State Regents for Higher Education, the Oklahoma Department of Career and Technology Education, the Oklahoma Department of Veterans Affairs, the State Fire Marshal Commission, the Commission on Children and Youth, the Oklahoma Department of Agriculture, Food, and Forestry, the Oklahoma Human Rights Commission, the Oklahoma Law Enforcement Retirement System, the Oklahoma Police Pension and Retirement System, the Oklahoma Tourism and Recreation Department, and the Department of Rehabilitation Services for the purpose of providing legal services requested by such entities. All fees collected in accordance with the provisions of this section shall be deposited in the Attorney General's Revolving Fund created pursuant to Section 20 of this title.

Added by Laws 1987, c. 203, § 8, operative July 1, 1987. Amended by Laws 1989, c. 228, § 9, operative July 1, 1989; Laws 1990, c. 270, § 2, eff. Sept. 1, 1990; Laws 1991, c. 335, § 29, emerg. eff. June 15, 1991; Laws 1993, c. 10, § 13, emerg. eff. March 21, 1993; Laws 1994, c. 282, § 6, eff. July 1, 1994; Laws 1995, c. 1, § 30, emerg. eff. March 2, 1995; Laws 2001, c. 33, § 168, eff. July 1, 2001; Laws 2012, c. 304, § 696.

NOTE: Laws 1990, c. 264, § 7 repealed by Laws 1991, c. 282, § 13, eff. July 1, 1991 and Laws 1991, c. 335, § 36, emerg. eff. June 15, 1991. Laws 1991, c. 282, § 8 repealed by Laws 1993, c. 10, § 16, emerg. eff. March 21, 1993. Laws 1994, c. 280, § 7 repealed by Laws 1995, c. 1, § 40, emerg. eff. March 2, 1995.

§74-18m-1. Repealed by Laws 2013, c. 208, § 170, eff. Feb. 1, 2014.

§74-18m-2. Repealed by Laws 2013, c. 208, § 170, eff. Feb. 1, 2014.

§74-18n-1. Insurance Fraud Unit.

A. There is hereby created within the Office of the Attorney General an Insurance Fraud Unit.

B. The Insurance Fraud Unit, upon inquiry or complaint or upon referral from the Insurance Department, shall determine the extent, if any, to which a violation has occurred of any statute or administrative rule of this state pertaining to insurance fraud and

may initiate any necessary investigation, civil action, criminal action, referral to the Insurance Commissioner or Insurance Department, referral to a district attorney, or referral to any appropriate official of this or any other state or of the federal government.

C. In the absence of fraud, bad faith, reckless disregard for the truth, or actual malice, no person, insurer, or agent of an insurer shall be liable for damages in a civil action or subject to criminal prosecution for supplying information about suspected insurance fraud to the Insurance Fraud Unit of the Office of the Attorney General or any other agency involved in the investigation or prosecution of suspected insurance fraud.

D. The Attorney General and the Office of the Attorney General, the Insurance Commissioner, the Insurance Department, every district attorney, and every law enforcement agency shall cooperate and coordinate efforts for the investigation and prosecution of suspected insurance fraud.

Added by Laws 1999, c. 344, § 5, emerg. eff. June 8, 1999.

§74-18n-2. Power of Attorney General to investigate insurance fraud - Confidentiality of records.

A. If the Attorney General or a designee has reason to believe as a result of inquiry or complaint or as a result of referral from the Insurance Department that a person has engaged in or is engaging in an act or practice that violates any administrative rule or statute pertaining to Insurance Fraud, the Attorney General or a designee shall have all the powers of a district attorney.

B. Nothing in this section shall be construed to waive, limit or impair any evidentiary privilege recognized by law.

C. As used in this section, "records" include, but are not limited to, anything for which a request to produce may be served pursuant to Section 3234 of Title 12 of the Oklahoma Statutes.

D. Records, documents, reports and evidence obtained or created by the Office of the Attorney General as a result of insurance fraud, including workers' compensation insurance fraud, shall be confidential and shall not be subject to the Oklahoma Open Records Act or to outside review or release by any individual. An employee of the Attorney General's Office may disclose, at the discretion of the Attorney General, such investigative information to officers and agents of federal, state, county or municipal law enforcement agencies, to the Insurance Commissioner or Insurance Department, and to district attorneys, in the furtherance of criminal investigations within their respective jurisdictions.

Added by Laws 1999, c. 344, § 6, emerg. eff. June 8, 1999.

§74-18p-1. Victims Services Unit.

A. There is hereby created within the Office of the Attorney General a Victims Services Unit.

B. The duty of the Unit is to provide services for persons who require domestic violence or sexual assault services through a domestic violence or sexual assault program.

C. As used in this act, "domestic violence program" or "sexual assault program" means an agency, organization, facility or person that offers, provides or engages in the offering of any shelter, residential services or support services to:

1. Victims or survivors of domestic abuse as defined in Section 60.1 of Title 22 of the Oklahoma Statutes, any dependent children of such victim or survivor, and any other member of the family or household of such victim or survivor;

2. Victims or survivors of sexual assault;

3. Persons who are homeless as a result of domestic abuse or sexual assault or both domestic abuse and sexual assault; and

4. Victims of stalking,  
and which may provide other services, including, but not limited to, counseling, case management, referrals or other similar services to victims or survivors of domestic abuse, sexual assault or stalking.

D. As used in this act, "batterers intervention program" or "batterers treatment program" means an agency, organization, facility or person who offers, provides or engages in the offering of counseling or intervention services to persons who commit domestic abuse.

Added by Laws 2005, c. 348, § 1, eff. July 1, 2005. Amended by Laws 2007, c. 156, § 6, eff. Nov. 1, 2007.

§74-18p-2. Domestic Violence and Sexual Assault Advisory Council.

A. There is hereby re-created, to continue until July 1, 2013, in accordance with provisions of the Oklahoma Sunset Law, the Domestic Violence and Sexual Assault Advisory Council. The Council shall be a nine-member committee appointed by the Attorney General.

B. Four of the members shall be selected from a list of eight nominees provided by the Oklahoma Coalition on Domestic Violence and Sexual Assault and five of the members shall be selected by the Attorney General from the State of Oklahoma at large; provided, that of the members selected by the Attorney General from the state at large, one member shall be a representative of any domestic violence programs funded through or by the Attorney General, and one member shall be a citizen of this state with expertise in the area of sexual assault services.

C. The Council shall select a chair annually. Appointment to the Council shall be for two (2) years. The Attorney General shall appoint persons to fill unexpired terms when necessary.

D. The duties of the Council shall be to review rules and overall policies relating to the operation and funding of domestic

violence and sexual assault programs in this state and make recommendations to the Attorney General regarding its findings. Added by Laws 2005, c. 348, § 2, eff. July 1, 2005. Amended by Laws 2009, c. 23, § 1.

§74-18p-3. Contracts for shelter and services - Disclosure of case records, shelter locations or board member information.

A. The Attorney General is hereby authorized and directed to enter into agreements and to contract for the shelter and other services that are needed for victims of domestic abuse, sexual assault or batterers intervention programs. Any domestic violence, sexual assault or batterers intervention program providing services pursuant to certification by the Attorney General or a contract or subcontract with the Attorney General and receiving funds from the Attorney General or any contractor with the Attorney General shall be subject to the provisions of the administrative rules of the Attorney General.

B. 1. Except as otherwise provided by paragraph 3 of this subsection, the case records, case files, case notes, client records, or similar records of a domestic violence or sexual assault program certified by the Attorney General or of any employee or trained volunteer of a program regarding an individual who is residing or has resided in such program or who has otherwise utilized or is utilizing the services of any domestic violence or sexual assault program or counselor shall be confidential and shall not be disclosed.

2. For purposes of this subsection, the term "client records" shall include, but not be limited to, all communications, records, and information regarding clients of domestic violence and sexual assault programs.

3. The case records, case files, or case notes of programs specified in paragraph 1 of this subsection shall be confidential and shall not be disclosed except with the written consent of the individual, or in the case of the individual's death or disability, of the individual's personal representative or other person authorized to sue on the individual's behalf or by court order for good cause shown by the judge in camera.

C. The district court shall not order the disclosure of the address of a domestic violence shelter, the location of any person seeking or receiving services from a domestic violence or sexual assault program, or any other information which is required to be kept confidential pursuant to subsection B of this section.

D. The home address, personal telephone numbers and social security number of board members, staff and volunteers of certified domestic violence and sexual assault programs shall not be construed to be open records pursuant to the Oklahoma Open Records Act.

Added by Laws 2005, c. 348, § 3, eff. July 1, 2005. Amended by Laws 2007, c. 156, § 7, eff. Nov. 1, 2007.

§74-18p-4. Minor mothers.

A. As used in this section, "minor mother" means an unemancipated female under the age of eighteen (18) years of age who is pregnant or the biological parent of any child.

B. A domestic violence shelter facility may provide shelter and care to a minor mother, who is the victim of domestic abuse or is seeking relief from domestic abuse for herself or on behalf of any of her children or both herself and any of her children.

C. A domestic violence shelter facility may provide shelter or care only during an emergency constituting an immediate danger to the physical health or safety of the minor mother or her child or both the minor mother and any of her children. Such shelter or care shall not extend beyond thirty (30) days unless the facility receives an order issued by the court to continue such services or the parent or guardian of the minor mother consents to such services.

D. The provisions of Section 856 of Title 21 of the Oklahoma Statutes shall not apply to any domestic violence shelter facility and any person operating such facility who in good faith is providing shelter and care pursuant to the provisions of this section to a minor mother and any of her children who is a runaway from her parent or legal guardian.

E. The emergency custody hearing provided for in Section 1-4-202 of Title 10A of the Oklahoma Statutes shall be provided for a minor mother who is seeking relief from domestic abuse for herself or on behalf of any of the her children.

Added by Laws 2005, c. 348, § 4, eff. July 1, 2005. Amended by Laws 2009, c. 234, § 159, emerg. eff. May 21, 2009.

§74-18p-5. Statewide telephone communication service for victims.

The Office of the Attorney General shall be responsible for the development, maintenance and operation of a twenty-four-hour statewide telephone communication service for the victims of rape, forcible sodomy and domestic violence. The purpose of the service is to provide information to such victim regarding any immediate action which should be taken by the victim, the social services available, and the legal rights and remedies of the victim.

Added by Laws 2005, c. 348, § 5, eff. July 1, 2005.

§74-18p-6. Promulgation of rules - Certification - Exemptions - Standards for facilities and programs - Application fees.

A. Effective July 1, 2005, all administrative rules promulgated by the Department of Mental Health and Substance Abuse Services relating to domestic violence and sexual assault programs shall be

transferred to and become a part of the administrative rules of the Office of the Attorney General. The Office of Administrative Rules in the Secretary of State's office shall provide adequate notice in the Oklahoma Register of the transfer of such rules, and shall place the transferred rules under the Administrative Code section of the Attorney General. Such rules shall continue in force and effect as rules of the Office of the Attorney General from and after July 1, 2005, and any amendment, repeal or addition to the transferred rules shall be under the jurisdiction of the Attorney General.

B. The Attorney General shall adopt and promulgate rules and standards for certification of batterers intervention and domestic violence programs and for private facilities and organizations which offer domestic and sexual assault services in this state. These facilities shall be known as "certified domestic violence shelters" or "certified domestic violence programs" or "certified sexual assault programs" or "certified treatment programs for batterers", as applicable.

C. Applications for certification as a certified domestic violence shelter, domestic violence program, sexual assault program or treatment program for batterers, pursuant to the provisions of this section, shall be made to the Office of the Attorney General on prescribed forms. The Attorney General may certify the shelter or program for a period of three (3) years subject to renewal as provided in the rules promulgated by the Attorney General. Nothing in this section shall preclude the Office of the Attorney General from making inspection visits to a shelter or program to determine contract or program compliance.

D. Licensed physicians, licensed psychologists, licensed social workers, individual members of the clergy, licensed marital and family therapists, licensed behavioral practitioners, and licensed professional counselors shall be exempt from certification requirements; provided, however, these exemptions shall only apply to individual professional persons in private practice and not to any domestic violence program or sexual assault program operated by such person.

E. Facilities providing services for persons who commit domestic abuse, victims or survivors of domestic abuse or sexual assault and any dependent children of such victims or survivors shall comply with standards promulgated by the Attorney General; provided, that the certification requirements and standards promulgated by the Attorney General shall not apply to programs and services offered by the Department of Health, the Department of Mental Health and Substance Abuse Services, the Department of Corrections or the Department of Human Services. The batterers intervention, domestic violence or sexual assault programs certified pursuant to the provisions of this section shall cooperate with inspection personnel of this state and shall promptly file all



reports required by the Attorney General. Failure to comply with rules and standards of the Attorney General shall be grounds for revocation of certification, after proper notice and hearing.

F. The Attorney General is hereby authorized to collect from each applicant the sum of One Hundred Fifty Dollars (\$150.00) to help defray the costs incurred in the certification process.

Added by Laws 2005, c. 348, § 6, eff. July 1, 2005. Amended by Laws 2007, c. 156, § 8, eff. Nov. 1, 2007.

#### §74-18p-7. Injunctions.

A. The Attorney General or any district attorney, in such person's discretion, may bring an action for an injunction against any batterers intervention, domestic violence program or sexual assault program found to be in violation of the provisions of this title or of any order or determination of the Attorney General.

B. In any action for an injunction brought pursuant to this section, any findings of the Attorney General or district attorney, after hearing and due notice, shall be prima facie evidence of the facts found therein.

Added by Laws 2005, c. 348, § 7, eff. July 1, 2005. Amended by Laws 2007, c. 156, § 9, eff. Nov. 1, 2007.

#### §74-18p-8. Oversight by Attorney General - Collection and confidentiality of information records.

A. The Office of the Attorney General shall have the authority to collect information sufficient to meet its responsibilities related to oversight, management, evaluation, performance improvement and auditing of domestic violence and sexual assault services and combating and preventing domestic violence and sexual assault in this state.

B. The individual forms, computer and electronic data, and other forms of information collected by and furnished to the Attorney General shall be confidential and shall not be public records as defined in the Oklahoma Open Records Act.

C. Except as otherwise provided by state and federal confidentiality laws, identifying information shall not be disclosed and shall not be used for any public purpose other than the creation and maintenance of anonymous datasets for statistical reporting and data analysis.

Added by Laws 2005, c. 348, § 8, eff. July 1, 2005.

#### §74-18p-9. Crime victim and witness notification and victim protective order system.

A. The Attorney General may establish a crime victim and witness notification and victim protective order system to assist public officials in carrying out their duties to notify and inform crime victims and witnesses as the Attorney General specifies by

rule. The system shall download necessary information from participating officials into its computers, where it shall be maintained, updated, and automatically transmitted to victims and witnesses by telephone, computer, or written notice.

B. The Department of Corrections, the Pardon and Parole Board, and each county sheriff office within the state shall cooperate with the Attorney General in the implementation of this section and shall provide information as necessary to the effective operation of the system.

C. District attorneys and local law enforcement and other authorities may enter into agreements with the Attorney General for participation in the system. The Attorney General may provide those who elect to participate with the equipment, software, or training necessary to bring their offices into the system.

D. The Attorney General may provide for telephonic, electronic, or other public access to the database established under this section.

E. This section does not limit any rights or responsibilities otherwise enjoyed by or imposed upon victims or witnesses of violent crimes, nor does it grant any person a cause of action for damages or attorney fees. Any act of omission or commission by any law enforcement officer or district attorney, by the Attorney General, Department of Corrections, Pardon and Parole Board, or other state agency, or private entity under contract with the state, or by any employee of any state agency or private entity under contract with the state acting in good faith in rendering crime victim's assistance or otherwise enforcing this section shall not impose civil liability upon the individual or entity or his or her supervisor or employer. Nothing in this section shall create a basis for vacating a conviction or a ground for appellate relief in any criminal case. Failure of the crime victim to receive notice as required, however, shall not deprive the court of the power to act regarding the proceeding before it; nor shall any such failure grant the defendant the right to seek a continuance.

Added by Laws 2006, c. 130, § 3, emerg. eff. May 9, 2006.

#### §74-18p-10. Oklahoma Witness Protection Program.

A. The Office of the Attorney General is hereby authorized to establish an Oklahoma Witness Protection Program and is authorized to use monies from the Attorney General's Evidence Fund created pursuant to Section 19 of this title or from federal grants for the implementation of the Program. The Witness Protection Program may be made available to witnesses who are actively aiding in the prosecution of dangerous perpetrators and who are in danger of bodily harm or death by participating in the prosecution. The Attorney General shall administer the Oklahoma Witness Protection Program.

B. Funds may be provided for the support of a participant in the Witness Protection Program. Support may include, but shall not be limited to, temporary living costs, moving expenses, rent, security deposits, or other appropriate expenses of relocation or transition.

C. The Attorney General is authorized to promulgate rules necessary to implement the Oklahoma Witness Protection Program. Added by Laws 2012, c. 176, § 3, eff. Nov. 1, 2012.

§74-19. Attorney General's Evidence Fund and Revolving Fund - Invoicing retirement funds for attorney fees.

A. 1. Out of all money received or collected by the Attorney General on behalf of the state or any department or agency thereof, and paid into the State Treasury, twenty-five percent (25%) thereof shall be deposited as follows: three-fourths (3/4) in a special agency account fund in the State Treasury, designated the Attorney General's Evidence Fund, which fund shall be a continuing fund, not subject to fiscal year limitations, and one-fourth (1/4) in the Attorney General's Revolving Fund created by Section 20 of this title. Provided, however, these provisions shall not apply to any monies paid to the State of Oklahoma as a result of the settlement of the lawsuit filed by the State of Oklahoma against the tobacco industry.

2. All money paid to the Attorney General for reimbursement of court costs, fees and other expenses and appropriated monies authorized to be transferred to the agency special account shall be deposited in the Attorney General's Evidence Fund. Such fund shall be used by the Attorney General for necessary expenses relative to any pending case or other matter within the official responsibility of the Attorney General.

B. All money received or credited by the Attorney General on behalf of the Teachers' Retirement System of Oklahoma, the Oklahoma Public Employees Retirement System, the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Oklahoma Law Enforcement Retirement System or the Uniform Retirement System for Justices and Judges shall be paid to the State Treasurer of the state and distributed to the appropriate fund of the respective retirement system as directed by the board of trustees of said respective retirement system. The Attorney General shall invoice the respective retirement system and the respective retirement system shall pay for reasonable attorney's fee for actual legal services rendered by the Attorney General's office related to the money received or credited on behalf of the respective retirement system based on an hourly rate determined by the Attorney General. The hourly rate charged by the Attorney General to a retirement system for services related to the collection of money received or credited on behalf of the respective

retirement system shall be based on the labor, time and problems involved, the skill and expertise called for in the performance of the services and the standing of the specific attorney or attorneys involved. The hourly rate charged by the Attorney General to a retirement system shall not be based on the value of the property at issue or recovered. The Attorney General shall not separately invoice a retirement system for the work performed by an attorney employed by the Attorney General's office whose salary and other related costs are paid in part or in whole by said retirement system pursuant to an agreement entered into between the Attorney General and the retirement system for legal services.

C. From any monies paid to the State of Oklahoma representing attorney fees, paralegal fees and other costs of litigating the lawsuit filed by the State of Oklahoma against the tobacco industry, the Attorney General shall make such deposits as are appropriate pursuant to subsection A of this section. The balance of any such monies shall be deposited in the General Revenue Fund of the State Treasury.

Added by Laws 1965, c. 95, § 1. Amended by Laws 1973, c. 131, § 2, emerg. eff. May 10, 1973; Laws 1976, c. 208, § 10, operative July 1, 1976; Laws 1979, c. 196, § 4, emerg. eff. May 25, 1979; Laws 1982, c. 229, § 3, emerg. eff. May 4, 1982; Laws 1992, c. 15, § 27, emerg. eff. March 25, 1992; Laws 1992, c. 316, § 51, eff. July 1, 1992; Laws 1996, c. 347, § 1, emerg. eff. June 14, 1996; Laws 1999, c. 350, § 1, emerg. eff. June 8, 1999; Laws 2000, c. 47, § 1, emerg. eff. April 14, 2000; Laws 2000, 1st Ex.Sess., c. 8, § 23, eff. July 1, 2001; Laws 2004, c. 494, § 1, eff. Sept. 1, 2004; Laws 2011, c. 133, § 1, eff. Nov. 1, 2011; Laws 2012, c. 370, § 2, eff. July 1, 2012.

#### §74-19.1. Attorney General's Law Enforcement Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Office of the Attorney General to be designated the "Attorney General's Law Enforcement Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies received from the sale of confiscated property, the seizure and forfeiture of confiscated monies, property, gifts, bequests, revises or contributions, public or private, including federal funds unless otherwise provided by federal law or regulation. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Attorney General for the purposes of investigation, enforcement and prosecution of cases involving criminal and forfeiture laws of this state and the United States of America or to match federal grants. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as

prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1991, c. 282, § 7, eff. July 1, 1991. Amended by Laws 2012, c. 304, § 697.

§74-19.2. Attorney General's Workers' Compensation Fraud Unit Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Office of the Attorney General, to be designated the "Attorney General's Workers' Compensation Fraud Unit Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies designated to the fund by law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Attorney General for the purposes of investigation, civil action, criminal action or referral to the district attorney in cases involving suspected workers' compensation fraud.

Added by Laws 1992, c. 316, § 52, eff. July 1, 1992.

§74-19.3. Attorney General's Insurance Fraud Unit Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Office of the Attorney General, to be designated the "Attorney General's Insurance Fraud Unit Revolving Fund". The fund shall be a continuing fund, not subject to fiscal limitations, and shall consist of any monies designated to the fund by law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Attorney General for the purposes of investigation, civil action, criminal action, or referral to the district attorney in cases involving suspected insurance fraud. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1999, c. 344, § 7, emerg. eff. June 8, 1999. Amended by Laws 2012, c. 304, § 698.

§74-19a. Disbursements - Audits.

Disbursements may be made from the Attorney General's Evidence Fund to the Attorney General upon appropriate voucher and claim for the purpose of paying fees and expenses of a confidential nature. The Attorney General shall retain written receipts for all expenditures so made and promulgate written rules to provide strict accountability for such expenditures.

Added by Laws 1965, c. 95, § 2. Amended by Laws 1979, c. 30, § 137, emerg. eff. April 6, 1979; Laws 2010, c. 413, § 26, eff. July 1, 2010.

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§74-20. Opinions of Attorney General - Publication and distribution - Surplus publication - Attorney General's Revolving Fund.

A. The Attorney General shall annually publish all of the written opinions which he promulgates in connection with the interpretation of the laws of the State of Oklahoma. One copy of the bound volume shall be sent to each state officer, the chairman of each board or commission, and the county law library in each county in the state where the same shall be available to the public and an electronic copy shall be sent to the Publications Clearinghouse of the Oklahoma Department of Libraries. A copy of each annual volume is to be placed on file in the Secretary of State's Office and shall be available for public inspection.

B. The Attorney General is hereby authorized to sell any surplus bound volumes and requested individual copies of opinions to help cover the cost of the publication, postal charges and other necessary expenses and proceeds of such sales shall be deposited into the fund herein established.

C. There is hereby created in the State Treasury a revolving fund for the Attorney General, to be designated the Attorney General's Revolving Fund. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received from the sale of copies of surplus bound volumes and requested individual copies of opinions and such other monies as are provided for by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1969, c. 40, § 1, emerg. eff. Feb. 20, 1969. Amended by Laws 1978, c. 165, § 8, eff. Jan. 8, 1979; Laws 1987, c. 203, § 9, operative July 1, 1987; Laws 2011, c. 292, § 3; Laws 2012, c. 304, § 699.

§74-20a. Repealed by Laws 1998, c. 364, § 38, emerg. eff. June 8, 1998.

§74-20f. State officer or employee - Legal defense services.

A. In the event an action is brought against an employee, who for the purposes of this act shall be an elected or appointed state officer or employee of any state officer, institution, agency, board or commission of any branch of state government in any civil action or special proceeding in the courts of this state, or of the United States, by reason of any act done or omitted in good faith in the course of his employment, it is the duty of the Attorney General or staff attorney of such person's agency where the agency is authorized by law to be represented in court by a member of its own permanent legal staff, when requested in writing by such employee,

to appear and defend the action or proceeding in his behalf. Such written request shall be made within fifteen (15) days after service of summons on the employee and a copy of the request shall be transmitted by the employee to the head of his agency and the Attorney General.

B. The Attorney General or a designated legal officer shall not represent a state employee if that employee did not perform a statutorily required duty and such duty is a basis of the civil action or special proceeding.

C. The Attorney General may direct an appropriate legal officer including a staff attorney of an agency authorized by law to be represented in court by a member of its own permanent legal staff to appear and defend such action. The Attorney General may request the assistance of a district attorney in any such action. The Attorney General may intervene in any such action or proceeding and appear on behalf of the State of Oklahoma, or any of its officers or employees, where he deems the state to have an interest in the subject matter of the litigation.

D. The Attorney General shall determine the method of preparation and presentation of such defense. The Attorney General or other legal officer under his direction shall not be held civilly liable for the exercise of such discretion.

E. The employee named in the action may employ private counsel at his own expense to assist in his defense.

F. Any officer or employee who acts outside of the scope of his official authority shall be liable in damages in the same manner as any private citizen.

G. When an original action seeking either a writ of mandamus or prohibition against a district judge, associate district judge, or special judge of the district court is commenced, the Attorney General shall represent such judicial officer if, and only if, directed to do so, in writing, by the Chief Justice of the Oklahoma Supreme Court, upon the Chief Justice's finding that such representation is necessary to protect either the function or integrity of the judiciary. Such finding by the Chief Justice shall be final and binding.

In the event that the Attorney General is or shall be disqualified from representing such judicial officer, the Attorney General shall immediately notify, in writing, the Chief Justice. The Chief Justice then may appoint counsel to represent the judicial officer. The appointed counsel shall determine the method of preparation and presentation of such defense. The appointed counsel shall not be held civilly liable for the exercise of such discretion. The appointed counsel shall, upon approval by the Chief Justice, be entitled to be compensated for services rendered.

H. A settlement involving injunctive relief which substantially impacts the operation or programs of a state agency or would impose

obligations requiring the expenditure of funds in excess of unallocated unencumbered monies in the agency's appropriations or beyond the current fiscal year shall be reviewed prior to its finalization by the President Pro Tempore of the Senate or his designee, the Speaker of the House or his designee, and the Governor or his designee. The purpose of the review is to determine the budgetary, programmatic and operational impact of the proposed settlement. The President Pro Tempore of the Senate, Speaker of the House and Governor shall be given a reasonable time in which to make recommendations regarding the proposed settlement given due consideration to the time requirements of the case. Such recommendations must be considered by the state agency, such agency's counsel of record and the Attorney General in determining whether to finalize the settlement agreement.

Laws 1976, c. 208, § 1, operative July 1, 1976; Laws 1984, c. 278, § 3, operative July 1, 1984; Laws 1992, c. 71, § 1, eff. Sept. 1, 1992; Laws 1992, c. 288, § 2, eff. July 1, 1992.

#### §74-20g. Defense duties - Evidence

A. Before any such defense is undertaken, an inquiry shall be made by the Attorney General of the facts on which the action or special proceedings are based. Unless the Attorney General determines that the employee was acting in good faith and in the course of his employment, representation shall not be provided pursuant to this act.

B. It shall be the duty of any state law enforcement agency to provide investigators at the request of the Attorney General to assist him in carrying out the provisions of this act.

C. No findings or reports of the Attorney General or persons making inquiry under his direction pursuant to the provisions of this section shall be admissible as evidence in any such action or special proceeding and no reference thereto shall be made in any such trial or hearing.

Added by Laws 1976, c. 208, § 2, operative July 1, 1976.

#### §74-20h. Cost of litigation

A. The cost of litigation in any case for which representation is provided pursuant to this act shall be paid out of the Attorney General's Evidence Fund.

B. Cost of litigation shall include, but is not limited to, court costs, deposition expenses, travel and lodging, witness fees and other similar costs; except that this act shall not be construed as authorizing the payment by the State of Oklahoma or any agency thereof of any judgment making an award of monetary damages.

Added by Laws 1976, c. 208, § 3, operative July 1, 1976.



§74-20i. Contracting for legal representation by private attorneys  
- Approval by Attorney General - Report.

A. An agency or official of the executive branch may obtain legal representation by one or more attorneys by means of one of the following:

1. Employing an attorney as such if otherwise authorized by law;

2. Contracting with the Office of the Attorney General; or

3. If the Attorney General is unable to represent the agency, or official due to a conflict of interest, or the Office of the Attorney General is unable or lacks the personnel or expertise to provide the specific representation required by such agency or official, contracting with a private attorney or attorneys pursuant to this section.

B. When entering into a contract for legal representation by one or more private attorneys, an agency or official of the executive branch shall select an attorney or attorneys from a list of attorneys maintained by the Attorney General. An agency may contract for legal representation with one or more attorneys who are not on the list only when there is no attorney on the list capable of providing the specific representation and only with the approval of the Attorney General. The list shall include any attorney who desires to furnish services to an agency or official of the executive branch and who has filed a schedule of fees for services with and on a form approved by the Attorney General. An agency or official may agree to deviate from the schedule of fees only with the approval of the Attorney General.

C. Before entering into a contract for legal representation by one or more private attorneys, an agency or official of the executive branch shall furnish a copy of the proposed contract to the Attorney General and, if not fully described in the contract, notify the Attorney General of the following:

1. The nature and scope of the representation including, but not limited to, a description of any pending or anticipated litigation or of the transaction requiring representation;

2. The reason or reasons for not obtaining the representation from an attorney employed by the agency or official, if an attorney is employed by the agency or official;

3. The reason or reasons for not obtaining the representation from the Attorney General by contract;

4. The anticipated cost of the representation including the following:

- a. the basis for or method of calculation of the fee including, when applicable, the hourly rate for each attorney, paralegal, legal assistant, or other person who will perform services under the contract, and

b. the basis for and method of calculation of any expenses which will be reimbursed by the agency or official under the contract; and

5. An estimate of the anticipated duration of the contract.

D. Before entering into a contract for legal representation by one or more private attorneys where the agency has reason to believe that the case, transaction or matter will equal or exceed Twenty Thousand Dollars (\$20,000.00) or after employment when it becomes apparent that the case, transaction or matter will equal or exceeds Twenty Thousand Dollars (\$20,000.00), an agency or official of the executive branch shall obtain the approval of the Attorney General when the total cost, including fees and expenses, of all contracts relating to the same case, transaction, or matter will equal or exceed Twenty Thousand Dollars (\$20,000.00). Any amendment, modification, or extension of a contract which, had it been a part of the original contract would have required approval by the Attorney General, shall also require approval by the Attorney General.

E. When an agency or official of the executive branch enters into a contract for professional legal services pursuant to this section, the agency shall also comply with the applicable provisions of Section 85.41 of Title 74 of the Oklahoma Statutes.

F. The provisions of this section shall not apply to the Oklahoma Indigent Defense System created pursuant to Section 1355 et seq. of Title 22 of the Oklahoma Statutes.

G. The Attorney General shall, on or before February 1 of each year, make a written report on legal representation obtained pursuant to paragraphs 2 and 3 of subsection A of this section. The report shall include a brief description of each contract, the circumstances necessitating each contract, and the amount paid or to be paid under each contract. The report shall be filed with the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chair of the Appropriations and Budget Committee of the House of Representatives, and the Chair of the Appropriations Committee of the Senate.

Added by Laws 1995, c. 180, § 1, eff. July 1, 1995.

§74-20j. Enforcement of federal immigration and customs laws - Memorandum of Understanding - Limitation of exchange of information regarding immigration status prohibited - Private right of action.

A. The Attorney General is authorized and directed to negotiate the terms of a Memorandum of Understanding between the State of Oklahoma and the United States Department of Justice or the United States Department of Homeland Security, as provided by Section 1357(g) of Title 8 of the United States Code, concerning the enforcement of federal immigration and customs laws, detention and removals, and investigations in the State of Oklahoma.

B. The Memorandum of Understanding negotiated pursuant to subsection A of this section shall be signed on behalf of this state by the Attorney General and the Governor or as otherwise required by the appropriate federal agency.

C. No local government, whether acting through its governing body or by an initiative, referendum, or any other process, shall enact any ordinance or policy that limits or prohibits a law enforcement officer, local official, or local government employee from communicating or cooperating with federal officials with regard to the immigration status of any person within this state.

D. Notwithstanding any other provision of law, no government entity or official within the State of Oklahoma may prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the United States Department of Homeland Security, information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

E. Notwithstanding any other provision of law, no person or agency may prohibit, or in any way restrict, a public employee from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual:

1. Sending such information to, or requesting or receiving such information from, the United States Department of Homeland Security;
2. Maintaining such information; or
3. Exchanging such information with any other federal, state, or local government entity.

F. The provisions of this section shall allow for a private right of action by any natural or legal person lawfully domiciled in this state to file for a writ of mandamus to compel any noncooperating local or state governmental agency to comply with such reporting laws.

Added by Laws 2007, c. 112, § 10, eff. Nov. 1, 2007.

#### §74-20k. Justice Reinvestment Grant Program.

A. There is hereby established the Justice Reinvestment Grant Program. Contingent upon the provision of appropriate funds designated for Justice Reinvestment grants, the Office of the Attorney General is authorized to award one or more such competitive grants to local law enforcement agencies for the purpose of providing funding for new initiatives and strategies to combat violent crime as proposed by local law enforcement agencies. Funds shall be used for local initiatives, technical assistance, law enforcement training, law enforcement equipment, crime victim services, contractual support and information systems for criminal justice purposes.

B. To be eligible for a Justice Reinvestment Grant, local law enforcement agencies shall submit proposals to the Office of the Attorney General that focus on increasing the capacity of the law

enforcement agency to address violent crime within their jurisdiction through one of the following priority strategies:

1. Focusing on intervention and enforcement through the use of increased staffing resources with overtime funds to target violent crime with evidence-driven approaches. Policing initiatives may include directed patrols, "hot spot" policing, intelligence-led policing, or youth and gang violence interventions;

2. Increasing technological capacity to support intervention and enforcement with the purchase of technology for crime prevention and criminal justice problem solving. Technology shall include, but not be limited to, crime-mapping software, Global Positioning Systems (GPS) technology and smart phone tools;

3. Enhancing analytical capacity through the development or expansion of analytical capabilities that focus on crime mapping, analysis of crime trends and developing data-driven strategies that focus on violent crime reduction through the employment of civilian crime analysts;

4. Engaging with community partners in order to develop partnerships and projects that focus on preventing violent crime in the community. Community partners may include, but are not limited to, public and private service providers, the courts, and probation and parole services. Projects shall include, but are not limited to, programs that focus on drug enforcement efforts, youth violent crime, gang violence, and offender recidivism; and

5. Increasing direct services to crime victims through local law enforcement efforts which shall include, but not be limited to, addressing gaps in crime victims services by enhancing accessibility to services, increasing awareness of victimization and partnering with local community providers to improve supports and services to victims of crime.

C. Preference shall be given to grant applicants that can demonstrate a commitment to regional, multijurisdictional strategies to address community safety issues and can clearly outline a comprehensive plan for municipalities to work with law enforcement, community-based organizations and government agencies to address violent criminal activity.

D. Grants awarded pursuant to the Justice Reinvestment Grant Program shall be considered one-time grants awarded to local law enforcement agencies. The Office of the Attorney General shall consult with local law enforcement agencies when determining grant eligibility requirements and criteria. The Office of the Attorney General shall publish guidelines and an application for the competitive portion of the grant program no later than January 1, 2013.

E. The Office of the Attorney General is hereby authorized to adopt rules and procedures as necessary to carry out the provisions of this section.

Added by Laws 2012, c. 228, § 11, eff. Nov. 1, 2012.

§74-201. Collection of information by the Office of Attorney General.

A. The Office of the Attorney General shall have the authority to collect information sufficient to meet its responsibilities related to the auditing of justice reinvestment initiatives in this state.

B. The individual forms, computer and electronic data, and other forms of information collected by and furnished to the Attorney General shall be confidential and shall not be public records as defined in the Oklahoma Open Records Act.

C. Except as otherwise provided by state and federal confidentiality laws, identifying information shall not be disclosed and shall not be used for any public purpose other than the creation and maintenance of anonymous data sets for statistical reporting and data analysis.

D. The following entities shall report and submit the required information to the Attorney General on or before November 1, 2016:

1. The Oklahoma State Bureau of Investigation shall provide crime rates for violent, property and drug-related crimes;

2. The Department of Mental Health and Substance Abuse Services shall provide information related to the location and number of mental health beds, funds expended on services for criminal offenders, the total number of mental health assessments completed by the Department, as well as the average score, costs and verification of mental health assessment tools;

3. The District Attorneys Council shall provide information related to the costs of providing training for victim-witness coordinators and support staff who provide services to crime victims and witnesses within each district and the number of assistant district attorneys and support staff employed within each office;

4. The Administrative Director of the Courts shall provide the total number of criminal sentence modifications; and

5. The Department of Corrections shall provide information related to incarceration rates including, but not limited to, the type of criminal offense, average period of incarceration, total number of correctional facilities and the total number of corrections officers, corrections employees and probation and parole employees. The Department of Corrections shall also provide the total number of offenders who are on probation, parole or post-imprisonment supervision and shall also provide information related to the use of sanctions, including technical violations, referrals to intermediate sanctions facilities, intermediate revocation facilities and revocations.

E. The Attorney General shall include in the report the number of grants awarded pursuant to the Justice Reinvestment Grant Program

established pursuant to the provisions of Section 11 of this act and the name of the law enforcement agency which received said grant.

F. A detailed report of the data analysis shall be provided by the Attorney General to the Governor, the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the Oklahoma State Senate by January 1, 2017.

Added by Laws 2012, c. 228, § 12, eff. Nov. 1, 2012.

§74-21b. Assistant Attorneys General - Other employees - Appointments - Duties and compensation.

The following positions are hereby created in the Office of the Attorney General in lieu of all positions previously existing in said office: One First Assistant Attorney General, and such other Assistant Attorneys General, investigators, and other employees as the Attorney General shall deem necessary for the proper performance of his or her duties.

The Attorney General shall appoint and fix the duties and compensation of all Assistant Attorneys General, investigators, and other employees necessary to perform the duties imposed upon the Attorney General by law, payable from appropriations made for such purposes.

CLEET-certified investigators of the Office of the Attorney General shall have and exercise all the powers and authority of peace officers pursuant to rules promulgated by the Attorney General.

Added by Laws 1971, c. 16, § 1, emerg. eff. March 12, 1971. Amended by Laws 1973, c. 131, § 3, emerg. eff. May 10, 1973; Laws 1982, c. 90, § 3, emerg. eff. April 1, 1982; Laws 1982, c. 229, § 4, eff. Jan. 10, 1983; Laws 1987, c. 203, § 10, operative July 1, 1987; Laws 1989, c. 348, § 25, eff. Nov. 1, 1989; Laws 1990, c. 264, § 128, operative July 1, 1990; Laws 2000, c. 366, § 1, emerg. eff. June 6, 2000.

§74-28. First Assistant Attorney General.

The Attorney General shall appoint a First Assistant Attorney General, to assist him in his executive and other duties, which Assistant shall have had not less than five (5) years' experience in the active practice of law. Such Assistant shall take the constitutional oath of office and file it in the Office of the Secretary of State. In the absence or disability of the Attorney General, such Assistant may perform the duties of the Attorney General.

Laws 1939, p. 47, § 8; Laws 1973, c. 131, § 4, emerg. eff. May 10, 1973; Laws 1980, c. 159, § 33, emerg. eff. April 2, 1980.

§74-28c. Appointment of assistants and employees - Term.

The Attorney General is hereby authorized to appoint the Assistants and employees created in this act, in addition to those now authorized by law, and they shall hold their offices and positions at the pleasure and discretion of the Attorney General. Laws 1939, p. 49, § 11.

§74-28d. Certain offices not affected by this act.

Nothing contained in this act shall be construed as abolishing or affecting any attorneyship where the salary thereof is paid from funds not provided by the State of Oklahoma; and provided further, that nothing contained in this act shall be construed as abolishing or affecting the Office of Proration Attorney, Pardon and Parole Attorney, Counsel, whether one or more for the Grand River Dam Authority, and any legal assistance for the Assistant Representative of the State of Oklahoma on the Interstate Oil and Gas Compact Commission.

Laws 1939, p. 49, § 12.

§74-29. Designation as Natural Gas Curtailment and Regulation Hearings Counsel.

The Office of the Attorney General is hereby authorized and directed to act as the Oklahoma Natural Gas Curtailment and Regulation Hearings Counsel in proceedings before federal regulatory agencies and state and federal courts.

Laws 1979, c. 196, § 5, emerg. eff. May 25, 1979.

§74-30. Short title.

Sections 1 through 4 of this act shall be known and may be cited as the "Oklahoma Drug and Alcohol Abuse Policy Board Act".

Added by Laws 1991, c. 121, § 1, emerg. eff. April 29, 1991.

§74-30a. Legislative findings.

The Legislature finds that drug and alcohol abuse is one of the most critical problems facing law enforcement, education, and the social service agencies in the State of Oklahoma and that the problem continues to escalate, threatening the quality of life in our state, destroying the integrity of the family, disrupting the lives of children and adults, increasing crime, and creating a drain on the resources available to combat those many problems through the various state and local agencies in our state. In order to expand and enhance the ability of the state to combat the serious drug and alcohol problems, the Legislature finds that a centralized, well-coordinated statewide effort is necessary to curb both the supply of drugs and the demand for drugs and alcohol among Oklahomans, especially our youth, and that a statewide plan should be coordinated by the Attorney General of Oklahoma and developed by the various state and local law enforcement, education, and social

service agencies in order to direct the efforts and activities of all entities that are involved in efforts against drug and alcohol abuse.

Added by Laws 1991, c. 121, § 2, emerg. eff. April 29, 1991.

§74-30b. Oklahoma Drug and Alcohol Abuse Policy Board - Members - Chairperson - Election of officers - Meetings.

A. There is hereby created the Oklahoma Drug and Alcohol Abuse Policy Board.

B. A chairperson shall be chosen annually by the members of the Oklahoma Drug and Alcohol Abuse Policy Board to serve a term beginning July 1. The chairperson may establish committees, subcommittees, or other working groups in order to accomplish the goals of the Board.

C. The Board shall be composed of the following members:

1. The Governor or designee;
2. The Attorney General or designee;
3. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or designee;
4. The Director of the Oklahoma State Bureau of Investigation or designee;
5. The Commissioner of Public Safety or designee;
6. The Commissioner of the Department of Mental Health and Substance Abuse Services or designee;
7. The Commissioner of Health or designee;
8. The Adjutant General of the Military Department or designee;
9. The Superintendent of Public Instruction or designee;
10. The Director of the Department of Corrections or designee;
11. The Director of the Department of Human Services or designee;
12. The Director of the Alcoholic Beverage Laws Enforcement Commission or designee;
13. The Executive Director of the District Attorneys' Council or designee;
14. The Executive Director of the Oklahoma Commission on Children and Youth or designee;
15. The Executive Director of the Office of Juvenile Affairs or designee; and
16. Two appointees of the Governor, who shall be private citizens appointed to serve for one-year terms.

D. Any other state or local agency or individual may become a nonvoting member of the Board upon approval of a two-thirds (2/3) majority of the voting members set forth in subsection C of this section.

E. Other officers, excluding the chairperson, may be elected at the discretion of the voting Board members.



F. The Board shall hold meetings at least quarterly and at such other times as the chairperson deems necessary.

Added by Laws 1991, c. 121, § 3, emerg. eff. April 29, 1991.

Amended by Laws 1996, c. 247, § 45, eff. July 1, 1996; Laws 1997, c. 227, § 2, emerg. eff. May 20, 1997.

§74-30c. Duties.

The Oklahoma Drug and Alcohol Abuse Policy Board shall:

1. Encourage the establishment of a mechanism for the exchange of information and ideas to assist in the marshalling, coordinating and directing of the various missions and efforts related to fighting drug and alcohol abuse of the agencies set forth in subsection C of Section 3 of this act;

2. Encourage other institutions, both public and private, to participate in creating uniform drug policies for the state;

3. Create a structure and organization to facilitate the coordination of this state's war against drug and alcohol abuse by establishing strategies on prevention, treatment and rehabilitation, thereby avoiding duplication of effort and preserving state resources;

4. Establish a central focus and policy in coordinating and directing public and private efforts toward solving all alcohol and drug-related problems;

5. Develop and refine a comprehensive statewide plan which addresses all areas of the war against drugs including: law enforcement, prosecution, prevention, treatment and rehabilitation efforts, maximizing the utilization of the state's resources; and

6. Issue reports of findings and recommendations to the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives on or before February 1 of each year.

Added by Laws 1991, c. 121, § 4, emerg. eff. April 29, 1991.

§74-30d. Termination of Board.

The Oklahoma Drug and Alcohol Abuse Policy Board shall cease to exist after July 1, 2000.

Added by Laws 1991, c. 121, § 5, emerg. eff. April 29, 1991.

Amended by Laws 1994, c. 336, § 1, emerg. eff. June 8, 1994; Laws 1997, c. 227, § 3, emerg. eff. May 20, 1997.

§74-34. Renumbered as § 34.81 of Title 62 by Laws 2009, c. 441, § 64, eff. July 1, 2009.

§74-51. Short title.

Sections 1 through 4 of this act shall be known as may be cited as the "Oklahoma Homeland Security Act".

Added by Laws 2004, c. 157, § 1, emerg. eff. April 26, 2004.

§74-51.1. Oklahoma Office of Homeland Security.

A. There is hereby created the Oklahoma Office of Homeland Security. The Governor shall be the chief officer of the Office and shall appoint a Homeland Security Director who shall be responsible to the Governor for the operation and administration of the Office. The Governor shall determine the salary for the Director.

B. The Oklahoma Homeland Security Director shall possess or obtain a federally recognized Top Secret Level Clearance.

1. Any employee of state government appointed to the position of Oklahoma Homeland Security Director shall have a right to return to the previously held classified position of the employee without any loss of rights, privileges, or benefits immediately upon completion of the duties as Oklahoma Homeland Security Director, provided the employee is not otherwise disqualified.

2. Any person appointed to the position of Oklahoma Homeland Security Director, if already a member of a state retirement system, shall be eligible to continue participation in that system. If not a member of a state retirement system, the Director shall be eligible to participate in the Oklahoma Public Employees Retirement System. The Oklahoma Homeland Security Director shall be eligible for participation in only one retirement system and shall elect in writing the system in which the Director intends to participate.

3. The Commissioner of the Department of Public Safety may commission the Director of Homeland Security as a peace officer if at the time of appointment the Director is certified as a law enforcement officer by the Council on Law Enforcement Education and Training (CLEET) or as a state trooper if at the time of appointment the Director is a CLEET-certified officer of the Oklahoma Highway Patrol.

C. The Oklahoma Office of Homeland Security shall consist of at least three divisions:

1. Prevention and Intelligence;
2. Response and Recovery Planning; and
3. Awareness and Preparedness.

D. The Director shall be authorized to employ personnel necessary to achieve the mission of the Office. Other federal, state, and local personnel may be assigned to the Office of Homeland Security pursuant to an interagency agreement. The Governor shall designate at which appropriate state agency the Oklahoma Office of Homeland Security shall be located. That agency shall provide housing, administrative staff and other support to the Oklahoma Office of Homeland Security. All positions and personnel of the Office of Homeland Security shall be exempt from the full-time-employee limit of the state agency where the Office of Homeland Security is located.

E. The Oklahoma Homeland Security Director shall have the duty and responsibility to develop and coordinate the implementation and

administration of a comprehensive statewide strategy to secure the State of Oklahoma from the results of acts of terrorism, from a public health emergency, from cyberterrorism, and from weapons of mass destruction as that term is defined in 18 U.S.C., Section 2332a, and to perform other duties assigned by the Governor. These duties shall include but not be limited to:

1. Representing the State of Oklahoma with federal agencies as the state homeland security director for purposes of accessing federal funds and cooperating with federal agencies in the development and implementation of a nationwide homeland security plan of response; and

2. Coordinating the Homeland Security efforts within the State of Oklahoma, including working with the Governor and Legislature, state agencies, and local elected officials and local governments, emergency responder groups, private-sector businesses, educational institutions, volunteer organizations, and the general public. State agencies receiving federal funding for homeland security purposes shall report the amount and intended use of those funds to the Oklahoma Homeland Security Director to ensure efficient use of funds and to avoid duplication of efforts.

F. Included in the comprehensive statewide strategy and consistent with the National Strategy for Homeland Security, as promulgated by the Office of the President of the United States, or its successor plan or plans, the Oklahoma Homeland Security Director shall establish the following strategic objectives for Oklahoma:

1. To prevent terrorist attacks;
2. To reduce vulnerability to terrorism;
3. To minimize the damage from and to recover from terrorist attacks; and
4. Such other duties as the Governor may prescribe.

G. The Oklahoma Office of Homeland Security shall have the following duties:

1. Establish a plan for the effective implementation of a statewide emergency All-Hazards response system, including the duties and responsibilities of regional emergency response teams;
2. Create, implement, and administer an advisory system;
3. Coordinate and prepare applications for federal funds related to homeland security and accessing and distributing the federal funds; and

4. Cooperate with federal agencies in the development and implementation of a nationwide homeland security plan or response.

H. The Oklahoma Office of Homeland Security and any local government may enter into contracts with each other for equipment and personnel, or both. The contract may include any provisions agreed upon by the parties and as required by any federal or state grant, if applicable.

I. All state agencies and political subdivisions of this state and all officers and employees of those agencies and political subdivisions are hereby directed to cooperate with and lend assistance to the Oklahoma Homeland Security Director.

Added by Laws 2002, S.J.R. No. 42, § 1, emerg. eff. Feb. 21, 2002.

Amended by Laws 2004, c. 157, § 2, emerg. eff. April 26, 2004.

Renumbered from § 10.6 of this title by Laws 2004, c. 157, § 8, emerg. eff. April 26, 2004.

§74-51.1a. Interoperable public safety communications planning.

A. In addition to the powers and duties as defined elsewhere in statute, the Oklahoma Office of Homeland Security has the duty and responsibility for interoperable public safety communications planning within the State of Oklahoma. As part of this duty the Oklahoma Office of Homeland Security shall:

1. Annually develop and report to the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives, the Statewide Communications Interoperability Plan;

2. Coordinate statewide planning for public safety communication needs of state government and state emergency responders, including a migration plan for state agency use of public safety communications technologies and rendering of aid between state government and its political subdivisions for organizing and use of disparate public safety communications systems;

3. Serve as a focal point for all state-level projects involving public safety communications vendors where the focus of such authority can substantially enhance the state communications plan or savings;

4. Apply for, receive, and hold, or assist state agencies in applying for, receiving, or holding such authorizations, licenses, and allocations of channels and frequencies to carry out the purposes of this section;

5. Establish minimum standards and protocols for acquisition, development, or enhancement of public safety communications technologies. These standards shall be utilized by the Information Services Division of the Office of Management and Enterprise Services pursuant to the provisions of Section 34.20 of Title 62 of the Oklahoma Statutes; and

6. Accomplish such other purposes as may be necessary or incidental to the administration of its authority or functions pursuant to law.

B. It is the intent of the Legislature that all state public entities comply with the provisions of the Statewide Communications Interoperability Plan issued by the Oklahoma Office of Homeland Security. All state agencies are required to review the provisions of the Statewide Communications Interoperability Plan and the public

safety communications standards issued by the Oklahoma Office of Homeland Security prior to the purchase, acquisition, development, or enhancement of any public safety communications system. Local public safety agencies and political subdivisions of the state are encouraged, but not required, to review the provisions of the Statewide Communications Interoperability Plan and the public safety communications standards issued by the Oklahoma Office of Homeland Security prior to the purchase, acquisition, development, or enhancement of any public safety communications system to assist the local public safety agency or political subdivision in purchasing decisions.

C. No state agency shall use state funds or enter into any agreement for the acquisition, development, or enhancement of a public safety communication system unless the request is consistent with the Statewide Communications Interoperability Plan and the public safety communications standards issued by the Oklahoma Office of Homeland Security.

Added by Laws 2009, c. 212, § 1, eff. Nov. 1, 2009. Amended by Laws 2012, c. 304, § 700.

#### §74-51.2. Oklahoma Homeland Security Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Office of Homeland Security to be designated the "Oklahoma Homeland Security Revolving Fund". The Oklahoma Homeland Security Revolving Fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of monies received by the Oklahoma Office of Homeland Security or the Department of Public Safety from:

1. Reimbursements from responsible parties for reasonable actions taken and costs incurred by a regional team in response to an incident or event involving a dangerous substance;
2. Reimbursements, grants, or other monies received from other state agencies and entities of state government;
3. Reimbursements, grants, or other monies received by the Oklahoma Office of Homeland Security or the Department of Public Safety from the United States government or pursuant to proceedings in district court to enforce claims initiated pursuant to the Oklahoma Homeland Security Act or the Oklahoma Emergency Response Act;
4. Gifts, donations, and bequests;
5. Monies appropriated or apportioned by the state; and
6. Receipts from other ancillary services related to incidents or events related to dangerous substances, not otherwise provided by law.

B. All monies accruing to the credit of the Oklahoma Homeland Security Revolving Fund are hereby appropriated and may be budgeted and expended by the Oklahoma Office of Homeland Security for:

1. Operating expenses;
2. Administrative duties; and
3. Education and reimbursement for expenses of regional teams, including maintenance of equipment.

C. Expenditures from the Oklahoma Homeland Security Revolving Fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2004, c. 157, § 3, emerg. eff. April 26, 2004.

Amended by Laws 2012, c. 304, § 701.

#### §74-51.2a. Emergency preparedness grants.

Contingent upon the availability of designated funding from the United States Department of Homeland Security or state appropriations, the Oklahoma Office of Homeland Security shall make grant monies available to:

1. Public schools, private schools, technology center schools, and institutions of higher learning in the State of Oklahoma to encourage greater emergency preparedness, including, but not limited to, improvement of plans and procedures for natural and man-made disaster and emergencies, improvement of security on campus, at events, and with regard to buses and other transportation, and improvement of communications strategies and equipment; and

2. Local law enforcement, emergency management, disaster relief, and public health entities in the State of Oklahoma to encourage the active engagement of such entities with public schools, private schools, technology center schools, and institutions of higher learning in their efforts to improve emergency preparedness.

Added by Laws 2008, c. 216, § 8, eff. Nov. 1, 2008. Amended by Laws 2009, c. 238, § 1, eff. July 1, 2009.

#### §74-51.2b. Oklahoma School Security Grant Program Act.

A. This section shall be known and may be cited as the "Oklahoma School Security Grant Program Act".

B. The Oklahoma Office of Homeland Security shall solicit proposals for and make grants for the enhancement of campus security at institutions of higher learning, technology center schools, public schools, and private schools.

C. The goals and objectives of the Oklahoma School Security Grant Program are to:

1. Increase the awareness of the public and educational institutions of the risks, threats, and vulnerabilities of school campuses as well as mitigation strategies;

2. Incentivize participation in school security training programs designed to assess campus risks, threats, and vulnerabilities;

3. Provide assistance to institutions of higher learning, technology center schools, public schools, and private schools initiating or implementing school security plans, programs, and activities; and

4. Build upon the success of the pilot Education Grant Program established by the Oklahoma Office of Homeland Security.

D. The Oklahoma Office of Homeland Security shall determine grant project criteria and establish a process for the consideration of proposals. The proposals shall be considered on a statewide competitive basis among peer institutions.

E. On or before January 1, 2010, and each year thereafter, the Oklahoma Office of Homeland Security shall prepare an annual report on the Oklahoma School Security Grant Program and submit to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

Added by Laws 2009, c. 238, § 2, eff. July 1, 2009.

#### §74-51.2c. Oklahoma School Security Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Office of Homeland Security to be designated the "Oklahoma School Security Revolving Fund". The Oklahoma School Security Revolving Fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies received by the Oklahoma Office of Homeland Security from:

1. Reimbursements, grants, or other monies received from other state agencies and entities of state government for school security;

2. Reimbursements, grants, or other monies received by the Oklahoma Office of Homeland Security from the United States government obligated to school security projects;

3. Gifts, donations, and bequests; and

4. Monies appropriated or apportioned by the state.

B. All monies accruing to the credit of the Oklahoma School Security Revolving Fund are hereby appropriated and may be budgeted and expended by the Oklahoma Office of Homeland Security for the administration of the Oklahoma School Security Grant Program. Contingent upon the availability of funding, the Oklahoma Office of Homeland Security may make grants each year to institutions of higher learning, technology center schools, public schools, and private schools as provided in Section 51.26 of this title.

C. Expenditures from the Oklahoma School Security Revolving Fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2009, c. 238, § 3, eff. July 1, 2009. Amended by Laws 2012, c. 304, § 702.

NOTE: Reference to "Section 51.26" in subsection B should read "Section 51.2b".

§74-51.2d. Oklahoma School Security Institute.

A. Upon the effective date of this act, the Oklahoma Office of Homeland Security shall designate a division of their office as the "Oklahoma School Security Institute".

B. The Oklahoma School Security Institute shall act as the central repository for the public and private elementary and secondary schools of this state to contact for information on resources made available to the schools in their efforts to enhance school security and assess risks and threats to school campuses. The goals and objectives of the Oklahoma School Security Institute shall include, but not be limited to:

1. Maximizing school security training and support to public and private elementary and secondary schools as authorized pursuant to Section 51.2b of Title 74 of the Oklahoma Statutes;

2. Assisting and coordinating with public and private elementary and secondary school administrators as required in the development and implementation of safety drills;

3. Facilitating efforts of public and private elementary and secondary schools to utilize any available programs or entities specializing in security issues; and

4. Creating and coordinating any working groups when necessary in order to continue developing and implementing new strategies and techniques for future recommendations on school security issues.

C. The Oklahoma School Security Institute may develop a telephone tip line whereby reports of activity that may compromise school safety can be called in and disseminated to the appropriate parties for additional investigation should it be warranted.

Added by Laws 2013, c. 54, § 1, eff. July 1, 2013.

§74-51.3. Regional advisory councils.

A. There are hereby created regional planning and coordination advisory councils for homeland security. The Oklahoma Homeland Security Director shall designate the geographical boundaries for each regional advisory council within the state.

B. Each regional advisory council shall be composed of the following members:

1. A chief of a paid fire department;
2. A chief of a volunteer fire department;
3. A county sheriff;
4. A chief of a police department;
5. A physician or hospital administrator;
6. An emergency management coordinator;



7. An emergency medical services provider;
8. A veterinarian;
9. A representative of a state or local disaster relief agency;
10. A city manager or mayor;
11. A county commissioner;
12. A public health representative;
13. A Council of Government representative;
14. A representative of a public school district; and
15. A representative of an institution of higher learning.

C. The members of the regional advisory councils shall be appointed by the Oklahoma Homeland Security Director. The Director shall appoint from a list of nominees provided to the Director from statewide associations or entities that represent the disciplines to be represented on the advisory councils. All members can be removed for cause by the Director.

D. Each member of a regional advisory council shall reside in or have employment duties within the region to be served by the regional advisory council. Regional advisory council members shall have staggered terms of office not exceeding three (3) years and may be reappointed upon the expiration of a term.

E. Each regional advisory council shall meet at least twice a year or more frequently at the discretion of the Director. The Director or designee from the Oklahoma Office of Homeland Security shall attend the meetings of the regional advisory councils. A majority of the members of the regional advisory council shall constitute a quorum. The Office of Homeland Security shall establish policies and procedures regarding the operation of the regional advisory councils.

F. The duties and responsibilities of each regional advisory council shall be:

1. Assessing and documenting the needs of the region related to homeland security;

2. Coordinating and cooperating with the Oklahoma Office of Homeland Security to achieve the strategic objectives prescribed in this act; and

3. Other duties and responsibilities as determined by the Oklahoma Homeland Security Director.

Added by Laws 2004, c. 157, § 4, emerg. eff. April 26, 2004.

Amended by Laws 2005, c. 397, § 1, eff. July 1, 2005; Laws 2008, c. 216, § 9, eff. Nov. 1, 2008.

§74-61.1. Repealed by Laws 2011, c. 302, § 11.

§74-61.2. "Board of Affairs", "Office of Public Affairs", "Department of Central Services" to mean "Office of Management and Enterprise Services".

Whenever the terms "Board of Affairs", "State Board of Public Affairs", "Board" when used in reference to the Board Of Public Affairs, "Office of Public Affairs", or "Department of Central Services" appear in the Oklahoma Statutes they shall mean the Office of Management and Enterprise Services. Whenever the term "Director of Public Affairs" appears in the Oklahoma Statutes it shall mean the Director of the Office of Management and Enterprise Services. Whenever the term "Director of Central Services" appears in the Oklahoma Statutes it shall mean the Director of the Office of Management and Enterprise Services or designee. Added by Laws 1983, c. 304, § 179, eff. July 1, 1983. Amended by Laws 1992, c. 37, § 2, emerg. eff. April 3, 1992; Laws 2011, c. 302, § 5; Laws 2012, c. 303, § 4, eff. Nov. 1, 2012.

#### §74-61.3. Experts and assistants.

The Director of the Office of Management and Enterprise Services, with the approval of the Governor, shall employ and make the appointment of such experts and assistants as may be necessary in the performance of the Director's duties as required by law. No appointments to positions shall be made in excess of the positions authorized by act of the Legislature for the Office of Management and Enterprise Services.

Added by Laws 1983, c. 304, § 180, eff. July 1, 1983. Amended by Laws 2012, c. 304, § 703.

#### §74-61.4. Legal counsel.

The Director of the Office of Management and Enterprise Services shall employ an attorney and one assistant attorney to serve as legal counsel for the Office of Management and Enterprise Services. The attorney and one assistant attorney shall be authorized to appear for and represent the Office of Management and Enterprise Services in all litigation that may arise from the discharge of its duties, except as otherwise provided in this section, and shall advise it upon all legal matters pertaining to the Office of Management and Enterprise Services. The salary for the attorney and the assistant attorney shall be fixed by the Director. Any litigation concerning the Comprehensive Professional Risk Management Program of the Office of Management and Enterprise Services shall be handled by the Attorney General of the State of Oklahoma; provided, the Director of the Office of Management and Enterprise Services may employ private attorneys to handle any litigation which involves entities covered by the Comprehensive Professional Risk Management Program which are not state agencies. The attorney, the assistant attorney and, in addition, the Attorney General, are further authorized to appear for and represent officers and employees of the Office of Management and Enterprise Services in any civil suits brought against such officers and employees in their individual

capacities upon alleged causes of action which arose from acts or omissions of such officers and employees within the scope of their official duties.

Added by Laws 1985, c. 294, § 8, emerg. eff. July 24, 1985. Amended by Laws 1994, c. 329, § 1, eff. July 1, 1994; Laws 1996, c. 316, § 6, eff. July 1, 1996; Laws 2012, c. 304, § 704.

§74-61.5. Certain positions subject to Merit System - Compliance with personnel laws and rules and regulations.

A. Effective July 1, 1988, the following positions of the Office of Public Affairs shall become subject to the provisions of the Merit System of Personnel Administration:

1. Accounting Division:

a. Accountant I;

2. Administration Division:

a. Administrative Officer (for rental services),

and

b. Typist Clerk III;

3. Central Purchasing Division:

a. Typist Clerk III;

4. Data Processing Division:

a. Data Processing Programmer/Analyst;

5. Building Management Division:

a. Custodial Worker (2),

b. Typist Clerk III,

c. Carpenter I,

d. Secretary, and

e. Clerk I;

6. Construction and Properties Division:

a. Typist Clerk III, and

b. Construction Technician (2); and

7. Risk Management Division:

a. Executive Secretary II, and

b. Administrative Assistant II.

B. All incumbent employees subject to this section shall be classified without regard to qualifications or examinations. Such employees shall be granted status in the class of positions into which the employee's individual position has been allocated by the Merit System.

C. All personnel transactions subsequent to June 30, 1988, shall be governed by and in compliance with the Oklahoma Personnel Act, Section 840.1 et seq. of Title 74 of the Oklahoma Statutes, and the Merit System of Personnel Administration rules and regulations or any other applicable laws.

D. No pecuniary liability shall be imposed on account of any state law against any officer or employee of the Office of Public

Affairs based on any personnel appointment affected by this section occurring prior to June 30, 1988.

Added by Laws 1988, c. 305, § 24, operative July 1, 1988.

§74-61.6. Repealed by Laws 2004, c. 340, § 15.

§74-61.7. Renumbered as § 908 of Title 62 by Laws 2013, c. 209, § 17, eff. July 1, 2013.

§74-61.8. Reduction of property owned and leased by the state.

A. The Long-Range Capital Planning Commission shall work to decrease the amount of property owned by Oklahoma state government, return state-owned property to private sector ownership, better maintain and utilize the state's needed capital assets and, whenever possible, eliminate the practice of state agencies leasing real property not owned by the state.

B. Each year, the Director of the Office of Management and Enterprise Services at the direction of the Long-Range Capital Planning Commission, shall take action to approve the privatization of state-owned real property as identified pursuant to the Oklahoma State Government Asset Reduction and Cost Savings Program. Proceeds from the liquidation of real properties shall be deposited into the Maintenance of State Buildings Revolving Fund.

C. Prior to entering into or renewing a lease for real property, each state agency, board, commission, and public trust having the State of Oklahoma as a beneficiary shall receive approval for entering into the lease from the Office of Management and Enterprise Services.

D. Prior to making a purchase of real property or constructing a building, each state agency, board, commission, and public trust having the State of Oklahoma as a beneficiary shall receive approval for the purchase or construction from the Director of the Office of Management and Enterprise Services; provided, if such purchase or construction is deemed by the Director of the Office of Management and Enterprise Services to be within the authority of the Long-Range Capital Planning Commission, the Director shall not approve the purchase or construction and shall refer the request to the Commission for action.

E. Prior to approval or referral pursuant to subsection C or D of this section, the Office of Management and Enterprise Services shall determine if the applicant entity can utilize already existing state-owned real property as an alternative to leasing non-state-owned real property or purchasing or constructing new real property. If such existing state-owned real property is owned by the Oklahoma Historical Society, is listed on the National Register of Historic Places or with the National Trust for Historic Preservation, or is potentially of historical significance, the Office of Management and

Enterprise Services shall notify the Oklahoma Historical Society and obtain its approval prior to approving an application for its reuse.

F. No state agency, board, commission or public trust having the state as its beneficiary shall transfer any real property owned by the agency, board, commission or trust to any other state agency, board, commission, state beneficiary trust or any public or private entity unless the transfer is first approved by the Long-Range Capital Planning Commission. Any transfer made without the prior approval of the Long-Range Capital Planning Commission as required by this subsection may be reversed by the Long-Range Capital Planning Commission and if a transfer is reversed the agency, board, commission, state beneficiary trust or other state government entity to which the real property has been impermissibly transferred shall take such actions to convey the subject property to the entity from which the asset was acquired not later than thirty (30) days from the date an order for such transfer is entered by the Long-Range Capital Planning Commission. The Commission shall not approve any transfer unless proceeds from the sale shall be deposited within the Maintenance of State Buildings Revolving Fund as established by Section 908 of Title 62 of the Oklahoma Statutes.

G. By February 1 of each year, the Office of Management and Enterprise Services shall publish a report for the preceding calendar year listing the parcels of previously state-owned property sold, detailing the reduction in the amount of space leased by the state, describing the source of funds and expenditures from the Maintenance of State Buildings Revolving Fund and showing the manner in which deferred maintenance needs are being met. The report shall be provided to the Governor, Speaker of the House of Representatives, President Pro Tempore of the Senate and placed on the documents.ok.gov web portal.

H. This section shall not be applicable to the following or their lands, properties, buildings, funds or revenue:

1. The Oklahoma Ordnance Works Authority;
2. The Commissioners of the Land Office;
3. The Oklahoma Department of Transportation; and
4. The Oklahoma Turnpike Authority.

I. The Director of the Office of Management and Enterprise Services may make recommendations to the Long-Range Capital Planning Commission for liquidation of underutilized properties that have environmental issues, create a liability for the state, or create expenses that make the continued ownership of the underutilized property undesirable and the property has been offered through two public auctions or sealed bids and no viable bids were received. If the Long-Range Capital Planning Commission approves the liquidation of the property, the Office of Management and Enterprise Services may accept a bid of less than ninety percent (90%) of the appraised

value in accordance with Section 327 of Title 61 of the Oklahoma Statutes.

Added by Laws 2013, c. 209, § 2, eff. July 1, 2013. Amended by Laws 2014, c. 286, § 1, eff. Nov. 1, 2014; Laws 2015, c. 54, § 37, emerg. eff. April 10, 2015.

NOTE: Laws 2014, c. 248, § 3 repealed by Laws 2015, c. 54, § 38, emerg. eff. April 10, 2015.

#### §74-62.1. Short title.

Sections 1 through 6 of this act shall be known and may be cited as the "Oklahoma Surplus Property Act".

Added by Laws 1995, c. 342, § 1, emerg. eff. June 9, 1995.

#### §74-62.2. Definitions.

For purposes of the Oklahoma Surplus Property Act:

1. "Authorized entity" means a political subdivision, school, a multipurpose senior citizen center, as such term is defined in the federal Older Americans Act of 1965, group or organization eligible to acquire surplus property from a surplus property program;

2. "Surplus property" means items, commodities, materials, supplies or equipment a state agency owns and determines to be excess, obsolete, antiquated, unused or not needed;

3. "State agency" means any state board, bureau, commission, department, authority, public trust, interstate commission, the Judiciary, the Legislature, and the Office of the Governor;

4. "Office" means the Office of Management and Enterprise Services;

5. "Director" means the Director of the Office of Management and Enterprise Services;

6. "Surplus property program" means programs the Director establishes for the purchase, sale and disposal of surplus property;

7. "Sale" means methods the Director uses to dispose of surplus property; and

8. "Minimal value" or "no value" means surplus property that has less value than the costs the Office may incur to sell, trade or dispose of the surplus property.

Added by Laws 1995, c. 342, § 2, emerg. eff. June 9, 1995. Amended by Laws 1998, c. 203, § 4, emerg. eff. May 11, 1998; Laws 2000, c. 218, § 1, eff. Nov. 1, 2000; Laws 2003, c. 389, § 1, eff. July 1, 2003; Laws 2012, c. 304, § 706.

#### §74-62.3. Duties of Director - Agency compliance - Availability of surplus property to political subdivisions, school districts, and nonprofit entities - Donation of property to law enforcement agency

A. The Director of the Office of Management and Enterprise Services shall promulgate rules for use by state agencies and the Office of Management and Enterprise Services to dispose of surplus

property. The rules shall include standards for recordkeeping, methods for removal or disposal of surplus property, and acquisition by state agencies and authorized entities of surplus property, and for Office management of surplus property programs.

B. A state agency selling, trading, redistributing or otherwise disposing of surplus property shall comply with the rules promulgated by the Director.

C. The Office shall make surplus property available to state agencies and authorized entities, which shall include political subdivisions, school districts, and nonprofit entities of this state.

D. The provisions of the Oklahoma Surplus Property Act shall not apply to institutions of higher education in this state, the Oklahoma Historical Society, or the Northeast Oklahoma Public Facilities Authority. The Grand River Dam Authority shall be exempt from the provisions of the Oklahoma Surplus Property Act for any surplus property disposed of prior to November 1, 2006. CompSource Oklahoma shall be exempt from the provisions of the Oklahoma Surplus Property Act if CompSource Oklahoma is operating pursuant to a pilot program authorized by Sections 3316 and 3317 of this title.

E. Notwithstanding the provisions of the Oklahoma Surplus Property Act, the Oklahoma State Bureau of Investigation may, pursuant to rules promulgated by the Oklahoma State Bureau of Investigation Commission for that purpose, donate any surplus property, as defined in Section 62.2 of this title, to any law enforcement agency of any political subdivision of the State of Oklahoma. The use of such donated equipment shall be limited to valid and authorized law enforcement efforts by the receiving agency.

Added by Laws 1995, c. 342, § 3, emerg. eff. June 9, 1995. Amended by Laws 2000, c. 218, § 2, eff. Nov. 1, 2000; Laws 2004, c. 276, § 1, eff. Nov. 1, 2004; Laws 2005, c. 234, § 1, emerg. eff. May 26, 2005; Laws 2009, c. 454, § 14; Laws 2012, c. 304, § 707; Laws 2016, c. 309, § 3, emerg. eff. May 16, 2016.

§74-62.4. Sale of surplus property - Disposition of proceeds - Discard or transfer - Disposal for a state agency.

A. Pursuant to rules promulgated by the Director of Central Services, proceeds from the sale of the surplus property shall be credited to a special cash fund created by Section 62.5 of this title.

B. Any surplus property determined by a state agency to have minimal or no value may be discarded or transferred to the Department pursuant to rules the Director promulgates.

C. If the Department disposes of a vehicle or equipment pursuant to the Oklahoma Surplus Property Act for a state agency, the Department shall remit the proceeds from the sale, less a

reasonable fee imposed by the Department for handling and disposition, to the state agency.

D. The Director may expend proceeds accruing to the Department within the special cash fund created by Section 62.5 of this title to defray operating expenses for the State Surplus Property program and expenses the Department incurs to support program operations. Added by Laws 1959, p. 353, § 9, eff. July 1, 1959. Amended by Laws 1963, c. 267, § 1, emerg. eff. June 13, 1963; Laws 1995, c. 342, § 4, emerg. eff. June 9, 1995. Renumbered from § 85.9 of this title by Laws 1995, c. 342, § 9, emerg. eff. June 9, 1995. Amended by Laws 2000, c. 218, § 3, eff. Nov. 1, 2000; Laws 2003, c. 372, § 2, eff. July 1, 2003.

#### §74-62.5. Special cash fund - Creation.

A. There is hereby created a special cash fund in the State Treasury for each state agency which requests that the Director sell, trade, or redistribute to other state agencies any surplus property.

B. All proceeds received from such transaction, and the proceeds of any insurance claim arising from the loss by fire, theft or casualty of insured material, supplies, or equipment shall be deposited in such special cash fund of such state agency and may be expended for the purchase or replacement of materials, supplies, or equipment of such state agency and for the payment of the cost of conducting any such transaction.

C. Whenever an unencumbered balance exists in said fund after June 30, the close of each fiscal year, such balance shall lapse and be transferred to the General Revenue Fund of the current fiscal year.

Added by Laws 1963, c. 267, § 2, emerg. eff. June 13, 1963. Amended by Laws 1978, c. 159, § 1, emerg. eff. April 7, 1978; Laws 1995, c. 342, § 5, emerg. eff. June 9, 1995. Renumbered from § 85.9A of this title by Laws 1995, c. 342, § 9, emerg. eff. June 9, 1995.

#### §74-62.6. List of surplus property - Authorization to sell, trade or redistribute.

A. 1. Each chief administrative officer of a state agency, except as otherwise provided by subsection B of this section, shall maintain a current list of all surplus property held and disposed of by that state agency.

2. Except as otherwise provided in paragraph 3 of this subsection, such list shall include the location where surplus property is maintained, purchase price, when sold and selling price, if transferred to which state agency or authorized entity, and if otherwise disposed of, what manner of disposal.

3. If any surplus property having minimal or no value is transferred to the Office of Management and Enterprise Services, any



such list shall reflect that the surplus property had minimal or no value and was transferred to the Office for disposal.

B. The Office is authorized to sell, trade or redistribute any surplus property having minimal or no value separately or in bulk or may properly dispose of such property as provided by law. Any costs incurred by the Office in the sale, trade, distribution or disposal of any surplus property having minimal or no value in excess of any monies received for such surplus property may be chargeable against the state agency transferring the surplus property to the Office.

C. The lists shall be available upon request to the Office, the State Auditor and Inspector, the Governor or any member of the Legislature.

Added by Laws 1995, c. 342, § 6, emerg. eff. June 9, 1995. Amended by Laws 2000, c. 218, § 4, eff. Nov. 1, 2000; Laws 2012, c. 304, § 708.

§74-62.7. Surplus property of Department of Transportation - Notice of availability - Offer for sale to public entities.

A. When the Department of Transportation determines that any equipment or vehicle becomes excess, obsolete, antiquated, unused or otherwise surplus, the Department shall notify the Office of Management and Enterprise Services in writing that such equipment or vehicle is surplus. The notice shall identify:

1. The type, brand or make, and country of manufacture of the equipment or vehicle;

2. The age of the equipment or vehicle including, but not limited to, mileage;

3. Whether the equipment or vehicle is in good working condition or not;

4. If the equipment or vehicle is not in good working condition, whether it is in repairable condition at reasonable cost;

5. Original cost of the equipment or vehicle; and

6. Present value of the equipment or vehicle, if known.

B. The Office of Management and Enterprise Services, with any other notice of surplus property, shall notify the eligible individuals or entities as provided in subsection C of this section of the availability of the surplus property of the Department of Transportation.

C. Prior to any advertised public auction or advertised sealed bids to all individuals and entities eligible for participation in the surplus program, the Office, thirty (30) days prior to the advertised auction date, shall offer, at fair market value, the equipment or vehicles to the individuals or entities, in the following order of priority:

1. Other state agencies;

2. Political subdivisions of the state;

3. Rural fire departments located in this state;

4. Rural water districts located in this state; and
5. Multipurpose senior citizen centers located in this state.

D. Any equipment or vehicles purchased pursuant to this section shall be made available to the purchaser on the date of purchase. Added by Laws 1992, c. 29, § 1, eff. Sept. 1, 1992. Renumbered from § 85.9C of this title by Laws 1999, c. 289, § 16, eff. July 1, 1999. Amended by Laws 2003, c. 389, § 2, eff. July 1, 2003; Laws 2012, c. 304, § 709.

§74-62.8. Acquisition of fire protection equipment or vehicles.

The Oklahoma Department of Agriculture, Food, and Forestry shall be authorized to acquire equipment or vehicles for the purpose of offering the equipment or vehicles to fire departments located in this state at no cost to the fire departments for use in improving local fire capabilities. Fire departments accepting equipment or vehicles from the Department shall place the equipment or vehicles into operation within a twelve-month period and shall agree to use the equipment and vehicles primarily for fire protection purposes. In consideration of the economic benefit to be provided to the State of Oklahoma, its citizens and their property by the continued use of the fire protection equipment or vehicles, the Department shall transfer title of the equipment or vehicles to the fire departments once the equipment or vehicles are placed in operation within the required twelve-month period. The Department shall promulgate rules for the dispersion of acquired equipment or vehicles.

Added by Laws 1997, c. 296, § 2, eff. Sept. 1, 1997. Renumbered from Title 74, § 85.9F by Laws 1999, c. 289, § 17, eff. July 1, 1999. Amended by Laws 2001, c. 169, § 6, emerg. eff. May 2, 2001; Laws 2006, c. 209, § 3, eff. Nov. 1, 2006.

§74-62.9. Clandestine drug laboratory detection, removal, and disposal - Use of federal funds or grants for training and equipment.

Unless otherwise prohibited, as funds become available from appropriations approved by the United States Congress or grants awarded by federal agencies to the Oklahoma State Bureau of Investigation, or from the OSBI Revolving Fund, the A.F.I.S. Fund, or the Forensic Science Improvement Revolving Fund, the Oklahoma State Bureau of Investigation shall be authorized to use the funds to purchase equipment and provide training to law enforcement agencies located in this state at no cost to the agencies. The costs of training may include tuition, equipment, supplies, and costs involved in attending training, and travel costs paid in accordance with the State Travel Reimbursement Act. In consideration of the economic benefit provided to the State of Oklahoma, its citizens, their health, and their property, by the continued use of the equipment and training for use in law

enforcement efforts, the Oklahoma State Bureau of Investigation may transfer title to any such equipment to a law enforcement agency for official law enforcement uses only.

Added by Laws 2001, c. 31, § 2, eff. Nov. 1, 2001. Amended by Laws 2004, c. 276, § 2, eff. Nov. 1, 2004; Laws 2005, c. 428, § 2, emerg. eff. June 6, 2005.

§74-63. General powers and authority of Office of Management and Enterprise Services.

A. The Office of Management and Enterprise Services shall have power to promulgate rules not inconsistent with the laws of this state.

B. The Office of Management and Enterprise Services shall have charge of the construction, repair, maintenance, insurance, and operation of all buildings owned, used, or occupied by or on behalf of the state including buildings owned by the Oklahoma Capitol Improvement Authority where such services are carried out by contract with the Authority, except as otherwise provided by law. Whenever feasible, the Office of Management and Enterprise Services may utilize the Construction Division of the Department of Corrections for the construction and repair of buildings for the Department of Corrections.

C. The Director of the Office of Management and Enterprise Services shall have authority to purchase all material and perform all other duties necessary in the construction, repair, and maintenance of all buildings under its management or control, shall make all necessary contracts by or on behalf of the state for any buildings or rooms rented for the use of the state or any of the officers thereof, and shall have charge of the arrangement and allotment of space in such buildings among the different state officers except as otherwise provided by law.

D. The Office of Management and Enterprise Services shall not have any authority or responsibility for buildings, rooms or space under the management or control of the University Hospitals Authority.

E. The Office of Management and Enterprise Services shall have the custody and control of all state property, and all other property managed or used by the state, except military stores and such property under the control of the State Banking Department and the two houses of the State Legislature, shall procure all necessary insurance thereon against loss and shall allot the use of the property to the several offices of the state, and prescribe where the property shall be kept for public use.

F. The Office of Management and Enterprise Services shall keep an accurate account of all property purchased for the state or any of the departments or officers thereof, except that purchased for and by the two houses of the State Legislature. The two houses

shall have the exclusive use, care, and custody of their respective chambers, committee rooms, furniture, and property, and shall keep their respective records of said furniture and property.

G. The Office of Management and Enterprise Services shall not have any authority or responsibility for property purchased for or under the management or control of the University Hospitals Authority except as expressly provided by law.

H. The Office of Management and Enterprise Services shall not have any authority or responsibility for property purchased for or under the management or control of CompSource Oklahoma if CompSource Oklahoma is operating pursuant to a pilot program authorized by Sections 3316 and 3317 of this title.

R.L. 1910, § 8082. Amended by Laws 1935, p. 24, § 1, emerg. eff. May 10, 1935; Laws 1983, c. 304, § 94, eff. July 1, 1983; Laws 1993, c. 330, § 27, eff. July 1, 1993; Laws 1996, c. 166, § 3, eff. July 1, 1996; Laws 2008, c. 319, § 7, eff. Nov. 1, 2008; Laws 2009, c. 454, § 15; Laws 2012, c. 304, § 710.

#### §74-63.1. Building and Facility Revolving Fund.

There is hereby created in the State Treasury, a revolving fund for the Office of Management and Enterprise Services to be designated the "Building and Facility Revolving Fund". The fund shall be a continuing fund not subject to fiscal year limitations and shall consist of all operation and maintenance charges paid to the Office by occupying agencies of the buildings operated and maintained by the Office. Monies accruing to the fund may be expended by the Office of Management and Enterprise Services for operation and maintenance of the facilities and expenses the Office incurs to support building and facilities operations. Expenditures from the fund shall be made on warrants issued by the State Treasurer against claims filed with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1976, c. 230, § 9, emerg. eff. June 15, 1976. Amended by Laws 1979, c. 47, § 94, emerg. eff. April 9, 1979; Laws 1983, c. 304, § 95, eff. July 1, 1983; Laws 1984, c. 279, § 11, operative July 1, 1984; Laws 2003, c. 372, § 3, eff. July 1, 2003; Laws 2012, c. 304, § 711.

#### §74-63.1a. Petty cash fund.

There is hereby created a petty cash fund for the Office of Management and Enterprise Services. Said fund shall be used as an imprest cash fund for the Building Management Division.

The amount of the Building Management petty cash fund shall not exceed Two Hundred Fifty Dollars (\$250.00) and the initial amount shall be drawn by warrant from the Building and Facility Fund. The Director of the Office of Management and Enterprise Services is

authorized to prescribe forms, systems and procedures for the administration of the Building Management petty cash fund. Added by Laws 1988, c. 305, § 20, operative July 1, 1988. Amended by Laws 2012, c. 304, § 712.

§74-63.2. Asbestos Abatement Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services, to be designated the "Asbestos Abatement Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies paid to the Office of Management and Enterprise Services for reimbursement of expenses for abatement of asbestos hazards. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Office of Management and Enterprise Services to perform the duties of the Asbestos Abatement Division of the Office of Management and Enterprise Services. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1985, c. 312, § 48, emerg. eff. July 25, 1985. Amended by Laws 1987, c. 5, § 43, emerg. eff. March 11, 1987; Laws 1989, c. 300, § 17, operative July 1, 1989; Laws 2012, c. 304, § 713.

§74-63.3. Records and information on underground storage tank systems - Reports by certain agencies, districts, and institutions - Priority list for removal or repair - Approval of removal - Report to Legislature.

A. The Office of Management and Enterprise Services shall establish and maintain adequate records and information on all underground storage tank systems owned and operated by the state or any agency of the state, including but not limited to school districts or any agency thereof and institutions of higher learning.

B. Upon the effective date of this act, every state agency and school district and institution of higher education owning or operating an underground storage tank system shall furnish and deliver to the Office of Management and Enterprise Services a report of the underground tanks owned and operated by the agency, district or institution detailing location of the tank, the age, condition of any such tank and installation methods, if known.

C. Prior to the report, each agency, district or institution shall:

1. Make a visual assessment of the tanks owned and operated by them to determine whether evidence of leakage from the tank has occurred;

2. An examination of fuel records during the past year to determine if input equals output; and

3. Determine based upon visible assessment and upon information the condition of the tank, expected life of the tank, present and future need for the tank.

D. Based on the information received from the agencies, districts and institutions, the Office of Management and Enterprise Services shall establish and maintain a priority list on state owned and operated underground storage tank systems with the tanks needing removal or repair due to leakage given the greatest priority.

E. Upon establishment of the priority list, as funds become available for such purposes, the Office of Management and Enterprise Services shall provide for the upgrade, repair or removal of tanks owned and operated by said state agencies, districts or institutions so as to meet the federal protection standards for underground storage tank systems by 1999. When possible an internal assessment of the tanks shall be made and as a preference over removal except in cases of economics or extent of deterioration of the tank, or future need of the tank, and when needed the tank shall be upgraded pursuant to the most current edition of the National Leak Prevention Association Standard No. 631.

F. Except in an emergency situation no tank shall be removed without the approval of the Office of Management and Enterprise Services after determination that removal would be more cost effective than repairing or upgrading the tank.

G. By January 15 of each year, the Office of Management and Enterprise Services shall make a written report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate listing:

1. The number of tanks owned and operated by state agencies, districts and institutions; and

2. How many tanks were removed and replaced or removed, or upgraded and an estimated cost of bringing the tanks into compliance with federal law requirements by 1999.

Added by Laws 1991, c. 331, § 63, eff. Sept. 1, 1991. Amended by Laws 2012, c. 304, § 714.

#### §74-63.4. State Surplus Auction petty cash fund.

There is hereby created a petty cash fund for the Office of Management and Enterprise Services to be used for the State Surplus Auctions in the Property Reutilization Division.

The amount of the State Surplus Auction petty cash fund shall not exceed Two Hundred Fifty Dollars (\$250.00), and the initial amount shall be drawn by warrant from the State Surplus Property Revolving Fund. The Director of the Office of Management and Enterprise Services is authorized to prescribe forms, systems and procedures for the administration of the State Surplus Auction petty cash fund.

Added by Laws 2008, c. 352, § 3, eff. Nov. 1, 2008. Amended by Laws 2012, c. 304, § 715.

§74-63.5. Posting of reports.

Upon receipt of reports required by Section 2 of this act, the Office of Management and Enterprise Services shall cause the reports to be posted on the documents.ok.gov website. The Office shall also send a notice of such posting to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

Added by Laws 2013, c. 218, § 3, eff. Nov. 1, 2013.

§74-63.6. Alternative process for certain business operations - Academic health centers

A. When unnecessary duplication or redundancies add cost and inefficiency to routine processing systems, the Office of Management and Enterprise Services (OMES) may approve an alternative process for certain business operations, including but not limited to accounts payable and travel and expense control at academic health centers that meet or exceed OMES requirements. OMES shall establish appropriate reporting as deemed necessary.

B. For purposes of this section, an academic health center consists of an allopathic or osteopathic medical school, one or more other health profession schools or programs such as allied health, dentistry, graduate studies, nursing, pharmacy, public health, veterinary medicine, and one or more owned or affiliated teaching hospitals or health systems.

Added by Laws 2016, c. 302, § 1, eff. Nov. 1, 2016.

§74-66. Restrictions - Interest in other business or in state contracts.

The Director of the Office of Management and Enterprise Services is prohibited from engaging in any other business for compensation for personal services during the time of service as Director. No contract shall be entered into by said Director with any firm or corporation in which said Director shall have any interest or shall be a stockholder, nor with any relative of said Director either by blood or marriage within the third degree.

R.L. 1910, § 8085. Amended by Laws 1983, c. 304, § 96, eff. July 1, 1983; Laws 2012, c. 304, § 716.

§74-71. Taking of rebates by officer of Office of Management and Enterprise Services a felony.

The taking or receiving by any officer of said Office of Management and Enterprise Services of any rebate, percentage of contract, money, or any other thing of value from any person, firm, or corporation offering, bidding for, or in the open market and

seeking to make sales to said Office, shall be a felony. Any officer of said Office convicted under this section shall be punished by a fine not to exceed Five Thousand Dollars (\$5,000.00) and by imprisonment in the custody of the Department of Corrections not less than five (5) years nor more than ten (10) years. Such fine shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment.

R.L. 1910, § 8090. Amended by Laws 1983, c. 304, § 97, eff. July 1, 1983; Laws 1997, c. 133, § 584, eff. July 1, 1999; Laws 1999, 1st Ex. Sess., c. 5, § 424, eff. July 1, 1999; Laws 2012, c. 304, § 717.

NOTE: Laws 1998, 1st Ex. Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 584 from July 1, 1998, to July 1, 1999.

#### §74-72. Monuments and markers.

The Director of the Office of Management and Enterprise Services and the Warden of the State Reformatory are authorized and directed to furnish to the said Oklahoma Historical Society and associated organizations such monuments and markers of granite as may be desired and ordered or requisitioned for the purposes pursuant to the provisions of this section at prices not exceeding the cost of production and delivery, which includes: Quarrying, squaring, facing, lettering prescribed inscriptions, crating, and delivering to the railway or other carrier.

Added by Laws 1927, c. 224, p. 272 § 1, emerg. eff. March 28, 1927. Amended by Laws 1983, c. 304, § 98, eff. July 1, 1983; Laws 2012, c. 304, § 718.

#### §74-74.1. Regional service offices - Assistance to state agencies - Priority of buildings used.

The Office of Management and Enterprise Services shall assist any state agency authorized to establish and maintain regional service offices in obtaining adequate and suitable quarters, office space or facilities for any such regional service offices. Priority for obtaining adequate quarters, office space or facilities shall be given in the following order: State-owned buildings, county or municipal-owned buildings, public trust or building authority-owned buildings or private vendor-owned buildings.

Added by Laws 1990, c. 289, § 3. Amended by Laws 2012, c. 304, § 719; Laws 2013, c. 209, § 3, eff. July 1, 2013.

#### §74-75. Capitol Cafeteria Revolving Fund - Establishment - Use.

The Office of Management and Enterprise Services is hereby authorized to establish a revolving fund to be designated as the "Capitol Cafeteria Revolving Fund". The said fund may be used for the operation of cafeterias and other food service in state buildings in the State Capitol area and for acquisition of new equipment and furnishings and for maintenance, repair, and



replacement of existing equipment and furnishings used in connection with the operation of such Capitol Cafeterias or food service. Said revolving fund shall consist of all revenues accruing through the operation of said cafeterias or food service or paid as rental to the Office of Management and Enterprise Services by any operator-lessee of such Capitol Cafeterias or food service facilities. Expenditures from said revolving fund shall be made pursuant to general laws for the purposes set forth in this section. Warrants for said expenditures shall be drawn by the State Treasurer, based on claims signed and approved for payment by the Director of the Office of Management and Enterprise Services or his designee. Added by Laws 1969, c. 83, § 1. Amended by Laws 1973, c. 46, § 9, operative July 1, 1973; Laws 1979, c. 47, § 95, emerg. eff. April 9, 1979; Laws 1983, c. 304, § 99, eff. July 1, 1983; Laws 2012, c. 304, § 720.

§74-75a. Capitol cafeteria petty cash fund.

A. All cash on hand or available in the Capitol cafeterias on the effective date of this act shall be deposited to the Capitol Cafeteria Revolving Fund.

B. There is hereby created a petty cash fund for the Office of Management and Enterprise Services. Said fund shall be used as a cash drawer change fund for the Capitol cafeterias.

C. The amount of the Capitol cafeteria's petty cash fund shall not exceed Two Thousand Dollars (\$2,000.00) and the initial amount shall be drawn by warrant from the Capitol Cafeteria Revolving Fund. Any adjustment to the amount retained in the Capitol cafeteria's petty cash fund shall be by withdrawal and deposit to the Capitol Cafeteria Revolving Fund. Purchases from the Capitol cafeteria's petty cash fund are prohibited. The Director of the Office of Management and Enterprise Services is authorized to prescribe forms, systems and procedures for the administration of the Capitol cafeteria's petty cash fund.

Added by Laws 1984, c. 279, § 9, operative July 1, 1984. Amended by Laws 2012, c. 304, § 721.

§74-76. Mailing service - Interagency communications and deposit of state mail.

The Office of Management and Enterprise Services is authorized to initiate and operate a mailing service for the agencies and departments of the state located in Oklahoma City. The Director of the Office of Management and Enterprise Services shall promulgate and adopt such reasonable rules and regulations as may be necessary for the efficient and economical operation of a clearinghouse for interagency communications and for the deposit of the state's mail with the United States Post Office. The Office shall have the authority to employ such personnel and to purchase and acquire such

equipment, materials, and supplies as may be necessary to carry out the provisions of Sections 76 through 76b of this title. Every agency and department of the state located in Oklahoma City shall be required to participate in the mailing service, except the Department of Human Services, the Commission for Human Services, the Oklahoma Tax Commission, the University of Oklahoma Medical Center, the Oklahoma Employment Security Commission, the Oklahoma Legislature, the Oklahoma Medical Center, and the State Department of Health located in the Oklahoma Health Sciences Center. 1976 S.J.R. No. 1, p. 618, § 1, operative July 1, 1976. Amended by Laws 1983, c. 304, § 100, eff. July 1, 1983; Laws 1988, c. 326, § 38, emerg. eff. July 13, 1988; Laws 2012, c. 304, § 722.

§74-76a. Appropriations for mailing service - Statement of operations.

Appropriations made to the Office of Management and Enterprise Services for the mailing service shall be used for the acquisition, purchase, lease, repair, and replacement of equipment needed in the operation of the mailing service, and may be used for the payment of salaries, and in the purchase of necessary postage, materials and supplies, and in the payments of the administrative expenses of the Office of Management and Enterprise Services in connection with the operation of the mailing service. At the end of each month the Office shall furnish a statement, on such reasonable basis of pieces of mail and communications handled, as shall be established by the Office, to all state agencies and departments to which the mailing service has been furnished. All amounts collected shall be deposited pursuant to Sections 76 through 76b of this title to the credit of the General Revenue Fund of the State Treasury. Any proceeds from the sale or disposition of any equipment or property used by the Office in the operation of the mailing service shall be deposited to the credit of the State Treasury. 1976 S.J.R. No. 1, p. 618, § 2, operative July 1, 1976. Amended by Laws 1983, c. 304, § 101, eff. July 1, 1983; Laws 2012, c. 304, § 723.

§74-76b. Financial statement of mailing service.

The Director of the Office of Management and Enterprise Services shall furnish to the Governor and the Legislature at the close of each fiscal year a statement showing the financial condition of the mailing service, and such other information regarding the mailing service as may be necessary for a proper understanding thereof. 1976 S.J.R. No. 1, p. 618, § 3, operative July 1, 1976. Amended by Laws 1983, c. 304, § 102, eff. July 1, 1983; Laws 2012, c. 304, § 724.

§74-76c. Postal Services Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services, to be designated the "Postal Services Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Office of Management and Enterprise Services for providing postal services. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended to provide postal and interagency mail services and expenses the Office of Management and Enterprise Services incurs to support postal services operations. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1988, c. 305, § 21, operative July 1, 1988. Amended by Laws 2003, c. 372, § 4, eff. July 1, 2003; Laws 2012, c. 304, § 725.

§74-77c. East Central Oklahoma Health Social Services Center - Property and machinery exchange authorized.

The Director of the Office of Management and Enterprise Services is hereby authorized to negotiate with the board of county commissioners, Pontotoc County, Oklahoma, to exchange surplus Department of Transportation buildings and properties presently owned by the Office of Management and Enterprise Services for property and machinery owned by the Pontotoc County Commissioners, for the purpose of servicing the East Central Oklahoma Health Social Services Center at Ada.

Added by Laws 1976, c. 230, § 13, emerg. eff. June 15, 1976.

Amended by Laws 1983, c. 304, § 103, eff. July 1, 1983; Laws 2012, c. 304, § 726.

§74-77d. Oklahoma War Veterans Commission - Assignment of building.

The Office of Management and Enterprise Services is hereby authorized and directed to assign the building located at 2311 North Central, Oklahoma City, Oklahoma, formerly occupied by the Materials and Testing Laboratory of the Department of Transportation, to the Oklahoma Veterans Commission. The Commission shall assign any space not used as office space for its staff and employees to national and state-chartered veterans organizations or their auxiliaries.

Added by Laws 1977, c. 30, § 1, emerg. eff. May 4, 1977. Amended by Laws 1983, c. 304, § 104, eff. July 1, 1983; Laws 2012, c. 304, § 727; Laws 2014, c. 212, § 25, eff. Nov. 1, 2014.

§74-78. Fleet Management Division - Fleet Manager - Director of Office of Management and Enterprise Services - Powers - Alternative fueling infrastructure.

A. There is hereby created and established within the Office of Management and Enterprise Services, the Fleet Management Division. The Division shall provide oversight of and advice to state agencies that own, operate and utilize motor vehicles, except for the Department of Public Safety, the Department of Transportation, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation, the Commissioners of the Land Office and The Oklahoma State System of Higher Education.

B. The Director of the Office of Management and Enterprise Services shall:

1. Appoint and fix duties and compensation for a Fleet Manager who shall serve as the administrative head of the division;
2. Hire personnel as necessary to provide fleet services;
3. Acquire facilities to maintain vehicles;
4. Promulgate rules for efficient and economical operations to provide fleet services; and
5. Report to the Governor, Speaker of the House of Representatives, and President Pro Tempore of the Senate those agencies that fail to comply with the provisions of law and the rules of the Fleet Management Division regarding submission of reports, vehicle use, and vehicle maintenance.

C. The rules shall include provisions to:

1. Establish uniform written vehicle acquisition, leasing, maintenance, repairs, and disposal standards for use by all state agencies to justify actual need for vehicles;
2. Establish standards for routine vehicle inspection and maintenance;
3. Provide standards and forms for recordkeeping of fleet operation, maintenance, and repair costs for mandatory use by all state agencies to report the data to the Fleet Management Division on a monthly basis;
4. Provide standards and utilize methods for disposal of vehicles pursuant to the Oklahoma Surplus Property Act and any other applicable state laws;
5. Establish mandatory maintenance contracts throughout the state for all agencies to access for vehicle repairs and service at discounted rates and parts;
6. Require all agencies with in-house repair and service facilities to assign a value to the preventive maintenance services, track those services with a dollar value, and report costs to the Fleet Manager for the prior month no later than the twentieth day following the close of each month;
7. Promulgate rules requiring all state-owned motor vehicles to be marked in a uniform, highly visible manner, except for certain vehicles driven by law enforcement agencies or other agencies requiring confidentiality;

8. Require agencies to produce and maintain written justification for any vehicle that travels fewer than twelve thousand (12,000) miles annually and report to the Fleet Manager such information by October 1 of each year; and

9. Address any other matter or practice which relates to the responsibilities of the Director of the Office of Management and Enterprise Services.

D. The Fleet Manager shall:

1. Develop specifications for contracts for vehicle maintenance for state vehicles not serviced or maintained by state agencies;

2. Conduct on-site inspections to verify state agency or supplier compliance with Division standards for inspections, maintenance and recordkeeping;

3. Assess state agency needs for vehicles and types of vehicles;

4. Assign, transfer or lease vehicles to a state agency to meet the needs of the state agency;

5. Unless otherwise provided by law, determine whether a state agency may use or operate a vehicle without state identifying markings, bearing a license plate used by a privately owned vehicle to perform the duties of the state agency without hindrance;

6. Report to the Director of the Office of Management and Enterprise Services occurrences of agencies failing to comply with the provisions of law and the rules of the Fleet Management Division regarding submission of reports, vehicle use, and vehicle maintenance;

7. Offer guidelines to agencies to assist in determining the most cost-effective and reasonable modes of travel for single trips from the following options: state vehicle, private rental, or mileage reimbursement; and

8. Provide, upon the request of the Governor, the President Pro Tempore of the Senate or the Speaker of the House of Representatives, reports from data the Fleet Manager collects.

E. The Director of the Office of Management and Enterprise Services may enter into agreements with any political subdivision of this state for the purpose of providing fleet services established by the Fleet Management Division pursuant to this section and rules promulgated pursuant to this section.

F. The Director of the Office of Management and Enterprise Services, through the Fleet Management Division, may enter into partnership agreements with political subdivisions and private entities for the purposes of applying for, participating in, and administering federal grant funds. The partnership agreements and activities authorized in this subsection are hereby declared to be a public purpose.

G. The Office may offer public access to alternative fueling infrastructure owned and operated by the Office in areas of the

state in which access to an alternative fueling infrastructure is not readily available to the public. The Office shall cease allowing public access to an alternative fueling infrastructure operated by the Office if a privately owned alternative fueling infrastructure locates within a five-mile radius of the infrastructure operated by the Department.

H. When used in relation to the Fleet Management Division:

1. "Alternative fueling infrastructure" shall mean a fill station or charge station used to deliver or provide alternative fuels as defined in Section 130.2 of this title; and

2. "Alternative fuel vehicle" shall mean a motor vehicle originally designed by the manufacturer to operate lawfully and principally on streets and highways which is propelled by an alternative fuel as defined in Section 130.2 of this title.

Added by Laws 1985, c. 43, § 1, operative July 1, 1985. Amended by Laws 2001, c. 169, § 7, eff. Nov. 1, 2001; Laws 2004, c. 511, § 1, eff. Nov. 1, 2004; Laws 2006, c. 271, § 13, eff. July 1, 2006; Laws 2007, c. 169, § 1, eff. Nov. 1, 2007; Laws 2009, c. 371, § 1, emerg. eff. May 29, 2009; Laws 2010, c. 2, § 90, emerg. eff. March 3, 2010; Laws 2012, c. 304, § 728; Laws 2013, c. 301, § 1; Laws 2018, c. 124, § 1, eff. Nov. 1, 2018.

NOTE: Laws 2009, c. 442, § 18 repealed by Laws 2010, c. 2, § 91, emerg. eff. March 3, 2010.

§74-78a. Requisition of motor vehicles.

A. State agencies with authority to own motor vehicles shall submit a requisition to the Director of the Office of Management and Enterprise Services prior to acquisition of a motor vehicle. The requisition shall state the type of vehicle, the intended purpose of the vehicle, a statement that the agency has actual need for the vehicle, the supplier of the vehicle, that the state agency has sufficient funds to acquire and maintain the vehicle and cite the statutory authority of the state agency to acquire a vehicle.

B. The Director of the Office of Management and Enterprise Services shall review the requisition and approve or deny the request of the state agency within fifteen (15) days of receipt.

C. The provisions of subsections A and B of this section shall not apply to the Department of Public Safety, the Commissioners of the Land Office, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or the Oklahoma Military Department.

D. The provisions of subsections A and B of this section shall not apply to CompSource Oklahoma if CompSource Oklahoma is operating pursuant to a pilot program authorized by Sections 3316 and 3317 of this title.

E. The Oklahoma Military Department shall annually report to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Secretary of Finance the amount of savings

realized from its authority to purchase motor vehicles. If such report is not filed or does not document such savings, the authority of the Department to purchase motor vehicles shall cease to be in effect on January 1, 2022.

Added by Laws 1986, c. 301, § 29, operative July 1, 1986. Amended by Laws 1988, c. 305, § 26, operative July 1, 1988; Laws 2001, c. 169, § 8, eff. Nov. 1, 2001; Laws 2009, c. 454, § 16; Laws 2010, c. 2, § 92, emerg. eff. March 3, 2010; Laws 2012, c. 304, § 729; Laws 2016, c. 120, § 1, eff. July 1, 2016; Laws 2018, c. 124, § 2, eff. Nov. 1, 2018.

NOTE: Laws 2016, c. 268, § 6 repealed by Laws 2017, c. 42, § 34.

§74-78b. State agencies - Notice of disposal of vehicles - When disposal permitted.

A. A state agency shall notify the Fleet Management Division of the Office of Management and Enterprise Services not less than thirty (30) days prior to any vehicle disposal by the state agency.

B. A state agency shall not dispose of a passenger car, truck, pickup, or other vehicle the state agency owns until it has been in use for sixty thousand (60,000) miles or at least twenty-four (24) months have elapsed since the day the claim was approved for the payment thereof, unless the vehicle has damage and repairs that will exceed Two Thousand Five Hundred Dollars (\$2,500.00), or the Director of the Fleet Management Division of the Office of Management and Enterprise Services provides written authorization for disposal.

C. The provisions of subsections A and B of this section shall not apply to the Commissioners of the Land Office or CompSource Oklahoma if CompSource Oklahoma is operating pursuant to a pilot program authorized by Sections 3316 and 3317 of this title.

Added by Laws 1985, c. 43, § 3, operative July 1, 1985. Amended by Laws 2001, c. 169, § 3, eff. Nov. 1, 2001. Renumbered from § 156.4 of Title 47 by Laws 2001, c. 169, § 10, eff. Nov. 1, 2001. Amended by Laws 2009, c. 454, § 17; Laws 2012, c. 304, § 730; Laws 2018, c. 124, § 3, eff. Nov. 1, 2018.

§74-78c. State Fleet Management Fund.

A. There is hereby created a special fund to be designated the "State Fleet Management Fund". The fund may be appropriated for and used for the acquisition, leasing, operation, storage, maintenance, repair and replacement of motor vehicles under the control of the Fleet Management Division, the payment of insurance premiums, the payment of the administrative expenses of the Division in connection with the operation of the motor pool, expenses the Office of Management and Enterprise Services incurs to support Division operations, and for expenses associated with constructing, installing, acquiring, and operating alternative fueling

infrastructure and acquiring alternative fuel vehicles for use by state agencies or for leasing and transferring to political subdivisions of the state as authorized pursuant to Section 78e of this title.

B. At the end of each month the Division shall render a statement, on such reasonable basis of mileage or rental as shall be established by the Division, to all state agencies to which transportation has been furnished, and all amounts collected shall be deposited to the credit of the "State Fleet Management Fund".

C. Proceeds from the disposition of motor vehicles or other property owned by the Division shall be deposited to the credit of the fund.

D. Payments received by the Office for the lease of alternative fueling infrastructure and vehicles as provided for in Section 78e of this title shall be deposited to the credit of the fund.

E. The Fleet Management Division is authorized to maintain a petty cash fund in such amount not exceeding Two Thousand Dollars (\$2,000.00) to make immediate cash payments as are required or necessary in the opinion of the Fleet Management Director. Any such cash disbursement shall be made only by the persons so designated by the Fleet Management Director, and only in the payment of claims authorized by law. Such proofs and receipts shall be presented by the person making a claim as is required by the Fleet Management Director.

Added by Laws 1968, c. 89, § 9, emerg. eff. April 1, 1968. Amended by Laws 2001, c. 169, § 4, eff. Nov. 1, 2001. Renumbered from § 159.9 of Title 47 by Laws 2001, c. 169, § 10, eff. Nov. 1, 2001. Amended by Laws 2003, c. 372, § 5, eff. July 1, 2003; Laws 2009, c. 371, § 2, emerg. eff. May 29, 2009; Laws 2012, c. 304, § 731.

#### §74-78d. Reports to Governor.

The Fleet Management Division shall furnish to the Governor at the close of each fiscal year a statement showing the financial condition of the Division, an inventory of all motor vehicles under its control, and such other information regarding the state motor vehicle transportation system as is necessary for a proper understanding of the operation of such system and of the financial condition of the motor pool operations.

Added by Laws 1968, c. 89, § 10, emerg. eff. April 1, 1968. Amended by Laws 2001, c. 169, § 5, eff. Nov. 1, 2001. Renumbered from § 159.10 of Title 47 by Laws 2001, c. 169, § 10, eff. Nov. 1, 2001.

#### §74-78e. Fleet Management Division.

A. The Office of Management and Enterprise Services through the Fleet Management Division may enter into agreements with political subdivisions of the state to lease alternative fuel vehicles and alternative fueling infrastructure constructed, installed or



acquired by the Office and to transfer title to the vehicles and infrastructure and any associated real property to the political subdivision upon final payment of the obligations contained in the agreement.

B. The maximum amount the Office may expend for the construction, installation or acquisition of an alternative fueling infrastructure to be leased to a political subdivision of the state shall be the actual cost of the infrastructure or Five Hundred Thousand Dollars (\$500,000.00), whichever is less.

C. Payments received by the Office for the leasing of alternative fuel vehicles and alternative fueling infrastructure as provided for in this section shall be deposited in the State Fleet Management Fund created in Section 78c of this title.  
Added by Laws 2009, c. 371, § 3, emerg. eff. May 29, 2009. Amended by Laws 2012, c. 304, § 732.

§74-78f. Compressed natural gas (CNG) fueling stations.

A. The Legislature declares that it is in the public interest to promote public access to compressed natural gas (CNG) fueling stations in the state.

B. It is the intent of the Legislature to increase the number of public access CNG fueling stations located along the interstate highway system in the state.

C. It shall be the goal to have at least one public CNG fueling station located approximately every one hundred (100) miles along the entire interstate highway system in the state by the year 2015. The goal shall increase to at least one public CNG fueling station approximately every fifty (50) miles by the year 2025.

D. The Office of Management and Enterprise Services through the Fleet Management Division may take steps to meet the goal set forth in this section by cooperating with or entering into partnership agreements with private entities to construct the necessary CNG fueling stations for use by the public, state agencies and political subdivisions of the state. Any agreement to construct a CNG fueling station pursuant to this section shall be subject to the public bidding requirements as set forth in The Oklahoma Central Purchasing Act.

Added by Laws 2010, c. 283, § 8, eff. Nov. 1, 2010. Amended by Laws 2012, c. 304, § 733.

§74-79. Renumbered as § 85.45k of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998.

§74-80.1. Fleet Management Division - Exchange of information.

A. Prior to October 1, 2005, each state agency that uses state vehicles shall submit to the Fleet Management Division, upon forms

developed by the Division, a report that contains the following information:

1. The number of vehicles purchased or leased by the state agency with the VIN, mileage, and make, model, and year of each vehicle;
2. The maintenance plans and records for the vehicles;
3. The amount of use of each vehicle;
4. The state agency policy for use of vehicles by employees for travel to and from the residences of the employees;
5. The type of markings on the vehicles and justifications for any exemptions from requirement that vehicles have markings;
6. Fuel purchasing practices;
7. Rotation of vehicles based on mileage; and
8. Justification for any exemptions the state agency may have in the law relating to the purchase or lease of vehicles.

B. Prior to December 1, 2005, the Fleet Management Division shall submit a report to the Task Force to Study the Fleet Management Division of the Office of Management and Enterprise Services that contains the following information:

1. A summarization of the data collected pursuant to subsection A of this section;
2. Recommendations for legislation that would be beneficial to the Division in implementing the Fleet Management Reform Act; and
3. The status of a web-based statewide fleet management information system.

Added by Laws 2005, c. 393, § 2, emerg. eff. June 6, 2005. Amended by Laws 2012, c. 304, § 734; Laws 2012, c. 304, § 734.

#### §74-85.1. Citation.

Sections 85.1 through 85.45k of this title shall be known and may be cited as "The Oklahoma Central Purchasing Act".

Added by Laws 1959, c. 350, § 1, eff. July 1, 1959. Amended by Laws 1998, c. 371, § 1, eff. Nov. 1, 1998.

#### §74-85.2. Definitions.

As used in The Oklahoma Central Purchasing Act, unless the context otherwise requires:

1. "Acquisition" means items, products, materials, supplies, services, and equipment a state agency acquires by purchase, lease-purchase, lease with option to purchase, or rental pursuant to The Oklahoma Central Purchasing Act unless the items, products, supplies, services, or equipment are exempt pursuant to The Oklahoma Central Purchasing Act;
2. "Best value criteria" means evaluation criteria which may include, but is not limited to, the following:
  - a. the acquisition's operational cost a state agency would incur,

- b. the quality of the acquisition, or its technical competency,
- c. the reliability of the bidder's delivery and implementation schedules,
- d. the acquisition's facilitation of data transfer and systems integration,
- e. the acquisition's warranties and guarantees and the bidder's return policy,
- f. the bidder's financial stability,
- g. the acquisition's adherence to the state agency's planning documents and announced strategic program direction,
- h. the bidder's industry and program experience and record of successful past performance with acquisitions of similar scope and complexity,
- i. the anticipated acceptance by user groups, and
- j. the acquisition's use of proven development methodology, and innovative use of current technologies that lead to quality results;

3. "Bid" or "proposal" means an offer a bidder submits in response to an invitation to bid or request for proposal;

4. "Bidder" means an individual or business entity that submits a bid or proposal in response to an invitation to bid or a request for proposal;

5. "Business entity" means individuals, partnerships, business trusts, cooperatives, associates, corporations or any other firm, group or concern which functions as a separate entity for business purposes;

6. "Change order" means a unilateral written order directing a supplier to make a change;

7. "Chief administrative officer" means an individual responsible for directing the administration of a state agency. The term does not mean one or all of the individuals that make policy for a state agency;

8. "Component" means any item supplied as part of an end item or of another component;

9. "Contract" means a mutually binding legal relationship obligating the seller to furnish an acquisition and the buyer to pay for it. It includes all types of commitments that obligate a state agency to an expenditure of funds or action that, unless otherwise authorized, is in writing. In addition to bilateral instruments, contracts include, but are not limited to:

- a. awards and notices of awards,
- b. orders issued under basic ordering agreements,
- c. letter contracts,
- d. orders under which the contract becomes effective by written acceptance or performance, and

- e. bilateral contract modifications;
- 10. "Contract modification" means any written change in the terms of the contract;
- 11. "Contracting" means purchasing, renting, leasing, or otherwise obtaining acquisitions from private sources. Contracting includes description, but not determination, of acquisitions required, selection and solicitation of sources, preparation and award of contracts, and contract administration;
- 12. "Contractor" means an individual or business entity entering into a contract for goods and/or services with the state as a result of a solicitation;
- 13. "Electronic commerce" means the use of electronic methods to enable solicitation, supplier response, notice of contract award, state agency acquisition processes, or any other function to make an acquisition;
- 14. "Electronic payment mechanism" means a method of electronic payment for authorized acquisitions;
- 15. "Environmentally preferable products and services (EPPS)" means acquisitions that best meet the requirements as defined in the solicitation for human health and the environment;
- 16. "Equipment" means personal property a state agency acquires for its use which is an item or product and shall include all personal property used or consumed by a state agency that is not included within the category of materials and supplies;
- 17. "Item" or "product" means some quantity or kind of such supplies, materials or equipment;
- 18. "Local governmental entity" means any unit of local government including, but not limited to, any school district, county, or municipality of this state;
- 19. "Lowest and best" means an acquisition based on criteria which include, but are not limited to, the following:
  - a. the lowest total purchase price,
  - b. the quality and reliability of the product, and
  - c. the consistency of the proposed acquisition with the state agency's planning documents and announced strategic program direction;
- 20. "Materials" or "supplies" includes all property except real property or equipment that a state agency acquires for its use or consumption;
- 21. "Multistate contract" or "multigovernmental contract" means an agreement entered into between two or more entities of government for acquisitions pursuant to a single contract;
- 22. "Nonprofessional services" means services which are predominantly physical or manual in character and may involve the supplying of products;

23. "Political subdivision" means local governmental entities and such other entities specified as political subdivisions pursuant to The Governmental Tort Claims Act;

24. "Open market contract" means a contract for a one-time acquisition not exceeding the acquisition amount requiring competitive bid pursuant to Section 85.7 of this title;

25. "Professional services" means services which are predominantly mental or intellectual in character rather than physical or manual and which do not involve the supplying of products. Professional services include services to support or improve state agency policy development, decision making, management, administration, or the operation of management systems;

26. "Purchase order" means an offer by a state agency to make an acquisition utilizing simplified procedures;

27. "Purchasing cooperative" means an association of public entities working together to provide leverage in achieving best value and/or the best terms in contracts awarded through a competitive bidding process;

28. "Requisition" means a written request by a state agency for an acquisition;

29. "Services" or "contractual services" means direct engagement of the time and effort of a contractor for the primary purpose of performing an identifiable task rather than for the furnishing of an end item of supply;

30. "Sole brand acquisition" means an acquisition that by specification restricts the acquisition to one manufacturer or brand name;

31. "Sole source acquisition" means an acquisition which, by specification, restricts the acquisition to one supplier;

32. "Solicitation" means a request or invitation by the State Purchasing Director or a state agency for a supplier to submit a priced offer to sell acquisitions to the state. A solicitation may be an invitation to bid, request for proposal, or a request for quotation;

33. "Split purchase" means dividing a known quantity or failing to consolidate a known quantity of an acquisition for the purpose of evading a competitive bidding requirement;

34. "State agency" includes any office, officer, bureau, board, counsel, court, commission, institution, unit, division, body or house of the executive or judicial branches of the state government, whether elected or appointed, excluding only political subdivisions of the state;

35. "State purchase card" means an electronic transaction device used for making acquisitions;

36. "State Purchasing Director" or "Director of Central Purchasing" includes any employee or agent of the State Purchasing Director, acting within the scope of delegated authority;

37. "Statewide contract" means a contract for specific acquisitions for a specified period with a provision allowing the agencies and local governmental entities to place orders as the acquisitions are needed for delivery during the period specified; and

38. "Supplier" or "vendor" means an individual or business entity that sells or desires to sell acquisitions to state agencies. Added by Laws 1959, p. 350, § 2, eff. July 1, 1959. Amended by Laws 1986, c. 173, § 1, emerg. eff. May 12, 1986; Laws 1991, c. 197, § 1, eff. July 1, 1991; Laws 1992, c. 250, § 6, eff. July 1, 1992; Laws 1994, c. 329, § 2, eff. July 1, 1994; Laws 1996, c. 316, § 1, eff. July 1, 1996; Laws 1998, c. 371, § 2, eff. Nov. 1, 1998; Laws 1999, c. 289, § 1, eff. July 1, 1999; Laws 2000, c. 333, § 1, emerg. eff. June 5, 2000; Laws 2008, c. 96, § 1, eff. Nov. 1, 2008; Laws 2013, c. 186, § 3, eff. Nov. 1, 2013; Laws 2013, c. 358, § 27, eff. July 1, 2013.

§74-85.3. Purchasing Division - Director - Employees -  
Encouragement of certain purchases - Conflict of interest.

A. There is hereby created and established in the Office of Management and Enterprise Services a Purchasing Division, the administrative head of which shall be the State Purchasing Director.

B. The Director of the Office of Management and Enterprise Services shall hire the State Purchasing Director. The State Purchasing Director shall:

1. Have a thorough knowledge of office practices and buying procedures in volume purchasing; and

2. Be a graduate of an accredited college or university with at least five (5) years' experience in commercial or governmental purchasing, or, in lieu of such education, have at least ten (10) years' experience in commercial or governmental purchasing.

C. The Purchasing Division may include the following employees, and employment of such employees is hereby authorized:

1. One assistant director;

2. One qualified specifications engineer;

3. Buyers who have at least three (3) years' procurement experience for:

a. food,

b. hardware,

c. textiles,

d. petroleum,

e. office supplies,

f. building materials,

g. pharmaceutical supplies,

h. automotive equipment, parts, and accessories, and

- i. any other commodity group found by the Director of the Office of Management and Enterprise Services to justify special purchasing attention;
4. One buyer for products and services of the severely disabled as provided in Section 3001 et seq. of this title;
5. One dietitian, who shall have the qualifications required by the State Department of Health; and
6. Such other technical and clerical personnel as shall be assigned to the Purchasing Division by the Director of the Office of Management and Enterprise Services.
- D. All activities of any state agency, department, or institution relating to purchasing shall be under the direction of the Purchasing Division unless otherwise provided by The Oklahoma Central Purchasing Act.
- E. The Purchasing Division shall provide qualified personnel to assist the purchasing activities of state agencies, departments, and institutions.
- F. Each state agency, department, and institution shall designate personnel to coordinate its purchasing functions with the Purchasing Division.
- G. The Purchasing Division may, if the needs of a state agency, department, or institution are such as to so require, employ, and establish a buyer within a state agency, department, or institution.
- H. No state agency, department, or institution subject to The Oklahoma Central Purchasing Act shall have or maintain a purchasing section without the prior approval in writing of the Purchasing Division unless otherwise provided in The Oklahoma Central Purchasing Act.
- I. The Purchasing Division shall make acquisitions from industries operated by the Department of Corrections pursuant to the provisions of Section 549.1 of Title 57 of the Oklahoma Statutes.
- J. None of the personnel authorized by this section shall:
  1. Sell to or otherwise provide acquisitions to any state agency subject to The Oklahoma Central Purchasing Act;
  2. Be employees, partners, associates, officers, or stockholders in or with any business entity that sells to or otherwise provides acquisitions to any agency subject to The Oklahoma Central Purchasing Act;
  3. Be employed in any of the positions authorized by this section if a spouse or child owns any stock in any business entity which sells to or otherwise provides acquisitions to any agency subject to The Oklahoma Central Purchasing Act; or
  4. Be employed in any of the positions authorized by this section if a relative within the third degree of consanguinity or affinity sells to or otherwise provides acquisitions to any agency subject to The Oklahoma Central Purchasing Act or is interested in any business entity which does so, except that such relative,

excluding a spouse or child, may own Five Thousand Dollars (\$5,000.00) worth or less, or one percent (1%) or less, whichever amount is the lesser amount, of the stock of a corporation or any business entity which sells to or otherwise provides acquisitions to any state agency subject to The Oklahoma Central Purchasing Act. Added by Laws 1959, p. 350, § 3, eff. July 1, 1959. Amended by Laws 1961, p. 589, § 1; Laws 1968, c. 88, § 1, emerg. eff. April 1, 1968; Laws 1976, c. 230, § 16, emerg. eff. June 15, 1976; Laws 1980, c. 159, § 34, emerg. eff. April 2, 1980; Laws 1983, c. 304, § 105, eff. July 1, 1983; Laws 1993, c. 175, § 1, emerg. eff. May 10, 1993; Laws 1996, c. 214, § 2, emerg. eff. May 21, 1996; Laws 1999, c. 289, § 2, eff. July 1, 1999; Laws 2008, c. 96, § 2, eff. Nov. 1, 2008; Laws 2012, c. 304, § 735; Laws 2015, c. 6, § 1.

§74-85.3A. Exempted entities - State purchasing contracts advisory committee.

A. Compliance with the provisions of The Oklahoma Central Purchasing Act shall not be required of:

1. County government;
2. The Oklahoma State Regents for Higher Education, the institutions, centers, or other constituent agencies of The Oklahoma State System of Higher Education;
3. The telecommunications network known as OneNet;
4. The Department of Public Safety gun range;
5. The State Treasurer for the following purchases:
  - a. services, including, but not limited to, legal services to assist in the administration of the Uniform Unclaimed Property Act, as provided in Section 668 of Title 60 of the Oklahoma Statutes, and
  - b. software, hardware and associated services to assist in the administration of funds and securities held by the state, as provided in Section 71.2 of Title 62 of the Oklahoma Statutes; or
6. CompSource Oklahoma if CompSource Oklahoma is operating pursuant to a pilot program authorized by Sections 3316 and 3317 of this title.

B. The State Purchasing Director may form an advisory committee consisting of representatives from entities exempted from the provisions of The Oklahoma Central Purchasing Act. The purpose of the committee shall be to allow committee members to provide input into the development of shared state purchasing contracts, collaboratively participate in the integration of their purchasing platforms or electronic purchasing catalogs, analyze solutions that may be used by state government to meet the purchasing needs of the entities, explore joint purchases of general use items that result in mutual procurement of quality goods and services at the lowest reasonable cost and explore flexibility, administrative relief, and



transformation changes through utilization of procurement technology.

C. At the invitation of the State Purchasing Director entities exempted from the provisions of The Oklahoma Central Purchasing Act shall participate in the advisory committee referenced in subsection B of this section.

D. The State Purchasing Director may invite representatives of local government and local common education entities to participate as members of the advisory committee.

Added by Laws 1999, c. 289, § 3, eff. July 1, 1999. Amended by Laws 2008, c. 319, § 8, eff. Nov. 1, 2008; Laws 2009, c. 433, § 11, eff. Nov. 1, 2009; Laws 2010, c. 2, § 94, emerg. eff. March 3, 2010; Laws 2010, c. 66, § 1, eff. Nov. 1, 2010; Laws 2012, c. 106, § 3; Laws 2016, c. 269, § 9, eff. Nov. 1, 2016.

NOTE: Laws 2009, c. 454, § 18 repealed by Laws 2010, c. 2, § 95, emerg. eff. March 3, 2010.

§74-85.4. Requisitions - Determination of quantitative need by agencies - Forms - Information required - Lease-purchase agreements - Change order or addendum - Lease of products - Purchases from federal government.

A. Except as otherwise provided by The Oklahoma Central Purchasing Act, every state agency shall make all acquisitions used, consumed or spent by the state agency in the performance of its official functions by the presentation of requisitions to the Purchasing Division.

B. The provisions of The Oklahoma Central Purchasing Act shall not preclude a state agency from:

1. Accepting gifts or donations in any manner authorized by law; or

2. Making an acquisition for itself without presentation of a requisition when an acquisition without requisition is authorized in writing by the State Purchasing Director.

C. Subject to the provisions of this section, every state agency shall determine its own quantitative needs for acquisitions and the general class or nature of the acquisitions.

D. The Director of the Office of Management and Enterprise Services shall prescribe standardized contract forms and all other forms requisite or deemed necessary by the Director of the Office of Management and Enterprise Services to effectuate the provisions of this section and The Oklahoma Central Purchasing Act.

E. 1. A contract that results from a requisition required by this section for nonprofessional services or professional services whether or not such services are exempt from the competitive bidding requirements of this section or pursuant to Section 85.7 of this title shall be signed by the chief administrative officer of the

state agency or the chief administrative officer of the requisitioning unit of the state agency certifying that:

- a. no employee of the state agency is able and available to perform the services to be provided pursuant to the contract,
  - b. the state agency shall receive, review and accept a detailed work plan from the supplier for performance pursuant to the contract if requested by the State Purchasing Director,
  - c. the state agency has developed, and fully intends to implement, a written plan providing for the assignment of specific state agency personnel to:
    - (1) monitoring and auditing supplier performance,
    - (2) the periodic review of interim reports, or other indications of performance, and
    - (3) if requested by the State Purchasing Director, the ultimate utilization of the final product of the nonprofessional or professional services,
  - d. the work to be performed under the contract is necessary to the state agency's responsibilities, and there is statutory authority to enter into the contract,
  - e. the contract will not establish an employment relationship between the state or the state agency and any persons performing under the contract,
  - f. no current state employee will engage in the performance of the contract, unless specifically approved by the State Purchasing Director,
  - g. the purchase of the nonprofessional or professional services is justified, and
  - h. the contract contains provisions that are required by Section 85.41 of this title.
- 2.
- a. When a state agency requisition indicates that a supplier will provide acquisitions in components or phases, the requisition shall list each component or phase, and the State Purchasing Director shall include the list in the Invitation to Bid.
  - b. The determination of the lowest and best bid or best value bid, as required by The Oklahoma Central Purchasing Act, shall include all component or phase deliveries and shall not be based solely on the first component or phase delivery.
  - c. For a purchase order or contract that includes separate component deliveries, the Purchasing Director or a state agency may issue change orders to increase a purchase order or contract for the acquisition that

do not exceed an increase of ten percent (10%) of the original purchase order or contract total price.

F. Any person certifying the information required by subsection E of this section who knows such information to be false, shall upon conviction be guilty of a misdemeanor and shall be punished by fine or imprisonment or both fine and imprisonment pursuant to the provisions of Section 85.15 of this title and shall be civilly liable for the amount of the contract.

G. The State Purchasing Director may request additional information necessary to adequately review the requisitions to ensure compliance with The Oklahoma Central Purchasing Act.

H. If the Purchasing Director determines that an acquisition is not necessary, excessive or not justified, the State Purchasing Director shall deny the requisition.

I. 1. No state agency shall enter into a lease-purchase agreement if title is acquired to tangible property of any class or nature by making lease, rental, or any other type payments, except as specifically authorized by law and except insofar as data processing equipment or other equipment is concerned; provided, however, the lease-purchase of data processing or other equipment by any state agency shall be processed by competitive bids through the Purchasing Division of the Office of Management and Enterprise Services.

2. The Council of Legislative Bond Oversight shall have the authority to determine the most cost-effective method for obtaining financing for lease-purchase agreements, which may be financed by either negotiated sale or competitive bid. If the Council of Legislative Bond Oversight determines that the lease-purchase of personal or real property should be financed through negotiated sale, the financing shall be subject to the provisions of the Oklahoma Bond Oversight and Reform Act. Unless the Council determines that the sale should be executed on a negotiated basis, such financing shall be processed by competitive bids through the Purchasing Division of the Office of Management and Enterprise Services.

3. Regardless of the method of financing, the acquisition price of personal property subject to a lease-purchase agreement shall be processed by competitive bids through the Purchasing Division of the Office of Management and Enterprise Services.

4. The State Purchasing Director may permit lease-purchasing of equipment by the Oklahoma Tourism and Recreation Commission if such leasing is determined by the State Purchasing Director to be in the best interest of the state; provided, that such leasing must be processed by competitive bids through the State Purchasing Director except as to those acquisitions exempt under Section 85.12 of this title.

J. No state agency shall enter into a lease-purchase contract between the state agency as lessee and a private party as lessor if the contract is not capable of complete performance within the current fiscal year in which the contract was entered into unless a valid nonappropriation clause is included in the contract. Such contracts shall contain the following or substantially similar language:

Lessee shall have the right to terminate the lease, in whole but not in part, at the end of any fiscal year of lessee, if the Legislature fails to allocate sufficient funds to lessee for the rental payments required under the lease.

K. 1. No change order or addendum shall be made to a lease-purchase agreement which extends the term or life of the original bid contract. Any lease-purchase agreement requiring such extensions or refinancing shall be readvertised and processed in accordance with the provisions of The Oklahoma Central Purchasing Act.

2. Every state agency, whether or not subject to the provisions of The Oklahoma Central Purchasing Act, shall maintain a list of all tangible personal property which it is acquiring by a lease-purchase method and, prior to the renewal of a lease-purchase agreement, shall evaluate the rate being paid under the current lease-purchase agreement against rates currently being received by the Purchasing Division of the Office of Management and Enterprise Services on a competitive bid basis to determine whether or not refinancing of the property will benefit the state. Any state agency which elects not to submit a requisition for a possible refinancing when the existing rates are at least one percent (1%) above rates being currently bid, and when the total sum to be paid for the property including principal and interest will be reduced, shall submit a written justification to the State Purchasing Director stating the reasons for not attempting to refinance the property. The State Purchasing Director shall forward all such justifications to the Chair of the Appropriations Committee of the Senate and the Chair of the Committee on Appropriations and Budget of the House of Representatives no later than February 1 of each year.

3. Unless otherwise provided by law, no state agency shall enter into a lease-purchase agreement for real or personal property costing less than Fifty Thousand Dollars (\$50,000.00).

4. a. Unless otherwise provided by law, the maximum term of a state agency lease-purchase agreement shall be the lesser of the useful life of real or personal property subject to a lease-purchase agreement as determined by the State Purchasing Director, or three (3) years for personal property and ten (10) years for real property, respectively.

- b. The Council of Legislative Bond Oversight shall have the authority to extend the term of a lease-purchase agreement beyond three (3) years for personal property and ten (10) years for real property if the State Purchasing Director determines that the useful life of the property exceeds the terms and the Oklahoma State Bond Advisor recommends the extension as being in the best interests of this state.

5. Unless otherwise provided by law, state agency real property acquisitions subject to lease-purchase agreements shall be explicitly authorized by the Legislature. Acquisitions of real property authorized by the Legislature, unless otherwise exempted by the Legislature, shall be subject to the competitive bid provisions of The Oklahoma Central Purchasing Act. If a state agency is authorized to enter into a lease-purchase agreement for real property, the financing of the acquisition, including acquisitions deemed desirable for executing a lease-purchase, certificate of participation, or similar agreement or obligation, shall be obtained in accordance with the provisions of The Oklahoma Central Purchasing Act. The State Purchasing Director shall consult with the Oklahoma State Bond Advisor on the preparation, evaluation, and negotiation of such financing. Legislative authorization shall constitute legal authorization for this state or state agencies to enter into such lease-purchase agreements.

L. The State Purchasing Director may permit leasing of products by state agencies if such leasing is determined by the State Purchasing Director to be in the best interest of the state, provided that such leasing must be processed by competitive bids through the State Purchasing Director except as to those acquisitions exempt pursuant to Section 85.12 of this title.

M. 1. Before reoffering or remarketing an obligation, a state agency shall obtain written approval from the Oklahoma State Bond Advisor. Should a remarketing of a lease-purchase agreement be proposed that includes the remarketing of securities or obligations to more than a single investor, any disclosure language prepared in connection with such remarketing that describes the state's liability under the lease-purchase agreement shall be approved in advance and in writing by the Oklahoma State Bond Advisor.

2. In no event shall a state agency enter into a lease-purchase agreement unless that agreement states that the State of Oklahoma reserves the right to approve any reoffering of this obligation to another investor either through private placement, issuance of certificates of participation, or any other mechanism.

N. 1. Whenever it appears advantageous to the state or to any state agency to purchase or otherwise acquire any acquisition which may be offered for sale by the government of the United States of America or any agency thereof, the State Purchasing Director may

execute a contract for the acquisition with the federal government or federal agency.

2. If the State Purchasing Director approves an acquisition from the federal government or agency and determines that the regulations of the federal government, or agency handling the disposition and sale require that partial or full payment be made at the time sale is effected and before the acquisition will be delivered, the State Purchasing Director, upon requisition by the requesting party, shall have a state warrant drawn against the funds of the acquiring state agency payable to the United States of America or its proper agency. The warrant shall be in such amount as may be necessary to meet the terms and conditions of sale without requiring a certificate showing that the acquisition has actually been delivered to the state agency in whose behalf the purchase is being negotiated.

Added by Laws 1959, p. 351, § 4, eff. July 1, 1959. Amended by Laws 1972, c. 163, § 1, emerg. eff. April 7, 1972; Laws 1980, c. 339, § 5, emerg. eff. June 25, 1980; Laws 1983, c. 304, § 106, eff. July 1, 1983; Laws 1984, c. 148, § 1, emerg. eff. April 19, 1984; Laws 1986, c. 173, § 2, emerg. eff. May 12, 1986; Laws 1987, c. 203, § 97, operative July 1, 1987; Laws 1989, c. 300, § 18, operative July 1, 1989; Laws 1993, c. 327, § 13, eff. July 1, 1993; Laws 1997, c. 294, § 28, eff. July 1, 1997; Laws 1998, c. 371, § 3, eff. Nov. 1, 1998; Laws 1999, c. 321, § 1, eff. July 1, 1999; Laws 2000, c. 6, § 21, emerg. eff. March 20, 2000; Laws 2003, c. 342, § 1; Laws 2012, c. 304, § 736.

NOTE: Laws 1999, c. 289, § 4 repealed by Laws 2000, c. 6, § 33, emerg. eff. March 20, 2000.

#### §74-85.5. Powers and duties of State Purchasing Director.

A. Except as otherwise provided in this section, pursuant to the provisions of Section 85.4 of this title, the State Purchasing Director, under the supervision of the Director of the Office of Management and Enterprise Services, shall have sole and exclusive authority and responsibility for all acquisitions used or consumed by state agencies. In order to carry out the powers and duties established in Section 34.11.1 of Title 62 of the Oklahoma Statutes, the Chief Information Officer shall have sole and exclusive authority and responsibility for all acquisitions of information and telecommunications technology, equipment, software, products and related peripherals and services used or consumed by state agencies.

B. The State Purchasing Director, after consultation with the requisitioning state agency, shall have authority to determine the particular brand, model, or other specific classification of each acquisition and to draft or invoke pursuant to The Oklahoma Central Purchasing Act specifications establishing the requirements for all necessary contracts or purchase orders.

C. The Director of the Office of Management and Enterprise Services shall have authority and responsibility to promulgate rules pursuant to provisions of The Oklahoma Central Purchasing Act governing, providing for, prescribing, or authorizing any act, practice, or requirement for which regulatory power is delegated for:

1. The time, manner, authentication, and form of making requisitions for acquisitions;

2. Inspection, analysis, and testing of acquisitions or samples suppliers submit prior to contract award;

3. The form and manner of submission for bids or proposals a supplier submits and the manner of accepting and opening bids or proposals;

4. The conditions under which the Office of Management and Enterprise Services shall require written contracts for acquisitions, the conditions under which acquisitions may be made on an open account basis, and the conditions and manner of negotiating such contracts;

5. Obtaining acquisitions produced by state institutions;

6. Conditions under which any of the rules herein authorized may be waived;

7. The amounts of and deposits on any bond or other surety required to be submitted with a bid or contract for the furnishing of acquisitions and the conditions under which such bond or other surety shall be required;

8. Storage and storage facilities necessary to accomplish responsibilities of the Director of the Office of Management and Enterprise Services;

9. The manner and conditions of delivery, which shall include the designation of the common carrier of property to be used to transport acquisitions whenever a common carrier is used, and the acceptance, or rejection, including check of quantities, of any acquisitions;

10. The form of any estimate, order, or other document the Director of the Office of Management and Enterprise Services requires;

11. State agency acquisitions not exceeding the acquisition purchase amount requiring competitive bid pursuant to Section 85.7 of this title to ensure competitiveness, fairness, compliance with provisions of all sections of The Oklahoma Central Purchasing Act, and compliance with provisions of Section 3001 et seq. of this title, which relate to the State Use Committee. The rules shall include separate provisions based on acquisition purchase price as follows:

- a. state agencies shall make acquisitions not exceeding Five Thousand Dollars (\$5,000.00), provided the acquisition process is fair and reasonable and is

conducted pursuant to rules authorized pursuant to this section, and

- b. state agencies with certified procurement officers and internal purchasing procedures found compliant by the Director of the Office of Management and Enterprise Services pursuant to this section may make acquisitions in excess of Five Thousand Dollars (\$5,000.00) and not exceeding One Hundred Thousand Dollars (\$100,000.00), pursuant to rules authorized by this section;

12. Training by the State Purchasing Director of state agency procurement officers;

13. Review and audit by the State Purchasing Director of state agency acquisitions;

14. The conditions for increasing acquisition limits for state agencies which have had a prior reduction in acquisition limit by the Director of the Office of Management and Enterprise Services;

15. Use of a state purchase card to make acquisitions;

16. Any other matter or practice which relates to the responsibilities of the Director of the Office of Management and Enterprise Services;

17. Conditions for determination and authorization of acquisition limits of state agencies pursuant to Section 85.7 of this title; and

18. The form and manner of verification by suppliers that the supplier is eligible to do business in the State of Oklahoma and has obtained all necessary permits and licenses, pursuant to applicable provisions of law.

D. The State Purchasing Director shall provide training for state agency purchasing officials and other purchasing staff. The training shall include principles of state procurement practices, basic contracting, provisions of The Oklahoma Central Purchasing Act, rules promulgated pursuant to The Oklahoma Central Purchasing Act, provisions of Section 3001 et seq. of this title, which relate to the State Use Committee, and any other matters related to state procurement practices. State agency purchasing officials that demonstrate proficiency shall be certified as "certified procurement officers" by the State Purchasing Director and shall be authorized to make acquisitions pursuant to provisions of The Oklahoma Central Purchasing Act and rules authorized by this section. The State Purchasing Director shall assess a fee to state agencies for the training that does not exceed each state agency's pro rata share of the costs the State Purchasing Director incurs to provide the training.

E. The State Purchasing Director shall review state agency acquisitions for the purposes of:



1. Ensuring state agency compliance with provisions of The Oklahoma Central Purchasing Act;

2. Ensuring state agency compliance with rules promulgated by the Office of Management and Enterprise Services pursuant to The Oklahoma Central Purchasing Act;

3. Ensuring state agency compliance with provisions of Section 3001 et seq. of this title pertaining to the State Use Committee;

4. Reporting any acquisition by any state agency found not to be in compliance with those sections or rules to the Director of the Office of Management and Enterprise Services; and

5. Recommending that the Director of the Office of Management and Enterprise Services reduce the acquisition competitive bid limit amount for any state agency found not to be in compliance with The Oklahoma Central Purchasing Act or rules promulgated pursuant thereto.

F. When recommended by the State Purchasing Director, based on written findings by the State Purchasing Director, the Director of the Office of Management and Enterprise Services may:

1. Require retraining of state agency procurement officials and other purchasing staff found not to be in compliance with provisions of The Oklahoma Central Purchasing Act, or rules promulgated pursuant to The Oklahoma Central Purchasing Act;

2. Reduce the acquisition competitive bid limit for any state agency found not to be in compliance with provisions of The Oklahoma Central Purchasing Act or rules promulgated pursuant to The Oklahoma Central Purchasing Act;

3. Transmit written findings by the State Purchasing Director to the State Auditor and Inspector for further investigation, indicating purchasing procedures that do not conform to provisions pursuant to The Oklahoma Central Purchasing Act or rules promulgated pursuant to The Oklahoma Central Purchasing Act;

4. Transmit to the Attorney General or the State Auditor and Inspector for further investigation a report made by the State Purchasing Director that the Director of the Office of Management and Enterprise Services reasonably believes indicates that an action that constitutes a criminal violation pursuant to The Oklahoma Central Purchasing Act or other laws has been taken by any state agency, state agency official, bidder, or supplier; or

5. Increase the state agency acquisition purchase amount requiring competitive bid, not to exceed the acquisition purchase amount requiring competitive bid, pursuant to Section 85.7 of this title.

G. 1. Pursuant to the requirements of The Oklahoma Central Purchasing Act, the State Purchasing Director shall have authority to enter into any statewide, multistate or multigovernmental contract. The state entity designated by law, as specified in Section 1010.3 of Title 56 of the Oklahoma Statutes, shall

participate in the purchase of pharmaceuticals available through such multistate or multigovernmental contracts entered into by the State Purchasing Director.

2. The State Purchasing Director may utilize contracts awarded by other governmental agencies, including agencies of the United States of America.

3. The State Purchasing Director may designate contracts described in this subsection for use by state agencies.

4. Prior to exercising the authority to cancel a contract, the State Purchasing Director may authorize renegotiation of an existing contract with an incumbent supplier for the purposes of obtaining more favorable terms for the state provided the State Purchasing Director shall not renegotiate the term of the contract.

5. In order to carry out the powers and duties established in Section 34.11.1 of Title 62 of the Oklahoma Statutes, the Chief Information Officer shall have the authority to designate certain information technology and telecommunication contracts for state agencies as statewide contracts and mandatory statewide contracts.

H. The State Purchasing Director may develop and test new contracting policies and procedures that hold potential for making the Purchasing Division more effective and efficient.

I. The State Purchasing Director shall endeavor to satisfy state agencies in terms of cost, quality, and timeliness of the delivery of acquisitions by using bidders who have a record of successful past performance, promoting competition, minimizing administrative operating costs, and conducting business with integrity, fairness, and openness.

J. The State Purchasing Director shall undertake the following:

1. The use of electronic commerce pursuant to the Oklahoma Online Bidding Act for solicitation, notification, and other purchasing processes;

2. Monitoring rules promulgated pursuant to The Oklahoma Central Purchasing Act to ensure that the rules, satisfy the interests of the state, are clear and succinct, and encourage efficiency in purchasing processes;

3. A program to identify vendors with poor delivery and performance records;

4. Development of criteria for the use of sealed bid contracting procedures, negotiated contracting procedures, selection of types of contracts, postaward administration of purchase orders and contracts, contract modifications, termination of contracts, and contract pricing;

5. Continual improvement in the quality of the performance of the Purchasing Division through training programs, management seminars, development of benchmarks and key management indicators, and development of standard provisions, clauses and forms;

6. Development of electronic means of making state agencies aware of office furniture, equipment, machinery, tools, and hardware available for purchase from the surplus property programs;

7. Development of programs to improve customer relations through training, improved communications, and appointment of technical representatives;

8. In cooperation with the Office of Management and Enterprise Services and the State Treasurer, develop an electronic payment mechanism for use in the settlement of accounts payable invoices, with no limit, to make payment for products or services acquired in accordance with The Oklahoma Central Purchasing Act and any rules promulgated pursuant thereto; and

9. Implement a policy to approve the ability of the department, agencies, boards, commissions and trusts to accept the terms of service for usage of social media services and contract for technology products and services provided the terms of service or contract contains standard language including a liability agreement which is considered customary or largely similar to terms of service agreed to or contracts entered into by other government entities and private sector enterprises.

K. The State Purchasing Director shall, in cooperation with the Oklahoma Department of Agriculture, Food, and Forestry, identify the needs of state agencies and institutions for agricultural products grown and produced in Oklahoma.

L. The State Purchasing Director may authorize the use of a state purchase card for acquisitions within the following parameters:

1. No limit on the amount of the transaction for the following:
  - a. purchases from statewide contracts issued by the State Purchasing Director,
  - b. utilities,
  - c. interagency payments, and
  - d. professional services as defined in Section 803 of Title 18 of the Oklahoma Statutes; and

2. For any other transaction with a state purchase card, the transaction shall not exceed Five Thousand Dollars (\$5,000.00).

M. The State Purchasing Director may utilize and authorize state agencies to utilize reverse auctions to obtain acquisitions.

N. Prior to the award of a contract to a supplier, the State Purchasing Director shall verify, pursuant to applicable provisions of law, that the supplier is eligible to do business in the State of Oklahoma by confirming registration with the Secretary of State and franchise tax payment status pursuant to Sections 1203 and 1204 of Title 68 of the Oklahoma Statutes. The provisions of this subsection shall be applicable only if the contract amount is Twenty-five Thousand Dollars (\$25,000.00) or greater.

O. As a condition of awarding a contract in excess of the dollar amount prescribed by paragraph 11 of subsection C of this section pursuant to The Oklahoma Central Purchasing Act, the State Purchasing Director shall verify with the Oklahoma Tax Commission that the business entity to which the state contract is to be awarded, whether subject to the procedures required by Section 85.7 of this title or not, has obtained a sales tax permit pursuant to the provisions of Section 1364 of Title 68 of the Oklahoma Statutes if such entity is required to do so.

P. The State Purchasing Director is hereby authorized to explore and investigate cost savings in energy, resource usage, and maintenance contracts and to identify and negotiate contract solutions including, but not limited to, pilot projects to achieve cost savings for the State of Oklahoma.

Q. The Office of Management and Enterprise Services, with input from the State Purchasing Director, shall promulgate payment procedure rules for state agencies to adhere to regarding statewide contracts issued by the State Purchasing Director.

R. The Office of Management and Enterprise Services, Central Purchasing Division, shall promulgate payment procedure rules for agencies to adhere to regarding statewide contracts issued by the Division.

S. On an annual basis, the State Purchasing Director shall transmit to the Governor, Speaker of the House of Representatives and President Pro Tempore of the State Senate a report documenting the savings realized by each agency through the application of best spend practices including the collection and tracking of spend data, strategic sourcing programs, and implementation of managed and mandatory statewide contracts. The report shall document the reasons for the failure to issue a mandatory statewide contract for any items comprising total statewide spend in the amount of Five Million Dollars (\$5,000,000.00) or greater.

T. The acquisition limitations provided for in subparagraph b of paragraph 11 of subsection C of this section and paragraph 1 of subsection A of Section 85.7 of this title shall not apply to agency purchases provided the agency has subject matter experts on staff having the specialized expertise to purchase said goods or services, the agency possesses the necessary legal and procurement staff to procure and monitor the contracts and provided the Director of the Office of Management and Enterprise Services shall certify that the proposed purchase does not conflict with consolidated statewide spend initiatives.

1. Nothing in this subsection shall give an agency authority to issue statewide, multistate, or multigovernmental contracts.

2. Agencies making purchases pursuant to this subsection shall:

a. be responsible for contracts awarded pursuant to this subsection, which includes, but may not be limited to,

contract management, all costs connected with or incurred as a result of the contract, including legal representation,

- b. comply with rules and policies of the Office of Management and Enterprise Services, and
- c. report contracts issued pursuant to this subsection to the Office of Management and Enterprise Services, Central Purchasing Division, on a quarterly basis.

3. Purchases made in accordance with this subsection shall be made pursuant to rules authorized by this section.

Added by Laws 1959, p. 351, § 5, eff. July 1, 1959. Amended by Laws 1983, c. 304, § 107, eff. July 1, 1983; Laws 1984, c. 148, § 2, emerg. eff. April 19, 1984; Laws 1995, c. 342, § 7, emerg. eff. June 9, 1995; Laws 1996, c. 316, § 2, eff. July 1, 1996; Laws 1998, c. 65, § 2, emerg. eff. April 8, 1998; Laws 1998, c. 371, § 4, eff. Nov. 1, 1998; Laws 1999, c. 289, § 5, eff. July 1, 1999; Laws 2002, c. 483, § 3, eff. July 1, 2002; Laws 2003, c. 170, § 1, eff. Nov. 1, 2003; Laws 2003, c. 342, § 2; Laws 2004, c. 5, § 87, emerg. eff. March 1, 2004; Laws 2004, c. 511, § 2, eff. Nov. 1, 2004; Laws 2005, c. 1, § 126, emerg. eff. March 15, 2005; Laws 2008, c. 96, § 3, eff. Nov. 1, 2008; Laws 2009, c. 322, § 6; Laws 2010, c. 2, § 96, eff. April 5, 2010; Laws 2010, c. 170, § 1, emerg. eff. April 26, 2010; Laws 2011, c. 207, § 1, eff. Nov. 1, 2011; Laws 2011, c. 302, § 7; Laws 2012, c. 304, § 737; Laws 2014, c. 359, § 1.

NOTE: Laws 2003, c. 60, § 7 repealed by Laws 2003, c. 342, § 7. Laws 2003, c. 257, § 1 repealed by Laws 2004, c. 5, § 88, emerg. eff. March 1, 2004. Laws 2003, c. 376, § 6 repealed by Laws 2004, c. 5, § 89, emerg. eff. March 1, 2004. Laws 2004, c. 404, § 1 repealed by Laws 2005, c. 1, § 127, emerg. eff. March 15, 2005. Laws 2009, c. 451, § 23 repealed by Laws 2010, c. 2, § 97, eff. April 5, 2010.

NOTE: Laws 2010, c. 2, § 106, provides: "The provisions of Sections 32 through 43 and Sections 96 and 97 of this act shall be effective and shall become operative on the effective date of the appointment of the first Chief Information Officer by the Governor as provided in Section 34.11.1 of Title 62 of the Oklahoma Statutes." The first Chief Information Officer was appointed by the Governor on April 5, 2010.

#### §74-85.5.1. Oklahoma Privatization Act.

A. This act shall be known and may be cited as the "Oklahoma Privatization Act".

B. The Office of Management and Enterprise Services shall establish a repository of the best privatization and surplus asset sales practices, have expertise to select projects or services for privatization, be capable of rapid evaluation and response to

privatization proposals, and have the ability to oversee the contracting for privatization opportunities.

C. The Director of the Office of Management and Enterprise Services shall report legislative recommendations as the Director deems necessary to further implement the provisions of this act. Added by Laws 2013, c. 264, § 1.

§74-85.5a. State purchase card.

The State Purchasing Director may authorize personnel assigned to the Office of Global Business Services of the Department of Commerce, upon a finding by the Secretary of Commerce that such personnel have a legitimate need therefore, to utilize a state purchase card for acquisitions for programs, functions or services essential to the mission of the agency while traveling on Department of Commerce business in foreign locations with transaction limits not to exceed Thirty-five Thousand Dollars (\$35,000.00). The purchase cardholders are required to sign a purchase card agreement prior to becoming a cardholder and to attend purchase card procedure training. The Department of Commerce will conduct quarterly internal auditing on all purchase card transactions associated with business and travel in foreign locations. Added by Laws 2005, c. 467, § 26, eff. July 1, 2005.

§74-85.6. Grade and quality of merchandise delivered.

State agencies shall have the right to question the grade and quality of any merchandise delivered to the agency. The Central Purchasing Division must determine, through postaward contract administration procedures, whether the supplies and services meet the grade and quality specified in the contract, and take remedial action with the appropriate vendor if the supply or service does not.

Added by Laws 1959, p. 352, § 6, eff. July 1, 1959. Amended by Laws 1996, c. 316, § 3, eff. July 1, 1996.

§74-85.7. Competitive bid or proposal procedures.

A. 1. Except as otherwise provided by the Oklahoma Central Purchasing Act, no state agency shall make an acquisition for an amount exceeding Fifty Thousand Dollars (\$50,000.00) or the limit determined by the State Purchasing Director pursuant to rules authorized by Section 85.5 of this title, not to exceed One Hundred Thousand Dollars (\$100,000.00), without submission of a requisition to the State Purchasing Director and submission of suppliers' competitive bids or proposals to the State Purchasing Director.

2. Any acquisition a state agency makes shall be made pursuant to The Oklahoma Central Purchasing Act and rules promulgated pursuant thereto.

- a. Split purchasing for the purpose of evading the requirement of competitive bidding shall be a felony.
  - b. The State Purchasing Director may waive or increase the limit authorized for a state agency acquisition by not more than ten percent (10%) to perfect an otherwise valid acquisition inadvertently exceeding the limit due to administrative error by the state agency or unforeseeable circumstances. The state agency shall request a waiver upon the discovery of the error or circumstance to the State Purchasing Director on a form the Director requires.
  - c. The State Purchasing Director shall report all requests for waivers or increases, stating the amount and whether the request was granted or denied, monthly to the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives.
3. a. Contracts for master custodian banks or trust companies, investment managers, investment consultants, and actuaries for the state retirement systems, CompSource Oklahoma, Oklahoma Employees Insurance and Benefits Board, pension fund management consultants of the Oklahoma State Pension Commission and the Commissioners of the Land Office, and other professional services as defined in Section 803 of Title 18 of the Oklahoma Statutes shall be exempt from competitive bidding procedures of this section and requisition requirements of Section 85.4 of this title.
- b. Contracts with financial institutions to act as depositories and managers of the Oklahoma College Savings Plan accounts shall be exempt from competitive bidding procedures.
- c. A state agency that makes an acquisition pursuant to this paragraph shall notify the State Purchasing Director within fifteen (15) days following completion of the acquisition. The Office of Management and Enterprise Services shall compile a list of the exempt contracts and send the list to a member of the Appropriations and Budget Committee of the House of Representatives or Appropriations Committee of the Senate, if the member requests.

4. Requisitions pursuant to this section shall not be required prior to emergency acquisitions by a state agency not exceeding One Hundred Thousand Dollars (\$100,000.00). The state agency shall submit a requisition to the State Purchasing Director within five (5) days following the acquisition together with a statement of the emergency. The State Purchasing Director shall send the requisition

and a written analysis to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives specifying the facts and circumstances giving rise to the emergency requisition.

5. Requisitions pursuant to this section for acquisitions to alleviate a serious environmental emergency shall not be required if, upon receiving a request from the Chair of the Corporation Commission and after having examined the facts and circumstances of the case, the Governor certifies in writing the existence of a serious environmental emergency. For the purposes of this section, "serious environmental emergency" means a situation within the jurisdiction of the Commission:

- a. in which serious damage to the environment will quickly occur if immediate action is not taken and the damage will be so significant that the urgent need for action outweighs the need for competitive bids, or
- b. a situation in which human life or safety is in imminent danger or significant property interests are threatened with imminent destruction.

6. Acquisitions for repairs of equipment in emergencies, of livestock through a market agency, dealer, commission house, or livestock auction market bonded or licensed under federal or state law, the purchase or collection of semen or embryos, and the placement of embryos into recipient livestock shall not require requisitions pursuant to this section or any other provisions of The Oklahoma Central Purchasing Act.

7. The Board of Directors of the Oklahoma Historical Society shall select suppliers for the restoration of historical sites and museums and shall not be subject to the requisition requirements of this section or any other provision of The Oklahoma Central Purchasing Act. The Board may send a requisition to the State Purchasing Director and request supplier bid or proposal submission procedures, but supplier and bid selection will be the prerogative of the Board and will be based on contractors' documented qualifications and experience.

8. Purchases of postage by state agencies shall be made pursuant to Sections 90.1 through 90.4 of this title.

9. Sole source or sole brand acquisitions by a state agency or the State Purchasing Director shall comply with Section 85.45j of this title.

10. Acquisitions for the design, development, communication, or implementation of the state employees flexible benefits plan shall not be subject to the requirements of this section; provided, that the Flexible Benefits Advisory Council shall use procedures consistent with the competitive bid requirements of The Oklahoma Central Purchasing Act.



11. a. Any acquisition of a service which the Office of Management and Enterprise Services has approved as qualifying for a fixed and uniform rate shall be made pursuant to provisions of this paragraph.
- b. The Office of Management and Enterprise Services shall establish criteria and guidelines for those services which may qualify for a fixed and uniform rate.
- c. Fixed and uniform rate contracts authorized by this paragraph shall be limited to contracts for those services furnished to persons directly benefiting from such services and shall not be used by a state agency to employ consultants or to make other acquisitions.
- d. Any state agency desiring to have a service qualified for a fixed and uniform rate shall make a request for service qualification to the Office of Management and Enterprise Services and submit documentation to support the request. The Office of Management and Enterprise Services shall approve or deny the request. If the Office of Management and Enterprise Services approves the request, the state agency shall establish a fixed and uniform rate for the service. No contracts shall be entered into by the state agency until the rate has been approved by the state agency in a public hearing. The proposed rate shall be clearly and separately identified in the agenda of the state agency for the hearing and shall be openly and separately discussed during such hearing. The state agency shall notify the Director of the Office of Management and Enterprise Services of its pending consideration of the proposed rate at least thirty (30) days before the state agency is to meet on the proposed rate. The state agency shall deliver to the Director of the Office of Management and Enterprise Services a copy of the agenda items concerning the proposed rate with supporting documentation. The Director of the Office of Management and Enterprise Services shall communicate any observation, reservation, criticism, or recommendation to the agency, either in person at the time of the hearing or in writing delivered to the state agency before or at the time of the hearing. The Director of the Office of Management and Enterprise Services shall specifically note in the written communications whether the Director of the Office of Management and Enterprise Services has determined the rate to be excessive. Any written communication presented in the absence of the Director of the Office of Management

and Enterprise Services shall be presented orally during the public hearing. Whether made in person or in writing, any comment made by the Director of the Office of Management and Enterprise Services shall be made a part of the minutes of the hearing in full.

- e. Within two (2) weeks after the convening of the Legislature, the administrative officer of the state agency shall furnish to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and to any member of the House or Senate, if requested by the member, a complete list of all of the types of services paid for by uniform fixed rates, the amount of the rate last approved by the agency for the service, and the number of contracts then in existence for each type of service. Any rate which has been determined to be excessive by the Director of the Office of Management and Enterprise Services shall be specifically identified in the list by the state agency.
- f. At any time, the Director of the Office of Management and Enterprise Services may review, suspend, or terminate a contract entered into pursuant to the provisions of this paragraph if the Director of the Office of Management and Enterprise Services determines the contract is not necessary, is excessive, or is not justified.

12. Specifically prescribed nonmedical adaptive technology-related acquisitions for individuals with disabilities who are clients of the State Department of Rehabilitation Services and which are prescribed by a physician, rehabilitation engineer, qualified rehabilitation technician, speech therapist, speech pathologist, occupational therapist, physical therapist, or qualified sensory aids specialist, and other client acquisitions, shall not be subject to the requisition requirements of this section. The Commission for Rehabilitation Services shall develop standards for the purchase of such acquisitions and may elect to utilize the Purchasing Division for an acquisition. The standards shall foster economy, provide a short response time, include appropriate safeguards, require written records, ensure appropriate competition for economical and efficient purchasing, and shall be approved by the State Purchasing Director.

13. The Department of Human Services shall develop procedures for acquisitions of specifically prescribed nonmedical assistive technology-related items not exceeding the acquisition purchase amount requiring a requisition pursuant to this section for individuals under sixteen (16) years of age who are recipients of Supplemental Security Income which are prescribed by a physician, qualified sensory aids specialist or qualified special education

instructor. The procedures shall reflect standards for the acquisition of such nonmedical assistive technology-related items, may provide for utilization of the Purchasing Division when appropriate, shall foster economy, provide a short response time, shall include appropriate safeguards and written records to ensure appropriate competition and economical and efficient purchasing, and shall be approved by the State Purchasing Director.

14. a. Structured settlement agreements entered into by the Attorney General's office in order to settle any lawsuit involving the state, the Legislature, any state agency or any employee or official of the state shall not be subject to the competitive bidding requirements of this section if:
  - (1) prior to entering into any contract for the services of an entity to administer a structured settlement agreement, the Attorney General receives proposals from at least three entities engaged in providing such services, and
  - (2) the selection of a particular entity is made on the basis of the response to the request which is the most economical and provides the most competent service which furthers the best interests of the state.
- b. A list of any such structured settlement agreements entered into by the Attorney General with summary thereon for the previous calendar year shall be submitted to the Speaker of the House of Representatives and the President Pro Tempore of the Senate on January 31 of each year.

15. Acquisitions a state agency makes pursuant to a contract the State Purchasing Director enters into or awards and designates for use by state agencies shall be exempt from competitive bidding procedures.

16. The Commission on Marginally Producing Oil and Gas Wells shall be exempt from the competitive bid requirements of this section for contracts with local vendors for the purpose of holding special events and exhibitions throughout the state.

17. Agreements entered into by any state agency with the United States Army Corps of Engineers in order to provide emergency response or to protect the public health, safety, or welfare shall not require requisitions and shall not be subject to competitive bidding requirements of this section.

18. Notwithstanding any other provision of law, the State Purchasing Director may exempt a procurement from the requirements of this section when in the State Purchasing Director's discretion unusual, time-sensitive or unique circumstances exist which make such exemption in the best and immediate interest of the state. As

used in this subsection, "State Purchasing Director" means the administrative head of the Purchasing Division of the Office of Management and Enterprise Services and shall not mean a designee. Any acquisitions made pursuant to this paragraph shall be described in detail and publicly posted through the transparency portal as provided in Section 34.11.2 of Title 62 of the Oklahoma Statutes. The description shall include the name of the supplier, cost of the acquisition, reason for exemption under the provisions of this subsection, the cost savings resulting from the purchase, and a description of benefits to the state. The State Purchasing Director shall take no action under the provisions of this paragraph prior to the publication of a document describing the significant savings that will be realized by the state. The document shall provide a detailed comparison of the acquisition with comparable items and clearly detail the savings.

B. Acquisitions shall be awarded to the lowest and best, or best value, bidder at a specified time and place, which shall be open to the public.

C. Bids for professional service contracts for an amount requiring submission of requisitions to the State Purchasing Director shall be evaluated by the State Purchasing Director and the state agency contracting for such service. Both cost and technical expertise shall be considered in determining the lowest and best, or best value, bid. Further, the state agency shall present its evaluation and recommendation to the State Purchasing Director. A documented evaluation report containing the evaluations of the State Purchasing Director and the state agency contracting for such service shall be completed prior to the awarding of a professional service contract and such report shall be a matter of public record.

D. When requested by CompSource Oklahoma, the Oklahoma Employees Insurance and Benefits Board, or the governing board of a state retirement system authorized to hire investment managers, the Office of Management and Enterprise Services shall assist the requesting body in the process of selecting investment managers. When requested by the Flexible Benefits Advisory Council, the Office of Management and Enterprise Services shall assist the Council in the process of selecting contracts for the design, development, communication, or implementation of the state employees flexible benefits plan.

E. Except as otherwise specifically provided by law, the acquisition of food items or food products by a state agency from a public trust created pursuant to Sections 176 through 180.56 of Title 60 of the Oklahoma Statutes shall comply with competitive bidding procedures pursuant to the provisions of this section.

F. Cooperative contracts shall not be utilized unless the purchasing cooperative and its affiliated suppliers have complied with all provisions of The Oklahoma Central Purchasing Act.

Added by Laws 1959, p. 352, § 7, eff. July 1, 1959. Amended by Laws 1963, c. 345, § 1; Laws 1967, c. 109, § 1, emerg. eff. April 25, 1967; Laws 1980, c. 261, § 1, eff. Oct. 1, 1980; Laws 1983, c. 334, § 8, emerg. eff. June 30, 1983; Laws 1985, c. 281, § 4, emerg. eff. July 22, 1985; Laws 1986, c. 173, § 4, emerg. eff. May 12, 1986; Laws 1988, c. 326, § 39, emerg. eff. July 13, 1988; Laws 1989, c. 291, § 3, eff. July 1, 1989; Laws 1989, c. 370, § 14, operative July 1, 1989; Laws 1990, c. 337, § 19; Laws 1991, c. 332, § 10, eff. July 1, 1991; Laws 1992, c. 373, § 19, eff. July 1, 1992; Laws 1993, c. 129, § 1, eff. July 1, 1993; Laws 1994, c. 233, § 2, eff. Sept. 1, 1994; Laws 1995, c. 1, § 31, emerg. eff. March 2, 1995; Laws 1995, c. 253, § 7, eff. Nov. 1, 1995; Laws 1996, c. 3, § 19, emerg. eff. March 6, 1996; Laws 1996, c. 214, § 3, emerg. eff. May 21, 1996; Laws 1996, c. 316, § 4, eff. July 1, 1996; Laws 1997, c. 207, § 3, eff. July 1, 1997; Laws 1997, c. 404, § 5, eff. July 1, 1997; Laws 1998, c. 384, § 1, emerg. eff. June 9, 1998; Laws 1999, c. 1, § 31, emerg. eff. Feb. 24, 1999; Laws 1999, c. 289, § 6, eff. July 1, 1999; Laws 2000, c. 6, § 22, emerg. eff. March 20, 2000; Laws 2003, c. 342, § 3; Laws 2004, c. 309, § 2, eff. July 1, 2004; Laws 2008, c. 96, § 4, eff. Nov. 1, 2008; Laws 2009, c. 322, § 7; Laws 2012, c. 304, § 738; Laws 2013, c. 186, § 4, eff. Nov. 1, 2013; Laws 2013, c. 244, § 2, eff. Nov. 1, 2013.

NOTE: Laws 1988, c. 321, § 41 repealed by Laws 1989, c. 291, § 11, eff. July 1, 1989. Laws 1989, c. 318, § 3 repealed by Laws 1990, c. 337, § 26. Laws 1991, c. 197, § 2 repealed by Laws 1992, c. 373, § 22, eff. July 1, 1992. Laws 1994, c. 223, § 1 repealed by Laws 1995, c. 1, § 40, emerg. eff. March 2, 1995. Laws 1995, c. 212, § 4 repealed by Laws 1996, c. 3, § 25, emerg. eff. March 6, 1996. Laws 1996, c. 134, § 1 repealed by Laws 1996, c. 288, § 10, eff. July 1, 1996. Laws 1996, c. 288, § 6 repealed by Laws 1997, c. 2, § 26, emerg. eff. Feb. 26, 1997. Laws 1997, c. 2, § 18 repealed by Laws 1997, c. 404, § 7, eff. July 1, 1997. Laws 1998, c. 371, § 5 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999. Laws 1999, c. 142, § 3 repealed by Laws 2000, c. 6, § 33, emerg. eff. March 20, 2000.

74-85.7a. Open market or statewide contract for supplies, equipment or materials - Bidders to provide information as to manufacturer and country of origin of supplies, equipment and materials.

A. The Office of Management and Enterprise Services may require each bidder for an open market contract or a statewide contract for supplies, equipment or materials to provide information as to the manufacturer and country of origin of any such supplies, equipment or materials as specified by labels attached to the supplies, equipment or materials where such identification is required by federal or state law. If an item has more than one component part or accessory which may have been manufactured in more than one country, the bidder may specify the countries of origin for only the

major component parts or accessories as determined by the Office where such identification is required by federal or state law.

B. Any open market contract or statewide contract may require the contractor to obtain from all of his subcontractors information as to the manufacturer and country or countries of origin of any supplies, equipment or materials provided to the state where such identification is required by federal or state law.

Added by Laws 1992, c. 205, § 1, eff. July 1, 1992. Amended by Laws 2012, c. 304, § 739.

§74-85.7c. Renumbered as § 34.12.1 of Title 62 by Laws 2013, c. 358, § 34, eff. July 1, 2013.

§74-85.7d. Repealed by Laws 2013, c. 358, § 39, eff. July 1, 2013.

§74-85.7e. Procurement - Wiki platform.

A. The Office of Management and Enterprise Services or its successor agency shall utilize a wiki venue to provide for the public two-way communication between procurement officers and potential vendors who have questions regarding a request for proposal or invitation to bid. The Office shall provide editing access to all interested potential bidders and viewing access to all members of the public.

B. The Office of Management and Enterprise Services or its successor agency shall provide agency-level procurement officers with a wiki platform for reporting the availability of items for purchase at a cost which is less than comparable products on a mandatory statewide purchase contract. The Office shall provide wiki editing access to all state agency procurement officers and viewing access to all members of the public.

C. State agency procurement officers shall utilize the wiki described in subsection B of this section to report all findings of products which can be purchased for less than comparable products which are on a mandatory statewide purchasing schedule.

D. For the purposes of this section, the term "wiki" shall mean a collaborative website which can be directly edited by anyone with editing access and viewed by all members of the public.

E. Access to the wikis described in this section shall be featured prominently on the Office's website.

Added by Laws 2011, c. 292, § 13. Amended by Laws 2012, c. 304, § 741.

§74-85.7g. State Government Conferences Web-based Transparency pilot program.

A. There is hereby established the "State Government Conferences Web-based Transparency pilot program".

B. The Superintendent of Public Instruction of the State Department of Education is directed to publish on a website a listing of all expenses paid by the Department of Education for the payment of food, lodging, and other authorized expenses as may be necessary to host, conduct, sponsor, or participate in conferences, meetings, or training sessions.

C. The Superintendent of Public Instruction is authorized to directly enter into contracts and agreements for the payment of food, lodging, and other authorized expenses as may be necessary to host, conduct, sponsor, or participate in conferences, meetings, or training sessions. The Superintendent may establish accounts as necessary for the collection and distribution of funds, including funds of sponsors and registration fees, related to such conferences, meetings, and training sessions. Any expenses incurred may be paid directly to the contracting agency or business establishment.

D. The cost of food for persons attending any conferences, meetings, and training sessions that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

E. The Superintendent of Public Instruction shall allow for reimbursements and deposits occurring under the provisions of this act to take place through commonly accepted e-commerce practices.

F. On a regular basis the Superintendent of Public Instruction shall publish a report stating savings realized as a result of the State Government Conferences Web-based Transparency pilot program. Added by Laws 2011, c. 347, § 7.

§74-85.7h. Renumbered as § 34.31.1 of Title 62 by Laws 2013, c. 358, § 35, eff. July 1, 2013.

§74-85.7i. Renumbered as § 34.31.2 of Title 62 by Laws 2013, c. 358, § 36, eff. July 1, 2013.

§74-85.8. Testing.

The State Purchasing Director, on approval by the Director of the Office of Management and Enterprise Services, is hereby authorized to make use of any state laboratories for the tests and analyses authorized in Section 85.5 of this title wherever practicable and to use private laboratories or the laboratories of another government agency if it is impracticable to use state laboratories; and he is further authorized to cooperate in test and analysis programs or agreements with other states or the United States government, and to accept federal funds and funds donated by private endowments or foundations for the purpose of participation in such testing programs.

Added by Laws 1959, p. 353, § 8, eff. July 1, 1959. Amended by Laws 1983, c. 304, § 108, eff. July 1, 1983; Laws 2012, c. 304, § 742.

§74-85.9. Renumbered as § 62.4 of this title by Laws 1995, c. 342, § 9, emerg. eff. June 9, 1995.

§74-85.9A. Renumbered as § 62.5 of this title by Laws 1995, c. 342, § 9, emerg. eff. June 9, 1995.

§74-85.9B. Purchase of supplies and equipment from surplus property program.

Each chief administrative officer of any state agency is encouraged to make needed purchases of office furniture or equipment, of other equipment or machinery, and of tools and hardware from the surplus property program operated by the Office of Management and Enterprise Services.

Added by Laws 1986, c. 173, § 11, emerg. eff. May 12, 1986. Amended by Laws 2012, c. 304, § 743.

§74-85.9C. Renumbered as § 62.7 of this title by Laws 1999, c. 289, § 16, eff. July 1, 1999.

§74-85.9D. Contracts for computer software and hardware maintenance - Coordination through Purchasing Division.

A. Except as otherwise provided in subsection B of this section, agencies within the executive branch shall coordinate acquisition of computer software maintenance and hardware maintenance contracts through the Purchasing Division of the Office of Management and Enterprise Services. The Purchasing Division may establish consolidation contracts and enterprise agreements for state agencies. The State Purchasing Director may negotiate consolidation contracts, enterprise agreements and high technology system contracts in lieu of or in conjunction with bidding procedures to reduce acquisition cost.

B. The provisions of this section shall not apply to the Northeast Oklahoma Public Facilities Authority.

Added by Laws 1995, c. 291, § 1, emerg. eff. May 25, 1995. Amended by Laws 1996, c. 214, § 4, emerg. eff. May 21, 1996; Laws 1998, c. 203, § 5, emerg. eff. May 11, 1998; Laws 1999, c. 289, § 7, eff. July 1, 1999; Laws 2000, c. 333, § 2, emerg. eff. June 5, 2000; Laws 2012, c. 304, § 744.

§74-85.9E. Renumbered as § 34.20.1 of Title 62 by Laws 2013, c. 358, § 37, eff. July 1, 2013.

§74-85.9F. Renumbered as § 62.8 of this title by Laws 1999, c. 289, § 17, eff. July 1, 1999.



§74-85.9G. Behavioral services contract providers - Rules establishing qualifications.

The governing bodies of the state agencies contracting for behavioral services shall each promulgate rules establishing the qualifications for those employees of the contract providers when such agency delivers behavioral health care services pursuant to a contract or subcontract with the state agencies.

Added by Laws 1998, c. 153, § 1, emerg. eff. April 27, 1998.

§74-85.10. Records open for public inspection.

Except as otherwise provided by law, records of the State Purchasing Director pertaining to any acquisition, contract, transfer, negotiations, order, or rejection shall be open during regular office hours of the Purchasing Division to any person subject to reasonable limitations to prevent the removal of records from the Purchasing Division and to allow records to be kept current and in good order; and the acquisition records of state agencies shall be open to public inspection under the same conditions. If the State Purchasing Director requires bidders to submit bidders' financial or proprietary information with a bid, proposal, or quotation, the State Purchasing Director may designate the information confidential and reject all requests to disclose the information so designated.

Added by Laws 1959, p. 353, § 10. Amended by Laws 2000, c. 333, § 3, emerg. eff. June 5, 2000.

§74-85.11. Publication of rules, regulations and specifications.

The Purchasing Director shall publish such rules and regulations authorized hereunder as may be practicable at least once each year and is authorized to publish such specifications relating to materials, supplies, equipment and services to be acquired for the state as may best promote competition and apprise potential suppliers of the type of product desired.

Added by Laws 1959, p. 353, § 11, eff. July 1, 1959.

§74-85.12. Act not to affect nonconflicting procedures - Acquisitions excluded.

A. The provisions of this section shall not be construed to affect any law relating to fiscal or accounting procedure except as they may be directly in conflict herewith; and all claims, warrants, and bonds shall be examined, inspected, and approved as now provided by law.

B. Except as otherwise provided by this section, the acquisitions specified in this subsection shall be made in compliance with Section 85.39 of this title but are not subject to other provisions of The Oklahoma Central Purchasing Act:

1. Food and other products produced by state institutions and agencies;

2. The printing or duplication of publications or forms of whatsoever kind or character by state agencies if the work is performed upon their own equipment by their own employees. Pursuant to this paragraph, the state agency may only use equipment owned or leased by the agency and may only utilize that equipment for printing services required by the agency in performing duties imposed upon the agency or functions authorized to be performed by the agency. Any use of the equipment by the agency pursuant to an agreement or contract with any other entity resulting in delivery of intermediate or finished products to the entity purchasing or using the products shall be subject to the provisions of The Oklahoma Central Purchasing Act;

3. Department of Transportation and Transportation Commission contractual services or right-of-way purchases; contracts awarded pursuant to bids let by the Transportation Commission for the maintenance or construction of streets, roads, highways, bridges, underpasses, or any other transportation facilities under the control of the Department of Transportation, the acquisitions of equipment or materials accruing to the Department of Transportation required in Federal-Aid contracts; and contracts for public service type announcements initiated by the Department of Transportation; but not contractual services for advertising or public relations or employment services;

4. Utility services regulated by a state or federal regulatory commission, or by municipal ordinance, or by an Indian Tribal Council;

5. Acquisitions by the University Hospitals Authority. The Authority shall develop standards for the acquisition of products and services and may elect to utilize the Purchasing Division. The standards shall foster economy and short response time and shall include appropriate safeguards and record-keeping requirements to ensure appropriate competition and economical and efficient purchasing;

6. Contracts for custom harvesting by the Department of Corrections for the Department or its institutions;

7. Contracts with private prison contractors which are subject to the contracting procedures of Section 561 of Title 57 of the Oklahoma Statutes;

8. Acquisitions by the Oklahoma Municipal Power Authority;

9. Acquisitions by the Grand River Dam Authority;

10. Acquisitions by rural water, sewer, gas, or solid waste management districts created pursuant to the Rural Water, Sewer, Gas and Solid Waste Management Districts Act;

11. Acquisitions by the Oklahoma Ordnance Works Authority, the Northeast Oklahoma Public Facilities Authority, or the Midwestern Oklahoma Development Authority;

12. Contracts entered into by the Oklahoma Industrial Finance Authority for the services of an appraiser or for acquisition of insurance when the Authority's Board of Directors determines that an emergency exists, and contracts for the services of legal counsel when approved by the Attorney General;

13. Expenditure of monies appropriated to the State Board of Education for Local and State Supported Financial Support of Public Schools, except monies allocated therefrom for the Administrative and Support Functions of the State Department of Education;

14. Expenditure of monies appropriated to the State Department of Rehabilitation Services for educational programs or educational materials for the Oklahoma School for the Blind and the Oklahoma School for the Deaf;

15. Contracts entered into by the Oklahoma Department of Career and Technology Education for the development, revision, or updating of vocational curriculum materials, and contracts entered into by the Oklahoma Department of Career and Technology Education for training and supportive services that address the needs of new or expanding industries;

16. Contracts entered into by the Oklahoma Center for the Advancement of Science and Technology for professional services;

17. Contracts entered into by the Oklahoma Department of Commerce pursuant to the provisions of Section 5066.4 of this title;

18. Acquisitions made by the Oklahoma Historical Society from monies used to administer the White Hair Memorial;

19. Acquisitions available to an agency through a General Services Administration (GSA) contract or other federal contract if the acquisition is on current statewide contract and the terms of the GSA or other federal contract, as determined by the State Purchasing Director, are more favorable to the agency than the terms of a statewide contract for the same products;

20. Purchases of pharmaceuticals available through a multistate or multigovernmental contract if such pharmaceuticals are or have been on state contract within the last fiscal year, and the terms of such contract are more favorable to the state or agency than the terms of a state contract for the same products, as determined by the State Purchasing Director. The state entity designated by law, as specified in Section 1010.3 of Title 56 of the Oklahoma Statutes, shall participate in the purchase of pharmaceuticals available through such contracts;

21. Contracts for managed health care services entered into by the state entity designated by law or the Department of Human Services, as specified in paragraph 1 of subsection A of Section 1010.3 of Title 56 of the Oklahoma Statutes;

22. Acquisitions by the Forestry Service of the Oklahoma Department of Agriculture, Food, and Forestry as authorized by the federal General Services Administration through a General Services Administration contract or other federal contract if the acquisitions are not on current statewide contract or the terms of the federal contract are more favorable to the agency than the terms of a statewide contract for the same products;
23. Acquisitions of clothing for clients of the Department of Human Services and acquisitions of food for group homes operated by the Department of Human Services;
24. Acquisitions by the Oklahoma Energy Resources Board;
25. Acquisitions of clothing for juveniles in the custody of the Office of Juvenile Affairs and acquisitions of food for group homes operated by the Office of Juvenile Affairs;
26. State contracts for flexible benefits plans pursuant to the Oklahoma State Employees Benefits Act, Section 1361 et seq. of this title;
27. Acquisitions by the Department of Securities to investigate, initiate, or pursue administrative, civil, or criminal proceedings involving potential violations of the acts under the Department's jurisdiction and acquisitions by the Department of Securities for its investor education program;
28. Acquisitions by the Native American Cultural and Educational Authority and acquisitions by the Oklahoma Department of Commerce to assist the Native American Cultural and Educational Authority pursuant to Section 5017 of this title;
29. Acquisitions for resale in and through canteens operated pursuant to Section 537 of Title 57 of the Oklahoma Statutes;
30. Acquisitions by the Oklahoma Boll Weevil Eradication Organization for employment and personnel services, and for acquiring sprayers, blowers, traps, and attractants related to the eradication of boll weevils in this state or as part of a national or regional boll weevil eradication program;
31. Contracts entered into by the Oklahoma Indigent Defense System for expert services pursuant to the provisions of subsection D of Section 1355.4 of Title 22 of the Oklahoma Statutes;
32. Acquisitions by the Oklahoma Correctional Industries and the Agri-Services programs of the Department of Corrections of raw materials, component parts and other products, any equipment excluding vehicles, and any services excluding computer consultant services used to produce goods or services for resale and for the production of agricultural products;
33. Contracts entered into by the Department of Human Services for provision of supported living services to members of the plaintiff class in *Homeward Bound, Inc., et al. v. The Hissom Memorial Center, et al.*, Case Number 85-C-437-E, United States District Court for the Northern District of Oklahoma;

34. Contracts negotiated by the Office of Juvenile Affairs with designated Youth Services Agencies and the Oklahoma Association of Youth Services, or another Oklahoma nonprofit corporation whose membership consists solely of Youth Services Agencies and of whom at least a majority of Youth Services Agencies are members, pursuant to the provisions of Section 2-7-306 of Title 10A of the Oklahoma Statutes and contracts entered into by the Department of Human Services pursuant to Section 1-9-110 of Title 10A of the Oklahoma Statutes with designated Youth Services Agencies;

35. Contracts not to exceed One Hundred Thousand Dollars (\$100,000.00) entered into by the Department of Environmental Quality for engineering services to assist qualifying small municipalities or rural water or sewer districts with engineering reports or plans and specifications needed for construction or repairs to achieve compliance with federal and state public water supply or wastewater laws and regulations;

36. Contracts for annuities for structured settlements provided for in Section 158 of Title 51 of the Oklahoma Statutes; and

37. Contracts entered into by the State Department of Education with current or retired employees of Oklahoma public school districts to assist the Department when the expertise and qualifications of an Oklahoma certified educator are required, as provided for in Section 1 of this act.

C. Pursuant to the terms of a contract the State Purchasing Director enters into or awards, a state agency, common school, municipality, rural fire protection district, county officer, or any program contract, purchase, acquisition or expenditure that is not subject to the provisions of The Oklahoma Central Purchasing Act, may, unless acting pursuant to a contract with the state that specifies otherwise, make use of statewide contracts and the services of the Purchasing Division and the State Purchasing Director. Any political subdivision or rural fire protection district may designate the State Purchasing Director as its agent for any acquisition from a statewide contract or otherwise available to the state.

D. The State Purchasing Director shall make periodic audits of the purchasing procedures of the Oklahoma Ordnance Works Authority, the Northeast Oklahoma Public Facilities Authority, the University Hospitals Authority, and the Midwestern Oklahoma Development Authority to ensure that the procedures are being followed.

Added by Laws 1959, p. 353, § 12, eff. July 1, 1959. Amended by Laws 1963, c. 22, § 1; Laws 1968, c. 188, § 1, emerg. eff. April 15, 1968; Laws 1969, c. 205, § 1, emerg. eff. April 18, 1969; Laws 1970, c. 58, § 1, emerg. eff. March 16, 1970; Laws 1974, c. 295, § 1, emerg. eff. May 29, 1974; Laws 1976, c. 114, § 1, emerg. eff. May 14, 1976; Laws 1977, 1st Ex. Sess., c. 5, § 24, emerg. eff. June 21, 1977; Laws 1980, c. 199, § 1, emerg. eff. May 12, 1980; Laws 1980,

c. 345, § 17, emerg. eff. June 25, 1980; Laws 1981, c. 218, § 25, emerg. eff. June 2, 1981; Laws 1983, c. 334, § 9, emerg. eff. June 30, 1983; Laws 1985, p. 1682, H.J.R. No. 1039, § 3, eff. Nov. 1, 1985; Laws 1986, c. 259, § 23, operative July 1, 1986; Laws 1986, c. 247, § 15, operative July 1, 1986; Laws 1987, c. 205, § 29, operative July 1, 1987; Laws 1987, c. 236, § 51, emerg. eff. July 20, 1987; Laws 1988, c. 326, § 40, emerg. eff. July 13, 1988; Laws 1989, c. 378, § 1, emerg. eff. June 7, 1989; Laws 1990, c. 337, § 20; Laws 1991, c. 70, § 1, emerg. eff. April 15, 1991; Laws 1991, c. 341, § 4, eff. July 1, 1991; Laws 1991, c. 335, § 30, emerg. eff. June 15, 1991; Laws 1992, c. 44, § 3, emerg. eff. April 3, 1992; Laws 1992, c. 246, § 1, emerg. eff. May 21, 1992; Laws 1993, c. 129, § 2, eff. July 1, 1993; Laws 1993, c. 336, § 8, eff. July 1, 1993; Laws 1994, c. 2, § 28, emerg. eff. March 2, 1994; Laws 1996, c. 214, § 5, emerg. eff. May 21, 1996; Laws 1996, c. 316, § 5, eff. July 1, 1996; Laws 1997, c. 2, § 19, emerg. eff. Feb. 26, 1997; Laws 1997, c. 257, § 1, eff. Nov. 1, 1997; Laws 1998, c. 5, § 26, emerg. eff. March 4, 1998; Laws 1998, c. 203, § 6, emerg. eff. May 11, 1998; Laws 1998, c. 371, § 7, eff. Nov. 1, 1998; Laws 1999, c. 1, § 32, emerg. eff. Feb. 24, 1999; Laws 1999, c. 289, § 8, eff. July 1, 1999; Laws 2000, c. 6, § 23, emerg. eff. March 20, 2000; Laws 2001, c. 33, § 169, eff. July 1, 2001; Laws 2003, c. 342, § 4; Laws 2004, c. 5, § 90, emerg. eff. March 1, 2004; Laws 2005, c. 156, § 1, eff. July 1, 2005; Laws 2006, c. 320, § 17, emerg. eff. June 9, 2006; Laws 2007, c. 1, § 77, emerg. eff. Feb. 22, 2007; Laws 2009, c. 273, § 3; Laws 2010, c. 2, § 98, emerg. eff. March 3, 2010; Laws 2010, c. 370, § 2, eff. Nov. 1, 2010; Laws 2014, c. 103, § 1; Laws 2014, c. 359, § 2; Laws 2016, c. 76, § 1, emerg. eff. April 18, 2016; Laws 2017, c. 71, § 2, eff. July 1, 2017.

NOTE: Laws 1981, c. 204, § 3 repealed by Laws 1983, c. 334, § 15, emerg. eff. June 30, 1983. Laws 1986, c. 245, § 7 repealed by Laws 1987, c. 80, § 13, operative July 1, 1987. Laws 1987, c. 222, § 118 repealed by Laws 1987, c. 236, § 203, emerg. eff. July 20, 1987. Laws 1987, c. 208, § 9 repealed by Laws 1988, c. 81, § 2, emerg. eff. March 25, 1988. Laws 1988, c. 81, § 1 and Laws 1988, c. 273, § 3 repealed by Laws 1989, c. 353, § 14, emerg. eff. June 3, 1989 and by Laws 1989, c. 378, § 2, emerg. eff. June 7, 1989. Laws 1989, c. 353, § 7 repealed by Laws 1990, c. 337, § 26. Laws 1989, c. 369, § 10 repealed by Laws 1990, c. 337, § 26. Laws 1990, c. 315, § 8 repealed by Laws 1991, c. 70, § 2, emerg. eff. April 15, 1991. Laws 1991, c. 130, § 1 repealed by Laws 1991, c. 335, § 37, emerg. eff. June 15, 1991. Laws 1992, c. 37, § 1 repealed by Laws 1992, c. 246, § 9, emerg. eff. May 21, 1992. Laws 1993, c. 330, § 28 repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994. Laws 1996, c. 84, § 2 repealed by Laws 1996, c. 288, § 11, emerg. eff. June 5, 1996. Laws 1996, c. 247, § 46 and Laws 1996, c. 288, § 7 repealed by Laws 1997, c. 2, § 26, emerg. eff. Feb. 26, 1997. Laws 1997, c. 169, § 1

repealed by Laws 1998, c. 5, § 29, emerg. eff. March 4, 1998. Laws 1998, c. 253, § 3 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999. Laws 1999, c. 197, § 3 repealed by Laws 2000, c. 6, § 33, emerg. eff. March 20, 2000. Laws 2003, c. 257, § 2 repealed by Laws 2004, c. 5, § 91, emerg. eff. March 1, 2004. Laws 2006, c. 80, § 1 repealed by Laws 2007, c. 1, § 78, emerg. eff. Feb. 22, 2007. Laws 2009, c. 234, § 160 repealed by Laws 2010, c. 2, § 99, emerg. eff. March 3, 2010.

§74-85.12a. Requisitions for insurance.

Any state agency that purchases insurance through the Office of Management and Enterprise Services shall submit a requisition form to acquire or maintain insurance to the Purchasing Division not less than forty-five (45) days prior to the expiration date of the existing insurance policy held by the agency. The time requirement for the submission of a requisition form, as provided for in this section, shall not apply to any state agency that:

1. Has no existing insurance policy covering the property sought to be insured; or

2. Must acquire insurance expediently due to some exigent circumstance as determined by the Director of the Office of Management and Enterprise Services.

Added by Laws 1984, c. 35, § 1, eff. Nov. 1, 1984. Amended by Laws 2012, c. 304, § 746.

§74-85.12b. Leasing, chartering or contracting for aircraft.

All agencies or departments of this state shall lease, charter or contract for the use of any aircraft pursuant to the provisions of The Oklahoma Central Purchasing Act, except aircraft owned and operated by another agency or department of this state. The Office of Management and Enterprise Services shall develop and implement guidelines for the use of such aircraft.

Added by Laws 1985, c. 271, § 2, eff. Nov. 1, 1985. Amended by Laws 2012, c. 304, § 747.

§74-85.12c. Department of Human Services - Local fund-raising activities - Purchases made from funds.

A. Purchases made from funds received by local offices administered by the Department of Human Services for fund-raising activities and donations for the benefit of clients and potential clients at the local offices where such purchases may not otherwise be paid for from appropriated funds, shall not be subject to requirements of the Oklahoma Central Purchasing Act. Monies received by such fund-raising activities or donations shall be maintained in an Agency Special Account, and expenditure control shall reside at the local offices. Monies received by such fund-raising activities or donations from the local office, vending

operations administered by employees of the Department of Human Services, and all other nonrestricted cash and cash-equivalent items received by employees of the Department of Human Services shall be deposited in the Agency Special Account established for this purpose. Such deposits shall be made at local banking institutions approved by the State Treasurer.

B. Purchases made from funds received by local offices administered by the Office of Juvenile Affairs for fund-raising activities and donations for the benefit of clients and potential clients at the local offices where such purchases may not otherwise be paid for from appropriated funds shall not be subject to requirements of the Oklahoma Central Purchasing Act. Monies received by such fund-raising activities or donations shall be maintained in an agency special account, and expenditure control shall reside at the local offices. Monies received by such fund-raising activities or donations from the local office, vending operations administered by employees of the Office of Juvenile Affairs, and all other nonrestricted cash and cash-equivalent items received by employees of the Office of Juvenile Affairs shall be deposited in the agency special account established for this purpose. The deposits shall be made at local banking institutions approved by the State Treasurer.

C. Merchandise for resale purchased and sold through a canteen established at an institution or facility operated by the Office of Juvenile Affairs shall be exempt from the requirements of the Oklahoma Central Purchasing Act.

Added by Laws 1994, c. 280, § 1, eff. July 1, 1994. Amended by Laws 1996, c. 247, § 47, eff. July 1, 1996; Laws 1998, c. 268, § 17, eff. July 1, 1998.

#### §74-85.13. Accepting or giving of gratuities prohibited - Penalty.

It shall be unlawful for the State Purchasing Director or any buyer or any officer of the Office of Management and Enterprise Services, or any member of their immediate family, under The Oklahoma Central Purchasing Act to accept any gift, donation, or gratuity for himself or any member of his immediate family from any seller or prospective seller of any property covered by The Oklahoma Central Purchasing Act; and it shall further be unlawful for any seller or any prospective seller to give or donate anything of value to the State Purchasing Director or any buyer or officer of the Office of Management and Enterprise Services or any buyer under The Oklahoma Central Purchasing Act or any member of the immediate family of the State Purchasing Director or buyer or officer of the Office of Management and Enterprise Services. This provision shall not apply to exceptions to the definition of "anything of value" in the Rules of the Ethics Commission promulgated pursuant to Article XXIX of the Oklahoma Constitution.



The violation of any provision of this section shall constitute a misdemeanor and in the event the State Purchasing Director or any buyer or any officer of the Office of Management and Enterprise Services is convicted for the violation of this section he shall forfeit his position immediately in addition to the penalty provided in this section.

Added by Laws 1959, p. 354, § 13, eff. July 1, 1959. Amended by Laws 1983, c. 304, § 109, eff. July 1, 1983; Laws 2008, c. 96, § 5, eff. Nov. 1, 2008; Laws 2009, c. 322, § 8; Laws 2012, c. 304, § 748.

§74-85.14. Federal laws to govern.

Notwithstanding any provision of this act to the contrary, in all cases where federal granted funds are involved, the federal laws, rules and regulations thereto shall govern to the extent necessary to insure the benefit of such funds to the State of Oklahoma.

Laws 1959, p. 354, § 14.

§74-85.15. Strict conformity - Penalties.

All persons, agents, officers and employees of the state included within the provisions of this act are required to conform strictly to the provisions of this act, and any such persons, agents, officers or employees violating any provision of this act, shall be deemed guilty of a misdemeanor unless herein otherwise provided, and upon conviction shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) or be imprisoned in the county jail not to exceed six (6) months or by both such fine and imprisonment.

Added by Laws 1959, p. 355, § 19, eff. July 1, 1959.

§74-85.17. Repealed by Laws 1999, c. 289, § 19, eff. July 1, 1999.

§74-85.17A. Bidding preferences - Reciprocity - Awarding contracts.

A. State agencies shall not discriminate against bidders from states or nations outside Oklahoma, except as provided by this section. State agencies shall reciprocate the bidding preference given by other states or nations to bidders domiciled in their jurisdictions for acquisitions pursuant to The Oklahoma Central Purchasing Act. The State Purchasing Director shall annually prepare and distribute to certified procurement officers a schedule providing which states give bidders in their states a preference and the extent of the preference. This schedule shall be used by state agencies in evaluating bids.

B. For purposes of awarding contracts state agencies shall:

1. Give preference to goods and services that have been manufactured or produced in this state if the price, fitness, availability and quality are otherwise equal;

2. Give preference to goods and services from another state over foreign goods or services if goods or services manufactured or produced in this state are not equal in price, fitness, availability, or quality; and

3. Add a percent increase to the bid of a nonresident bidder equal to the percent, if any, of the preference given to the bidder in the state in which the bidder resides.

Added by Laws 2001, c. 214, § 1, eff. July 1, 2001. Amended by Laws 2010, c. 395, § 1, eff. Nov. 1, 2010.

§74-85.19. Department for analyzing and evaluating goods and services.

The Director of Central Purchasing shall create a department for analyzing and evaluating goods and services bought through Central Purchasing Agency using state owned laboratories and independent testing laboratories as needed.

Laws 1969, c. 205, § 2, emerg. eff. April 18, 1969.

§74-85.22. Competitive bid or contract for goods or services - Form of certification.

Any competitive bid submitted to the State of Oklahoma or contract executed by the state for goods or services in excess of Five Thousand Dollars (\$5,000.00) shall contain a certification, which shall be in substantially the following form:

A. For purposes of competitive bids, I certify:

1. I am the duly authorized agent of \_\_\_\_\_, the bidder submitting the competitive bid which is attached to this statement, for the purpose of certifying the facts pertaining to the existence of collusion among bidders and between bidders and state officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the letting of any contract pursuant to the bid to which this statement is attached;

2. I am fully aware of the facts and circumstances surrounding the making of the bid to which this statement is attached and have been personally and directly involved in the proceedings leading to the submission of such bid; and

3. Neither the bidder nor anyone subject to the bidder's direction or control has been a party:

- a. to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding,
- b. to any collusion with any state official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of such prospective contract,

- c. in any discussions between bidders and any state official concerning exchange of money or other thing of value for special consideration in the letting of a contract, nor
- d. to any collusion with any state agency or political subdivision official or employee as to create a sole-source acquisition in contradiction to Section 85.45j.1 of this title.

B. I certify, if awarded the contract, whether competitively bid or not, neither the contractor nor anyone subject to the contractor's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring the contract to which this statement is attached.

Certified this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

Added by Laws 1974, c. 43, § 1, emerg. eff. April 13, 1974. Amended by Laws 1984, c. 166, § 6, operative July 1, 1984; Laws 2008, c. 96, § 6, eff. Nov. 1, 2008; Laws 2009, c. 322, § 9; Laws 2010, c. 170, § 2, emerg. eff. April 26, 2010; Laws 2013, c. 219, § 1, emerg. eff. May 7, 2013; Laws 2014, c. 255, § 1.

§74-85.23. Repealed by Laws 2008, c. 96, § 7, eff. Nov. 1, 2008.

§74-85.24. Renumbered as § 138 of Title 61 by Laws 1999, c. 289, § 18, eff. July 1, 1999.

§74-85.26. Purchase of blanket bond for state officers and employees - Definition - Bond exclusive.

The Purchasing Division of the Office of Management and Enterprise Services is directed to purchase from the lowest bidder a surety contract or contracts in the form known as a "blanket bond" to cover all elective state officers, appointive officers, and employees in the manner provided in this section. No other bond shall be acceptable as surety for any elected or appointed officer or employee of this state in lieu of said blanket bond. For purposes of Sections 85.26 through 85.31 of this title, a "blanket bond" is defined as a public employees' blanket position bond which covers all employees up to the penalty of the bond for each employee and the full penalty of the bond is always in force during its term and no restoration is necessary and there is no additional premium after a loss is paid.

Added by Laws 1974, c. 131, § 1, operative July 1, 1974. Amended by Laws 1983, c. 304, § 112, eff. July 1, 1983; Laws 2012, c. 304, § 749.

§74-85.27. Elective state officers - Blanket bond.

Each elective state officer shall, before entering office, give surety in an amount and upon terms and conditions as may be specified and provided by this act. Such blanket bond shall be furnished by a company duly qualified under the insurance laws of this state. The blanket bond shall be payable to the State of Oklahoma and, whenever possible, conditioned on the faithful performance of the duties of the individuals covered by the provisions of this act during their employment or term of office and that they will properly account for all monies and property received by virtue of their position or employment.

Added by Laws 1974, c. 131, § 2, operative July 1, 1974.

§74-85.28. Classification of officers and employees for coverage under bond.

A. For purposes of this act, each head of a department, institution, agency, commission, authority or other body of state government shall determine and classify the officers or employees under his jurisdiction and control who are required to give surety to the state, having due regard for the duties and responsibilities of any such office or employment and shall require such surety in such amounts and upon such terms and conditions as may be specified and provided by this act.

B. In determining which officers or employees shall be bonded, the head of the department, agency, institution, commission, authority or other body of state government may make such determination by classes of employees with due regard to the duties and responsibilities of officers and employees falling within such class.

Added by Laws 1974, c. 131, § 3, operative July 1, 1974.

§74-85.29. Schedule of amounts of surety required.

The amount of surety required for each state officer or employee pursuant to Sections 85.26 through 85.31 of this title is as follows:

DEPARTMENT	AMOUNT OF BOND
Office of the State Treasurer	\$300,000.00
Oklahoma Employment Security Commission	\$150,000.00
Central Services Division of the Office of Management and Enterprise Services	100,000.00
Insurance Commission	100,000.00
Office of the State Auditor and Inspector	50,000.00
Finance Division of the Office of Management and Enterprise Services	50,000.00
Bank Commissioner	50,000.00

Commissioners of the Land Office	50,000.00
Oklahoma Securities Commission	50,000.00
Oklahoma Tax Commission	50,000.00
Department of Human Services	50,000.00
Oklahoma Public Employees Retirement System	50,000.00
Corporation Commission	50,000.00
State Board of Education	50,000.00
Finance Division	150,000.00
All Others	25,000.00
Department of Transportation	25,000.00
Boards of Regents of Oklahoma	
Universities and Colleges	50,000.00
Office of Attorney General	10,000.00
The University Hospitals	50,000.00
All Other State Departments, Agencies, Institutions, Commissions, Authorities, and other bodies of state government	10,000.00

Provided, however, that nothing in The Oklahoma Central Purchasing Act shall prohibit any head of a department, institution, agency, commission, authority or other body of state government from requiring the Central Purchasing Division to purchase increased amounts of blanket bond coverage for his or her employees up to a total maximum coverage of Fifty Thousand Dollars (\$50,000.00) when the listed amount is deemed inadequate. The cost of increased coverage shall be borne by the department, institution, agency, commission, authority or other body of state government requesting the increased coverage.

Added by Laws 1974, c. 131, § 4, operative July 1, 1974. Amended by Laws 1979, c. 30, § 163, emerg. eff. April 6, 1979; Laws 1980, c. 159, § 35, emerg. eff. April 2, 1980; Laws 1983, c. 304, § 113, eff. July 1, 1983; Laws 1989, c. 353, § 8, emerg. eff. June 3, 1989; Laws 1994, c. 283, § 6, eff. Sept. 1, 1994; Laws 2002, c. 50, § 5, eff. Nov. 1, 2002; Laws 2007, c. 354, § 17, eff. Nov. 1, 2007; Laws 2012, c. 304, § 750; Laws 2013, c. 254, § 31, eff. Jan. 1, 2015.

NOTE: Laws 1983, c. 135, § 1 repealed by Laws 1989, c. 353, § 14, emerg. eff. June 3, 1989.

#### §74-85.30. Statutorily required bonds.

Whenever, by any presently existing law of this state or by any law hereafter enacted, any officer or employee is required to furnish bond as a prerequisite to employment, such requirement as to terms, conditions, penalty, amount or quality or type of surety shall be and is hereby deemed and defined to mean the furnishing of a bond or surety contract in the manner and amount under the provisions and requirements of this act.

Added by Laws 1974, c. 131, § 5, operative July 1, 1974.

§74-85.31. Purchasing Division to purchase all bonds - Payment of premiums - Approval.

A. Whenever any officer, statutory board, commission, committee, department, authority, or any state agent or agency by whatever name called, is authorized by any law of this state to purchase any official bond, surety bond, blanket bond, or surety contract upon any state officer or employee, the authority is hereby transferred and conferred upon the Purchasing Division of the Office of Management and Enterprise Services. The authority shall be exercised by the Purchasing Division in the manner pursuant to the provisions and requirements prescribed by Section 85.58A of this title.

B. The premium for a bond will be invoiced to the Purchasing Division and paid for by legislative appropriation set aside for that specific purpose.

C. If the legislative appropriation is insufficient to meet the cost of a bond, the State Purchasing Director in conjunction with the State Risk Administrator shall assess each entity covered by the bond a pro rata share of the excess cost amount.

D. A blanket bond shall be approved as to form and legal sufficiency by the general counsel of the Office of Management and Enterprise Services and shall be filed with the Director of the Office of Management and Enterprise Services.

Added by Laws 1974, c. 131, § 6, operative July 1, 1974. Amended by Laws 1983, c. 304, § 114, eff. July 1, 1983; Laws 2002, c. 483, § 4, eff. July 1, 2002; Laws 2012, c. 304, § 751.

§74-85.32. Repealed by Laws 1996, c. 316, § 7, eff. July 1, 1996.

§74-85.33. Registration of State Vendors Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services to be designated the "Registration of State Vendors Revolving Fund". The fund shall consist of any monies received from fees collected in accordance with subsection B of this section. The revolving fund shall be a continuing fund, without legislative appropriation, not subject to fiscal year limitations, and shall be under the control and management of the Office of Management and Enterprise Services. Expenditures from the Registration of State Vendors Revolving Fund shall be budgeted and expended pursuant to the laws of the state and the statutes relating to public finance. The fund shall be used to defray the costs of the Purchasing Division for commodity research, classification, and analysis and expenses the Office incurs to support Purchasing Division operations. Warrants for expenditures

from said fund shall be drawn by the State Treasurer, based on claims signed by an authorized employee or employees of the Office, and approved for payment by the Director of the Office of Management and Enterprise Services.

B. The Office of Management and Enterprise Services may collect a fee of Twenty-five Dollars (\$25.00) to register suppliers that desire to do business with this state through the Purchasing Division. The suppliers shall register separately for each commodity list. Each registration shall entitle the supplier to be on that list for one (1) year, to receive all bid notices in that classification for that period, and to receive one copy of the State's Commodity Classification Manual when published. All fees collected in accordance with this section shall be deposited in the revolving fund created in subsection A of this section.

Added by Laws 1977, c. 243, § 11, emerg. eff. June 15, 1977.

Amended by Laws 1983, c. 304, § 115, eff. July 1, 1983; Laws 1998, c. 371, § 8, eff. Nov. 1, 1998; Laws 1999, c. 289, § 9, eff. July 1, 1999; Laws 2003, c. 372, § 6, eff. July 1, 2003; Laws 2012, c. 304, § 752; Laws 2013, c. 244, § 3, eff. Nov. 1, 2013.

#### §74-85.33A. Contract Management Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services to be designated the "Contract Management Revolving Fund". The fund shall consist of any monies received from fees, levies or rebates the Office receives in accordance with subsection B of this section. The revolving fund shall be a continuing fund, without legislative appropriation, not subject to fiscal year limitations, and shall be under the control and management of the Office of Management and Enterprise Services. Expenditures from the Contract Management Revolving Fund shall be budgeted and expended pursuant to the laws of the state and the statutes relating to public finance. The fund shall be used to defray the costs of the Purchasing Division for operations of the Purchasing Division and expenses the Office of Management and Enterprise Services incurs to support operation of the Purchasing Division. Warrants for expenditures from the fund shall be drawn by the State Treasurer, based on claims signed by an authorized employee or employees of the Office, and approved for payment by the Director of the Office of Management and Enterprise Services.

B. The State Purchasing Director may enter into or award contracts that provide a contract management fee, levy or rebate to the Office of Management and Enterprise Services. The State Purchasing Director shall ensure that a contract that provides a management fee, levy or rebate provides value to acquiring agencies exceeding open market acquisition costs.

Added by Laws 2003, c. 342, § 5. Amended by Laws 2012, c. 304, § 753.

§74-85.33B. State purchase card transactions - Public access.

A. On a monthly basis the Director of Central Purchasing and institutions of higher education shall provide to the Director of the Office of Management and Enterprise Services a complete listing in electronic format of all transactions occurring with the aid of a state purchase card. The list shall contain the name of the purchaser and purchasing agency, amount of purchase, and all available descriptions of items purchased.

B. Upon receipt of the list described in subsection A of this section, the Director of the Office of Management and Enterprise Services shall allow the public access to the list in searchable format through its website defined in Section 46 of Title 62 of the Oklahoma Statutes.

Added by Laws 2009, c. 322, § 3. Amended by Laws 2010, c. 475, § 3, emerg. eff. June 10, 2010; Laws 2012, c. 304, § 754.

NOTE: Laws 2010, c. 170, § 3 repealed by Laws 2011, c. 1, § 47, emerg. eff. March 18, 2011.

§74-85.34. Renumbered as § 85.58A of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998.

§74-85.34A. Renumbered as § 85.58B of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998.

§74-85.34B. Renumbered as § 85.58D of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998.

§74-85.34C. Renumbered as § 85.58E of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998.

§74-85.34D. Renumbered as § 85.58F of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998.

§74-85.34E. Renumbered as § 85.58G of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998.

§74-85.34F. Renumbered as § 85.58H of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998.

§74-85.34G. Renumbered as § 85.58I of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998.

§74-85.34H. Renumbered as § 85.58J of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998.



§74-85.35. Renumbered as § 85.58K of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998.

§74-85.36. Repealed by Laws 1994, c. 329, § 13, eff. July 1, 1994.

§74-85.36A. Renumbered as § 85.58L of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998.

§74-85.37. Renumbered as § 85.58M of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998.

§74-85.38. Renumbered as § 85.58N of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998.

§74-85.39. Agency internal purchasing procedures.

A. 1. Each state agency shall develop internal purchasing procedures for acquisitions by the state agency. Procedures shall, at a minimum, include provisions for the state agency's needs assessment, funding, routing, review, audits, monitoring, and evaluations. Following development, the state agency shall submit the procedures to the State Purchasing Director.

2. The State Purchasing Director shall review the procedures submitted pursuant to paragraph 1 of this subsection to determine compliance with The Oklahoma Central Purchasing Act, rules promulgated pursuant thereto, Sections 3001 through 3010 of this title, and provisions of paragraph 1 of this subsection. The State Purchasing Director shall provide written findings, including details of noncompliance, if any, to the Director of the Office of Management and Enterprise Services.

3. The Director of the Office of Management and Enterprise Services shall, within fifteen (15) days after the procedures are submitted, notify the state agency that the procedures are in compliance or indicate revisions necessary to bring the procedures into compliance.

B. A state agency shall not make acquisitions exceeding Five Thousand Dollars (\$5,000.00) pursuant to Section 85.5 of this title, unless the Director of the Office of Management and Enterprise Services provides notice of compliance.

C. Each state agency shall maintain a document file for each acquisition the state agency makes which shall include, at a minimum, justification for the acquisition, supporting documentation, copies of all contracts, if any, pertaining to the acquisition, evaluations, written reports if required by contract, and any other information the State Purchasing Director requires be kept.

Added by Laws 1986, c. 173, § 3, emerg. eff. May 12, 1986. Amended by Laws 1998, c. 371, § 9, eff. Nov. 1, 1998; Laws 1999, c. 289, § 10, eff. July 1, 1999; Laws 2009, c. 322, § 10; Laws 2012, c. 304, § 755.

§74-85.40. Travel expenses to be included in bid, proposal, or quotation.

Suppliers that may incur travel expenses pursuant to an acquisition by a state agency from the supplier shall include travel expenses in the total acquisition price in the supplier's bid, proposal, or quotation. A state agency shall not pay any supplier travel expenses in addition to the total price of the acquisition. Added by Laws 1986, c. 173, § 5, emerg. eff. May 12, 1986; Amended by Laws 1991, c. 197, § 3, eff. July 1, 1991; Laws 1999, c. 289, § 11, eff. July 1, 1999.

§74-85.41. Professional services contracts.

A. A state agency that acquires professional services shall comply with the provisions of this section.

B. The state agency shall evaluate the performance of the professional services provided pursuant to all professional services contracts exceeding the "fair and reasonable" dollar threshold. The performance evaluation shall indicate the quality of service or work product of the supplier. The state agency shall retain the evaluation in the document file the state agency maintains for the acquisition pursuant to Section 85.39 of this title. If the evaluation indicates deficiencies with the supplier's work, the state agency shall send a copy of the evaluation to the State Purchasing Director.

C. If the work product of the contract is a report, the state agency shall file the report with the State Librarian and Archivist.

D. A state agency shall administer, monitor, and audit the professional services contract. The State Purchasing Director may require the state agency to report to the State Purchasing Director the status of an unfinished professional services contract.

E. A professional services contract shall include an audit clause which provides that all items of the supplier that relate to the professional services are subject to examination by the state agency, the State Auditor and Inspector and the State Purchasing Director.

F. 1. If the final product of the professional services contract is a written proposal, report, or study, the professional services contract shall require the supplier to certify that the supplier has not previously provided the state agency or another state agency with a final product that is a substantial duplication of the final product of the proposed contract.

2. Any state agency renewing a contract with a supplier shall not be subject to the provisions of paragraph 1 of this subsection.

G. 1. Contracts for professional services shall provide for payment for services at a uniform rate throughout the duration of the contract if the services throughout the duration of the contract are similar and consistent.

2. No state agency shall execute a contract for professional services providing for nonuniform payments throughout the duration of the contract without authorization of the State Purchasing Director.

Added by Laws 1986, c. 173, § 6, emerg. eff. May 12, 1986. Amended by Laws 1992, c. 250, § 2, eff. July 1, 1992; Laws 1994, c. 302, § 1, eff. Sept. 1, 1994; Laws 1998, c. 371, § 10, eff. Nov. 1, 1998; Laws 1999, c. 289, § 12, eff. July 1, 1999; Laws 2002, c. 483, § 5, eff. July 1, 2002; Laws 2009, c. 322, § 11; Laws 2011, c. 207, § 2, eff. Nov. 1, 2011.

§74-85.42. One-year limitation on entering contracts with certain persons - Exceptions.

A. Except as otherwise provided for in this section, any agency, whether or not such agency is subject to The Oklahoma Central Purchasing Act, is prohibited from entering into a sole source contract or a contract for professional services with or for the services of any person, who has terminated employment with or who has been terminated by that agency for one (1) year after the termination date of the employee from the agency. The provisions of this subsection shall not prohibit an agency from hiring or rehiring such person as a state employee.

B. Each contract entered into by any person or firm with the State of Oklahoma shall include a statement certifying that no person who has been involved in any manner in the development of that contract while employed by the State of Oklahoma shall be employed to fulfill any of the services provided for under said contract. This subsection shall not preclude faculty and staff of the institutions within The State System of Higher Education from negotiating and participating in research grants and educational contracts. Nor shall this subsection apply to personnel of the Capital Resources Division of the Oklahoma Department of Commerce who contract to provide services to the Oklahoma Capital Investment Board.

C. As used in this section, person is defined as any state official or employee of a department, board, bureau, commission, agency, trusteeship, authority, council, committee, trust, school district, fair board, court, executive office, advisory group, task force, study group, supported in whole or in part by public funds or entrusted with the expenditure of public funds or administering or

operating public property, and all committees, or subcommittees thereof, judges, justices, and state legislators.

D. An agency may enter into a sole source contract or a contract for professional services at any time with a person who is a qualified interpreter for the deaf.

E. The Department of Transportation, Oklahoma Water Resources Board, Department of Environmental Quality, Oklahoma Tourism and Recreation Department, the Oklahoma Turnpike Authority and the Oklahoma Department of Agriculture, Food, and Forestry may enter into a contract for professional services at any time with a person who has retired from state service, provided the provisions specified in subsection B of this section are satisfied.

F. The Department of Human Services may enter into a contract for professional services related to computer application development support and network engineering at any time with a person who has separated from state service, provided the provisions specified in subsection B of this section are satisfied.

G. To maintain public health infrastructure and preparedness, the State Department of Health and city-county health departments may enter into a contract for professional services at any time with a physicians assistant, registered nurse, advanced practice nurse, nurse midwife, registered dietitian, occupational therapist, physical therapist, or speech-language pathologist who has retired from state service; provided, the provisions specified in subsection B of this section are also satisfied.

H. The Department of Mental Health and Substance Abuse Services may enter into a contract for professional services at any time with a physician, registered nurse, registered pharmacist, or person meeting the definition of a licensed mental health professional, as defined in Title 43A of the Oklahoma Statutes, who has separated and/or retired from state service; provided that the provisions specified in subsection B of this section are satisfied.

Added by Laws 1986, c. 173, § 7, emerg. eff. May 12, 1986. Amended by Laws 1988, c. 69, § 2, emerg. eff. March 25, 1988; Laws 1991, c. 341, § 5, eff. July 1, 1991; Laws 1992, c. 240, § 2, eff. Sept. 1, 1992; Laws 1999, c. 409, § 1, emerg. eff. June 10, 1999; Laws 2000, c. 339, § 21, emerg. eff. June 6, 2000; Laws 2001, c. 440, § 4, eff. July 1, 2001; Laws 2002, c. 22, § 28, emerg. eff. March 8, 2002; Laws 2002, c. 343, § 2, emerg. eff. May 30, 2002; Laws 2003, c. 342, § 6; Laws 2007, c. 115, § 1, eff. Nov. 1, 2007; Laws 2008, c. 276, § 1, eff. Nov. 1, 2008; Laws 2009, c. 322, § 12; Laws 2011, c. 26, § 1, eff. July 1, 2011.

**NOTE:** Laws 2001, c. 327, § 2 repealed by Laws 2002, c. 22, § 34, emerg. eff. March 8, 2002.

§74-85.43. Annual report of acquisitions.

A. Each chief administrative officer of a state agency shall submit to the State Purchasing Director by November 1 of each year a report listing all acquisitions exceeding Fifty Thousand Dollars (\$50,000.00) but not exceeding One Hundred Thousand Dollars (\$100,000.00) of the state agency for the preceding fiscal year which will include the following information:

1. Professional services contracts;
2. Nonprofessional services contracts; and
3. Contracts for the leasing of property including real property contracts and any lease agreements for products or equipment.

B. The report shall contain:

1. The name of the supplier;
2. A description of each acquisition;
3. The purchase price of the acquisition; and
4. The total amount expended to date for the preceding fiscal year for the acquisition.

C. The report shall specifically identify sole source and sole brand acquisitions.

D. The state agency shall submit the report to the State Auditor and Inspector and to the Office of Management and Enterprise Services. The state agency shall submit the report to any member of the Appropriations and Budget Committee of the House of Representatives or Appropriations Committee of the Senate if a member so requests.

E. The State Auditor and Inspector shall review the report for compliance with statutes and rules or other provisions of law applicable to sole source and sole brand acquisitions.

Added by Laws 1986, c. 173, § 8, emerg. eff. May 12, 1986. Amended by Laws 1998, c. 371, § 11, eff. Nov. 1, 1998; Laws 1999, c. 289, § 13, eff. July 1, 1999; Laws 2009, c. 322, § 13; Laws 2012, c. 304, § 756.

§74-85.44. Contracts violating full-time-equivalent employee limitation not to be entered into.

Any chief administrative officer of an agency, whether or not such agency is subject to the Oklahoma Central Purchasing Act, shall not enter into any contract for nonprofessional or professional services for the purpose of or which would result in the circumvention of the full-time-equivalent employee limitation established by law for such agency.

Added by Laws 1986, c. 173, § 9, emerg. eff. May 12, 1986.

§74-85.44A. Court order requiring purchase of goods or services.

A court order requiring the purchase of certain goods or services by a state agency, whether or not such state agency is subject to the Oklahoma Central Purchasing Act, shall not invalidate

competitive bidding procedures required pursuant to Section 85.7 of Title 74 of the Oklahoma Statutes if such court order does not specify specific vendors or providers. Any such purchase of goods or services shall comply with competitive bid procedures.  
Added by Laws 1992, c. 250, § 3, eff. July 1, 1992.

§74-85.44B. Payment for goods or services pursuant to contract.

Payment for products or services pursuant to a contract executed by a state agency, whether or not such state agency is subject to the Oklahoma Central Purchasing Act, Section 85.1 et seq. of this title, shall be made only after products have been provided or services rendered. This section shall not prohibit the payment for subscriptions to magazines, periodicals, or books or for payment to vendors providing subscription services. This section shall not prohibit payment for services provided by the United States Army Corps of Engineers prior to the services being rendered if the action is taken pursuant to a cooperative agreement between a state agency and the Corps to provide emergency response or to protect the public health, safety, or welfare.

Added by Laws 1992, c. 250, § 4, eff. July 1, 1992. Amended by Laws 1993, c. 101, § 1, emerg. eff. April 20, 1993; Laws 2004, c. 309, § 3, eff. July 1, 2004.

§74-85.44C. Contract allowing vendor or service provider to acquire ownership of material or equipment furnished pursuant to contract.

It shall be unlawful for any state agency, whether or not such state agency is subject to the Oklahoma Central Purchasing Act, to enter into any contract which provides for the state or state agency to furnish material or equipment to be used by the vendor or service provider contracting with the state in the performance of the contract if the contract allows the vendor or service provider to acquire ownership of the material or equipment during or after the term of the contract in any manner other than through competitive bidding or a public sale procedure.

Added by Laws 1992, c. 250, § 5, eff. July 1, 1992.

§74-85.44D. Purchasing preference for products made from Oklahoma harvested trees.

A. It is the intent of the Legislature that all state agencies procure and use products or materials made from or utilizing materials from trees harvested in Oklahoma when such products or materials are available.

B. By July 1, 2011, the Purchasing Division of the Office of Management and Enterprise Services when accepting bids for state purchases of products and materials shall give preference to the suppliers of wood products made from or products manufactured utilizing materials from trees harvested in Oklahoma if the price

for the products and materials is not substantially higher than the price for other wood products and materials and the quality and grade requirements are otherwise comparable.

C. By July 1, 2011, the Purchasing Division of the Office of Management and Enterprise Services shall promulgate rules and implement a program for extending state procurement specifications to products made from or manufactured utilizing materials from trees harvested in Oklahoma and identifying the products.

Added by Laws 2010, c. 454, § 10, eff. July 1, 2010. Amended by Laws 2012, c. 304, § 757.

§74-85.44E. Disabled Veteran Business Enterprise Act - Definitions - Contracts - Implementation.

A. This act shall be known and may be cited as the "Disabled Veteran Business Enterprise Act".

B. As used in this section:

1. "Service-disabled veteran" means any individual that is disabled as certified by the appropriate federal agency responsible for the administration of veterans' affairs; and

2. "Service-disabled veteran business" means a business:

- a. not less than fifty-one percent (51%) of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than fifty-one percent (51%) of the stock of which is owned by one or more service-disabled veterans, and
- b. the management and daily business operations of which are controlled by one or more service-disabled veterans.

C. In awarding contracts for the performance of any job or service, all agencies, departments, institutions and other entities of this state and of each political subdivision of this state shall give a three-point bonus preference to service-disabled veteran businesses doing business as Oklahoma firms, corporations or individuals, or which maintain Oklahoma offices or places of business.

D. In implementing the provisions of subsection C of this section, the following shall apply:

1. The Director of the Office of Management and Enterprise Services shall have the goal of three percent (3%) of all such contracts described in subsection C of this section to be awarded to such veterans; and

2. If an insufficient number of such veterans doing business in this state submit a bid or proposal for a contract by an agency, department, institution or other entity of the state or a political subdivision, such goal shall not be required and the provisions of paragraph 1 of this subsection shall not apply.

E. The Director of the Office of Management and Enterprise Services may promulgate rules in order to implement the provisions of this section.

Added by Laws 2015, c. 179, § 1, eff. Nov. 1, 2015.

§74-85.45. Oklahoma Minority Business Enterprise Assistance Act.

Sections 2 through 10 of this act shall be known and may be cited as the "Oklahoma Minority Business Enterprise Assistance Act".

Added by Laws 1987, c. 191, § 2, operative July 1, 1987.

§74-85.45a. Legislative intent.

It is recognized by this state that the preservation and expansion of the American economic system of private enterprise is through free competition, but it is also recognized that the security and well-being brought about by such competition cannot be realized unless the actual and potential capacity of minority business enterprises is encouraged and developed. Therefore, it is the intent of the Legislature that the state ensure that minority business enterprises are not underrepresented in the area of procurement of state contracts for construction, services, equipment and goods. It is further the intent that this state provide for the aggressive solicitation of minority business enterprises, provide a feasibility study on a Small Business Surety Bond Guaranty Program, provide other programs targeted for assisting minority business enterprises in qualifying for state bids, and establish a percentage preference bid program for minority business enterprises who desire to participate in such program.

Added by Laws 1987, c. 191, § 3, operative July 1, 1987.

§74-85.45b. Definitions.

For purposes of the Oklahoma Minority Business Enterprise Assistance Act:

1. "Minority" means a person who is a lawful resident of the State of Oklahoma and who is:

- a. Black (a person having origins in any of the black racial groups of Africa),
- b. Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American descent),
- c. Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands), or
- d. American Indian and Alaskan Native (a person having origins in any of the original peoples of North America);

2. "Minority business enterprise" means a small business concern, as defined pursuant to Section 3 of the Small Business Act and implementing regulations, which is owned and controlled by one



or more minorities and is authorized to do and is doing business under the laws of this state, paying all taxes duly assessed, and domiciled within this state. "Owned and controlled" means a business:

- a. which is at least fifty-one percent (51%) owned by one or more minorities or, in the case of a publicly owned business, at least fifty-one percent (51%) of all classes or types of the stock is owned by one or more minorities, and
- b. whose management and daily business operations are controlled by one or more such individuals;

3. "Office" means the Office of Management and Enterprise Services; and

4. "Person" means an individual, sole proprietorship, partnership, association, or corporation.

Added by Laws 1987, c. 191, § 4, operative July 1, 1987. Amended by Laws 2012, c. 304, § 758.

§74-85.45c. Bid-preference program.

A. For competitive bids submitted to the state pursuant to the Oklahoma Central Purchasing Act or pursuant to the Public Competitive Bidding Act of 1974 by certified minority businesses, the State Purchasing Director shall prepare and implement a bid-preference program. The program shall require that a percentage be added to the price of the lowest bid and if the certified minority business enterprise submits a bid that falls between the lowest bid plus the percentage, it shall receive the contract.

Provided however, in no instance shall the minority business enterprise be entitled to both a minority bid preference under this act and the preference for state-produced goods pursuant to Section 85.32 of this title.

B. The minority business enterprise preference program shall be implemented on the following schedule:

1. For the 1988-1989 fiscal year, the State Purchasing Director shall certify the percent of funds expended on state contracts which have been awarded to minority business enterprises certified pursuant to Section 7 of this act. If the State Purchasing Director certifies that a minimum of ten percent (10%) of the funds expended on state contracts were expended on contracts awarded to minority business enterprises certified pursuant to Section 7 of this act then the minority percentage bid preference shall be zero. If the percentage of such funds expended on minority business enterprises is less than ten percent (10%) then a five percent (5%) bid preference shall go into effect; and

2. For each following fiscal year, the State Purchasing Director shall certify the percent of funds expended on state contracts which have been awarded to minority business enterprises.

When the State Purchasing Director certifies that a minimum of ten percent (10%) of the funds expended on state contracts are expended on contracts awarded to minority business enterprises then the percentage bid preference shall remain at that preference level for a period of one (1) year. After that one-year period, unless the minority bid preference level is zero, the State Purchasing Director shall reduce by one percent (1%) each year the bid preference level unless the required percent of funds expended on state contracts awarded to minority business enterprises decreases below the ten percent (10%) minimum. At that time, the State Purchasing Director shall increase the percentage bid preference one percent (1%) each year to a maximum of five percent (5%) to attain the minimum ten percent (10%) goal of the program. Each year the State Purchasing Director may increase or decrease the bid percentage level in compliance with this section to maintain the minimum ten percent (10%) goal of the program.

C. The Department of Transportation is exempted from the provisions of the Minority Business Enterprise Assistance Act. Added by Laws 1987, c. 191, § 5, operative July 1, 1987.

§74-85.45d. Inability to award contract under preference program.

In the event that the State Purchasing Director is unable to award a contract pursuant to the provisions of Section 5 of this act, the award may be placed pursuant to the normal competitive bid and award provisions.

Added by Laws 1987, c. 191, § 6, operative July 1, 1987.

§74-85.45e. Certification as minority business enterprise.

A. Any minority business enterprise that desires to participate in the minority bid preference program and to bid upon any state contract within the purview of the State Purchasing Director of the Office of Management and Enterprise Services or any other state contract to be let by any state agency not subject to The Oklahoma Central Purchasing Act shall first apply to the State Purchasing Director of the Office of Management and Enterprise Services for certification.

B. The State Purchasing Director of the Office of Management and Enterprise Services shall certify a business which meets the eligibility requirement of this section to qualify as a minority business enterprise. To qualify as a minority business enterprise, the business shall:

1. Be a minority business enterprise;
2. Submit any documentary evidence required by the rules and regulations of the Office of Management and Enterprise Services to support its status as a minority business enterprise;
3. Sign an affidavit stating that it is a minority business enterprise;

4. Be qualified to bid pursuant to the provisions of The Oklahoma Central Purchasing Act; and

5. Present:

- a. an application including the entire business history of the operation,
- b. birth certificates for all minority principals,
- c. if Native American, tribal registration card/certificate,
- d. current resumes on all principals, key managers and other key personnel,
- e. a current financial statement,
- f. proof of investment by principals,
- g. loan agreements,
- h. lease/rental agreement for space, equipment,
- i. evidence of latest bond,
- j. if the applicant is a sole proprietor, he shall also include: a copy of a bank signature card,
- k. if the applicant is a partnership a copy of the partnership agreement shall also be included, and
- l. if the applicant is a corporation it shall also include: articles of organization, corporation bylaws, copies of all stock certificates, minutes of the first corporate organizational meeting, bank resolution on all company accounts, and a copy of the latest U.S. corporate tax return.

C. The State Purchasing Director of the Office of Management and Enterprise Services shall prepare and maintain a list of certified minority business enterprises.

D. The State Purchasing Director of the Office of Management and Enterprise Services may deny certification to any minority business enterprise in accordance with the provisions of this act and the rules and regulations of the Office of Management and Enterprise Services. Any person adversely affected by an order of the State Purchasing Director of the Office of Management and Enterprise Services denying certification as a minority business enterprise may appeal as provided in the Administrative Procedures Act.

Added by Laws 1987, c. 191, § 7, operative July 1, 1987. Amended by Laws 2012, c. 304, § 759.

§74-85.45f. Report on contracts awarded to minority business.

On or before July 15 of each year, the State Purchasing Director shall submit a report to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate on the status of the percentile of state funds expended on contracts awarded to minority business in the preceding fiscal year and provide any report, statistic or information concerning the

compliance of the Office of Management and Enterprise Services with the Oklahoma Minority Business Enterprise Assistance Act. Added by Laws 1987, c. 191, § 8, operative July 1, 1987. Amended by Laws 1998, c. 364, § 27, emerg. eff. June 8, 1998; Laws 2012, c. 304, § 760.

§74-85.45g. Assignment of contracts.

If a minority business enterprise is awarded a contract by this state pursuant to the Oklahoma Minority Business Enterprise Assistance Act, said business shall not assign the rights of the contract to any other business without prior written approval of the State Purchasing Director of the Office of Management and Enterprise Services verifying that such business is also a minority business enterprise certified as such by the Office of Management and Enterprise Services. Any such assignment made without the prior written approval of the State Purchasing Director of the Office of Management and Enterprise Services shall be deemed unlawful pursuant to paragraph 5 of subsection A of Section 85.45h of this title. Such unlawful assignment shall be voidable by the Office of Management and Enterprise Services.

Added by Laws 1987, c. 191, § 9, operative July 1, 1987. Amended by Laws 2012, c. 304, § 761.

§74-85.45h. Prohibited acts - Penalty.

A. It shall be unlawful for a person to:

1. Knowingly and with intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain, certification as a minority business enterprise for the purposes of this act.

2. Knowingly and willfully make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a state official or employee for the purpose of influencing the certification or denial of certification of any entity as a minority business enterprise.

3. Knowingly and willfully obstruct, impede, or attempt to obstruct or impede any state official or employee who is investigating the qualifications of a business entity which has requested certification as a minority business enterprise.

4. Knowingly and willfully with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain, public monies to which the person is not entitled under this act.

5. Knowingly and willfully assign any contract awarded pursuant to the Oklahoma Minority Business Enterprise Assistance Act to any other business enterprise without prior written approval of the State Purchasing Director pursuant to Section 85.45g of this title.

B. Any person convicted of violating any provision of the Oklahoma Minority Business Enterprise Assistance Act shall be guilty of a felony, punishable by imprisonment in the State Penitentiary for not more than five (5) years, or a fine of not more than Ten Thousand Dollars (\$10,000.00), or by both such imprisonment and fine.

C. If a contractor, subcontractor, supplier, subsidiary, principal or affiliate thereof, has been found to have violated this act and that violation occurred within three (3) years of another violation of this act, the Office of Management and Enterprise Services shall prohibit that contractor, subcontractor, supplier, subsidiary, or affiliate thereof, from entering into a state project or state contract and from further bidding to a state entity, and from being a subcontractor to a contractor for a state entity and from being a supplier to a state entity.

Added by Laws 1987, c. 191, § 10, operative July 1, 1987. Amended by Laws 1997, c. 133, § 585, eff. July 1, 1999; Laws 1999, 1st Ex. Sess., c. 5, § 425, eff. July 1, 1999; Laws 2012, c. 304, § 762.

NOTE: Laws 1998, 1st Ex. Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 585 from July 1, 1998, to July 1, 1999.

§74-85.45i. Studies to determine disparity in minority business.

No later than December 31, 1994, each municipality with a population of three hundred thousand (300,000) or more according to the latest Federal Decennial Census shall conduct a study to determine the disparity, if any, in minority business contracts awarded by such municipality, and to determine the feasibility of the establishment of a percentage preference bid program that provides for a minimum of five percent (5%) of the funds expended on municipal contracts to be awarded to minority business enterprises as certified by the Oklahoma State Purchasing Director under the Oklahoma Minority Business Enterprise Assistance Act, Sections 85.45 through 85.45h of Title 74 of the Oklahoma Statutes.

Added by Laws 1994, c. 322, § 32, emerg. eff. June 8, 1994.

§74-85.45j. Sole source or sole brand acquisition.

A. 1. Pursuant to the provisions of this section, an acquisition may be exempt from competitive bidding procedures as a sole source or sole brand acquisition.

2. If a state agency desires to make a sole source or sole brand acquisition, the state agency shall retain in the state agency's acquisition file or attach to the requisition a certification signed by the chief administrative officer of the state agency, in the following form:

SOLE SOURCE OR SOLE BRAND ACQUISITION  
CERTIFICATION

STATE AGENCY \_\_\_\_\_

SUPPLIER NAME

SUPPLIER ADDRESS

SUPPLIER TELEPHONE

I hereby affirm that pursuant to the provisions of the attached requisition or contract that

(Name of Supplier)

is the only person or business entity singularly qualified to provide the acquisition, and if a product is the only brand or product which is unique, for the following reasons:

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The following is a brief description of all efforts which were made to verify that the services or products to be purchased pursuant to the provisions of the attached requisition or contract qualify as a sole source or sole brand acquisition:

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I understand that the signing of this certification knowing such information to be false may subject me to punishment for perjury.

(Chief administrative officer)

3. A court order requiring the purchase of specific products or services but which does not specify a brand or supplier shall not substitute for the certification required by this subsection or otherwise invalidate the acquisition procedures required pursuant to The Oklahoma Central Purchasing Act.

4. Any chief administrative officer of a state agency affirming the certification required by this subsection who knows the information to be false shall be deemed guilty of perjury and upon conviction shall be punished by fine or by imprisonment or both fine and imprisonment pursuant to law. Upon conviction or upon entering a plea of nolo contendere pursuant to this paragraph, the chief administrative officer shall immediately forfeit his or her position and shall be ineligible for appointment to or employment in the state service for a period of five (5) years after entering a plea of nolo contendere or being convicted.

5. Upon a determination by the Director of the Office of Management and Enterprise Services that there are reasonable grounds to believe that a violation of this subsection has occurred, the Director shall send findings to the Attorney General that support

the determination. The Attorney General shall review the findings and determine whether to investigate or prosecute the person.

6. If the acquisition's purchase price is such that the state agency is required to submit a requisition to the State Purchasing Director, the State Purchasing Director shall approve or deny the requisition for a sole source or sole brand acquisition. Prior to approving a requisition pursuant to this paragraph, the State Purchasing Director shall document reasons a sole source or sole brand purchase is necessary and shall retain a written record for three (3) fiscal years following the end of the fiscal year during which the sole source or sole brand acquisition was made.

7. For sole source or sole brand acquisitions exceeding Five Thousand Dollars (\$5,000.00) and not requiring submission of a requisition to the State Purchasing Director, the state agency's certified procurement officer shall document reasons a sole source or sole brand acquisition is necessary and shall retain a written record for three (3) fiscal years following the end of the fiscal year during which the sole source or sole brand acquisition was made.

8. The chief administrative officer of each state agency shall submit to the State Purchasing Director a monthly listing of all sole source and sole brand acquisitions exceeding Five Thousand Dollars (\$5,000.00) executed by the state agency in the preceding month. The report shall indicate whether requisitions for sole source and sole brand acquisitions were disapproved or modified by the State Purchasing Director and information the State Purchasing Director requires.

9. The State Purchasing Director shall electronically provide to the Office of Management and Enterprise Services the information received pursuant to paragraph 8 of this subsection in machine-readable format and in the form the Office of Management and Enterprise Services requires.

B. By the fifteenth day of each month, or the first working day thereafter, the Office of Management and Enterprise Services shall provide a report from the information received pursuant to this section to:

1. The Speaker of the House of Representatives and the President Pro Tempore of the Senate;

2. The Majority and Minority Leaders of both the House of Representatives and the Senate;

3. The Chair and Vice-chair of the Appropriations and Budget Committee of the House of Representatives and the Appropriations Committee of the Senate; and

4. Any member of the Legislature requesting the report. The report shall detail all sole source and sole brand acquisitions by state agencies for the month prior to the month preceding the submission of the report. The report shall be titled "Monthly Sole

Source and Sole Brand Contracting Report of Oklahoma State Agencies" and indicate the time period of the report. The report shall be provided in physical form unless the requesting person specifies the electronic version. The report shall be signed by the Director of the Office of Management and Enterprise Services or the Director's designee. The report shall be in columnar database format and shall include at least the following fields of information: state agency number; state agency name; date created by the Office of Management and Enterprise Services for the requisition; date of either approval or disapproval of the requisition; if disapproved, the reason why such contract was disapproved; estimated amount of the requisition; purchase order amount; purchase order number; actual business name of supplier; supplier federal employer identification number; contact person; and the commodity classification listing at the appropriate level to distinguish between similar acquisitions. Information required by this subsection shall be reported and maintained on each report through the next reporting period after an acquisition is made. The applicable data in the fields of information specified in this subsection shall be listed even if the state agency requisition is disapproved.

C. The Office of Management and Enterprise Services shall maintain electronic historic data or any other data received pursuant to this section for at least two (2) years.

D. By August 15 of each year, from the data received pursuant to this section, the Office of Management and Enterprise Services shall complete and submit a report detailing the number of sole source or sole brand contracts issued by each state agency and a list of the business names of the suppliers who received sole source or sole brand awards during the previous fiscal year and if more than one such award, the number of awards so executed.

Added by Laws 1961, p. 590, § 1. Amended by Laws 1986, c. 173, § 10, emerg. eff. May 12, 1986; Laws 1992, c. 250, § 1, eff. July 1, 1992; Laws 1994, c. 59, § 1, eff. July 1, 1994; Laws 1998, c. 371, § 13, eff. Nov. 1, 1998. Renumbered from § 89 of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998. Amended by Laws 1999, c. 289, § 14, eff. July 1, 1999; Laws 2001, c. 398, § 1, emerg. eff. June 4, 2001; Laws 2009, c. 322, § 14; Laws 2012, c. 304, § 763.

§74-85.45j.1. Substitution of certain products - Prohibiting purchasing restrictions to certain geographical areas.

A. Notwithstanding any other provision of law or agency rule to the contrary, any bid submissions received by a state agency or any political subdivision pursuant to authorized sole-source bidding procedures established by the provisions of Section 85.45j of this title, which substitute an item with one that is substantially equivalent in quality, performance and design or which meets the



required specifications of the bid shall be considered, but only when the cost is less.

B. In addition, no sole-source bid proposal shall require any limitation that materials must be supplied from a vendor within any specific geographical area. Geographic preference for vendors inside the geographical boundaries may be given, but only when the cost is the same or less.

Added by Laws 2013, c. 219, § 2, emerg. eff. May 7, 2013. Amended by Laws 2014, c. 255, § 2.

§74-85.45k. State Travel Office.

A. There is hereby created the State Travel Office within the Purchasing Division of the Office of Management and Enterprise Services.

B. All state agencies and departments of this state shall make arrangements for all air travel on scheduled commercial airlines for state employees required to travel in the course of their official duties and for all other persons traveling at state expense through the State Travel Office, except when the state agency determines that:

1. The air travel services can be secured at a cost less than that which can be secured by the State Travel Office; or

2. The air travel originates from a location outside the state and it would be impractical to arrange for the air travel through the State Travel Office; or

3. The air travel is necessitated by an emergency and time does not permit utilization of the State Travel Office's services; or

4. The air travel is part of a package arrangement made by the organization scheduling the meeting or conference.

C. All claims made for reimbursement shall contain a statement showing the reason for the exemption.

D. The State Travel Office shall promulgate rules and contract specifications to which the contract travel agencies shall be subject. The rules and specifications shall be drawn with the intent of obtaining the lowest available fares for scheduled commercial air travel.

E. At the end of each month the contract travel agencies shall furnish a statement, in a form approved by the State Travel Office, showing certain details of all travel arrangements handled to each state agency for which the contract travel agencies have furnished their services and shall also furnish copies of said statements to the State Travel Office.

Added by Laws 1985, c. 271, § 1, eff. Nov. 1, 1985. Amended by Laws 1986, c. 203, § 1, eff. Nov. 1, 1986; Laws 1993, c. 204, § 1, eff. Sept. 1, 1993; Laws 1998, c. 371, § 12, eff. Nov. 1, 1998.

Renumbered from § 79 of this title by Laws 1998, c. 371, § 15, eff.

Nov. 1, 1998. Amended by Laws 2012, c. 106, § 4; Laws 2013, c. 15, § 101, emerg. eff. April 8, 2013.

NOTE: Laws 2012, c. 304, § 764 repealed by Laws 2013, c. 15, § 102, emerg. eff. April 8, 2013.

§74-85.451. Trip Optimizer system - Purpose and application - Exceptions.

A. Each state agency, board, commission or other entity organized within the executive department of state government shall use the Trip Optimizer system of the Office of Management and Enterprise Services in computing the optimum method and cost for travel by state employees using a motor vehicle where the travel will exceed one hundred (100) miles per day and the employee is not driving a state-owned or -leased dedicated vehicle. For purposes of this section, "dedicated vehicle" means a vehicle that has been assigned to the employee.

B. The provisions of this section shall be used to determine the most cost-effective method of travel by motor vehicles, whether such vehicles are owned by the agency, leased by the agency or by the employee, and shall be applicable for purposes of determining the maximum authorized amount of any travel reimbursement for employees of such agencies related to vehicle usage.

C. A nonappropriated state agency, that employs persons who use personal vehicles as part of their regular duties and who are reimbursed for travel expenses by the agency shall not be required to utilize the Trip Optimizer system with regard to the travel expenses of such employees. As used in this section, "nonappropriated state agency" means an entity within the executive branch of government that does not receive any of its funding through the annual legislative appropriations process.

D. The maximum authorized amount of travel reimbursement related to vehicle usage shall be the lowest cost option as determined by the Trip Optimizer system. All travel claims submitted for reimbursement shall include the results of the Trip Optimizer system indicating the lowest cost option for travel by the state employee.

E. State employees may be exempt from the reimbursement requirements of the Trip Optimizer system, provided the state employees utilize a personally owned vehicle and seek reimbursement according to the schedule referenced in subsection F of this section.

F. The Office of Management and Enterprise Services shall publish a schedule of reimbursement rates for state employee travel. The schedule may apply to exemptions claimed under subsection E of this section. The schedule may categorize reimbursement rates by type of vehicle and shall not exceed standard mileage reimbursement rates as established by the Internal Revenue Service.

G. In providing a calculation of rates, the Trip Optimizer system shall account for the distance that an employee must travel to pick up a rental or state fleet vehicle.

H. In providing a calculation of rates, the Trip Optimizer system shall account for the long-term rate discounts offered through the state's purchasing contract for vehicle rentals.

Added by Laws 2009, c. 152, § 1, eff. July 1, 2009. Amended by Laws 2011, c. 158, § 1, eff. Nov. 1, 2011; Laws 2012, c. 316, § 6, eff. Nov. 1, 2012; Laws 2013, c. 15, § 103, emerg. eff. April 8, 2013; Laws 2016, c. 112, § 1, eff. Nov. 1, 2016.

NOTE: Laws 2012, c. 304, § 765 repealed by Laws 2013, c. 15, § 104, emerg. eff. April 8, 2013.

§74-85.45o. Short title.

Sections 1 through 5 of this act shall be known and may be cited as the "Oklahoma Online Bidding Act".

Added by Laws 2003, c. 60, § 1, eff. July 1, 2003.

§74-85.45p. Intent of act.

The intent of the Oklahoma Online Bidding Act is:

1. To provide increased economy in state government procurement activities and to maximize to the fullest extent practicable the purchasing value of state monies while ensuring that procurements are the most advantageous to state agencies;

2. To foster effective broad-based competition for state procurement within the free enterprise system;

3. To modernize state statutes governing state government procurement and permit the continued development of explicit and thoroughly considered procurement policies and practices;

4. To ensure the fair and equitable treatment of all persons who deal with state government procurement processes and to promote increased public confidence in state government procurement procedures; and

5. To provide an ongoing funding source for new and innovative electronic procurement practices that would otherwise not be possible due to previous funding practices and guidelines.

Added by Laws 2003, c. 60, § 2, eff. July 1, 2003.

§74-85.45q. Definitions.

As used in the Oklahoma Online Bidding Act:

1. "Information technology" means data processing, telecommunications, and office systems technologies and services;

2. "Services" means the furnishing of labor, time, or effort by a contractor not required to deliver a specific end product, other than reports which are merely incidental to required performance;

3. "Construction" shall be defined as provided by Section 202 of Title 61 of the Oklahoma Statutes for online bids subject to the Public Building Construction and Planning Act;

4. "Procurement" means buying, purchasing, renting, leasing, or otherwise acquiring any goods, services, construction, or information services. The term also means all functions that pertain to the obtaining of any goods, services, construction, or information services, including, but not limited to, the description of requirements, selection, and solicitation of sources, preparation and award of contracts, and all phases of contract administration;

5. "State agencies" or "agencies" shall be defined as provided by Section 85.2 of Title 74 of the Oklahoma Statutes for online bids subject to the Oklahoma Central Purchasing Act or as defined by Section 202 of Title 61 of the Oklahoma Statutes for online bids subject to the Public Building Construction and Planning Act;

6. "Online bidding" means an electronic procurement process in which state agencies receive bids from vendors for goods, services, construction, or information services over the Internet in a real-time, competitive bidding event;

7. "Internet" means the international computer network of both federal and nonfederal interoperable packet-switched data networks, including the graphical subnetwork called the World Wide Web; and

8. "Solicitation" means a request or invitation by the State Purchasing Director or a state agency for a supplier to submit a priced offer to sell acquisitions to the state. A solicitation may be an invitation to bid, request for proposal, or request for quotation.

Added by Laws 2003, c. 60, § 3, eff. July 1, 2003.

§74-85.45r. Requirements of online bidding process - Limitations on application of act - Disclosure - Remedies.

A. When a state agency purchasing agent determines that electronic or online bidding is more advantageous than other procurement methods provided by the laws of this state, the purchasing agent may use online bidding to obtain bids as authorized by The Oklahoma Central Purchasing Act or the Public Building Construction and Planning Act for the purchase of goods, services, construction, or information services.

B. The online bidding process shall provide:

1. A designated opening and closing date and time. At the opening date and time, state agencies shall begin accepting online electronic bids. Online bids shall be accepted until the designated closing date and time, except as provided by paragraph 6 of this subsection;

2. The posting of all online bids electronically and updating of bids on a real-time basis by state agencies;

3. The authorization for state agencies to require bidders to register before the opening date and time and, as part of that registration, require bidders to agree to any terms, conditions or other requirements of the solicitation or applicable acts;

4. The authorization for state agencies to also require potential bidders to prequalify as bidders and to restrict solicitations to prequalified online bidders;

5. The retention of the authority of state agencies to determine the criteria that will be used as the basis for making awards; and

6. The authorization for the Director of the Office of Management and Enterprise Services, in the event the state agency determines that a significant error or event occurred that affected the electronic receipt of any online bid by the agency, to determine it is in the best interest of the state to allow the agency to accept an electronic bid after the specified official closing date and time.

C. The provisions of the Oklahoma Online Bidding Act shall not apply to bid or proposal sealing or opening provisions found in any state law other than The Oklahoma Central Purchasing Act or the Public Building Construction and Planning Act.

D. All bids submitted electronically through the online bidding process pursuant to the Oklahoma Online Bidding Act are subject to the same public disclosure laws that govern bids received pursuant to sealed bid procurement procedures pursuant to The Oklahoma Central Purchasing Act or the Public Building Construction and Planning Act.

E. All remedies available to state agencies and suppliers through the sealed bid process pursuant to The Oklahoma Central Purchasing Act or the Public Building Construction and Planning Act are also available to state agencies and online bidders in an online bidding process.

Added by Laws 2003, c. 60, § 4, eff. July 1, 2003. Amended by Laws 2012, c. 304, § 766.

#### §74-85.45s. Rules.

The Director of the Office of Management and Enterprise Services shall promulgate rules to implement the Oklahoma Online Bidding Act. Added by Laws 2003, c. 60, § 5, eff. July 1, 2003. Amended by Laws 2012, c. 304, § 767.

§74-85.46. Repealed by Laws 1990, c. 236, § 12, eff. July 1, 1991.

#### §74-85.47. Short title.

This act shall be known and may be cited as the "Oklahoma Small Business Surety Bond Guaranty Program Act".

Added by Laws 1990, c. 236, § 1, eff. July 1, 1991.

§74-85.47a. Definitions.

1. "Administrator" means the Small Business Surety Bond Guaranty Program Administrator;

2. "Fund" means the Small Business Surety Bond Guaranty Fund;

3. "Indemnity fund" means a fund established through the Office of Management and Enterprise Services to underwrite the Small Business Surety Bond Guaranty Program;

4. "Principal" means a small business entity as defined pursuant to Section 3 of the Small Business Act, 16 U.S.C. Section 632;

5. "Program" means the Small Business Surety Bond Guaranty Program; and

6. "Surety" means a corporation granted authority by the Insurance Commissioner to write bonds or insurance in this state guaranteeing the performance of contracts.

Added by Laws 1990, c. 236, § 2, eff. July 1, 1991. Amended by Laws 2012, c. 304, § 768.

§74-85.47b. Administrator - Powers and duties.

The Administrator shall be authorized to:

1. Use the services of other governmental agencies and public trusts which are necessary to carry out the provisions of this act;

2. Contract for and accept, for use in carrying out the provisions of this program, loans and grants from the federal government and any of its agencies and instrumentalities and from public trusts;

3. Acquire, manage, operate, dispose of, or otherwise deal with property, take assignments of rentals and leases, and make contracts, leases, agreements and arrangements that are necessary or incidental to the performance of his duties;

4. Prescribe or approve the form of and terms and conditions in applications, guarantee agreements or any other documents entered into by the Administrator, principals or sureties in connection with the program;

5. Acquire or take assignments of documents executed, obtained or delivered in connection with any assistance provided under this program; and

6. Fix, determine, charge and collect any premiums and fees pursuant to rules promulgated by the Director of the Office of Management and Enterprise Services.

Added by Laws 1990, c. 236, § 3, eff. July 1, 1991. Amended by Laws 1992, c. 197, § 1, eff. Sept. 1, 1992; Laws 2012, c. 304, § 769.

§74-85.47c. Small Business Surety Bond Guaranty Fund.

A. There is hereby created in the State Treasury a revolving fund for the Small Business Surety Bond Guaranty Program to be

designated the "Small Business Surety Bond Guaranty Fund". The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of:

1. Premiums, fees, and any other amounts received with respect to bonding assistance provided under this program;

2. Proceeds from the sale, lease, or other disposition of property or contracts held or acquired by the Office of Management and Enterprise Services pursuant to this program;

3. Income from investments that the State Treasurer makes from monies in the fund; and

4. Any other monies made available under this program.

B. The fund shall be used:

1. For the purposes provided for in this program; and

2. To pay part or all of the expenses of administering the program.

C. All monies accruing to the credit of the fund shall be deposited with the State Treasurer and invested and reinvested in the same manner as other state funds, and any investment earnings shall be paid into the fund. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended for the purposes provided in subsection B of this section.

Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1990, c. 236, § 4, eff. July 1, 1991. Amended by Laws 2012, c. 304, § 770.

§74-85.47d. Guaranty capabilities of program - Terms of guaranty - Establishment of indemnity fund.

A. Subject to the restrictions of the Oklahoma Small Business Surety Bond Guaranty Program Act, the Administrator, on application, may guarantee any surety which qualifies pursuant to this act for any losses incurred as a result of a principal's breach of a bid bond, a payment bond, a defect or maintenance bond, or a performance bond required for a public construction contract for the state, federal agencies and political subdivisions of the State of Oklahoma. Provided, the guaranty shall not be extended to any bond with a face value in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00), nor shall the total face value of the bonds to which the guaranty is extended for any one principal exceed Five Hundred Thousand Dollars (\$500,000.00). Provided further, the guaranty shall not be granted to an issuer of a letter of credit used in lieu of said bonds.

B. The terms of a guaranty under the Oklahoma Small Business Surety Bond Guaranty Program Act shall not exceed the terms of the contract for which bonding is obtained.

C. The Office of Management and Enterprise Services shall establish an indemnity fund for this program using a public trust or other entity capable of creating a fund which is not subject to the constitutional prohibitions of Sections 15 and 23 of Article X of the Oklahoma Constitution.

Added by Laws 1990, c. 236, § 5, eff. July 1, 1991. Amended by Laws 1992, c. 197, § 2, eff. Sept. 1, 1992; Laws 2012, c. 304, § 771.

§74-85.47e. Requirements to obtain surety bond guaranty - Applications.

A. To qualify for a surety bond guaranty pursuant to the program, a surety and principal shall meet the requirements of this section.

B. A surety shall meet the following requirements:

1. Be a company which writes bid, payment, defect or maintenance, or performance bonds in its normal course of business;
2. Has not refused to provide said bonds for which the principal is submitting application to the program; and
3. Has been licensed to do surety business in the State of Oklahoma prior to July 1, 1991.

C. The principal shall satisfy the Administrator that:

1. As determined from creditors, employers and other individuals who have personal knowledge of the principal, the principal has a reputation for financial responsibility;
2. The principal is a resident of this state;
3. The principal is unable to obtain adequate bonding on reasonable terms and conditions through normal channels and has been denied such bonding by two sureties that write contract bonds.
4. Bonding is required in order for the principal to bid on public construction contracts or to serve as a prime contractor or subcontractor on such contracts.

D. The surety and principal shall submit to the Administrator an application for each contract on the form that the Administrator provides. The application for each contract shall include:

1. A detailed description of the project for which the contract is to be let;
2. An itemization of known and estimated costs;
3. The total amount of investment required to perform the contract;
4. The funds available to the principal for working capital;
5. The amount of bonding assistance sought from the program;
6. Information that relates to the financial status of the principal, including:
  - a. a current balance sheet,
  - b. a profit and loss statement, and
  - c. credit references;



7. A schedule of all existing and pending contracts and the current status of each; and

8. Any other relevant information that the Administrator requests.

E. After receipt of an application for assistance from the Oklahoma Small Business Surety Bond Guaranty Program, the Administrator may require that a principal shall provide an audited balance sheet before the Administrator makes a decision on the application.

Added by Laws 1990, c. 236, § 6, eff. July 1, 1991.

§74-85.47f. Premiums and fees.

A. The Administrator may set reasonable premiums and fees, not to exceed limits established by rules promulgated by the Director of the Office of Management and Enterprise Services, to be paid for the purpose of providing bonding assistance under this program.

B. The premiums and fees set by the Administrator shall be payable in the amounts, at the time and in the manner that the Administrator requires.

C. The premiums and fees need not be uniform among transactions, and may vary in amount:

1. Among transactions; and

2. At different stages during the terms of transactions.

Added by Laws 1990, c. 236, § 7, eff. July 1, 1991. Amended by Laws 1992, c. 197, § 3, eff. Sept. 1, 1992; Laws 2012, c. 304, § 772.

§74-85.47g. Administration of program.

The Small Business Surety Bond Guaranty Program shall be a program of the Office of Management and Enterprise Services. The Director of the Office of Management and Enterprise Services is authorized to hire a Small Business Surety Bond Guaranty Program Administrator to administer the Small Business Surety Bond Guaranty Program. The Administrator shall hold a bachelor's degree or higher degree in business, accounting, mathematics, economics or engineering and shall have previous experience as a surety underwriter. The Administrator shall be in the unclassified service of this state.

Added by Laws 1990, c. 236, § 8, eff. July 1, 1991. Amended by Laws 2012, c. 304, § 773.

§74-85.47h. Prohibited acts - Penalties.

A. A person shall not knowingly make or cause any false statement or report to be made in any application or in any document furnished to the Administrator.

B. A person shall not knowingly make or cause any false statement or report to be made for the purpose of influencing the action of the Administrator on an application for assistance or for

the purpose of influencing any action of the Administrator affecting bonding assistance whether or not such assistance may have already been extended.

C. Any person who violates any provision of this section shall be guilty of a felony and, upon conviction, shall be subject to a fine not exceeding Ten Thousand Dollars (\$10,000.00) or imprisonment of up to five (5) years, or both such fine and imprisonment. Added by Laws 1990, c. 236, § 9, eff. July 1, 1991. Amended by Laws 1997, c. 133, § 586, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 426, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 586 from July 1, 1998, to July 1, 1999.

§74-85.47i. Implementation of act - Rules and regulations.

The Director of the Office of Management and Enterprise Services shall promulgate and adopt rules necessary to carry out the provisions of the Small Business Surety Bond Guaranty Program Act. Added by Laws 1990, c. 236, § 10, eff. July 1, 1991. Amended by Laws 2012, c. 304, § 774.

§74-85.47j. Liability of state limited.

Nothing in this act shall be interpreted to constitute a financial obligation or general obligation of the state. No state revenue shall be used to guarantee, nor pay any losses suffered by any person or firm.

Added by Laws 1990, c. 236, § 11, eff. July 1, 1991.

§74-85.50. Short title.

This act shall be known and may be cited as the "Oklahoma State Recycling and Recycled Materials Procurement Act".

Added by Laws 1988, c. 311, § 1, eff. July 1, 1988. Amended by Laws 1990, c. 145, § 1, operative July 1, 1990.

§74-85.51. Definitions.

As used in the Oklahoma State Recycling and Recycled Materials Procurement Act:

1. "Office" means the Office of Management and Enterprise Services;

2. "Paper recycling" means the processing of scrap paper or other such recoverable waste paper into reusable products. Such collection and recycling of recoverable waste paper shall be done in an environmentally acceptable manner;

3. "State public entity" means the State Legislature, any bureau, agency, board, commission, or authority of the state, the office of the Governor, the judiciary, or any state university, school district, or county of the state which is supported in whole or in part by state funds;

4. "Recoverable waste paper" generated by businesses or consumers, which has served its intended use and has been separated from solid waste for purposes of collection and recycling, shall include, but is not limited to, such paper as computer cards, computer print-out papers, copy paper, white office papers, colored office papers, corrugated boxes, newspapers, envelope coatings, bindery trimmings, printing scrap and butt rolls. Mill broke repulped internally within a paper manufacturing facility shall not be considered recoverable waste paper;

5. "Director" means the Director of the Office of Management and Enterprise Services;

6. "Division" means the Purchasing Division of the Office of Management and Enterprise Services;

7. "Recycled paper products" means all paper products manufactured from recoverable waste paper with not less than ten percent (10%) of their total weight consisting of waste paper.

8. "Products manufactured with recycled materials" means products that contain at least a minimum percentage of specified materials recovered from the recycling of post-consumer products as defined in rules and regulations promulgated by the Division;

9. "Recyclable materials" means materials or products which are capable of being recycled, including but not limited to paper, glass, plastics, metals, automobile oil, and batteries. Refuse-derived fuel or other material that is destroyed by incineration is not a recyclable material; and

10. "Uncoated" means not coated with plastic, clay, or other material used to create a glossy finish.

Added by Laws 1980, p. 1201, H.J.R. No. 1057, § 1, eff. Oct. 1, 1980. Amended by Laws 1983, c. 304, § 66, eff. July 1, 1983; Laws 1988, c. 311, § 2, eff. July 1, 1988. Renumbered from § 2766 of Title 63 by Laws 1988, c. 311, § 9, eff. July 1, 1988. Amended by Laws 1990, c. 145, § 2, operative July 1, 1990; Laws 1992, c. 155, § 1, eff. July 1, 1992; Laws 2012, c. 304, § 775.

§74-85.52. Intent of Legislature - Implementation of act - Exemptions.

A. It is the intent of the Legislature that all state public entities comply with the provisions of the Oklahoma State Recycling and Recycled Materials Procurement Act. All political subdivisions of this state are encouraged to collect and recycle recoverable waste paper and recyclable materials to the greatest extent possible. The Office of Management and Enterprise Services shall coordinate recycling efforts among the state public entities. The Director of the Office of Management and Enterprise Services shall adopt such rules, regulations, and orders as are necessary for the implementation of the Oklahoma State Recycling and Recycled

Materials Procurement Act. The rules and regulations at a minimum shall establish procedures for:

1. The identification, handling, hauling, storing, safety factors, and disposition of recoverable waste paper and recyclable materials;

2. The separation of recoverable waste paper and recyclable materials from solid waste generated by state public entities;

3. A system for the collection of recoverable waste paper and recyclable materials from solid waste generated by state public entities;

4. Assuring that the recoverable waste paper and recyclable materials are made available to private industries for collection and recycling at the greatest economic value and to the greatest extent feasible. The Office may execute multiple contracts as necessary for purposes including but not limited to serving other government entities and different geographic areas of the state. In addition to the preference provisions of Section 85.53 of this title, rules and regulations governing availability of recyclable materials shall give preference to private recyclable materials industries that operate in Oklahoma, and that will employ residents of the state to handle, transport and sort such materials;

5. The purchase of uncoated office paper and printed paper whenever practicable; and

6. Separating for the purpose of recycling all recyclable materials including but not limited to lead acid batteries, waste oil and major appliances that are generated as solid waste by state public entities.

B. All state public entities shall comply with the procedures and systems established pursuant to the Oklahoma State Recycling and Recycled Materials Procurement Act.

C. 1. The Director may exempt any single activity or facility of any state public entity from compliance with rules promulgated pursuant to the Oklahoma State Recycling and Recycled Materials Procurement Act if the Director determines there is a lack of market availability or that it is not economically feasible to follow and comply with the procedures and systems established by the Director.

2. The exemption shall be for a period not in excess of one (1) year, but additional exemptions may be granted for periods not to exceed one (1) year.

3. The Director shall make public all exemptions together with the reasons for granting such exemptions.

Added by Laws 1980, p. 1201, H.J.R. No. 1057, § 2, eff. Oct. 1, 1980. Amended by Laws 1983, c. 304, § 67, eff. July 1, 1983; Laws 1988, c. 311, § 3, eff. July 1, 1988. Renumbered from § 2767 of Title 63 by Laws 1988, c. 311, § 9, eff. July 1, 1988. Amended by Laws 1990, c. 145, § 3, operative July 1, 1990; Laws 1992, c. 155, § 2, eff. July 1, 1992; Laws 2012, c. 304, § 776.

§74-85.53. State public entities to procure products and materials containing recycled materials - Intent of Legislature - Bids for state purchases - Rules and regulations - Procurement specifications.

A. It is the intent of the Legislature that all state public entities procure products or materials with the recycled content levels required or specified by rules promulgated pursuant to the provisions of this section when such products or materials are available.

B. By July 1, 1993, the Division when accepting bids for state purchases of supplies, equipment and materials shall give preference to the suppliers of paper products or products manufactured with recycled materials if:

1. The price for recycled products and materials is not substantially higher than the price for nonrecycled products and materials. The Office of Management and Enterprise Services shall establish by rule the annual percentage over and above the price of nonrecycled products and materials which will be allowed for the purchase of recycled products and materials; and

2. The quality and grade requirements are otherwise comparable.

C. By July 1, 1993, any state public entity not subject to The Central Purchasing Act when accepting bids for purchases of supplies, equipment and materials, shall give preference to the suppliers of recycled paper products and products manufactured from recycled materials if:

1. The price for recycled products and materials is not substantially higher than the price for nonrecycled products and materials. The price paid for recycled products and materials shall not exceed the percentage over the price for nonrecycled products and materials established by the Office; and

2. The quality and grade requirements are otherwise comparable.

D. The Purchasing Division and any state public entity not subject to The Central Purchasing Act shall ensure, to the greatest extent economically practical and possible, that the recycled or recovered content of all paper purchased by the Division or agency, measured as a proportion, by weight, of paper products purchased in a calendar year, is not less than the following:

1. By 1995, ten percent (10%) of all purchased paper;

2. By 1997, twenty-five percent (25%) of all purchased paper;

and

3. By 1999, forty percent (40%) of all purchased paper.

E. 1. By July 1, 1993, the Division shall promulgate rules and implement a program for extending state procurement specifications to products manufactured with recycled materials and identifying recycled products.

2. By July 1, 1993, any state public entity not subject to The Central Purchasing Act shall implement a program for extending agency procurement specifications to products manufactured with recycled materials.

F. In writing specifications under this section, the Office and any other state public entity shall incorporate requirements relating to the recyclability and ultimate disposition of products and, wherever possible, shall write the specifications so as to minimize the amount of solid waste generated by the state. All specifications under this section shall discourage the purchase of single-use, disposable products and require, whenever practical, the purchase of multiple-use, durable products.

G. For materials that are not otherwise recycled, the Division and each state public entity not subject to The Central Purchasing Act shall, to the extent practicable, enter into agreements to purchase products made from recyclable materials from vendors who agree to purchase like materials separated from solid waste generated by the state for reuse or use as a raw material in manufacturing.

Added by Laws 1988, c. 311, § 4, eff. July 1, 1988. Amended by Laws 1990, c. 145, § 4, operative July 1, 1990; Laws 1992, c. 155, § 3, eff. July 1, 1992; Laws 2012, c. 304, § 777.

#### §74-85.54. Division and Director - Duties and responsibilities.

A. The Purchasing Division shall review the procurement specifications currently used by the Office of Management and Enterprise Services in order to eliminate, wherever economically feasible, discrimination against the procurement of recycled paper and other products manufactured with recycled materials.

B. The Division shall establish purchasing practices which, to the maximum extent economically feasible, assure purchase of recycled paper products.

C. The Director of the Office of Management and Enterprise Services shall review and incorporate, where appropriate, guidelines published in the Federal Register.

D. The Director shall promulgate rules to encourage recycling and conservation of purchased products.

Added by Laws 1988, c. 311, § 5, eff. July 1, 1988. Amended by Laws 1990, c. 145, § 5, operative July 1, 1990; Laws 1992, c. 155, § 4, eff. July 1, 1992; Laws 1998, c. 364, § 28, emerg. eff. June 8, 1998; Laws 2012, c. 304, § 778.

#### §74-85.55. Public entities - Powers, duties and responsibilities.

A. Each state public entity whether or not subject to the Central Purchasing Act shall:

1. Be subject to the rules promulgated by the Purchasing Division regarding the purchase of recycled products;

2. Establish management practices in accordance with the provisions of the Oklahoma State Recycling and Recycled Materials Procurement Act; and

3. Report by November 1 of each year to the Director of Central Services the following:

- a. the total amount of waste paper and other recyclable materials sold during the previous fiscal year,
- b. the amount of procured recycled paper products and other products manufactured with recycled materials, and
- c. the total amount of monies collected and expended to implement the Oklahoma State Recycling and Recycled Materials Procurement Act.

B. It is the intention of the Legislature that all state public entities and other governmental subdivisions of this state aggressively pursue procurement practices that encourage solid waste reduction and development of markets for recyclable materials and compost and shall, whenever practical, procure products containing recycled materials.

Added by Laws 1988, c. 311, § 6, eff. July 1, 1988. Amended by Laws 1990, c. 145, § 6, operative July 1, 1990; Laws 1992, c. 155, § 5, eff. July 1, 1992; Laws 1998, c. 135, § 1, emerg. eff. April 16, 1998; Laws 2016, c. 5, § 1, eff. Nov. 1, 2016.

§74-85.55a. Information clearinghouse - Joint agreements and contracts - Interstate transactions.

A. The Office of Management and Enterprise Services shall maintain a clearinghouse of information regarding products made from recycled paper products and products manufactured with recycled materials for purchase by state public entities. The clearinghouse shall include information concerning the availability, price and quality of products made from recycled paper products and products manufactured with recycled materials. The clearinghouse shall also include information concerning vendors and other persons willing to purchase recyclable materials from state public entities. The Office shall develop a mechanism to make this information available to all state public entities.

B. The Office may enter into agreements with purchasing agents of any other state, local governments, or the federal government under which any of the parties may agree to participate in, administer, sponsor or conduct purchasing transactions under a joint contract for the purchase of materials, supplies, equipment, permanent personal property, miscellaneous capital or contractual services consistent with this act.

C. The Office may cooperate with purchasing agents and other interested parties of any other state, local governments, or the federal government to develop uniform purchasing specifications on a

regional or national level to facilitate cooperative interstate purchasing transactions.

Added by Laws 1992, c. 155, § 6, eff. July 1, 1992. Amended by Laws 2012, c. 304, § 779.

§74-85.56. State Recycling Revolving Fund - Use of revenues from sale of waste materials.

A. There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services, to be designated the "State Recycling Revolving Fund". The fund shall be administered in accordance with standard revolving fund procedures. The Office shall direct to the State Recycling Revolving Fund any federal or private grants which may qualify. The Office shall have the authority to expend monies from the fund for the purpose of implementing the Oklahoma State Recycling and Recycled Materials Procurement Act and to defray expenses the Office incurs to support recycling operations.

B. Revenues received from the sale of waste materials which can be recycled through any recycling programs operated by the Office shall be used to implement the Oklahoma State Recycling and Recycled Materials Procurement Act and to defray expenses the Office incurs to support recycling operations.

Added by Laws 1980, p. 1202, H.J.R. No. 1057, § 3, eff. Oct. 1, 1980. Amended by Laws 1983, c. 304, § 68, eff. July 1, 1983; Laws 1988, c. 311, § 7, eff. July 1, 1988. Renumbered from § 2768 of Title 63 by Laws 1988, c. 311, § 9, eff. July 1, 1988. Amended by Laws 1990, c. 145, § 7, operative July 1, 1990; Laws 2003, c. 372, § 7, eff. July 1, 2003; Laws 2012, c. 304, § 780.

§74-85.57. Employment of disabled workers, inmates of jails and correctional institutions and retired persons.

The Office of Management and Enterprise Services, whenever possible, shall contract with, employ or utilize the services of the disabled workers, inmates of county jails, and the Department of Corrections and the retired as a labor force in the identification, handling, hauling, and storage of materials and products which can be recycled.

Laws 1980, p. 1202, H.J.R. No. 1057, § 4, eff. Oct. 1, 1980. Amended by Laws 1983, c. 304, § 69, eff. July 1, 1983; Laws 1988, c. 311, § 8, eff. July 1, 1988. Renumbered from § 2769 of Title 63 by Laws 1988, c. 311, § 9, eff. July 1, 1988. Amended by Laws 1990, c. 145, § 8, operative July 1, 1990; Laws 2012, c. 304, § 781.

§74-85.58A. Comprehensive professional risk management program - Administrator - Participation by community action agencies.

A. The Office of Management and Enterprise Services shall establish for all state agencies, whether or not subject to The



Central Purchasing Act, and other entities as provided by law a comprehensive professional risk management program which shall:

1. Identify and evaluate risks of loss and exposures to loss to officers, employees and properties;

2. Minimize risks through loss-prevention and loss-control programs;

3. Transfer risks, if economically advantageous to the state, by acquiring commercial insurance, contractual pass through of liability, or by other means;

4. Consolidate and administer risk management plans and programs including self-insurance programs, except State Employees Group Insurance;

5. Determine feasibility of and, if feasible, establish self-insurance programs, considering whether a program may be self-supporting to remain financially and actuarially sound;

6. Provide a system to allocate insurance and program costs to determine payment for insurance coverage and program expenses provided by the Office of Management and Enterprise Services;

7. When requested by a state retirement system or the State and Education Employees Group Insurance Board, assist in obtaining insurance authorized by law. If requested by the Oklahoma State Regents for Higher Education, assist trust funds for which the State Regents serve as trustees in obtaining insurance authorized by law;

8. Assist state agencies and officers, employees, and members thereof, charged with licensing authority, in obtaining insurance for liability for judgments, based on the licensing authority, rendered by any court pursuant to federal law;

9. When requested by a public trust established pursuant to Title 60 of the Oklahoma Statutes of which the State of Oklahoma is the beneficiary, obtain, provide or assist the public trust in obtaining insurance authorized by law or trust indenture covering any board member, trustee, official, officer, employee or volunteer for errors and omissions or liability risks arising from the performance of official duties pursuant to law or trust indenture; and

10. When requested by the Oklahoma State Regents for Higher Education, for the purpose of insuring real property required pursuant to Section 4018 of Title 70 of the Oklahoma Statutes, of which the Oklahoma State Regents for Higher Education is the beneficiary, obtain, provide or assist the Oklahoma State Regents for Higher Education in obtaining insurance for the real property pursuant to the provisions of this section.

B. The Director of the Office of Management and Enterprise Services may hire or contract for the services of a Risk Management Administrator to supervise the Comprehensive Professional Risk Management Program established pursuant to this section. If

appointed by the Director as a state employee, the Risk Management Administrator shall be in the unclassified service.

C. The Risk Management Administrator shall evaluate insurance coverage needs and in force for state agencies, whether or not subject to The Central Purchasing Act, and other entities as provided by law. All entities shall submit to the Risk Management Administrator all information which the Risk Management Administrator deems necessary to perform this duty.

D. The Risk Management Administrator in conjunction with the State Purchasing Director under the authority of the Director of the Office of Management and Enterprise Services may negotiate insurance coverage and insurance-related services, including, but not limited to, insurance brokerage and consulting services. The State Purchasing Director shall ensure open processes for solicitation and qualification of insurance coverage and services providers. The State Purchasing Director shall award contracts for insurance coverage and services to the provider or providers which offer the best and final terms and conditions. The State Purchasing Director may authorize the Risk Management Administrator to bind for insurance coverage with providers.

E. The school districts of this state may request the Risk Management Administrator to advise for the purchase of insurance coverage for the school districts.

F. A state agency, whether or not subject to The Central Purchasing Act, that contemplates purchase of property and casualty insurance, shall provide details of the proposed purchase to the Risk Management Administrator for approval or disapproval prior to the purchase.

G. The Director of the Office of Management and Enterprise Services shall promulgate rules to effect the provisions of the comprehensive professional risk management program.

- H. 1. a. Any community action agency established pursuant to Sections 5035 through 5040 of this title may participate in the comprehensive professional risk management program established pursuant to this section for risks incurred as a result of operating a Head Start program or providing transportation services to the public. The Risk Management Administrator shall obtain or provide for insurance coverage for such community action agencies or bonding for employees of such community action agencies. Any liability insurance coverage obtained or provided shall include expenses for administrative and legal services obtained or provided by the Risk Management Administrator.
- b. The Risk Management Administrator shall determine criteria for participation in the risk management

program by such community action agencies. In addition, the Risk Management Administrator may require each such community action agency to:

- (1) provide adequate qualified personnel and suitable facilities and equipment for operating a Head Start program or providing transportation services to the public, and
- (2) comply with such standards as are necessary for the protection of the clients it serves.

2. To receive coverage pursuant to this section, a community action agency shall make payments for any insurance coverage and shall otherwise comply with the provisions of this section and rules promulgated by the Office pursuant to the provisions of this section.

3. Requests for the insurance coverage provided pursuant to the provisions of this subsection shall be submitted in writing to the Risk Management Administrator by the community action agencies.

I. The Risk Management Administrator may provide or obtain for any state agency, public trust with the state as a beneficiary and a director, officer, employee or member thereof, insurance for liability for loss, including judgments, awards, settlements, costs and legal expenses, resulting from violations of rights or privileges secured by the Constitution or laws of the United States of America which occur while a director, officer, employee or member is acting within the scope of service to the State of Oklahoma. The insurance shall be for coverage in excess of the limits on liability established by The Governmental Tort Claims Act but shall not limit or waive any immunities now or hereafter available to the State of Oklahoma or any state agency, any public trust with the state as a beneficiary, or any director, officer, employee or member thereof, including, but not limited to, any immunities under the Eleventh Amendment to the Constitution of the United States, state sovereign immunity, and any absolute or qualified immunity held by any director, officer, employee or member.

Added by Laws 1984, c. 141, § 1, operative July 1, 1984. Amended by Laws 1985, c. 97, § 1, emerg. eff. May 28, 1985; Laws 1986, c. 150, § 24, emerg. eff. April 29, 1986; Laws 1986, c. 301, § 31, operative July 1, 1986; Laws 1988, c. 321, § 42, operative July 1, 1988; Laws 1989, c. 375, § 15, emerg. eff. June 6, 1989; Laws 1990, c. 337, § 21; Laws 1993, c. 177, § 3, emerg. eff. May 13, 1993; Laws 1994, c. 329, § 3, eff. July 1, 1994. Renumbered from § 85.34 of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998. Amended by Laws 2002, c. 195, § 1, eff. Nov. 1, 2002; Laws 2002, c. 483, § 6, eff. July 1, 2002; Laws 2008, c. 352, § 2, eff. Nov. 1, 2008; Laws 2012, c. 304, § 782; Laws 2013, c. 254, § 32, eff. Jan. 1, 2015; Laws 2014, c. 244, § 1, eff. Jan. 1, 2015.

NOTE: Laws 1989, c. 291, § 4, as amended by Laws 1989, c. 318, § 4, repealed by Laws 1990, c. 337, § 26.

§74-85.58B. Risk management insurance coverage - Fire protection.

A. The Risk Management Administrator, pursuant to the provisions of this section and Section 85.34 of this title, may obtain or provide insurance coverage for any vehicle, vessel or aircraft used for or in fire fighting or services provided by the districts, departments and services specified in subsection D of this section and may obtain or provide indemnity coverage for any board member, official, employee or volunteer of any entity specified in subsection D of this section for any errors and omissions or liability risks arising from the performance of their official duties pursuant to law.

B. The Risk Management Administrator, pursuant to the provisions of this section and Section 85.34 of this title, may obtain or provide insurance coverage for any building used for or in fire fighting or services specified in subsection D of this section. If a fire department, district or service specified in subsection D of this section is housed in a building with any department or unit of local governmental entities, the Risk Management Administrator may also obtain or provide building or structure insurance coverage for such department or unit in such building.

C. The Risk Management Administrator is authorized to determine eligibility criteria for participation in the Risk Management Program by such districts, departments and services or for such member, officer, employee or volunteer. In addition, the Risk Management Administrator is authorized to establish equipment and safety standards for the vehicles, vessels, aircraft or buildings to be covered by the Risk Management Program.

D. The Risk Management Administrator may obtain or provide the insurance coverage authorized by subsection A of this section for:

1. Fire protection districts organized and operated pursuant to the provisions of Sections 901.1 through 901.29 of Title 19 of the Oklahoma Statutes;

2. Volunteer or full-time fire departments established pursuant to Section 592 of Title 18 of the Oklahoma Statutes;

3. Municipal fire departments organized and operated pursuant to the provisions of Sections 29-101 through 29-108, and Sections 29-201 through 29-205 of Title 11 of the Oklahoma Statutes;

4. Fire protection services established pursuant to the provisions of Section 351 of Title 19 of the Oklahoma Statutes; and

5. Rural fire coordinators employed by substate planning districts acting pursuant to rural fire defense programs.

E. The governing authorities of such fire departments, fire protection districts and fire protection services shall be required

to make payments for such insurance coverage as provided by Section 85.37 of this title.

F. Requests for the insurance or indemnity coverage provided pursuant to the provisions of this section shall be submitted in writing to the Risk Management Administrator by the fire departments, fire protection districts or fire protection services specified in subsection C of this section. Those fire departments, fire protection districts or fire protection services meeting eligibility criteria shall be approved for participation in the Risk Management Program by the Risk Management Administrator if the member, officer, employee or volunteer, and the vehicles, vessels, aircraft and buildings used by districts, services or departments meet the equipment and safety standards and eligibility requirements established by the Risk Management Administrator.

G. Any insurance or indemnity coverage shall be obtained or provided solely from funds available in the shared risk pool authorized by Section 85.34B of this title. Any coverage limits shall be based on the liquidity of the shared risk pool resulting from the annual payments made pursuant to Section 85.37 of this title and any interest accrued thereon, after deduction of such sums as may be necessary to pay all overhead and administrative expenses associated with administering the pool.

H. Any limited indemnity coverage provided for errors and omissions pursuant to the provisions of this subsection shall only cover errors or omissions made by a board member, official, employee or volunteer of any entity specified in subsection C of this section occurring after the effective date of this act.

I. The State of Oklahoma is not liable, directly or indirectly, for the errors and omissions of any board member, official, employee or volunteer of any entity specified in subsection C of this section in the performance of his official duties pursuant to law. The State of Oklahoma is not liable, directly or indirectly, for the negligence of any entity specified in subsection C of this section.

J. In providing risk management services for any entity specified by subsection C of this section or any such board member, official, employee or volunteer of such entity, it is the intention of the Legislature to provide coverage solely to the extent of assets in the shared risk pool created by Section 85.34B of this title.

K. Any liability insurance coverage obtained or provided shall include expenses for legal services obtained or provided by the Risk Management Administrator.

Added by Laws 1987, c. 14, § 1, emerg. eff. April 13, 1987. Amended by Laws 1991, c. 84, § 1, eff. July 1, 1991; Laws 1992, c. 44, § 4, emerg. eff. April 3, 1992; Laws 1994, c. 329, § 4, eff. July 1, 1994. Renumbered from § 85.34A of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998.

§74-85.58C. Risk management insurance coverage - Rural gas districts.

A. The Risk Management Administrator, pursuant to the provisions of this section and Section 85.34 et seq. of Title 74 of the Oklahoma Statutes, may obtain or provide insurance coverage for any board member, personnel, property and vehicles necessary for use by rural gas districts organized and operated pursuant to the provisions of Section 1324.1 et seq. of Title 82 of the Oklahoma Statutes. The Risk Management Administrator is authorized to determine eligibility criteria for participation in the Risk Management Program by such districts. In addition, the Risk Management Administrator is authorized to establish equipment and safety standards for any vehicles, equipment, or property used by the district and covered by the Risk Management Program.

B. The governing authorities of the above-mentioned districts shall be required to make payments for such insurance coverage as provided by Section 85.37 of Title 74 of the Oklahoma Statutes.

C. Requests for the insurance coverage provided pursuant to the provisions of this section shall be submitted in writing to the Risk Management Administrator by the governing boards of the districts specified in subsection A of this section. Those districts meeting eligibility criteria shall be approved for participation in the Risk Management Program by the Risk Management Administrator if the vehicles, equipment and property meet the equipment and safety standards established by the Risk Management Administrator. Added by Laws 1995, c. 209, § 1, emerg. eff. May 23, 1995. Renumbered from § 85.34A1 of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998.

§74-85.58D. Risk Management Fire Protection Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services, to be designated the "Risk Management Fire Protection Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies transferred thereto by an act of the Legislature and any fees collected by the Office of Management and Enterprise Services in accordance with the provisions of Section 85.58B of this title. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Office of Management and Enterprise Services for the purposes of the Comprehensive Professional Risk Management Program provided for in Section 85.58A of this title, including the salaries and administrative expenses of support staff responsible for administering the fund and expenses the Office incurs to support program operations. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as

prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1987, c. 203, § 95, operative July 1, 1987. Amended by Laws 1997, c. 221, § 5, eff. Nov. 1, 1997. Renumbered from § 85.34B of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998. Amended by Laws 2003, c. 372, § 8, eff. July 1, 2003; Laws 2012, c. 304, § 783.

§74-85.58E. Risk management insurance coverage - Transportation for the elderly and handicapped.

A. The Risk Management Administrator, pursuant to the provisions of this section and Section 85.34 of Title 74 of the Oklahoma Statutes, may obtain or provide insurance coverage for any vehicle used by any entity specified in subsection B of this section for transportation services for elderly and/or handicapped persons. The Risk Management Administrator is authorized to determine eligibility criteria for participation in the Risk Management Program by such transportation services. In addition, the Risk Management Administrator is authorized to establish equipment and safety standards for the vehicles to be covered by the Risk Management Program.

B. The Risk Management Administrator may obtain or provide the insurance coverage authorized by subsection A of this section for:

1. Counties;
2. Municipalities;
3. Community action agencies designated pursuant to Sections 5035 through 5040 of Title 74 of the Oklahoma Statutes;
4. Any charitable corporation formed for the purpose of providing either a volunteer or full-time fire department, established pursuant to Section 592 of Title 18 of the Oklahoma Statutes, furnishing transportation for elderly and handicapped persons; and

5. Any vehicle owned and operated by a nonprofit organization that pursuant to contract with the state or a political subdivision of the state provides older persons transportation to and from medical, dental and religious services and relief from business and social isolation.

C. The governing authorities of such transportation services for elderly and handicapped persons shall be required to make payments for such insurance coverage as provided by Section 85.37 of Title 74 of the Oklahoma Statutes.

D. Requests for the insurance coverage provided pursuant to the provisions of this section shall be submitted in writing to the Risk Management Administrator by the transportation services for elderly and handicapped persons specified in subsection B of this section. Those transportation services for elderly and handicapped persons meeting eligibility criteria shall be approved for participation in

the Risk Management Program by the Risk Management Administrator if the vehicles used by transportation services for elderly and handicapped persons meet the equipment and safety standards established by the Risk Management Administrator.

Added by Laws 1988, c. 40, § 1, eff. Nov. 1, 1988. Renumbered from § 85.34C of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998.

§74-85.58F. Tort liability coverage for counties providing juvenile detention facilities.

A. The Risk Management Administrator pursuant to Section 85.58A of this title may obtain or provide insurance coverage for a county or counties at their request for any tort liability risks incurred as a result of providing or providing for the temporary detention of children in a juvenile detention facility pursuant to Sections 1-4-201 or 2-3-103 of Title 10A of the Oklahoma Statutes.

B. The Risk Management Administrator is authorized to determine eligibility criteria for participation in the Risk Management Program for such county or counties.

C. Such county or counties shall be required to make payments for such insurance coverage as provided by Section 85.58M of this title.

D. Requests for the insurance coverage provided pursuant to the provisions of this section shall be submitted in writing to the Risk Management Administrator by the county or counties.

Added by Laws 1988, c. 134, § 2, emerg. eff. April 19, 1988.

Renumbered from § 85.34D of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998. Amended by Laws 2009, c. 234, § 161, emerg. eff. May 21, 2009.

§74-85.58G. Risk Management Elderly and Handicapped Transportation Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services, to be designated the "Risk Management Elderly and Handicapped Transportation Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies transferred thereto by an act of the Legislature and any fees collected by the Office of Management and Enterprise Services in accordance with the provisions of Section 85.58E of this title. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Office of Management and Enterprise Services for the purposes of the Comprehensive Professional Risk Management Program provided for in Section 85.58A of this title, including the salaries and administrative expenses of support staff responsible for administering said fund and expenses the Department incurs to



support program operations. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment. Added by Laws 1988, c. 305, § 23, operative July 1, 1988. Renumbered from § 85.34E of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998. Amended by Laws 2003, c. 372, § 9, eff. July 1, 2003; Laws 2012, c. 304, § 784.

§74-85.58H. Limited indemnity coverage for errors and omissions liability risks - Motor license agents and employees.

A. Upon written certification by the Director of the Office of Management and Enterprise Services that errors and omissions liability insurance for motor license agents and their employees is not reasonably available in the private market at competitive rates, after taking into account the administrative costs associated with such insurance, the Risk Management Administrator pursuant to Section 85.34 of this title may obtain or provide limited indemnity coverage for motor license agents and the employees who are employed by such agents for any errors and omissions liability risks arising from the performance of their official duties pursuant to law. Any such certification by the Director of the Office of Management and Enterprise Services shall be effective for a period of two (2) years. Any such limited indemnity coverage shall be obtained or provided solely from funds available in the shared risk pool authorized by this section and subject to the limitations set out herein. The Risk Management Administrator shall establish liability limits for such errors and omissions coverage on an annual basis. Any such limits shall be based on the liquidity of the shared risk pool resulting from the annual payments made pursuant to subsection C of this section and any interest accrued thereon, after deduction of such sums as may be necessary to pay all overhead and administrative expenses associated with administering the pool.

B. The Risk Management Administrator is authorized to determine eligibility criteria for participation in the Risk Management Program for such motor license agents and employees of such agents. Any limited indemnity coverage provided for errors and omissions pursuant to the provisions of this subsection shall only cover errors or omissions made by a motor license agent or any employee of such agent occurring after July 1, 1990.

C. Except as otherwise provided in subsection G of this section, motor license agents shall be required to make annual payments of Forty Dollars (\$40.00) per motor license agent and Forty Dollars (\$40.00) per employee of the motor license agent for such limited indemnity coverage. The Risk Management Administrator is authorized to assess an additional payment per year, not to exceed Forty Dollars (\$40.00) per motor license agent and per employee of

such agent, if the shared risk pool resulting from the payment of the fees made pursuant to this subsection is not adequate to cover any liability incurred.

D. Requests for the limited indemnity coverage provided pursuant to the provisions of this section shall be submitted in writing to the Risk Management Administrator by the motor license agents.

E. All fees collected in accordance with the provisions of this section shall be deposited in the Oklahoma Motor License Agent Indemnity Fund.

F. In providing risk management services for any motor license agent or employee of such agent, it is the intention of the Legislature to provide limited indemnification of motor license agents or employees of such agents for errors and omissions, solely to the extent of assets in the shared risk pool created by this section. The State of Oklahoma is not liable, directly or indirectly, for the errors and omissions of any motor license agent or any employee of such agent in the performance of official duties pursuant to law. The Risk Management Administrator shall determine the extent of indemnification for losses incurred by any such motor license agent or employee of such agent based upon the liquidity of the shared risk pool.

G. The Risk Management Administrator is authorized to establish a system under which the extent of indemnity coverage may be extended or reduced based upon an increase or decrease in the amount of the payment required in subsection C of this section. Said system shall only be established when the liquidity of the shared risk pool is such that the system is feasible in the judgment of the Administrator. Upon establishment of such a system, a motor license agent may elect to increase or decrease the amount of the payment required in subsection C of this section and correspondingly extend or reduce coverage for losses incurred by the motor license agent or employee of such agent.

Added by Laws 1990, c. 315, § 7, eff. July 1, 1990. Amended by Laws 1994, c. 329, § 5, eff. July 1, 1994; Laws 1998, c. 78, § 2, emerg. eff. April 8, 1998. Renumbered from § 85.34F of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998. Amended by Laws 2012, c. 304, § 785.

§74-85.58I. Conservation districts - Participation in the Risk Management Program.

A. The Risk Management Administrator may obtain or provide the insurance coverage specified by this section for conservation districts established pursuant to Article III of Title 27A of the Oklahoma Statutes. Pursuant to the provisions of this section and Section 85.34 of Title 74 of the Oklahoma Statutes, the Risk Management Administrator may obtain or provide:

1. Property and casualty insurance for any vehicle, vessel or aircraft owned or operated by the conservation districts or services provided by conservation districts;

2. Indemnity coverage for any board member, official, employee or volunteer of any conservation district for any errors and omissions or liability risks arising from the performance of their official duties pursuant to law. Any limited indemnity coverage provided for errors and omissions pursuant to the provisions of this subsection shall only cover errors or omissions made by a board member, official, employee or volunteer of a conservation district occurring after the effective date of this section;

3. Property and casualty insurance coverage for any building owned or leased by the conservation districts. If a conservation district is housed in a building with any department or unit of local governmental entities, the Risk Management Administrator may also obtain or provide building or structure insurance coverage for such department or unit in the building;

4. Property and casualty insurance for any liability incurred by a conservation district as a result of the participation of the conservation district in the operation and maintenance of flood control structures or any liability occurring as a result of the participation of the conservation districts in federal or state programs authorized pursuant to Article III of Title 27A of the Oklahoma Statutes; or

5. Indemnity insurance for liability for loss, including judgments, awards, settlements, costs and legal expenses, resulting from violations of rights or privileges secured by the Constitution or laws of the United States which occur while a director, officer, employee or member is acting within the scope of his service to the conservation district. Such indemnity insurance shall be for coverage in excess of the limits on liability established by the Governmental Tort Claims Act but shall not limit or waive any immunities now or hereafter available to the conservation district, or any director, officer, employee or member thereof, including, but not limited to, any immunities under the Eleventh Amendment to the Constitution of the United States, state sovereign immunity, and any absolute or qualified immunity held by any director, officer, employee or member.

B. The Risk Management Administrator is authorized to determine eligibility criteria for participation in the Risk Management Program by conservation districts, or for such member, officer, employee or volunteer of any conservation district. In addition, the Risk Management Administrator is authorized to establish equipment and safety standards for the vehicles, vessels, aircraft, buildings or other structures to be covered by the Risk Management Program.

C. Requests for the insurance or indemnity coverage provided pursuant to the provisions of this section shall be submitted in writing to the Risk Management Administrator by the conservation district. Those conservation districts meeting eligibility criteria shall be approved for participation in the Risk Management Program by the Risk Management Administrator if the member, officer, employee or volunteer, and the vehicles, vessels, aircraft and buildings used by the conservation districts meet the equipment and safety standards and eligibility requirements established by the Risk Management Administrator. The Risk Management Administrator shall establish liability limits for the insurance coverage authorized by this section on an annual basis. Any such limits shall be based on the liquidity of the shared risk pool in the Conservation District Protection Account resulting from the annual payments made pursuant to Section 85.37 of Title 74 of the Oklahoma Statutes and any interest accrued thereon, after deduction of such sums as may be necessary to pay all overhead and administrative expenses associated with administering the pool.

D. The conservation districts shall be required to make payments for such insurance coverage. All fees collected in accordance with the provisions of this section shall be deposited in the Conservation District Protection Account within the Risk Management Political Subdivision Participation Revolving Fund.

E. 1. Any insurance or indemnity coverage shall be provided solely from funds in the Conservation District Protection Account and to the extent of assets available in the shared risk pool established pursuant to the provisions of Section 2 of this act. The Risk Management Administrator shall determine the extent of indemnification for losses incurred by any conservation district based upon the liquidity of the shared risk pool in the Conservation District Protection Account.

2. The State of Oklahoma is not liable, directly or indirectly, for any liability incurred by any board member, official, employee or volunteer of any conservation district in the performance of his official duties pursuant to law. In addition, the State of Oklahoma is not liable, directly or indirectly, for any liability incurred by a conservation district established pursuant to Article III of Title 27A of the Oklahoma Statutes.

F. Any insurance coverage obtained or provided pursuant to the provisions of this section shall include expenses for legal services obtained or provided by the Risk Management Administrator. Added by Laws 1995, c. 301, § 1, eff. July 1, 1995. Renumbered from § 85.34G of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998.

§74-85.58J. Foster family homes - Property and casualty insurance.

A. 1. The Risk Management Administrator may obtain or otherwise provide for the insurance coverage specified by this section for a foster family home providing foster care services for children in the custody of the Department of Human Services pursuant to the Oklahoma Children's Code or the Department of Juvenile Justice pursuant to the Juvenile Justice Code.

2. Pursuant to the provisions of this section and Section 85.58A of this title, the Risk Management Administrator may obtain or otherwise provide for property and casualty insurance for injuries or damages arising from the foster care relationship and the provision of foster care services, property damage or bodily injury, as a result of the activities of the foster child, and reasonable and necessary legal fees incurred in defense of civil claims filed pursuant to this section, the Oklahoma Foster Care and Out-of-Home Placement Act, the Oklahoma Children's Code or the Juvenile Justice Code, and any judgments awarded as a result of such claims. Any insurance coverage obtained or provided pursuant to the provisions of this section shall include expenses for legal services obtained or provided by the Risk Management Administrator.

B. The Risk Management Administrator is authorized to establish qualifications for coverage and to determine eligibility criteria and other standards for participation in the Risk Management Program by the foster family homes. A foster family shall be approved for participation in the Risk Management Program by the Risk Management Administrator if the foster family meets the standards and eligibility requirements established by the Risk Management Administrator.

C. 1. A request for the insurance coverage provided pursuant to this section shall be submitted in writing to the Department of Human Services and the Department of Juvenile Justice by a foster care family. The Department of Human Services and the Department of Juvenile Justice shall provide a list of the names of all foster family homes which wish to obtain insurance coverage specified by this section to the Risk Management Administrators.

2. Upon obtaining insurance coverage as provided by this section, the Department of Human Services and the Department of Juvenile Justice shall provide notice to all foster family homes with whom the state agencies contract for foster care services.

D. The Risk Management Administrator shall establish liability limits for the insurance coverage authorized by this section on an annual basis based on the insurance carrier requirements or based on the liquidity of the shared risk pool in the Foster Families Protection Account resulting from the annual payments made pursuant to Section 85.58M of this title and any interest accrued thereon, after deduction of such sums as may be necessary to pay all overhead and administrative expenses associated with administering the pool.

E. A foster family shall be required to make payments for such insurance coverage or payments may be made from funds deposited on behalf of foster families by the Department of Human Services or the Department of Juvenile Justice if such funds are available. All fees collected in accordance with the provisions of this section shall be deposited in the Foster Families Protection Account. Claims against the insurance carrier or the pool shall be filed with either the Department of Human Services or the Department of Juvenile Justice, as appropriate, and shall be forwarded to the Risk Management Administrator.

F. 1. Any insurance or indemnity coverage shall be provided solely from funds in the Foster Families Protection Account and to the extent of assets available in the shared risk pool established pursuant to the provisions of this section. The Risk Management Administrator shall determine the extent of indemnification for losses incurred by any foster families based upon the liquidity of the shared risk pool in the Foster Families Protection Account.

2. The State of Oklahoma is not liable, directly or indirectly, for any liability incurred by a foster family in the performance of foster care services.

G. 1. There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services, to be designated the "Foster Families Protection Account". The account shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies transferred thereto by the Department of Human Services, the Department of Juvenile Justice or any child-placing agency, and any fees collected by the Office of Management and Enterprise Services and deposited pursuant to law.

2. All monies accruing to the credit of said fund shall be expended by the Office of Management and Enterprise Services for the specific purposes specified by this section and the salaries and administrative expenses of support staff responsible for administering the fund.

3. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment. The Foster Families Protection Account shall consist of:

- a. all fees and other monies received pursuant to this section, and
- b. interest attributable to investment of monies in the account.

H. 1. The monies deposited in the account shall at no time become monies of the state and shall not become part of the general budget of the Office of Management and Enterprise Services or any other state agency. Except as otherwise authorized by this subsection, no monies from the account shall be transferred for any

purpose to any other state agency or any account of the Office of Management and Enterprise Services or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

2. Monies in the account shall only be expended for:

- a. the purposes specified by this section, and
- b. costs incurred by the Comprehensive Professional Risk Management Program for the administration of this section.

I. Any costs incurred by the Office of Management and Enterprise Services pursuant to the provisions of this section shall not exceed the actual expenditures made by the Office of Management and Enterprise Services to implement the provisions of this section.

J. Payment of claims from the Foster Families Protection Account shall not become or be construed to be an obligation of this state. No claims submitted for reimbursement or payment from the account shall be paid with state monies.

Added by Laws 1996, c. 353, § 14, eff. Nov. 1, 1996. Renumbered from § 85.34H of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998. Amended by Laws 2012, c. 304, § 786.

§74-85.58K. Risk Management Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services, to be designated the "Risk Management Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies transferred thereto by act of the Legislature and any monies which may be deposited thereto by the Office of Management and Enterprise Services as provided for by law. All interest earned by the State Treasurer on monies deposited in the Risk Management Revolving Fund shall be deposited to the Risk Management Revolving Fund.

B. Within the Risk Management Revolving Fund, there is hereby created the Property and Casualty Account, the Motor Vehicle Liability Account and the General Tort Liability Account. The Director of the Office of Management and Enterprise Services is authorized to establish such additional accounts within the Risk Management Revolving Fund deemed necessary. The monies in each account shall be maintained actuarially separate to ensure that premiums or fees paid for specific insurance coverage are adequate to pay the expenses and claims for that coverage.

C. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Office of Management and Enterprise Services for the purposes of the Comprehensive Professional Risk Management Program provided for in Section 85.58A of this title, including but not limited to the salaries and administrative expenses of the Risk Management

Administrator and support staff and expenses the Department incurs to support program operations. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment. Added by Laws 1985, c. 312, § 43, emerg. eff. July 25, 1985. Amended by Laws 1989, c. 300, § 19, operative July 1, 1989; Laws 1994, c. 329, § 6, eff. July 1, 1994. Renumbered from § 85.35 of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998. Amended by Laws 2003, c. 372, § 10, eff. July 1, 2003; Laws 2012, c. 304, § 787.

§74-85.58L. Risk Management Political Subdivision Participation Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services, to be designated the "Risk Management Political Subdivision Participation Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies transferred thereto by an act of the Legislature and any fees collected by the Office of Management and Enterprise Services and deposited pursuant to law. All monies accruing to the credit of said fund shall be expended by the Office of Management and Enterprise Services for the purposes specified by this section and the salaries and administrative expenses of support staff responsible for administering the fund and expenses the Office incurs to support program operations. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. Within the Risk Management Political Subdivision Participation Revolving Fund, there is hereby created the Conservation District Protection Account. The account shall be set apart as a separate, permanent and perpetual account not subject to fiscal year limitations and shall consist of:

1. All fees and other monies received pursuant to Section 85.58I of this title; and
2. Interest attributable to investment of monies in the account.

C. 1. The monies deposited in the Risk Management Political Subdivision Participation Revolving Fund shall at no time become monies of any other state agency. Except as otherwise authorized by this subsection, no monies from the Risk Management Political Subdivision Participation Revolving Fund shall be transferred for any purpose to any other state agency or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.



2. Monies in the Risk Management Political Subdivision Participation Revolving Fund shall only be expended for:

- a. the purposes specified by this section, and
- b. costs incurred by the Comprehensive Professional Risk Management Program for the administration of duties this section specifies and expenses the Department incurs to support program operations.

D. Any costs incurred by the Office of Management and Enterprise Services pursuant to the provisions of this section shall not exceed the actual expenditures made by the Office of Management and Enterprise Services to implement the provisions of this section.

E. Payment of claims from the Risk Management Political Subdivision Participation Revolving Fund shall not become or be construed to be an obligation of this state. No claims submitted for reimbursement or payment from the fund shall be paid with state monies.

Added by Laws 1995, c. 301, § 2, eff. July 1, 1995. Renumbered from § 85.36A of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998. Amended by Laws 2003, c. 372, § 11, eff. July 1, 2003; Laws 2012, c. 304, § 788.

§74-85.58M. Insurance fee.

A. The Office of Management and Enterprise Services shall levy and collect reasonable fees and premiums from state agencies and other entities as provided by law covered by the Comprehensive Professional Risk Management Program for the purpose of providing insurance coverage.

B. All fees and premiums shall be promptly paid when due. Fees and premiums collected in accordance with the provisions of this section shall be deposited in the appropriate risk management fund.

C. If a state agency fails to pay the insurance fees and premiums within forty-five (45) days of due date, the Office of Management and Enterprise Services shall consider the invoice delinquent. The Office of Management and Enterprise Services shall pay the invoice from monies available to the delinquent agency for the general operations of the agency which are not specifically prohibited for such use by federal or state law. If funds of the delinquent agency are not available to pay the invoice in full, the Office of Management and Enterprise Services shall submit claims as necessary to pay the invoice as soon as funds are available from the funds of the delinquent agency.

Added by Laws 1985, c. 312, § 45, emerg. eff. July 25, 1985.

Amended by Laws 1986, c. 301, § 32, operative July 1, 1986; Laws 1987, c. 203, § 99, operative July 1, 1987; Laws 1993, c. 133, § 1, emerg. eff. May 4, 1993; Laws 1994, c. 329, § 7, eff. July 1, 1994. Renumbered from § 85.37 of this title by Laws 1998, c. 371, § 15,

eff. Nov. 1, 1998. Amended by Laws 2002, c. 483, § 7, eff. July 1, 2002; Laws 2012, c. 304, § 789.

§74-85.58N. Quick Settlement Account.

The Special Agency Account Board shall create in the official depository of the State Treasury an agency special account for the Office of Management and Enterprise Services to be designated as the "Quick Settlement Account". The purpose of the account shall be the payment of liability claims against the state after a determination by the Risk Management Administration that such payments are in the best interest of the state, are in accordance with the laws and regulations governing the Comprehensive Professional Risk Management Program, and are in an amount not exceeding Ten Thousand Dollars (\$10,000.00). No monies shall be expended from the Quick Settlement Account except as provided for in this section.

The Office of Management and Enterprise Services shall transfer funds as necessary from the Risk Management Revolving Fund to the Quick Settlement Account, provided that the maximum sum held in the Quick Settlement Account shall not exceed Ten Thousand Dollars (\$10,000.00), excluding funds in transit. Expenditures from the Quick Settlement Account shall be exempt from the provisions of The Oklahoma Central Purchasing Act.

Added by Laws 1985, c. 312, § 46, emerg. eff. July 25, 1985.

Amended by Laws 1994, c. 329, § 8, eff. July 1, 1994. Renumbered from § 85.38 of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998. Amended by Laws 2012, c. 304, § 790.

§74-85.58O. Community action agency - Automobile, building and liability insurance - Limitation of liability.

A. The Risk Management Administrator, pursuant to the provisions of this section and Section 85.58A of Title 74 of the Oklahoma Statutes, may obtain or provide insurance coverage for any public transit vehicle obtained by a community action agency or a substate planning district through the Department of Transportation pursuant to a federal grant and may obtain or provide indemnity coverage for any official or employee of the community action agency or a substate planning district for any errors and omissions or liability risks arising from the performance of official duties pursuant to law.

B. The Risk Management Administrator, pursuant to the provisions of this section and Section 85.58A of Title 74 of the Oklahoma Statutes, may obtain or provide insurance coverage for any building used for public transit services or for storage of public transit vehicles if the public transit vehicles are obtained as provided in subsection A of this section. If a public transit vehicle obtained as provided for in subsection A of this section is housed in a building with any department or unit of local

governmental entities, the Risk Management Administrator may also obtain or provide building or structure insurance coverage for such department or unit in such building.

C. The Risk Management Administrator is authorized to determine eligibility criteria for participation pursuant to this section in the Risk Management Program for a community action agency or a substate planning district or for officers or employees of a community action agency or a substate planning district. In addition, the Risk Management Administrator is authorized to establish equipment and safety standards for the vehicles or buildings to be covered by the Risk Management Program pursuant to this section.

D. Requests for the insurance or indemnity coverage provided pursuant to the provisions of this section shall be submitted in writing to the Risk Management Administrator by the community action agency or a substate planning district. Any community action agency or a substate planning district meeting eligibility criteria shall be approved for participation in the Risk Management Program by the Risk Management Administrator if the officers and employees and the vehicles and buildings used by the participating community action agency or a substate planning district meet the equipment and safety standards and eligibility requirements established by the Risk Management Administrator.

E. Any insurance or indemnity coverage shall be obtained or provided solely from funds available in the shared risk pool authorized by Section 3 of this act. Any coverage limits shall be based on the liquidity of the shared risk pool resulting from the annual payments made pursuant to Section 85.58M of Title 74 of the Oklahoma Statutes and any interest accrued thereon, after deduction of such sums as may be necessary to pay all overhead and administrative expenses associated with administering the pool.

F. Any limited indemnity coverage provided for errors and omissions pursuant to the provisions of this section shall only cover errors or omissions made by an official or employee of a community action agency or a substate planning district provided for in subsection A of this section occurring on or after the effective date of this act.

G. Notwithstanding the provisions of the Governmental Tort Claims Act, the State of Oklahoma is not liable, directly or indirectly, for the errors and omissions of any official or employee of any community action agency or a substate planning district provided for in subsection A of this section in the performance of official duties pursuant to law. The State of Oklahoma is not liable, directly or indirectly, for the negligence of any community action agency or a substate planning district provided for in subsection A of this section.

H. In providing risk management services for any community action agency or a substate planning district provided for in subsection A of this section or official or employee of the community action agency or a substate planning district, it is the intention of the Legislature to provide coverage solely to the extent of assets in the shared risk pool created by Section 3 of this act.

I. Any liability insurance coverage obtained or provided shall include expenses for legal services obtained or provided by the Risk Management Administrator.

Added by Laws 2004, c. 440, § 2, eff. July 1, 2004.

§74-85.58P. Risk Management Public Transit Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services, to be designated the "Risk Management Public Transit Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies transferred thereto by an act of the Legislature and any fees collected by the Office of Management and Enterprise Services in accordance with the provisions of Section 85.580 of this title. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Office of Management and Enterprise Services for the purposes of the Comprehensive Professional Risk Management Program provided for in Section 85.58A of this title, including the salaries and administrative expenses of support staff responsible for administering the fund and expenses the Office incurs to support program operations. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2004, c. 440, § 3, eff. July 1, 2004. Amended by Laws 2012, c. 304, § 791.

§74-85.60. Patented and copyrighted material - Negotiation and contracting for retention - State property rights - Deposit of sale proceeds.

A. Except as otherwise provided by Section 3206.3 of Title 70 of the Oklahoma Statutes, the Office of Management and Enterprise Services shall be the exclusive agency to negotiate and contract for the retention of patents and copyrights on material and property developed through state contracts subject to The Central Purchasing Act, unless an agency has been given specific authority to make such agreements by statute.

B. Except as otherwise provided by Section 3206.3 of Title 70 of the Oklahoma Statutes and Section 1365 of this title, any patented property or copyrighted material developed by contracts

subject to The Central Purchasing Act, shall be the property of the State of Oklahoma under the sole management of the Office of Management and Enterprise Services. Such property or material may be licensed or sold by the Office of Management and Enterprise Services using similar procedures governing the sale of other state property but without declaring such property to be surplus.

C. Proceeds from the sale of such property or material under the jurisdiction of the Office of Management and Enterprise Services shall be deposited to the General Fund of the State of Oklahoma.

D. The Office of Management and Enterprise Services may contract with legal counsel experienced in the field of patent and copyright law to advise and assist that agency in carrying out its duties and responsibilities under this section for intellectual property under the jurisdiction of the Office of Management and Enterprise Services.

Added by Laws 1990, c. 264, § 86, operative July 1, 1990. Amended by Laws 1998, c. 211, § 6, eff. July 1, 1998; Laws 2000, c. 322, § 1, emerg. eff. June 5, 2000; Laws 2012, c. 304, § 792.

§74-85.34A1. Renumbered as § 85.58C of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998.

§74-86.1. Renumbered as § 34.65 of Title 62 by Laws 2009, c. 441, § 64, eff. July 1, 2009.

§74-87.1. Persons with authority to make State purchases - Prohibition on furnishing supplies and equipment.

It shall be unlawful for the superintendent or business manager of any state agency or institution or any person with authority to purchase supplies, materials or equipment for such state agency or institution, or the spouse or child of either of them, to furnish such supplies, materials or equipment, or be interested by stock ownership or other profit sharing arrangements, in any business entity which is engaged in the furnishing of such supplies, materials or equipment to such agency, department or institution of the State of Oklahoma.

Laws 1961, p. 229, § 1.

§74-87.2. Penalties.

Any person violating the provisions of Section 1 of this act shall be guilty of a misdemeanor and upon conviction thereof shall be penalized by the payment of a sum of not to exceed One Thousand Dollars (\$1,000.00) or imprisonment in the county jail for not to exceed ninety (90) days or by both such fine and imprisonment and any employment of such person in any office position or capacity by the State of Oklahoma shall be terminated immediately upon such

conviction whether or not any fine or confinement is imposed by the court.

Laws 1961, p. 229, § 2.

§74-88.1. Inventory of State institution purchases to determine conformity with specifications - Dismissal for failure to comply.

It shall be the duty of each chief administrative officer of all State institutions to make or cause to be made an inventory of all purchases made for such institution at the time of their delivery or receipt for the purpose of determining whether the items delivered are in conformity with the specifications required of such items at the time of purchase and any such chief administrative officer, who fails to make or cause to be made such inventory, shall be relieved from his position by the appointing authority.

Laws 1961, p. 590, § 1.

§74-88.2. Report of deviation.

In the event the inventory required by this act reveals that such items deviate substantially from the specifications as ordered, such facts shall be reported by the Chief Administrative Office of the Institution to the Purchasing Director of the State of Oklahoma, and failure to make such report shall constitute a misdemeanor.

Laws 1961, p. 590, § 2.

§74-89. Renumbered as § 85.45j of this title by Laws 1998, c. 371, § 15, eff. Nov. 1, 1998.

§74-90.1. Postal services.

A. Except as otherwise provided for in this section, any agency, as defined in the Administrative Procedures Act, which has an expenditure for postage of Two Thousand Dollars (\$2,000.00) or more for any one (1) fiscal year shall install a postage meter machine and have all purchases of postage recorded on that postage meter machine. Except, a field office or branch office of a state agency distantly located from the parent agency, and which office has an annual expenditure for postage of less than Two Thousand Dollars (\$2,000.00), may purchase postage stamps in the manner prescribed by Section 90.2 of this title and such purchases shall not be subject to the provisions of subsection B of this section.

B. Any agency, as defined in the Administrative Procedures Act, not engaged in scientific research or community development, which finds it necessary, in order to more efficiently and effectively carry out certain programs or functions, is hereby authorized, upon making application to the Director of the Office of Management and Enterprise Services showing sufficient need and upon approval by said Director, to purchase not more than Two Thousand Dollars (\$2,000.00) worth of postage stamps during any one (1) fiscal year

in the manner prescribed by Section 90.2 of this title, with a method of accountability for the use thereof to be maintained and subject to audit. Any agency of the state engaged in scientific research or community development, which finds it necessary, in order to effectively carry out such research or development, is hereby authorized, upon making application to the Director of the Office of Management and Enterprise Services showing sufficient need and upon approval by the Director, to purchase postage stamps in the amount demonstrated necessary to pursue such research or development in the manner prescribed by Section 90.2 of this title, with a method of accountability for the use thereof to be maintained and subject to audit. Provided, however, the finance officer of such state agency shall keep and maintain a record of all postage stamp allocations within the agency. For purposes of this section, "scientific research" shall mean research conducted under formally sponsored grants or contracts; "community development" shall mean development conducted by a formally and permanently organized office for that purpose.

C. Every state agency shall utilize business reply mail accounts, bulk mailing accounts, postage due accounts, zip + 4 codes, mailer applied bar codes or such other services offered by the United States Postal Service for the purpose of reducing postal costs and promoting efficiency. The Office of Management and Enterprise Services shall oversee the implementation of the provisions of this subsection.

Added by Laws 1963, c. 112, § 1. Amended by Laws 1980, c. 162, § 1, emerg. eff. April 14, 1980; Laws 1986, c. 241, § 1, eff. Nov. 1, 1986; Laws 1992, c. 238, § 1, eff. Sept. 1, 1992; Laws 1998, c. 364, § 29, emerg. eff. June 8, 1998; Laws 2003, c. 218, § 1, eff. Nov. 1, 2003; Laws 2006, c. 271, § 34, eff. July 1, 2006; Laws 2012, c. 304, § 793.

#### §74-90.2. Payment of postal expense.

Expenditures by any agency, board, commission, department or institution of the state for postage stamps or post office box rent shall only be made to United States Post Office.

Added by Laws 1963, c. 112, § 2. Amended by Laws 2010, c. 170, § 4, eff. Nov. 1, 2010.

#### §74-90.3. Exemptions.

The traveling employees of the state shall be exempt from the terms of this act while traveling on state business. The House of Representatives and Senate of the Oklahoma State Legislature shall be exempt from the terms of this act.

Laws 1963, c. 112, § 3.

#### §74-90.4. Installation cost and rental fees - Payment.

The installation cost and rental of the postage meters required by this act shall be paid for by the agency, board, commission, department or institution from the appropriations of said agency, board, commission, department or institution.

Laws 1963, c. 112, § 4.

§74-90.5. Definitions.

For the purposes of this act:

1. "State agency" means any agency, department, board or commission of the state or any state eleemosynary, educational, rehabilitative, correctional or custodial facility.

2. "Political subdivision" means any municipality, city, town, village, school or county.

Laws 1975, c. 72, § 1, emerg. eff. April 18, 1975.

§74-90.6. Purchase of imported beef by state agencies and political subdivision prohibited.

No state agency or political subdivision of the State of Oklahoma may purchase beef, or any product consisting substantially of beef, which has been imported from outside the United States of America.

Laws 1975, c. 72, § 2, emerg. eff. April 18, 1975.

§74-90.7. Penalty.

Any person knowingly and willfully violating this act shall be guilty of a misdemeanor.

Laws 1975, c. 72, § 3, emerg. eff. April 18, 1975.

§74-94. Agency having authority to designate quarters and allot space for state departments - Leases.

A. Except as otherwise provided by law, the Office of Management and Enterprise Services shall have full and complete authority to designate quarters for every department of state government, and to determine what space shall be allotted.

B. The Office may lease adequate space in state buildings and facilities to private vendors for the location of automatic teller machines as determined necessary or appropriate by the Director of the Office. The Office is hereby authorized to fix the monthly amount to be paid by such vendors, which shall be deposited in the General Revenue Fund.

Added by Laws 1913, c. 197, p. 493, § 4. Amended by Laws 1935, p. 24, § 2, emerg. eff. May 10, 1935; Laws 1972, c. 67, § 1, emerg. eff. March 28, 1972; Laws 1983, c. 304, § 117, eff. July 1, 1983; Laws 1995, c. 268, § 4; Laws 2006, c. 271, § 35, eff. July 1, 2006; Laws 2012, c. 304, § 794.

§74-95. Trade or transfer of products of state institutions.



The Office of Management and Enterprise Services shall have full and complete authority to trade and transfer any products produced or manufactured by any state institution for any commodity required for the support, maintenance, or operation of any farm or manufacturing industry located at said institution. The Office of Management and Enterprise Services shall keep a full record of said trade or transfer, and report same to the Governor of the State of Oklahoma each quarter.

Added by Laws 1913, c. 197, p. 439, § 5, as Laws 1915, c. 214, § 1, emerg. eff. April 2, 1915. Amended by Laws 1983, c. 304, § 118, eff. July 1, 1983; Laws 2012, c. 304, § 795.

§74-96. Renumbered as § 306 of Title 61 by Laws 2013, c. 209, § 18, eff. July 1, 2013.

§74-96.1. Renumbered as § 307 of Title 61 by Laws 2013, c. 209, § 19, eff. July 1, 2013.

§74-97. Renumbered as § 308 of Title 61 by Laws 2013, c. 209, § 20, eff. July 1, 2013.

§74-98. Renumbered as § 309 of Title 61 by Laws 2013, c. 209, § 21, eff. July 1, 2013.

§74-99. Renumbered as § 310 of Title 61 by Laws 2013, c. 209, § 22, eff. July 1, 2013.

§74-101. Renumbered as § 311 of Title 61 by Laws 2013, c. 209, § 23, eff. July 1, 2013.

§74-102. Renumbered as § 312 of Title 61 by Laws 2013, c. 209, § 24, eff. July 1, 2013.

§74-103. Renumbered as § 313 of Title 61 by Laws 2013, c. 209, § 25, eff. July 1, 2013.

§74-104. Renumbered as § 314 of Title 61 by Laws 2013, c. 209, § 26, eff. July 1, 2013.

§74-105. Renumbered as § 315 of Title 61 by Laws 2013, c. 209, § 27, eff. July 1, 2013.

§74-106. Renumbered as § 316 of Title 61 by Laws 2013, c. 209, § 28, eff. July 1, 2013.

§74-107. Renumbered as § 317 of Title 61 by Laws 2013, c. 209, § 29, eff. July 1, 2013.

§74-108.1. Renumbered as § 318 of Title 61 by Laws 2013, c. 209, § 30, eff. July 1, 2013.

§74-108.3. Renumbered as § 319 of Title 61 by Laws 2013, c. 209, § 31, eff. July 1, 2013.

§74-109.1. Renumbered as § 320 of Title 61 by Laws 2013, c. 209, § 32, eff. July 1, 2013.

NOTE: Subsequently repealed in same act, by Laws 2013, c. 209, § 47, eff. July 1, 2013.

§74-109.2. Renumbered as § 321 of Title 61 by Laws 2013, c. 209, § 33, eff. July 1, 2013.

§74-110.1. Inventory by Office of Management and Enterprise Services.

A. The Office of Management and Enterprise Services shall maintain a current inventory of tangible assets owned by state boards, commissions, institutions, agencies and the institutions comprising The Oklahoma State System of Higher Education and the University Hospitals Authority.

B. The Director of the Office of Management and Enterprise Services shall have authority to promulgate rules to implement the provisions of this section.

C. For entities included in subsection A of this section, the Director of the Office of Management and Enterprise Services shall specify a tangible asset reporting threshold for each entity, not to exceed the federal capitalization rate specified in the Office of Management and Budget Circular A-21 or future federal circulars or regulations as amended. When establishing the tangible asset reporting threshold for an entity, the Director of the Office of Management and Enterprise Services shall consider the entity's capability to provide tangible asset records, finance and accounting systems, inventory accuracy and other pertinent factors.

D. Tangible assets shall consist of machinery, implements, tools, furniture, livestock, vehicles and other apparatus that may be used repeatedly without material impairment of its physical condition and have a calculable period of service and a value exceeding the reporting threshold the Director of the Office of Management and Enterprise Services establishes for the entity.

E. Rules that the Director of the Office of Management and Enterprise Services promulgates shall cause all tangible assets to be properly coded, tagged, or marked in such a manner that they may be readily identified as property of the State of Oklahoma and that statistical records may be maintained.

F. The Office of Management and Enterprise Services may make periodic checks of tangible assets of entities listed in subsection A of this section. All entities will make support personnel available to the Office of Management and Enterprise Services to report tangible asset acquisitions, assist with identification and update inventories on a periodic basis.

G. The Office of Management and Enterprise Services shall report missing tangible assets to state investigative or law enforcement officials.

Added by Laws 1947, p. 587, § 1, emerg. eff. May 21, 1947. Amended by Laws 1969, c. 222, § 1, emerg. eff. April 21, 1969; Laws 1977, c. 63, § 1; Laws 1983, c. 304, § 129, eff. July 1, 1983; Laws 1986, c. 246, § 16, operative July 1, 1986; Laws 1992, c. 72, § 1; Laws 1994, c. 283, § 7, eff. Sept. 1, 1994; Laws 1998, c. 365, § 12, eff. July 1, 1998; Laws 2002, c. 448, § 1, eff. Nov. 1, 2002; Laws 2012, c. 304, § 807.

§74-110.2. Inventory records of departments, boards, etc.

The Office of Management and Enterprise Services may require inventory records to be maintained at state departments, boards, commissions, institutions, or agencies of the state, of all classes of supplies, books, machinery, implements, tools, furniture, livestock, and other apparatus as the Office deems necessary in order to comply with the provisions of Section 110.1 of this title. Added by Laws 1947, p. 587, § 2, emerg. eff. May 21, 1947. Amended by Laws 1983, c. 304, § 130, eff. July 1, 1983; Laws 1985, c. 43, § 4, operative July 1, 1985; Laws 2012, c. 304, § 808.

§74-110.3. State agencies - Inventory record of motor vehicles.

A. All state agencies shall maintain inventory records of its motor vehicles. The records shall include:

1. A detailed description of each vehicle, including its original cost;
2. The vehicle identification number;
3. The license tag number;
4. The make, model, and year of the vehicle; and
5. A designation of loaned or leased vehicles and the name of the vendor.

B. Each state agency regardless of the exceptions granted in Section 78 of this title shall provide motor vehicle inventory records to the Office of Management and Enterprise Services at such times as may be requested by the Fleet Management Division of the Office of Management and Enterprise Services.

Added by Laws 1985, c. 43, § 5, operative July 1, 1985. Amended by Laws 2012, c. 304, § 809; Laws 2013, c. 15, § 105, emerg. eff. April 8, 2013.

NOTE: Laws 2012, c. 316, § 7 repealed by Laws 2013, c. 15, § 106, emerg. eff. April 8, 2013.

§74-110.4. Higher Education Facilities Revolving Fund - Accounts and purpose.

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma State Regents for Higher Education to be designated the "Higher Education Facilities Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma State Regents for Higher Education from the assessment imposed pursuant to Section 354 of Title 17 of the Oklahoma Statutes.

B. There shall be two accounts established in such fund. It is the intent of the Legislature that one account shall be for the purpose of transfer and allocation to the University of Oklahoma for funding construction of a weather center on the campus of the University of Oklahoma and one account shall be for the purpose of transfer and allocation to Oklahoma State University for funding the purchase of equipment and renovation of facilities on the campus of Oklahoma State University for work on the application of advanced sensor technology for the detection of chemical and biological threats to homeland security. Any monies accruing to the credit of said fund shall be divided equally for deposit into the two accounts provided for herein. No funds deposited into one account shall be transferred into the other account. All monies in each account are hereby appropriated and may be budgeted and expended by the Oklahoma State Regents for Higher Education for the purpose of allocation and transfer to the University of Oklahoma and Oklahoma State University as specified herein. The monies deposited into the Higher Education Facilities Revolving Fund shall be in addition to and not a part of the appropriations made by the Legislature pursuant to Section 3 of Article XIII-A of the Oklahoma Constitution.

Added by Laws 2002, c. 23, § 2, emerg. eff. March 19, 2002. Amended by Laws 2002, c. 371, § 2, emerg. eff. June 4, 2002.

§74-111. Office of State Printer abolished - Duties transferred - Letting contracts.

The office of State Printer is hereby abolished, and the duties now provided by law to be performed by the State Printer and the State Printing Department shall be performed by the Office of Management and Enterprise Services. The Office of Management and Enterprise Services shall supervise and contract for all public printing and binding authorized by the Legislature, for the Governor, Supreme Court, and the several state institutions, state officers, or any state board or commission, created pursuant to the laws of the state. Contracts for such printing and binding shall be

let pursuant to same terms and conditions as other contracts for state supplies are let by same Office of Management and Enterprise Services in the manner provided by law.

Added by Laws 1913, c. 49, p. 87, § 2. Amended by Laws 1983, c. 304, § 131, eff. July 1, 1983; Laws 2012, c. 304, § 810.

§74-114. Records - Reports.

The Office of Management and Enterprise Services shall keep a complete set of books of all printing used by the state and shall report to the Governor semiannually, giving an itemized statement of the printing and binding used by each department, and the amount of printing done by each printing firm. Said report shall show the amount claimed and the amount allowed.

Added by Laws 1910-11, c. 130, p. 287, § 3, emerg. eff. March 22, 1911. Amended by Laws 1983, c. 304, § 132, eff. July 1, 1983; Laws 2012, c. 304, § 811.

§74-121. Contract for auditing of books of state commissions or departments.

The Director of the Office of Management and Enterprise Services, subject to the approval of the Governor, is hereby authorized to employ, or to contract with, an auditor or auditing company, to audit the books, records, and files of all state commissions or departments. Such audit is to be made by a certified accountant, or accountants or firm of certified accountants, who shall be approved by the Governor of the State of Oklahoma, contracts for such audit may be made with one or more separate certified accountants, or firm of certified accountants, for auditing of the several different departments or commissions.

Added by Laws 1931, p. 20, § 1, emerg. eff. April 17, 1931. Amended by Laws 1983, c. 304, § 135, eff. July 1, 1983; Laws 2012, c. 304, § 812.

§74-122. Duty of auditor or auditing company - Examination of books, records and files - Scope of audit.

The auditor or auditing company so employed or contracted with is hereby authorized and directed to audit, and it shall be his or its duty to audit, the books, records, and files and transactions of the departments mentioned in Section 1 of this act, and to make a written report thereof to the Governor immediately after the completion of each said audits. In making said audit, said auditor, or auditing company, shall have authority to examine all the books, records and files of said departments, and to trace to any source where any shortage or maladministration seems probable. The audits authorized by this act shall cover such periods and relate to such matters and be of the scope and extent deemed necessary by the Governor.

Laws 1931, p. 20, § 2.

§74-123f. Convict-made goods - Sale or distribution prohibited - Exceptions.

No products, wares, or merchandise produced, manufactured, or mined, wholly or in part, by convicts or prisoners of this state, who are employed in the state prison industries program, may be offered for sale, sold, exchanged, or distributed in this state, whether contained in the original package or otherwise. This section shall not prohibit the sale or distribution of such products, wares, or merchandise by or for the state to departments, institutions, or agencies administered and supported by the state or its political subdivisions, and any other wholly or partially tax-supported institutions, or nonprofit charitable agencies for distribution to the needy. This section shall not prohibit the sale or distribution of such products, wares, or merchandise produced by Oklahoma Correctional Industries or products produced by the Agri-Services Division of the Department of Corrections by or for sale to employees or retirees of the State of Oklahoma, or to employees or retirees of any political subdivision of the state. This section shall not prohibit the sale or distribution of housing components produced by Oklahoma Correctional Industries by or for sale to any community action agency or council of governments within this state. This section shall not prohibit the sale of brick and building tile or furniture manufactured by said state institutions to churches which are located in the State of Oklahoma. All purchase orders made pursuant to the provisions of this section for such brick or building tile or furniture shall contain an affidavit stating that the brick or building tile shall not be used for purposes other than for the building of churches, or that the furniture shall not be used for any purpose other than church purposes. If said state departments, institutions, agencies, or nonprofit charitable agencies do not buy or contract to buy in advance of the season for which said wares or goods are made, and make a satisfactory guarantee to the Office of Management and Enterprise Services for fulfillment of their contract to purchase all the output, the state may then sell in open market any such goods or wares not generally manufactured in this state. The provisions of this section shall not apply to the sale or distribution of surplus perishable, agricultural products nor to individual articles made by hand by prisoners during their leisure time. This section shall not be construed as preventing the Office of Management and Enterprise Services or other state agency or agencies from manufacturing and selling such goods, wares, or merchandise as are not generally manufactured in this state.

Added by Laws 1937, p. 115, § 7, emerg. eff. May 22, 1937. Amended by Laws 1939, p. 115, § 2, emerg. eff. April 25, 1939; Laws 1953, p.

407, § 1, emerg. eff. June 8, 1953; Laws 1955, p. 459, § 1, emerg. eff. June 7, 1955; Laws 1977, c. 258, § 1, eff. Oct. 1, 1977; Laws 1983, c. 304, § 136, eff. July 1, 1983; Laws 2003, c. 92, § 2, eff. Nov. 1, 2003; Laws 2004, c. 398, § 2; Laws 2006, c. 267, § 2, eff. Nov. 1, 2006; Laws 2012, c. 304, § 813.

§74-126.1. Renumbered as § 322 of Title 61 by Laws 2013, c. 209, § 34, eff. July 1, 2013.

§74-126.2. Renumbered as § 323 of Title 61 by Laws 2013, c. 209, § 35, eff. July 1, 2013.

§74-128.1. Renumbered as § 324 of Title 61 by Laws 2013, c. 209, § 36, eff. July 1, 2013.

§74-128.2. Renumbered as § 325 of Title 61 by Laws 2013, c. 209, § 37, eff. July 1, 2013.

§74-128.3. Renumbered as § 326 of Title 61 by Laws 2013, c. 209, § 38, eff. July 1, 2013.

§74-129.4. Renumbered as § 327 of Title 61 by Laws 2013, c. 209, § 39, eff. July 1, 2013.

§74-129.4f. Renumbered as § 328 of Title 61 by Laws 2013, c. 209, § 40, eff. July 1, 2013.

§74-129.5. Renumbered as § 329 of Title 61 by Laws 2013, c. 209, § 41, eff. July 1, 2013.

§74-129.6. Renumbered as § 330 of Title 61 by Laws 2013, c. 209, § 42, eff. July 1, 2013.

§74-129.7. Renumbered as § 331 of Title 61 by Laws 2013, c. 209, § 43, eff. July 1, 2013.

§74-129.8. Renumbered as § 332 of Title 61 by Laws 2013, c. 209, § 44, eff. July 1, 2013.

§74-130. Alternative fuels - Transfer of powers, duties and responsibilities.

All powers, duties, and responsibilities of the Oklahoma Alternative Fuels Conversion Act and the Alternative Fuels Technician Certification Act now exercised by the Corporation Commission pursuant to law are hereby transferred to the Office of Management and Enterprise Services, together with all unexpended

funds, property, records, personnel, and any outstanding financial obligations and encumbrances related thereto.

Added by Laws 1991, c. 235, § 21, eff. July 1, 1991. Amended by Laws 2012, c. 304, § 822.

§74-130.1. Short title.

Sections 1 through 10 of this act shall be known and may be cited as the "Oklahoma Alternative Fuels Conversion Act".

Added by Laws 1990, c. 336, § 1, operative July 1, 1990. Renumbered from Title 17, § 601 by Laws 1991, c. 235, § 23, eff. July 1, 1991.

NOTE: Section was editorially renumbered from Title 17, § 401 to Title 17, § 601 to avoid a duplication in numbering.

§74-130.2. Definitions.

As used in the Oklahoma Alternative Fuels Conversion Act:

1. "Alternative fuels" means natural gas and liquid fuels produced from natural gas, liquefied petroleum gas, ethanol, methanol, electricity, biodiesel, coal-derived liquid fuels, hydrogen and fuels derived from biological materials;

2. "Charge station" means the physical device that provides a connection from a power source to an electric vehicle;

3. "Conversion kit" means the equipment installed to modify a motor vehicle which is propelled by gasoline or diesel fuel so that the vehicle may be propelled by an alternative fuel;

4. "Diesel fuel" means diesel engine fuel, and all other liquids suitable for the generation of power for the propulsion of motor vehicles except gasoline;

5. "Fill station" means the equipment and conveyance property that provides the delivery and, if required, compression of an alternative fuel other than electricity;

6. "Gallon" means the quantity of fluid or liquid at a temperature of sixty degrees (60°) Fahrenheit necessary to completely fill a United States standard gallon liquid measure;

7. "Gasoline" means the same as motor fuel and means every liquid petroleum product, or any combination thereof, other than solvents as herein defined, having an A.P.I. gravity of forty-six degrees (46°) or above at a temperature of sixty degrees (60°) Fahrenheit and at atmospheric pressure, and includes drip, casinghead or natural gasoline. The term gasoline also includes any liquid of less than forty-six degrees (46°) A.P.I. gravity at a temperature of sixty degrees (60°) Fahrenheit compounded, blended, manufactured or otherwise produced by mixing or blending gasoline or solvents with any blending materials, as hereinafter defined, when the blended product can be used for generating power in internal combustion engines, regardless of how such liquid is made, compounded, manufactured or recovered and regardless of the name by which such liquid may be known or sold;



8. "Government vehicle" means all motor vehicles, including, but not limited to, transit vehicles operated by any entity pursuant to Section 4031 et seq. of Title 69 of the Oklahoma Statutes or designated as public transit by the Department of Transportation, buses, trucks, law enforcement vehicles and emergency vehicles, owned and operated by the State of Oklahoma, any public trust authority, county, municipality, town or city within this state;

9. "Sale" means sales, barter, exchanges, and every other manner, method, and form of transferring the ownership of personal property from one person to another, and also includes the use or consumption in this state in the first instance of gasoline received from without the state or of any other gasoline upon which the surcharge has not been paid;

10. "School vehicle" means all buses and multi-passenger motor vehicles owned and approved to operate by the State Department of Education or any school district within this state; and

11. "Solvents" means especially prepared commercial and industrial solvents, cleaners' and painters' naphthas, and raw petroleum materials or petrochemical intermediates when used as or sold for use in production or manufacture of plastics, detergents, synthetic rubber, herbicides, insecticides and other chemicals or products which are not prepared, advertised, offered for sale, or sold for use or suitable for use as fuel for generating power in internal combustion engines.

Added by Laws 1990, c. 336, § 2, operative July 1, 1990. Amended by Laws 1991, c. 235, § 1, eff. July 1, 1991. Renumbered from § 602 of Title 17 by Laws 1991, c. 235, § 23, eff. July 1, 1991. Amended by Laws 1993, c. 224, § 1, eff. Sept. 1, 1993; Laws 1994, c. 379, § 2, eff. Sept. 1, 1994; Laws 1998, c. 160, § 1, eff. Nov. 1, 1998; Laws 2005, c. 287, § 2, eff. July 1, 2005; Laws 2009, c. 371, § 4, emerg. eff. May 29, 2009.

NOTE: Section was editorially renumbered from § 402 of Title 17 to § 602 of Title 17 to avoid a duplication in numbering.

§74-130.3. Conversion of school and government vehicles to operate on alternative fuel.

A. All school vehicles and all government vehicles may be converted to operate on an alternative fuel. The state, any county or municipal government and any school district within the state may have access to the Oklahoma Alternative Fuels Conversion Fund and the reasonable expenses of the conversions and/or the installation of a fill station or charge station may be reimbursed in the manner pursuant to Section 130.4 of this title if the state, county, municipality or school district can pay back such conversion and/or fill station or charge station installation costs within seven (7) years of the date of conversion and/or fill station or charge station installation. Beginning July 1, 1995, all school districts

within this state should consider only purchasing school vehicles which have the capability to operate on an alternative fuel.

B. The reasonable expenses of the conversion of the school vehicle fleets and the government vehicle fleets that are converted pursuant to subsection A of this section shall be reimbursed in the manner pursuant to Section 130.4 of this title.

C. The reasonable expenses of the installation of a fill station or charge station that is installed pursuant to subsection A of this section shall be reimbursed in the manner pursuant to Section 130.4 of this title.

D. Any vehicle converted to have the capability of being fueled or charged by alternative fuels pursuant to the provisions of the Oklahoma Alternative Fuels Conversion Act shall not be sold or otherwise transferred to another person or entity before the total reimbursement of the cost of such conversion pursuant to the provisions of the Oklahoma Alternative Fuels Conversion Act unless such conversion equipment is removed and installed on another government vehicle or school vehicle owned by such public entity.

E. Any fill station or charge station installed pursuant to the provisions of the Oklahoma Alternative Fuels Conversion Act shall not be sold or otherwise transferred to another person or entity before the total reimbursement of the cost of such fill station or charge station pursuant to the provisions of the Oklahoma Alternative Fuels Conversion Act.

F. All school vehicles and all government vehicles which are converted to operate on alternative fuel shall be required to use such alternative fuel whenever a fill station or charge station is in operation within a five-mile radius of the respective department, district, agency, office, or political subdivision that has converted vehicles to operate on alternative fuel, and the price of the alternative fuel is comparable to the price of the fuel being displaced. School vehicles and government vehicles that are capable of operating on a conventional fuel as well as an alternative fuel shall be exempt from this restriction on those occasions when the vehicle or vehicles must be refueled outside the five-mile radius of the respective department, district, agency, office or political subdivision that has said vehicle and no alternative fuel fill station or charge station is reasonably available.

Added by Laws 1990, c. 336, § 3, operative July 1, 1990. Amended by Laws 1991, c. 235, § 2, eff. July 1, 1991. Renumbered from Title 17, § 603 by Laws 1991, c. 235, § 23, eff. July 1, 1991. Amended by Laws 1994, c. 379, § 3, eff. Sept. 1, 1994; Laws 1998, c. 160, § 2, eff. Nov. 1, 1998; Laws 2003, c. 232, § 1, eff. Nov. 1, 2003.

NOTE: Section was editorially renumbered from Title 17, § 403 to Title 17, § 603 to avoid a duplication in numbering.

§74-130.4. Oklahoma Alternative Fuels Conversion Fund.

A. There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services to be designated as the "Oklahoma Alternative Fuels Conversion Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Office of Management and Enterprise Services pursuant to Section 130.5 of this title.

B. All monies accruing to the credit of the revolving fund shall be expended by the Office of Management and Enterprise Services to reimburse expenses relative to the conversion of government vehicles and school vehicles to have the capability of being fueled or charged by alternative fuels and/or the expenses relative to the installation of a fill station or charge station. The maximum amount expended per vehicle shall be the actual cost of vehicle conversion or Ten Thousand Dollars (\$10,000.00), whichever is less. The maximum amount expended per fill station or charge station shall be the actual cost of the installation or Three Hundred Thousand Dollars (\$300,000.00), whichever is less. The balance on deposit in the fund shall never exceed the sum of Five Million Dollars (\$5,000,000.00).

C. Expenditures from the revolving fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1990, c. 336, § 4, operative July 1, 1990. Amended by Laws 1991, c. 235, § 3, eff. July 1, 1991. Renumbered from § 604 of Title 17 by Laws 1991, c. 235, § 23, eff. July 1, 1991. Amended by Laws 1993, c. 224, § 2, eff. Sept. 1, 1993; Laws 1998, c. 160, § 3, eff. Nov. 1, 1998; Laws 2002, c. 38, § 1; Laws 2009, c. 371, § 5, emerg. eff. May 29, 2009; Laws 2012, c. 304, § 823.

NOTE: Section was editorially renumbered from § 404 of Title 17 to § 604 of Title 17 to avoid a duplication in numbering.

§74-130.5. Reimbursement of Alternative Fuels Fund - Accounts - Surcharge on sales of alternative fuels - Collection and apportionment - Suspension of surcharge.

A. The Oklahoma Alternative Fuels Conversion Fund shall be reimbursed by a surcharge on alternative fuels sold within the state under the provisions of the Oklahoma Alternative Fuels Conversion Act.

B. A reimbursement account shall be established in the name of each recipient of reimbursement for vehicle conversion and/or fill station installation pursuant to the provisions of Section 603 of this title. The initial amount of each recipient's account shall be the amount of the reimbursement received by that recipient. A recipient's account shall be increased by the amount of any subsequent reimbursement received by that recipient; a recipient's

account shall be reduced by the amount of all surcharges on alternative fuels paid by that recipient.

C. A surcharge in an amount equivalent to the per gallon fuel cost savings in utilizing alternative fuels is hereby levied on sales of alternative fuels to recipients of reimbursement for vehicle conversion and/or fill station installation pursuant to the provisions of Section 603 of this title. Initially, the amount of the surcharge shall be based upon monthly fuel savings as determined in the manner prescribed in subsection A of Section 603 of this title. Such amount shall be adjusted periodically, by the Oklahoma Tax Commission, to reflect any change in the amount of fuel savings actually received by the recipient. The surcharge shall not be levied on sales of alternative fuels for any other purposes. The surcharge shall continue on sales to each such recipient for so long as that recipient maintains a reimbursement account. When the reimbursement account for a recipient is reduced to zero, the surcharge levied by this section shall terminate until such time as a reimbursement account may be re-established for that recipient.

D. The surcharge levied by this section shall be collected by the Oklahoma Tax Commission and apportioned monthly to the Oklahoma Alternative Fuels Conversion Fund.

E. The surcharge levied by this section shall be suspended whenever the price of the alternative fuel used by the recipient is equal to or greater than the price of the original fuel displaced by the alternative fuel which may be purchased by such recipient. Provided, such surcharge shall be reinstated whenever the price of the alternative fuel used by the recipient becomes less than the price of the original fuel displaced by the alternative fuel which may be purchased by such recipient.

F. The Oklahoma Tax Commission shall adopt rules and regulations relating to the payment and collection of the surcharge levied by this section.

Added by Laws 1990, c. 336, § 5, operative July 1, 1990. Amended by Laws 1991, c. 235, § 4, eff. July 1, 1991. Renumbered from Title 17, § 605 by Laws 1991, c. 235, § 23, eff. July 1, 1991.

NOTE: Section was editorially renumbered from Title 17, § 406 to Title 17, § 605 to avoid a duplication in numbering.

§74-130.6. Fund expenditures not deemed debt of government entity.

Expenditures from the Oklahoma Alternative Fuels Conversion Fund for vehicle conversions and/or fill station installations pursuant to Section 603 of this title shall not at any time be deemed to constitute a debt of the state, county, municipality or school district which owns such vehicle or fill station or a pledge of the faith and credit of the state or such county, municipality or school district, but such expenditures shall be reimbursed solely by a surcharge on the alternative fuel sold to the state or such county,

municipality or school district pursuant to Section 605 of this title.

Added by Laws 1990, c. 336, § 6, operative July 1, 1990. Amended by Laws 1991, c. 235, § 5, eff. July 1, 1991. Renumbered from Title 17, § 606 by Laws 1991, c. 235, § 23, eff. July 1, 1991.

NOTE: Section was editorially renumbered from Title 17, § 407 to Title 17, § 606 to avoid a duplication in numbering.

#### §74-130.7. Compliance with Act.

Compliance with the provisions of the Oklahoma Alternative Fuels Conversion Act shall be dependent upon the existence of funds within the Oklahoma Alternative Fuels Conversion Fund.

Added by Laws 1990, c. 336, § 7, operative July 1, 1990. Renumbered from Title 17, § 607 by Laws 1991, c. 235, § 23, eff. July 1, 1991.

NOTE: Section was editorially renumbered from Title 17, § 409 to Title 17, § 607 to avoid a duplication in numbering.

#### §74-130.8. Pricing and selling of transportation fuels not to be regulated by governmental entity.

The price and sale of natural gas, methanol, electricity, "M-85", and biodiesel utilized as a transportation fuel in a motor vehicle shall not be regulated by any governmental entity within this state.

Added by Laws 1991, c. 235, § 6, eff. July 1, 1991. Amended by Laws 1993, c. 224, § 3, eff. Sept. 1, 1993; Laws 1998, c. 160, § 4, eff. Nov. 1, 1998; Laws 2005, c. 287, § 3, eff. July 1, 2005.

#### §74-130.8A. Repealed by Laws 2009, c. 371, § 7, emerg. eff. May 29, 2009.

#### §74-130.9. Rules and regulations.

Except as provided for in subsection F of Section 130.5 of this title, the Office of Management and Enterprise Services shall adopt rules and regulations necessary to carry out the provisions of the Oklahoma Alternative Fuels Conversion Act.

Added by Laws 1990, c. 336, § 9, operative July 1, 1990. Amended by Laws 1991, c. 235, § 7, eff. July 1, 1991. Renumbered from Title 17, § 609 by Laws 1991, c. 235, § 23, eff. July 1, 1991. Amended by Laws 2012, c. 304, § 824.

NOTE: Section was editorially renumbered from § 405 of Title 17 to § 609 of Title 17, to avoid a duplication in numbering.

#### §74-130.10. Penalties.

Any person convicted of violating the provisions of the Oklahoma Alternative Fuels Conversion Act shall be guilty of a misdemeanor and shall be punished by a fine of not more than Five Hundred

Dollars (\$500.00) or by confinement in the county jail not to exceed thirty (30) days, or by both fine and imprisonment.

Added by Laws 1990, c. 336, § 10, operative July 1, 1990.

Renumbered from Title 17, § 610 by Laws 1991, c. 235, § 23, eff. July 1, 1991.

NOTE: Section was editorially renumbered from Title 17, § 408 to Title 17, § 610 to avoid a duplication in numbering.

§74-130.11. Renumbered as § 142.2 of Title 40 by Laws 2014, c. 328, § 15. Editorially renumbered as § 142.3 of Title 40 to avoid a duplication in numbering.

§74-130.12. Renumbered as § 142.3 of Title 40 by Laws 2014, c. 328, § 16. Editorially renumbered as § 142.4 of Title 40 to avoid a duplication in numbering.

§74-130.13. Renumbered as § 142.4 of Title 40 by Laws 2014, c. 328, § 17. Editorially renumbered as § 142.5 of Title 40 to avoid a duplication in numbering.

§74-130.14. Renumbered as § 142.5 of Title 40 by Laws 2014, c. 328, § 18. Editorially renumbered as § 142.6 of Title 40 to avoid a duplication in numbering.

§74-130.15. Renumbered as § 142.6 of Title 40 by Laws 2014, c. 328, § 19. Editorially renumbered as § 142.7 of Title 40 to avoid a duplication in numbering.

§74-130.16. Renumbered as § 142.7 of Title 40 by Laws 2014, c. 328, § 20. Editorially renumbered as § 142.8 of Title 40 to avoid a duplication in numbering.

§74-130.17. Renumbered as § 142.8 of Title 40 by Laws 2014, c. 328, § 21. Editorially renumbered as § 142.9 of Title 40 to avoid a duplication in numbering.

§74-130.18. Renumbered as § 142.9 of Title 40 by Laws 2014, c. 328, § 22. Editorially renumbered as § 142.10 of Title 40 to avoid a duplication in numbering.

§74-130.19. Renumbered as § 142.10 of Title 40 by Laws 2014, c. 328, § 23. Editorially renumbered as § 142.11 of Title 40 to avoid a duplication in numbering.

§74-130.20. Renumbered as § 142.11 of Title 40 by Laws 2014, c. 328, § 24. Editorially renumbered as § 142.12 of Title 40 to avoid a duplication in numbering.

§74-130.21. Renumbered as § 142.12 of Title 40 by Laws 2014, c. 328, § 25. Editorially renumbered as § 142.13 of Title 40 to avoid a duplication in numbering.

§74-130.22. Renumbered as § 142.13 of Title 40 by Laws 2014, c. 328, § 26. Editorially renumbered as § 142.14 of Title 40 to avoid a duplication in numbering.

§74-130.23. Renumbered as § 142.14 of Title 40 by Laws 2014, c. 328, § 27. Editorially renumbered as § 142.15 of Title 40 to avoid a duplication in numbering.

§74-130.24. Renumbered as § 142.15 of Title 40 by Laws 2014, c. 328, § 28. Editorially renumbered as § 142.16 of Title 40 to avoid a duplication in numbering.

§74-130.25. Compressed Natural Gas Conversion Safety and Regulation Fund.

A. There is hereby created in the State Treasury a revolving fund for the Department of Labor to be designated as the "Compressed Natural Gas Conversion Safety and Regulation Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department of Labor pursuant to Section 2357.22 of Title 68 of the Oklahoma Statutes.

B. All monies accruing to the credit of the revolving fund shall be expended by the Department of Labor to inspect, regulate and enforce safety regulations of the conversion of motor vehicles for operation on compressed natural gas.

C. Expenditures from the revolving fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2014, c. 328, § 13.

§74-149. Repealed by Laws 2005, c. 190, § 20, eff. Sept. 1, 2005.

§74-150.1. Short title

There is hereby created an agency of state government to be designated the Oklahoma State Bureau of Investigation.

Laws 1976, c. 259, § 1, operative July 1, 1976.

§74-150.2. Powers and duties.

The Oklahoma State Bureau of Investigation shall have the power and duty to:

1. Maintain a nationally accredited scientific laboratory to assist all law enforcement agencies in the discovery and detection of criminal activity;

2. Maintain fingerprint and other identification files including criminal history records, juvenile identification files, and DNA profiles;

3. Establish, coordinate and maintain the automated fingerprinting identification system (AFIS) and the deoxyribonucleic acid (DNA) laboratory;

4. Operate teletype, mobile and fixed radio or other communications systems;

5. Conduct schools and training programs for the agents, peace officers, and technicians of this state charged with the enforcement of law and order and the investigation and detection of crime;

6. Assist the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Chief Medical Examiner, and all law enforcement officers and district attorneys when such assistance is requested, in accordance with the policy determined by the Oklahoma State Bureau of Investigation Commission established in Section 150.3 of this title;

7. Investigate and detect criminal activity when directed to do so by the Governor;

8. Investigate, detect, institute and maintain actions involving vehicle theft pursuant to Section 150.7a of this title or oil, gas or oil field equipment theft pursuant to Sections 152.2 through 152.9 of this title;

9. Investigate any criminal threat made to the physical safety of elected or appointed officials of this state or any political subdivision of the state and forward the results of that investigation to the Department of Public Safety, and provide security to foreign elected or appointed officials while they are in this state on official business;

10. Investigate and detect violations of the Oklahoma Computer Crimes Act; and

11. Investigate and enforce all laws relating to any crime listed in Section 571 of Title 57 of the Oklahoma Statutes that occur on the turnpikes.

Added by Laws 1976, c. 259, § 2, operative July 1, 1976. Amended by Laws 1983, c. 145, § 1, eff. Jan. 1, 1984; Laws 1986, c. 201, § 8, operative July 1, 1986; Laws 1989, c. 353, § 9, emerg. eff. June 3, 1989; Laws 1990, c. 282, § 3, operative July 1, 1990; Laws 1991, c. 227, § 2, emerg. eff. May 23, 1991; Laws 1991, c. 335, § 31, emerg. eff. June 15, 1991; Laws 1994, c. 259, § 1, eff. Sept. 1, 1994; Laws 1996, c. 281, § 1, emerg. eff. June 5, 1996; Laws 2001, c. 261, § 1, eff. July 1, 2001; Laws 2002, c. 351, § 1, emerg. eff. May 30, 2002; Laws 2003, c. 461, § 15, eff. July 1, 2003; Laws 2006, c. 303, § 1, eff. Nov. 1, 2006; Laws 2015, c. 397, § 7, eff. Nov. 1, 2015.



NOTE: Laws 1986, c. 46, § 1 repealed by Laws 1989, c. 353, § 14, emerg. eff. June 3, 1989. Laws 1991, c. 226, § 3 repealed by Laws 1991, c. 335, § 37, emerg. eff. June 15, 1991.

§74-150.3. State Bureau of Investigation Commission.

A. There is hereby created an Oklahoma State Bureau of Investigation Commission which shall consist of seven (7) members, not more than two of whom shall be from the same congressional district. When congressional districts are redrawn, each member appointed prior to July 1 of the year in which such modification becomes effective shall complete the current term of office and appointments made after July 1 of the year in which such modification becomes effective shall be based on the redrawn districts. No appointments may be made after July 1 of the year in which such modification becomes effective if such appointment would result in more than two members serving from the same modified district. The members shall be appointed by the Governor and confirmed by the Senate and shall be removable only for cause, as provided by law for the removal of officers not subject to impeachment. The term of office of each member shall be seven (7) years. The first appointments shall be for the following terms as designated by the Governor: one member for a term of one (1) year; one member for a term of two (2) years; one member for a term of three (3) years; one member for a term of four (4) years; one member for a term of five (5) years; one member for a term of six (6) years; and one member for a term of seven (7) years. A member may serve more than one term on the Commission. Each member shall continue to serve so long as the member is qualified until a successor has been appointed and confirmed by the Senate. Vacancies occurring during a term shall be filled for the unexpired portion of the term by the same procedure used to make the regular appointments.

B. Four of the members shall represent the lay citizenry, one member shall be a district attorney while serving in that capacity, one member shall be a sheriff while serving in that capacity, and one member shall be a chief of police while serving in that capacity; provided that the sheriff and police chief members shall have successfully completed an approved course of instruction for peace officers as required by law.

C. Annually the Commission shall select one of the Commission members to serve as chair and one member to serve as vice-chair. The Commission shall meet at least quarterly. The chair shall preside at all meetings of the Commission and shall have the power to call meetings of the Commission. In addition, meetings of the Commission may be called by a majority of the members. The vice-chair shall perform these functions in the absence or incapacity of the chair. A quorum of four members of the Commission shall be

necessary to conduct any official business. All actions taken by the Commission shall be by a simple majority vote of a quorum. In the event of a tie vote, the measure being voted upon shall be deemed to have failed.

The Commission shall adopt rules of procedure for the orderly performance of its functions.

D. Members of the Commission shall serve without salary but may be reimbursed for travel and other expenses in attending meetings and performing their duties in the manner provided for other state officers and employees under the State Travel Reimbursement Act. The lay-citizen members shall be paid Thirty Dollars (\$30.00) per diem for attendance at meetings of the Commission. No other provisions of law shall be construed as prohibiting public officers from also serving as members of the Commission, nor shall any other provisions of law be construed as prohibiting public officers or public employees from performing services for the Commission without compensation. It is further provided that no town, city, county or other subdivision or other agency of state government shall be prohibited from receiving a grant or from benefiting from grants or expenditures of the Commission for the reason that an officer or employee of such town, city, county or other subdivision or agency of state government is a Commission member or employee.

Added by Laws 1976, c. 259, § 3, operative July 1, 1976. Amended by Laws 1985, c. 178, § 68, operative July 1, 1985; Laws 2002, c. 375, § 21, eff. Nov. 5, 2002; Laws 2003, c. 229, § 7, emerg. eff. May 20, 2003.

#### §74-150.4. Commission - Powers and duties.

The Commission shall have the following powers and duties and responsibilities:

1. To appoint the Director of the Oklahoma State Bureau of Investigation, whose compensation shall be determined by the Legislature.

2. To hear any complaint against the Bureau or any of its employees according to the following procedure:

- a. Only those complaints which have been submitted in writing and are signed will be acted upon by the Commission.

- b. All hearings on complaints shall be conducted in executive sessions, and shall not be open to the public.

- c. The Commission shall have limited access to pertinent investigative files when investigating a complaint. The Director shall provide a procedure whereby the identification of all persons named in any investigative file except the subject of the complaint and the complaining witness shall not be revealed to the members of the Commission. Any consideration of files shall be in executive session not open to the public. No information or evidence received in connection with the hearings shall be revealed

to any person or agency. Any violation hereof shall be grounds for removal from the Commission, and shall constitute a misdemeanor.

3. To make recommendations to the Director of any needed disciplinary action necessary as a result of an investigation conducted upon a complaint received.

4. To establish general procedures with regard to assisting law enforcement officers and district attorneys.

5. To establish a program of training for agents utilizing such courses as the National Police Academy conducted by the Federal Bureau of Investigation.

6. To require the Director to advise the Commission on the progress of pending investigations. All discussions of pending investigations shall be conducted in executive session not open to the public and no minutes of such sessions shall be kept. The Director shall not reveal the identity of any witnesses interviewed or the substance of their statements. No information received by the Commission shall be revealed to any person or agency by any Commission member. Any violation of this paragraph by a Commission member shall be grounds for removal from the Commission and shall constitute a misdemeanor.

Laws 1976, c. 259, § 4, operative July 1, 1976.

§74-150.5. Investigations - Persons to initiate request.

A. 1. Oklahoma State Bureau of Investigation investigations not covered under Section 150.2 of this title shall be initiated at the request of the following persons:

- a. the Governor,
- b. the Attorney General,
- c. the Council on Judicial Complaints upon a vote by a majority of the Council,
- d. the chair of any Legislative Investigating Committee which has been granted subpoena powers by resolution, upon authorization by a vote of the majority of the Committee,
- e. the Director of the Department of Human Services, or designee, as authorized by Section 1-2-105 of Title 10A of the Oklahoma Statutes, or
- f. a district court judge as authorized by Section 1-2-103 of Title 10A of the Oklahoma Statutes.

2. Requests for investigations shall be submitted in writing and shall contain specific allegations of wrongdoing under the laws of the State of Oklahoma.

B. The Governor may initiate special background investigations with the written consent of the person who is the subject of the investigation.

C. The chair of any Senate committee which is fulfilling the statutory responsibility for approving nominations made by the

Governor may, upon a vote by a majority of the committee and with the written consent of the person who is to be the subject of the investigation, initiate a special background investigation of any nominee for the Oklahoma Horse Racing Commission as established by Section 201 of Title 3A of the Oklahoma Statutes or any nominee for the Board of Trustees of the Oklahoma Lottery Commission as established by Section 704 of Title 3A of the Oklahoma Statutes. The Bureau shall submit a report to the committee within thirty (30) days of the receipt of the request. Any consideration by the committee of a report from the Bureau shall be for the exclusive use of the committee and shall be considered only in executive session.

D. 1. All records relating to any investigation being conducted by the Bureau, including any records of laboratory services provided to law enforcement agencies pursuant to paragraph 1 of Section 150.2 of this title, shall be confidential and shall not be open to the public or to the Commission except as provided in Section 150.4 of this title; provided, however, officers and agents of the Bureau may disclose, at the discretion of the Director, such investigative information to:

- a. officers and agents of federal, state, county, or municipal law enforcement agencies and to district attorneys, in the furtherance of criminal investigations within their respective jurisdictions,
- b. employees of the Department of Human Services in the furtherance of child abuse investigations, and
- c. appropriate accreditation bodies for the purposes of the Bureau's obtaining or maintaining accreditation.

2. Any unauthorized disclosure of any information contained in the confidential files of the Bureau shall be a misdemeanor. The person or entity authorized to initiate investigations in this section, and the Attorney General in the case of investigations initiated by the Insurance Commissioner, shall receive a report of the results of the requested investigation. The person or entity requesting the investigation may give that information only to the appropriate prosecutorial officer or agency having statutory authority in the matter if that action appears proper from the information contained in the report, and shall not reveal or give such information to any other person or agency. Violation hereof shall be deemed willful neglect of duty and shall be grounds for removal from office.

E. It shall not be a violation of this section to reveal otherwise confidential information to outside agencies or individuals who are providing interpreter services, questioned document analysis, laboratory services, or other specialized services that are necessary in the assistance of Bureau investigations. Individuals or agencies receiving the confidential and investigative information or records or results of laboratory

services provided to the Bureau by those agencies or individuals, shall be subject to the confidentiality provisions and requirements established in subsection D of this section.

F. It shall not be a violation of this section to reveal for training or educational purposes otherwise confidential information from records relating to any investigation previously conducted by the Bureau, including any records of laboratory services provided to law enforcement agencies pursuant to paragraph 1 of Section 150.2 of this title, so long as ten (10) or more years have passed since the production of the information or record.

G. It shall not be a violation of this section to reveal otherwise confidential information from records relating to any investigation being conducted by the Bureau, including any records of laboratory services provided to law enforcement agencies pursuant to paragraph 1 of Section 150.2 of this title or to the public, provided, release of the confidential information has been authorized by the Director of the Bureau for the purposes of developing or obtaining further information reasonably necessary to the successful conclusion of a criminal investigation being conducted by the Bureau or authorized by the Director of the Bureau for the purpose of advising crime victims or family representatives of homicide victims regarding the status of a pending investigation.

H. The State Treasurer shall initiate a complete background investigation of the positions with the written consent of the persons who are the subject of the investigation pursuant to subsection I of Section 71.1 of Title 62 of the Oklahoma Statutes. The Bureau shall advise the State Treasurer and the Cash Management and Investment Oversight Commission in writing of the results of the investigation.

Added by Laws 1976, c. 259, § 5, operative July 1, 1976. Amended by Laws 1983, c. 96, § 1, eff. Oct. 1, 1983; Laws 1989, c. 369, § 145, operative July 1, 1989; Laws 1994, c. 227, § 5, emerg. eff. May 24, 1994; Laws 1999, c. 344, § 8, emerg. eff. June 8, 1999; Laws 2000, c. 70, § 1, eff. Nov. 1, 2000; Laws 2002, c. 77, § 1, emerg. eff. April 15, 2002; Laws 2005, c. 37, § 1, emerg. eff. April 12, 2005; Laws 2005, c. 278, § 1, eff. Nov. 1, 2005; Laws 2006, c. 205, § 17, eff. Nov. 1, 2006; Laws 2008, c. 121, § 1, eff. Nov. 1, 2008; Laws 2009, c. 234, § 162, emerg. eff. May 21, 2009; Laws 2010, c. 240, § 1, emerg. eff. May 10, 2010; Laws 2011, c. 137, § 1, eff. Nov. 1, 2011.

#### §74-150.6. Director - Qualifications

A. The Oklahoma State Bureau of Investigation shall be under the operational control of a Director. The Director shall be appointed or dismissed by a majority vote of the total membership of the Commission. The Director shall be a professional law enforcement officer who possesses a bachelor's degree from an

accredited college or university and who shall have a minimum of five (5) years' experience in criminal investigation and/or law enforcement or five (5) years' experience as an agent with said Bureau and must have at least two (2) years' experience in an administrative position.

B. Any Director appointed on or after July 1, 2003, may participate in either the Oklahoma Public Employees Retirement System or in the Oklahoma Law Enforcement Retirement System and shall make an irrevocable election in writing to participate in one of the two retirement systems.

Added by Laws 1976, c. 259, § 6, operative July 1, 1976. Amended by Laws 2003, c. 199, § 14, emerg. eff. May 7, 2003.

#### §74-150.6a. Salaries.

The salary of the Deputy Director shall be ninety-five percent (95%) of that received by the Director. The salary of a Division Director shall be ninety percent (90%) of that received by the Director. Subject to the availability of funds, the annual salaries for Oklahoma State Bureau of Investigation employees shall be in accordance and conformity with the findings of the State of Oklahoma Total Remuneration Study of 2013, exclusive of longevity pay, as authorized by Section 840-2.18 of this title or the findings of state or agency salary, compensation, and remuneration studies or surveys approved by the Human Capital Management Division of the Office of Management and Enterprise Services.

Nothing in this section shall be construed to prohibit a reduction in pay or salary due to involuntary leave without pay as authorized in Section 840-2.27C of this title.

Added by Laws 1998, c. 305, § 1, eff. July 1, 1998. Amended by Laws 1998, c. 418, § 63, eff. July 1, 1998; Laws 2000, c. 37, § 14, eff. Oct. 1, 2000; Laws 2004, c. 346, § 1, eff. July 1, 2004; Laws 2006, 2nd Ex. Sess., c. 83, § 10, eff. Oct. 1, 2006; Laws 2007, c. 259, § 1, eff. Nov. 1, 2007; Laws 2013, c. 351, § 2, eff. July 1, 2013; Laws 2015, c. 62, § 1, eff. July 1, 2015.

#### §74-150.7. Director - Powers and duties.

The Director of the Oklahoma State Bureau of Investigation shall have the following powers, duties and responsibilities:

1. To appoint or dismiss a Deputy Director who shall have the same qualifications as the Director;

2. To supervise the maintaining of all reports and records of the Bureau and to promulgate administrative rules concerning the destruction and retention of such records. Such records shall not be transferred to the custody or control of the Archives and Records Commission or be subject to the provisions of Section 590 of Title 21 of the Oklahoma Statutes. The Director may, pursuant to adopted and promulgated administrative rule, order destruction of records

deemed to be no longer of value to the Bureau, excluding criminalistic and investigative records which shall forever be kept and maintained;

3. To report to the Commission at each regular meeting, or as directed by the Commission, the current workload of the Bureau. Such reports shall be submitted by category of the persons or entities authorized to initiate investigations as provided for in subsection A of Section 150.5 of this title, and any other category the Commission may request which does not violate the confidentiality restrictions imposed in Sections 150.1 through 152.9 of this title. Such reports shall contain the following information:

- a. what types of investigations are pending,
- b. what new types of investigations have been opened,
- c. what types of investigations have been closed, and
- d. what criminal charges have been filed as a result of Bureau investigations.

The reports shall not contain any information on the individual subjects of the investigation or persons questioned in connection with an investigation. These reports shall be open for public inspection;

4. To designate positions, appoint employees and fix salaries of the Bureau, other than the salaries established by subsection A of Section 150.6a of this title, and to authorize the payment of necessary certification expenses for the employees;

5. To authorize the purchase and issuance of uniforms for all law enforcement officers, criminalists, and other personnel of the Bureau as designated by the Director and to purchase and issue necessary equipment for all employees of the Bureau. All uniforms and equipment shall be used only in the performance of the official duties of the officers, criminalists or other personnel and shall remain the property of the Bureau except as otherwise provided by law; and

6. To enter into local cooperative agreements with local law enforcement agencies for the purpose of appointing affiliate task force agents to assist the Bureau in the investigation of major crimes under the jurisdiction of the Bureau. Affiliate task force agents shall be employees and commissioned law enforcement officers of the local law enforcement agency entering into agreement with the Bureau and shall not be employees of the Bureau. Affiliate task force agents shall have general peace officer powers and the authority to arrest persons throughout the state while serving as an affiliate task force agent. Affiliate task force agents serve solely at the discretion and will of the Director. The Director may renew, suspend, or revoke any agreement appointing an affiliate task force agent at any time.

Added by Laws 1976, c. 259, § 7, operative July 1, 1976. Amended by Laws 1998, c. 305, § 2, eff. July 1, 1998; Laws 1999, c. 230, § 2, emerg. eff. May 26, 1999; Laws 2002, c. 42, § 1, eff. Nov. 1, 2002; Laws 2015, c. 136, § 1, eff. Nov. 1, 2015.

§74-150.7a. Motor vehicle theft unit.

A. The Director of the Oklahoma State Bureau of Investigation shall, pursuant to Section 150.2 of this title, have the authority to investigate, detect, institute, and maintain actions involving vehicle theft.

B. Any commissioned employee of the Oklahoma State Bureau of Investigation may:

1. Conduct investigations of organized motor vehicle or heavy equipment theft rings;

2. Determine sources and outlets for stolen motor vehicles, motor vehicle parts or heavy equipment;

3. Investigate any theft of a motor vehicle, motor vehicle parts or heavy equipment for which the Agency receives notice;

4. Arrest or cause the arrest of any person when reasonable grounds exist to believe that such person has stolen a motor vehicle, motor vehicle parts or heavy equipment;

5. Coordinate the effort of this state to reduce motor vehicle theft with local, state and federal law enforcement agencies; or

6. Develop educational programs on detection and prevention of motor vehicle theft.

Added by Laws 1982, c. 197, § 1, operative July 1, 1982. Amended by Laws 1986, c. 46, § 2, eff. Nov. 1, 1986; Laws 2001, c. 74, § 1, eff. Nov. 1, 2001; Laws 2006, c. 303, § 2, eff. Nov. 1, 2006.

§74-150.7b. Disclosure of motor vehicle theft or insurance fraud - Definitions.

As used in Sections 1 through 5 of this act:

1. "Authorized governmental agency" means:

a. the Department of Public Safety, a police department of any city or town, a county sheriff's department, or any duly constituted criminal investigative department or agency of the United States, or

b. a district attorney or the prosecuting attorney of any municipality or of the United States or any judicial district of the United States; and

2. "Insurer" means any insurer admitted in this state to write insurance for motor vehicles or otherwise liable for any loss due to motor vehicle theft or motor vehicle insurance fraud.

Added by Laws 1988, c. 201, § 1, eff. Nov. 1, 1988.

§74-150.7c. Relevant information - Written request - Duty to inform governmental agency - Release of information.



A. On written request to any insurer by an authorized governmental agency, the insurer or an agent authorized by an insurer to act on its behalf shall release to the authorized governmental agency any relevant information that the authorized governmental agency requests and that the insurer has relating to any specific motor vehicle theft or motor vehicle insurance fraud. Relevant information shall include but not be limited to:

1. Insurance policy information relevant to the specific motor vehicle theft or motor vehicle insurance fraud under investigation, including any application for the policy;

2. Policy premium payment records that are available;

3. History of previous comprehensive and collision claims made by the insured;

4. Information relating to the investigation of the motor vehicle theft or motor vehicle insurance fraud, including statements of any person, proofs of loss, and notice of loss; and

5. Information on payment of claims for motor vehicles which are so damaged that the vehicle cannot be repaired or rebuilt.

B. An insurer or an agent authorized by an insurer to act on its behalf shall notify the authorized governmental agency if the insurer or agent:

1. Knows the identity of a person whom the insurer or agent has reason to believe committed a criminal or fraudulent act relating to a motor vehicle theft or motor vehicle insurance claim; or

2. Has knowledge of a criminal fraudulent act relating to a motor vehicle theft or motor vehicle insurance claim that is reasonably believed not to have been reported to an authorized governmental agency; or

3. Has a claim for a motor vehicle which is so damaged that the vehicle cannot be repaired or rebuilt.

C. The authorized governmental agency, if provided with information pursuant to this section, may release or provide the information to any other authorized governmental agencies.

Added by Laws 1988, c. 201, § 2, eff. Nov. 1, 1988.

#### §74-150.7d. Confidentiality.

Any information furnished as provided by Sections 1 through 4 of this act shall be privileged and not a part of any public record. Except as otherwise provided by law, the Oklahoma State Bureau of Investigation, any authorized governmental agency, insurer, or agent authorized by an insurer to act on its behalf that receives any information furnished as provided by Sections 1 through 4 of this act shall not release the information to the public. The evidence or information shall not be subject to a subpoena or subpoena duces tecum in a civil or criminal proceeding unless, after reasonable notice to any insurer, an agent authorized by an insurer to act on its behalf, the Oklahoma State Bureau of Investigation, or any

authorized governmental agency that has an interest in the information, and after a hearing, a court determines that the public interest and any ongoing investigation by the Oklahoma State Bureau of Investigation, authorized governmental agency, insurer, or agent authorized by an insurer to act on its behalf will not be jeopardized by obedience to the subpoena.

Added by Laws 1988, c. 201, § 3, eff. Nov. 1, 1988.

§74-150.7e. Liability of insurer.

In the absence of fraud or malice, an insurer or person who furnishes information on behalf of an insurer shall not be liable for damages in a civil action or subject to criminal prosecution for oral or written statements made or any other action taken necessary to supply information required pursuant to this act.

Added by Laws 1988, c. 201, § 4, eff. Nov. 1, 1988.

§74-150.7f. Violations - Penalties.

It is unlawful for any insurer or agent authorized by the insurer to act on its behalf to violate any provision of Sections 1 through 4 of this act. Any person convicted of such violation shall be guilty of a misdemeanor punishable by the imposition of a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment. Furthermore, upon such conviction, the license and/or authorization to transact insurance business in this state may be revoked by the Insurance Commissioner.

Added by Laws 1988, c. 201, § 5, eff. Nov. 1, 1988.

§74-150.8. Appointment of employees - Powers of peace officers - Probationary period - Classified service - Rights under additional pension systems.

A. The Director shall appoint as employees only persons of outstanding honesty, integrity and ability. An agent, at the time of appointment to the Bureau, shall be at least twenty-one (21) years of age and shall possess a bachelor's degree from an accredited college or university.

B. The officers and agents of the Oklahoma State Bureau of Investigation, and such other employees as the Director of the Bureau of Investigation shall designate to perform duties in the investigation and prevention of crime and the enforcement of the criminal laws of the state, shall have and exercise all the powers and authority of peace officers, including the right and power of search and seizure.

C. Any Oklahoma State Bureau of Investigation employee promoted, voluntarily demoted or transferred into an agent or criminalist position within the Bureau shall serve a twelve-month trial period. Any state employee in a classified position with an

agency other than the Bureau who is selected for an agent or criminalist position within the Bureau shall resign his or her position and be reinstated in accordance with the merit rules.

D. Any employee in a classified position under the Merit System of Personnel Administration who is appointed Director, Deputy Director, Acting Director, Acting Deputy Director, or Assistant Director shall have a right to return to the classified service without any loss of rights, privileges or benefits immediately upon completion of the duties of the employee provided the employee is not otherwise disqualified.

E. All other employees of the State Bureau of Investigation shall be in the classified service of the state and members of the Merit System of Personnel Administration, unless otherwise provided by law.

F. Appointment to any position in the State Bureau of Investigation shall not jeopardize the rights of any person under any other system under which peace officers of this state or its subdivisions may become pensioned, provided that the individual contributions are continued as if such person were in the original organization within which the person qualified for such pension. Added by Laws 1976, c. 259, § 8, operative July 1, 1976. Amended by Laws 1977, c. 132, § 1, emerg. eff. June 3, 1977; Laws 1981, c. 340, § 23, emerg. eff. June 30, 1981; Laws 1982, c. 64, § 2, emerg. eff. March 30, 1982; Laws 1984, c. 240, § 7, operative July 1, 1984; Laws 1989, c. 369, § 146, operative July 1, 1989; Laws 1996, c. 153, § 2, emerg. eff. May 7, 1996; Laws 1998, c. 388, § 1, eff. July 1, 1998; Laws 2001, c. 236, § 1, eff. July 1, 2001; Laws 2002, c. 347, § 2, eff. Nov. 1, 2002; Laws 2012, c. 153, § 1, eff. Nov. 1, 2012.

§74-150.8a. Employee performance recognition program - Awards.

A. The Oklahoma State Bureau of Investigation is authorized to establish an employee performance recognition program that encourages outstanding job performance and productivity within the Bureau. The Bureau is authorized to expend funds for:

1. The purchase of recognition awards to be presented to members of work units or individual employees having exceptional job performance records or other significant contributions to the operation of the Bureau;

2. The purchase of recognition awards to be presented to nonemployees of the Bureau in recognition of exemplary service or assistance to the Bureau and law enforcement; and

3. A formal ceremony or banquet where the awards may be presented.

B. Recognition awards may consist of distinctive wearing apparel, service pins, plaques, writing pens, or other distinguished awards of a value not exceeding One Hundred Fifty Dollars (\$150.00) per award to recognize the achievement of the work unit or

individual employee. In addition to recognition awards, the Bureau may establish an employee benefit program not exceeding Five Thousand Dollars (\$5,000.00) each fiscal year for cash awards to recognize outstanding performance in the workplace by Bureau employees.

C. The Bureau may expend funds not exceeding Three Thousand Dollars (\$3,000.00) each fiscal year for the purpose of distributing commemorative items including, but not limited to, pens, patches, and notebook portfolios bearing the seal or other identification of the Bureau to nonemployees of the Bureau. The Bureau may expend additional funds to provide awards and commemorative items including, but not limited to, pens, patches and notebook portfolios bearing the seal or other identification of the Bureau to participants in OSBI Citizen Academies designed and held to foster better public relations and to educate members of the community about the Bureau's mission and operations.

Added by Laws 1999, c. 230, § 3, emerg. eff. May 26, 1999. Amended by Laws 2004, c. 140, § 1, eff. Nov. 1, 2004; Laws 2005, c. 223, § 2, eff. Nov. 1, 2005.

§74-150.9. System of criminal history records - Fees for records or fingerprint analysis - Identification files on juveniles - Penalties.

A. The Oklahoma State Bureau of Investigation shall procure, file and maintain criminal history records for each person subject to mandatory reporting as provided by law, including photographs, descriptions, fingerprints, measurements and other pertinent information relating to such persons. It shall be the duty of law enforcement officers and agencies, sheriffs, police, courts, judicial officials, district attorneys, and the persons in charge of any state correctional facility or institution to furnish criminal history records to the Bureau as required by Section 150.1 et seq. of this title. The Oklahoma State Bureau of Investigation shall cooperate with and assist the sheriffs, chiefs of police and other law enforcement officers of the state by maintaining a complete criminal history record on each person subject to mandatory reporting as provided by law, and shall have on file the fingerprint impressions of all such persons together with other pertinent information as may from time to time be received from the law enforcement officers of this and other states or as may be required by law.

B. 1. The Oklahoma Department of Consumer Credit, the Insurance Department, the Oklahoma Horse Racing Commission, or any other state agency, board, department or commission or any other person or entity authorized to request a criminal history record or an analysis of fingerprints for commercial, licensing or other purposes, except law enforcement purposes, shall conduct a national

criminal history records check on all persons of the entity authorized to access or review national criminal history records checks information by July 1, 2009, and within sixty (60) days thereafter.

2. Each agency, person or entity authorized to request a criminal history record or an analysis of fingerprints shall pay a fee to the Bureau for each criminal history record or fingerprint analysis as follows:

Oklahoma criminal history record only	\$15.00 each
Oklahoma criminal history record with fingerprint analysis	\$19.00 each
National criminal history record with fingerprint analysis	\$41.00 each

3. For purposes of this section, "a national criminal history record check" means a check of criminal history records entailing the fingerprinting of the individual and submission of the fingerprints to the United States Federal Bureau of Investigation (FBI) for the purpose of obtaining the national criminal history record of the person from the FBI. A national criminal history record check may be obtained only when a check is authorized or required by state or federal law.

Agencies authorized by statute to conduct national criminal history background checks for individuals are eligible to participate in the Federal Rap Back Program administered by the Oklahoma State Bureau of Investigation. The Oklahoma State Bureau of Investigation is authorized to submit fingerprints to the FBI Rap Back System to be retained in the FBI Rap Back System for the purpose of being searched by future submissions to the FBI Rap Back System, including latent fingerprint searches and to collect all Federal Rap Back Program fees from eligible agencies wishing to participate and remit such fees to the Federal Bureau of Investigation.

4. Unless a national criminal history record is specifically requested, a fingerprint analysis shall be limited to only those records available at the Oklahoma State Bureau of Investigation. Following receipt of the appropriate fee, the Bureau shall provide, as soon as possible, the criminal history record requested; provided, however, it shall be the duty and responsibility of the requesting authority to evaluate the criminal history record as such record may apply to a specific purpose or intent. An individual may submit a certified court record showing that a charge was dismissed or a certified copy of a gubernatorial pardon to the Oklahoma State Bureau of Investigation, and upon verification of that record the Bureau records shall reflect the dismissal of that charge.

C. The Oklahoma State Bureau of Investigation may maintain an identification file, including fingerprint impressions, on any person under eighteen (18) years of age who is arrested or subject

to criminal or juvenile delinquency proceedings, provided all such information shall be confidential and shall only be made available to the Bureau and other law enforcement agencies. Whenever a fingerprint impression or other identification information is submitted to the Bureau on a person under eighteen (18) years of age, the Bureau may retain and file such fingerprint and identification information for identification purposes only. The Bureau shall ensure that the information received and maintained for identification purposes on persons under eighteen (18) years of age shall be handled and processed with great care to keep such information confidential from the general public. The Bureau may receive and maintain the fingerprints and other identification information on any person under eighteen (18) years of age believed to be the subject of a runaway, missing, or abduction investigation, for identification purposes at the request of a parent, guardian or legal custodian of the person.

D. Any person who knowingly procures, utters, or offers any false, forged or materially altered criminal history record shall be guilty of a felony and upon conviction shall be punished by imprisonment in the custody of the Department of Corrections for a period not to exceed five (5) years or by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment. Added by Laws 1976, c. 259, § 9, operative July 1, 1976. Amended by Laws 1986, c. 201, § 11, operative July 1, 1986; Laws 1990, c. 186, § 2, eff. Sept. 1, 1990; Laws 1990, c. 258, § 49, operative July 1, 1990; Laws 1994, c. 259, § 2, eff. Sept. 1, 1994; Laws 2000, c. 258, § 1, eff. July 1, 2000; Laws 2001, c. 261, § 2, eff. July 1, 2001; Laws 2003, c. 204, § 11, eff. Nov. 1, 2003; Laws 2008, c. 107, § 1, eff. July 1, 2008; Laws 2015, c. 80, § 1, eff. Nov. 1, 2015; Laws 2017, c. 156, § 1, eff. Nov. 1, 2017.

§74-150.9.1. Authority to require criminal record searches and fingerprints of agency employees.

The Oklahoma Tax Commission, Oklahoma Department of Human Services and Oklahoma Employment Security Commission shall be authorized to require agency employees in positions that have access to Federal Tax Information and data to supply all information and documentation required in order to be subjected to a criminal history search by the Oklahoma State Bureau of Investigation, as well as be fingerprinted for submission of the fingerprints through the Oklahoma State Bureau of Investigation to the Federal Bureau of Investigation for a national criminal history check. The applicable employer-agency shall be the recipient of the results of the record check. In accordance with Section 150.9 of Title 74 of the Oklahoma Statutes, this includes a national criminal record with a fingerprint analysis.

Added by Laws 2017, c. 359, § 1, eff. Nov. 1, 2017.

§74-150.9a. Oklahoma Crime Prevention and Privacy Compact Act - Legislative findings - Definitions - Effect on other statutes.

A. This section shall be known and may be cited as the "Oklahoma Crime Prevention and Privacy Compact Act".

B. The State of Oklahoma finds that:

1. Both the Federal Bureau of Investigation and state criminal history record repositories maintain fingerprint-based criminal history records;

2. These criminal history records are shared and exchanged for criminal justice purposes through a federal-state program known as the Interstate Identification Index System;

3. Although these records are also exchanged for legally authorized, noncriminal justice uses, such as governmental licensing and employment background checks, the purposes for and procedures by which they are exchanged vary widely from state to state;

4. An interstate and federal-state compact is necessary to facilitate authorized interstate criminal history record exchanges for noncriminal justice purposes on a uniform basis, while permitting each state to effectuate its own dissemination policy within its own borders; and

5. The Compact will allow federal and state records to be provided expeditiously to governmental and nongovernmental agencies that use these records in accordance with pertinent federal and state law, while simultaneously enhancing the accuracy of the records and safeguarding the information contained therein from unauthorized disclosure or use.

C. As used in this section:

1. "Attorney General" means the Attorney General of the United States;

2. "Compact" means the National Crime Prevention and Privacy Compact set forth in sections of this act;

3. "Council" means the Compact Council established under Article VI of the Compact;

4. "FBI" means the Federal Bureau of Investigation;

5. "Party state" means a state that has ratified the Compact; and

6. "State" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

D. This section shall have the following effect on other statutes:

1. Privacy Act of 1974. Nothing in this section or the Compact shall affect the obligations and responsibilities of the FBI under Section 552a of Title 5, United States Code (commonly known as the Privacy Act of 1974);

2. Access to certain records not affected. Nothing in this section or the Compact shall interfere in any manner with:

- a. access, direct or otherwise, to records pursuant to:
  - (1) Section 9109 of Title 5, United States Code,
  - (2) the National Child Protection Act,
  - (3) the Brady Handgun Violence Prevention Act (Public Law 103-159; 107 Stat. 1536),
  - (4) the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 2074) or any amendment made by that act,
  - (5) the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), or
  - (6) the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.), or
- b. any direct access to federal criminal history records authorized by law;

3. Authority of FBI Under Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973. Nothing in this section or the Compact shall be construed to affect the authority of the FBI under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544; 86 Stat. 1115);

4. Federal Advisory Committee Act. The Council shall not be considered to be a federal advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.); and

5. Members of Council Not Federal Officers or Employees. Members of the Council (other than a member from the FBI or any at-large member who may be a federal official or employee) shall not, by virtue of such membership, be deemed:

- a. to be, for any purpose other than to effect the Compact, officers or employees of the United States (as defined in Sections 2104 and 2105 of Title 5, United States Code), or
- b. to become entitled by reason of Council membership to any compensation or benefit payable or made available by the federal government to its officers or employees.

Added by Laws 2001, c. 261, § 3, eff. July 1, 2001.

§74-150.9b. National Crime Prevention and Privacy Compact.

The following National Crime Prevention and Privacy Compact is hereby ratified, enacted, entered into and given force of law by the State of Oklahoma:

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT

Overview

ARTICLE I-DEFINITIONS



ARTICLE II—PURPOSES

ARTICLE III—RESPONSIBILITIES OF COMPACT PARTIES

ARTICLE IV—AUTHORIZED RECORD DISCLOSURES

ARTICLE V—RECORD REQUEST PROCEDURES

ARTICLE VI—ESTABLISHMENT OF COMPACT COUNCIL

ARTICLE VII—RATIFICATION OF COMPACT

ARTICLE VIII—MISCELLANEOUS PROVISIONS

ARTICLE IX—RENUNCIATION

ARTICLE X—SEVERABILITY

ARTICLE XI—ADJUDICATION OF DISPUTES

The Contracting parties agree to the following:

Overview

a. In General.—This Compact organizes an electronic information sharing system among the Federal Government and the States to exchange criminal history records for noncriminal justice purposes authorized by Federal or State law, such as background checks for governmental licensing and employment.

b. Obligations of Parties.—Under this Compact, the FBI and the Party States agree to maintain detailed databases of their respective criminal history records, including arrests and dispositions, and to make them available to the Federal Government and to Party States for authorized purposes. The FBI shall also manage the Federal data facilities that provide a significant part of the infrastructure for the system.

ARTICLE I—DEFINITIONS

In this Compact:

1. Attorney General.—The term "Attorney General" means the Attorney General of the United States.

2. Compact officer.—The term "Compact officer" means—

- A. with respect to the Federal Government, an official so designated by the Director of the FBI; and
- B. with respect to a Party State, the chief administrator of the State's criminal history record repository or a designee of the chief administrator who is a regular full-time employee of the repository.

3. Council.—The term "Council" means the Compact Council established under Article VI.

4. Criminal history records.—The term "criminal history records"—

- A. means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release; and
- B. does not include identification information such as fingerprint records if such information does not

indicate involvement of the individual with the criminal justice system.

5. Criminal history record repository.—The term "criminal history record repository" means the State agency designated by the Governor or other appropriate executive official or the legislature of a State to perform centralized recordkeeping functions for criminal history records and services in the State.

6. Criminal justice.—The term "criminal justice" includes activities relating to the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.

7. Criminal justice agency.—The term "criminal justice agency"—

A. means—

i. courts; and

ii. a governmental agency or any subunit thereof that—

I. performs the administration of criminal justice pursuant to a statute or Executive order; and

II. allocates a substantial part of its annual budget to the administration of criminal justice; and

B. includes Federal and State inspectors general offices.

8. Criminal justice services.—The term "criminal justice services" means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.

9. Criterion offense.—The term "criterion offense" means any felony or misdemeanor offense not included on the list of nonserious offenses published periodically by the FBI.

10. Direct access.—The term "direct access" means access to the National Identification Index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.

11. Executive order.—The term "Executive order" means an order of the President of the United States or the chief executive officer of a State that has the force of law and that is promulgated in accordance with applicable law.

12. FBI.—The term "FBI" means the Federal Bureau of Investigation.

13. Interstate identification system.—The term "Interstate Identification Index System" or "III System"—

- A. means the cooperative Federal-State system for the exchange of criminal history records; and
- B. includes the National Identification Index, the National Fingerprint File and, to the extent of their participation in such system, the criminal history record repositories of the States and the FBI.

14. National fingerprint file.—The term "National Fingerprint File" means a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III System.

15. National identification index.—The term "National Identification Index" means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III System.

16. National indices.—The term "National indices" means the National Identification Index and the National Fingerprint File.

17. Nonparty state.—The term "Nonparty State" means a State that has not ratified this Compact.

18. Noncriminal justice purposes.—The term "noncriminal justice purposes" means uses of criminal history records for purposes authorized by Federal or State law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.

19. Party state.—The term "Party State" means a State that has ratified this Compact.

20. Positive identification.—The term "positive identification" means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III System. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification.

21. Sealed record information.—The term "sealed record information" means—

- A. with respect to adults, that portion of a record that is—
  - i. not available for criminal justice uses;
  - ii. not supported by fingerprints or other accepted means of positive identification; or
  - iii. subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a Federal or State statute that requires

action on a sealing petition filed by a particular record subject; and

- B. with respect to juveniles, whatever each State determines is a sealed record under its own law and procedure.

22. State.—The term "State" means any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

#### ARTICLE II—PURPOSES

The purposes of this Compact are to—

1. Provide a legal framework for the establishment of a cooperative Federal-State system for the interstate and Federal-State exchange of criminal history records for noncriminal justice uses;
2. Require the FBI to permit use of the National Identification Index and the National Fingerprint File by each Party State, and to provide, in a timely fashion, Federal and State criminal history records to requesting States, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;
3. Require Party States to provide information and records for the National Identification Index and the National Fingerprint File and to provide criminal history records, in a timely fashion, to criminal history record repositories of other States and the Federal Government for noncriminal justice purposes, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;
4. Provide for the establishment of a Council to monitor III System operations and to prescribe system rules and procedures for the effective and proper operation of the III System for noncriminal justice purposes; and
5. Require the FBI and each Party State to adhere to III System standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

#### ARTICLE III—RESPONSIBILITIES OF COMPACT PARTIES

a. FBI Responsibilities.—The Director of the FBI shall—

1. appoint an FBI Compact officer who shall—
  - A. administer this Compact within the Department of Justice and among Federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to Article V(c);
  - B. ensure that Compact provisions and rules, procedures, and standards prescribed by the Council under Article VI are complied with by the Department of Justice and

- the Federal agencies and other agencies and organizations referred to in Article III(1)(A); and
- C. regulate the use of records received by means of the III System from Party States when such records are supplied by the FBI directly to other Federal agencies;
- 2. provide to Federal agencies and to State criminal history record repositories, criminal history records maintained in its database for the noncriminal justice purposes described in Article IV, including—
  - A. information from Nonparty States; and
  - B. information from Party States that is available from the FBI through the III System but is not available from the Party State through the III System;
- 3. provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in Article IV, and ensure that the exchange of such records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and
- 4. modify or enter into user agreements with Nonparty State criminal history record repositories to require them to establish record request procedures conforming to those prescribed in Article V.
- b. State Responsibilities.—Each Party State shall—
  - 1. appoint a Compact officer who shall—
    - A. administer this Compact within that State;
    - B. ensure that Compact provisions and rules, procedures, and standards established by the Council under Article VI are complied with in the State; and
    - C. regulate the in-State use of records received by means of the III System from the FBI or from other Party States;
  - 2. establish and maintain a criminal history record repository, which shall provide—
    - A. information and records for the National Identification Index and the National Fingerprint File; and
    - B. the State's III System-indexed criminal history records for noncriminal justice purposes described in Article IV;
  - 3. participate in the National Fingerprint File; and
  - 4. provide and maintain telecommunications links and related equipment necessary to support the services set forth in this Compact.
- c. Compliance With III System Standards.—In carrying out their responsibilities under this Compact, the FBI and each Party State

shall comply with III System rules, procedures, and standards duly established by the Council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III System operation.

d. Maintenance of Record Services.—

1. use of the III System for noncriminal justice purposes authorized in this Compact shall be managed so as not to diminish the level of services provided in support of criminal justice purposes.

2. administration of Compact provisions shall not reduce the level of service available to authorized noncriminal justice users on the effective date of this Compact.

ARTICLE IV—AUTHORIZED RECORD DISCLOSURES

a. State Criminal History Record Repositories.—To the extent authorized by Section 552a of Title 5, United States Code (commonly known as the "Privacy Act of 1974"), the FBI shall provide on request criminal history records (excluding sealed records) to State criminal history record repositories for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General and that authorizes national indices checks.

b. Criminal Justice Agencies and Other Governmental or Nongovernmental Agencies.—The FBI, to the extent authorized by Section 552a of Title 5, United States Code (commonly known as the "Privacy Act of 1974"), and State criminal history record repositories shall provide criminal history records (excluding sealed records) to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General, that authorizes national indices checks.

c. Procedures.—Any record obtained under this Compact may be used only for the official purposes for which the record was requested. Each Compact officer shall establish procedures, consistent with this Compact, and with rules, procedures, and standards established by the Council under Article VI, which procedures shall protect the accuracy and privacy of the records, and shall—

1. ensure that records obtained under this Compact are used only by authorized officials for authorized purposes;

2. require that subsequent record checks are requested to obtain current information whenever a new need arises; and

3. ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate "no record" response is communicated to the requesting official.

## ARTICLE V—RECORD REQUEST PROCEDURES

a. Positive Identification.—Subject fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history record checks for noncriminal justice purposes.

b. Submission of State Requests.—Each request for a criminal history record check utilizing the national indices made under any approved State statute shall be submitted through that State's criminal history record repository. A State criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if such request is transmitted through another State criminal history record repository or the FBI.

c. Submission of Federal Requests.—Each request for criminal history record checks utilizing the national indices made under Federal authority shall be submitted through the FBI or, if the State criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the State in which such request originated. Direct access to the National Identification Index by entities other than the FBI and State criminal history records repositories shall not be permitted for noncriminal justice purposes.

d. Fees.—A State criminal history record repository or the FBI—

1. may charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and

2. may not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

e. Additional Search.—

1. If a State criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, shall be forwarded to the FBI for a search of the national indices.

2. If, with respect to a request forwarded by a State criminal history record repository under paragraph 1 of this section, the FBI positively identifies the subject as having a III System-indexed record or records—

A. the FBI shall so advise the State criminal history record repository; and

B. the State criminal history record repository shall be entitled to obtain the additional criminal history record information from the FBI or other State criminal history record repositories.

## ARTICLE VI—ESTABLISHMENT OF COMPACT COUNCIL

a. Establishment.—

1. In general.—There is established a council to be known as the "Compact Council", which shall have the authority to promulgate rules and procedures governing the use of the III System for noncriminal justice purposes, not to conflict with FBI administration of the III System for criminal justice purposes.

2. Organization.—The Council shall—

- A. continue in existence as long as this Compact remains in effect;
- B. be located, for administrative purposes, within the FBI; and
- C. be organized and hold its first meeting as soon as practicable after the effective date of this Compact.

b. Membership.—The Council shall be composed of fifteen (15) members, each of whom shall be appointed by the Attorney General, as follows:

1. Nine members, each of whom shall serve a 2-year term, who shall be selected from among the Compact officers of Party States based on the recommendation of the Compact officers of all Party States, except that, in the absence of the requisite number of Compact officers available to serve, the chief administrators of the criminal history record repositories of Nonparty States shall be eligible to serve on an interim basis.

2. Two at-large members, nominated by the Director of the FBI, each of whom shall serve a 3-year term, of whom—

- A. one shall be a representative of the criminal justice agencies of the Federal Government and may not be an employee of the FBI; and
- B. one shall be a representative of the noncriminal justice agencies of the Federal Government.

3. Two at-large members, nominated by the Chairman of the Council, once the Chairman is elected pursuant to Article VI(c), each of whom shall serve a 3-year term, of whom—

- A. one shall be a representative of State or local criminal justice agencies; and
- B. one shall be a representative of State or local noncriminal justice agencies.

4. One member, who shall serve a 3-year term, and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board.

5. One member, nominated by the Director of the FBI, who shall serve a 3-year term, and who shall be an employee of the FBI.

c. Chairman and Vice Chairman.—

1. In general.—From its membership, the Council shall elect a Chairman and a Vice Chairman of the Council, respectively. Both the Chairman and Vice Chairman of the Council—



- A. shall be a Compact officer, unless there is no Compact officer on the Council who is willing to serve, in which case the Chairman may be an at-large member; and
- B. shall serve a 2-year term and may be reelected to only one additional 2-year term.

2. Duties of vice chairman.—The Vice Chairman of the Council shall serve as the Chairman of the Council in the absence of the Chairman.

d. Meetings.—

1. In general.—The Council shall meet at least once each year at the call of the Chairman. Each meeting of the Council shall be open to the public. The Council shall provide prior public notice in the Federal Register of each meeting of the Council, including the matters to be addressed at such meeting.

2. Quorum.—A majority of the Council or any committee of the Council shall constitute a quorum of the Council or of such committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

e. Rules, Procedures, and Standards.—The Council shall make available for public inspection and copying at the Council office within the FBI, and shall publish in the Federal Register, any rules, procedures, or standards established by the Council.

f. Assistance From FBI.—The Council may request from the FBI such reports, studies, statistics, or other information or materials as the Council determines to be necessary to enable the Council to perform its duties under this Compact. The FBI, to the extent authorized by law, may provide such assistance or information upon such a request.

g. Committees.—The Chairman may establish committees as necessary to carry out this Compact and may prescribe their membership, responsibilities, and duration.

#### ARTICLE VII—RATIFICATION OF COMPACT

This Compact shall take effect upon being entered into by two or more States as between those States and the Federal Government. Upon subsequent entering into this Compact by additional States, it shall become effective among those States and the Federal Government and each Party State that has previously ratified it. When ratified, this Compact shall have the full force and effect of law within the ratifying jurisdictions. The form of ratification shall be in accordance with the laws of the executing State.

#### ARTICLE VIII—MISCELLANEOUS PROVISIONS

a. Relation of Compact to Certain FBI Activities.—Administration of the Compact shall not interfere with the management and control of the Director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under

the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes other than noncriminal justice.

b. No Authority for Nonappropriated Expenditures.—Nothing in this Compact shall require the FBI to obligate or expend funds beyond those appropriated to the FBI.

c. Relating to Public Law 92-544.—Nothing in this compact shall diminish or lessen the obligations, responsibilities, and authorities of any State, whether a Party State or a Nonparty State, or of any criminal history record repository or other subdivision or component thereof, under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544), or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the Council under Article VI(a), regarding the use and dissemination of criminal history records and information.

#### ARTICLE IX—RENUNCIATION

a. In General.—This Compact shall bind each Party State until renounced by the Party State.

b. Effect.—Any renunciation of this Compact by a Party State shall—

1. be effected in the same manner by which the Party State ratified this Compact; and

2. become effective 180 days after written notice of renunciation is provided by the Party State to each other Party State and to the Federal Government.

#### ARTICLE X—SEVERABILITY

The provisions of this Compact shall be severable, and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any participating State, or to the Constitution of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If a portion of this Compact is held contrary to the constitution of any Party State, all other portions of this Compact shall remain in full force and effect as to the remaining Party States and in full force and effect as to the Party State affected, as to all other provisions.

#### ARTICLE XI—ADJUDICATION OF DISPUTES

a. In General.—The Council shall—

1. have initial authority to make determinations with respect to any dispute regarding—

A. interpretation of this Compact;

B. any rule or standard established by the Council pursuant to Article VI; and

C. any dispute or controversy between any parties to this Compact; and

2. hold a hearing concerning any dispute described in paragraph 1 at a regularly scheduled meeting of the Council and only render a decision based upon a majority vote of the members of the Council. Such decision shall be published pursuant to the requirements of Article VI(e).

b. Duties of FBI.—The FBI shall exercise immediate and necessary action to preserve the integrity of the III System, maintain system policy and standards, protect the accuracy and privacy of records, and to prevent abuses, until the Council holds a hearing on such matters.

c. Right of Appeal.—The FBI or a Party State may appeal any decision of the Council to the Attorney General, and thereafter may file suit in the appropriate district court of the United States, which shall have original jurisdiction of all cases or controversies arising under this Compact. Any suit arising under this Compact and initiated in a State court shall be removed to the appropriate district court of the United States in the manner provided by Section 1446 of Title 28, United States Code, or other statutory authority.

Added by Laws 2001, c. 261, § 4, eff. July 1, 2001.

#### §74-150.10. Uniform crime reporting system.

A. A uniform crime reporting system shall be established by the Oklahoma State Bureau of Investigation. The Director shall have the power and duty, when directed by the Commission, to collect and gather such information from such state agencies as may be prescribed in Section 150.1 et seq. of this title.

B. The Oklahoma State Bureau of Investigation is hereby designated as the agency which shall collect, gather, assemble and collate such information as is prescribed by this section.

C. 1. All state, county, city and town law enforcement agencies shall submit reports to the Oklahoma State Bureau of Investigation on forms prescribed by the Bureau. The reports shall contain the number and nature of offenses committed within their respective jurisdictions, the disposition of such matters, and such other information as the Bureau may require, respecting information relating to the cause and prevention of crime, recidivism, the rehabilitation of criminals and the proper administration of criminal justice.

2. Any information taken from such information, data, records or reports submitted to the uniform crime reporting system and used to prepare the Uniform Crime Report shall be an open record pursuant to the Oklahoma Open Records Act. Requests for such information shall be submitted to the Bureau.

3. Any request under the Oklahoma Open Records Act for any other information, data, records or reports submitted to the uniform crime reporting system by the Oklahoma State Bureau of Investigation

shall be directed to the Bureau pursuant to Section 24A.20 of Title 51 of the Oklahoma Statutes. Such information, data, records or reports shall be considered investigative records of the Bureau and shall be subject to discovery and disclosure only in compliance with Section 150.5 of this title or other applicable statute.

4. Any request under the Oklahoma Open Records Act for any information, data, records or reports submitted by a law enforcement agency other than the Oklahoma State Bureau of Investigation to the uniform crime reporting system shall be directed to the law enforcement agency submitting the information, data, records or reports to the Bureau unit pursuant to Section 24A.20 of Title 51 of the Oklahoma Statutes. Such information, data, records or reports shall be considered law enforcement records and shall be subject to discovery and disclosure only in compliance with Section 24A.8 of Title 51 of the Oklahoma Statutes or other applicable statute.

D. Upon receipt of such information the Director shall have such data collated and formulated and shall compile such statistics as the Director may deem necessary in order to present a proper classification and analysis of the volume and nature of crime and the administration of criminal justice within this state.

E. Refusal or persistent failure of any law enforcement agency to submit reports required by this section may result in discontinued access to Bureau information and assistance.

Added by Laws 1976, c. 259, § 10, operative July 1, 1976. Amended by Laws 1994, c. 259, § 3, eff. Sept. 1, 1994; Laws 1997, c. 291, § 1, eff. Nov. 1, 1997; Laws 2000, c. 258, § 2, eff. July 1, 2000; Laws 2001, c. 45, § 2, eff. Nov. 1, 2001; Laws 2005, c. 106, § 1, emerg. eff. April 26, 2005.

#### §74-150.11. Evidentiary property - Disposition.

A. All property which comes into the possession of the Oklahoma State Bureau of Investigation (OSBI), whether the same is stolen, embezzled or otherwise, which the Bureau has held for at least one (1) year unless said property is perishable, may be disposed of by order of an Oklahoma County district court if the owner or owners of said property are unknown or have not claimed the same. The Director of the Oklahoma State Bureau of Investigation shall then be authorized to sell, deposit, or otherwise dispose of such property or any part thereof which is no longer needed to be held as evidence or otherwise used in connection with any litigation.

B. 1. If cash or other legal tender is the subject of the action, the Director shall file a petition in the district court of Oklahoma County requesting authority to forfeit and deposit the funds. The petition shall include the following information:

- a. description of the property,
- b. approximate date that the property came into possession of the Director, and

c. the names of the owner or owners, if known.

2. Upon the filing of the petition, notice of at least ten (10) days shall be given to each known owner by the Director of the OSBI by mailing a copy of the petition and notice of hearing to the last-known address of each owner.

3. Notice of the hearing shall also be posted at the Oklahoma County courthouse at the regular place assigned for the posting of legal notices and in the public lobby at OSBI headquarters.

4. If no owner appears and establishes ownership to the cash or legal tender, the court shall enter an order authorizing the forfeiture of the funds to the OSBI. All monies forfeited shall be deposited into the OSBI Revolving Fund.

C. 1. For disposition of all other seized property, the Director shall file a petition in the district court of Oklahoma County requesting authority to conduct a sale of the property. The petition shall include the following information:

a. description of the property,

b. approximate date that the property came into the possession of the Director, and

c. the names of the owner or owners, if known.

2. Upon the filing of the petition, notice of at least ten (10) days shall be given to each known owner by the Director of the OSBI by mailing a copy of the petition and notice of hearing to the last-known address of each owner.

3. Notice of the hearing shall also be posted at the Oklahoma County courthouse at the regular place assigned for the posting of legal notices and in the public lobby at OSBI headquarters.

4. If no owner appears and establishes ownership to the property, the court shall enter an order authorizing the Director to sell the property to the highest bidder after notice of at least five (5) days of the auction has been given by publication in one issue of a legal newspaper of record in Oklahoma County.

5. The Director shall make a return of sale, and when confirmed by the court, the order confirming the sale shall vest title of the property to the purchaser. The money received from the sale shall be deposited in the OSBI Revolving Fund.

Added by Laws 1976, c. 259, § 11, operative July 1, 1976. Amended by Laws 2002, c. 42, § 2, eff. Nov. 1, 2002.

§74-150.12. Mandatory reporting of fingerprint and criminal history information.

A. 1. It is hereby the duty of any sheriff, chief of police, city marshal, constable and any other law enforcement officer who takes custody of a person who has been arrested and who, in the best judgment of the arresting officer, is believed to have committed any offense, except an offense exempted by the rules promulgated by the Oklahoma State Bureau of Investigation pursuant to the provisions of

Section 150.1 et seq. of this title, to take or cause to be taken the fingerprint impressions of such person or persons and to forward such fingerprint impressions together with identification information to the Oklahoma State Bureau of Investigation, at its Oklahoma City office. In the case of any sheriff, chief of police, city marshal, constable, or any other law enforcement officer equipped with a live-scan device designed for the electronic capture and transmission of fingerprint images approved by the Oklahoma State Bureau of Investigation, fingerprint images may instead be taken and transmitted to the Bureau electronically. If the sheriff, chief of police, city marshal, or constable has contracted for the custody of prisoners, such contractor shall be required to take the fingerprint impressions of such person.

2. It shall not be the responsibility of, nor shall the sheriff, chief of police, city marshal, constable, other law enforcement officer, or contractor receiving custody of an arrested person as a prisoner require the arresting officer to take the fingerprint impressions of the arrested person; provided, if the arresting officer is employed by the same law enforcement agency as the sheriff, chief of police, city marshal, or constable receiving custody of such person, the arresting officer may be required to take such impressions.

3. The law enforcement officers shall also forward the prosecution filing report and the disposition report forms to the appropriate prosecuting authority within seventy-two (72) hours. If fingerprint impressions have not been taken at the time of an arrest, the court shall order the fingerprints to be taken by the sheriff at the arraignment, first appearance, or at the time of final adjudication of a defendant whose court attendance has been secured by a summons or citation for any offense, except an offense exempted by the rules promulgated by the Bureau. If a person is in the custody of a law enforcement or correctional agency and a warrant issues or an information is filed alleging the person to have committed an offense other than the offense for which the person is in custody, the custodial law enforcement or correctional agency shall take the fingerprints of such person in connection with the new offense, provided the offense is not exempted by the rules of the Bureau. Any fingerprint impressions and identification information required by this subsection shall be sent to the Bureau within seventy-two (72) hours after taking such fingerprints.

B. In order to maintain a complete criminal history record, the court shall inquire at the time of sentencing whether or not the person has been fingerprinted for the offense upon which the sentence is based and, if not, shall order the fingerprints be taken immediately of such person and those fingerprints shall be sent by the law enforcement agency taking the fingerprint impressions to the

Bureau within seventy-two (72) hours after taking the fingerprint impressions.

C. In addition to any other fingerprints which may have been taken of a person in a criminal matter, the Department of Corrections shall take the fingerprints of all prisoners received at the Lexington Reception and Assessment Center or otherwise received into the custody of the Department and shall send copies of such fingerprints together with identification information to the Bureau within seventy-two (72) hours of taking such fingerprints.

D. The Bureau shall, upon receipt of fingerprint impressions and identification information for offenses not exempt by rule of the Bureau, send one copy of the fingerprint impressions to the Federal Bureau of Investigation, at its Washington, D.C., office, and the other copy shall be filed in the Oklahoma State Bureau of Investigation's office. The rules promulgated by the Bureau pursuant to the provision of this act exempting certain offenses from mandatory reporting shall be based upon recommended Federal Bureau of Investigation standards for reporting criminal history information and are not intended to include violators of city or town ordinances and great care shall be exercised to exclude the reporting of criminal history information for such offenses, except when recommended by the Federal Bureau of Investigation standards.

E. The reporting to the Oklahoma State Bureau of Investigation of criminal history information on each person subject to the mandatory reporting requirements of Section 150.1 et seq. of this title shall be mandatory for all law enforcement agencies, courts, judicial officials, district attorneys and correctional administrators participating in criminal matters, whether reported directly or indirectly, manually or by automated system as may be provided by the rules promulgated by the Bureau.

F. Except for offenses exempted by the rules promulgated by the Bureau, the following events shall be reported to the Bureau within seventy-two (72) hours and the Bureau shall have seventy-two (72) hours after receipt of the report to enter such information into a criminal record data base:

1. An arrest;
2. The release of a person after arrest without the filing of any charge; and
3. A decision of a prosecutor not to commence criminal proceedings or to defer or postpone prosecution.

G. Except for offenses exempted by the rules promulgated by the Bureau, the following events shall be reported to the Bureau within thirty (30) days and the Bureau shall have thirty (30) days after receipt of the report to enter such information into a criminal record data base:

1. A decision by a prosecutor to modify or amend initial charges upon which the arrest was made, including deletions or additions of charges or counts;

2. The presentment of an indictment or the filing of a criminal information or other statement of charges;

3. The dismissal of an indictment or criminal information or any charge specified in such indictment or criminal information;

4. An acquittal, conviction or other court disposition at trial or before, during or following trial, including dispositions resulting from pleas or other agreements;

5. The imposition of a sentence;

6. The commitment to or release from the custody of the Department of Corrections or incarceration in any jail or other correctional facility;

7. The escape from custody of any correctional facility, jail or authority;

8. The commitment to or release from probation or parole;

9. An order of any appellate court;

10. A pardon, reprieve, commutation of sentence or other change in sentence, including a change ordered by the court;

11. A revocation of probation or parole or other change in probation or parole status; and

12. Any other event arising out of or occurring during the course of criminal proceedings or terms of the sentence deemed necessary as provided by the rules established by the Bureau.

The Bureau shall have authority to withhold any entry on a criminal history record when there is reason to believe the entry is based on error or an unlawful order. The Bureau shall in such case take immediate action to clarify or correct the entry.

H. Information reportable under the provisions of this section shall be reportable by the law enforcement officer or person directly responsible for the action, event or decision, unless otherwise provided by rule or agreement. The form and content of information to be reported and methods for reporting information, including fingerprint impressions and other identification information, shall be established by the rules promulgated by the Bureau. The Bureau is hereby directed to establish rules to implement the provisions of Section 150.1 et seq. of this title, provided any rule relating to reporting by courts or judicial officials shall be issued jointly by the Bureau and the Oklahoma Supreme Court.

I. Any person or agency subject to the mandatory reporting of criminal history information or fingerprints as required by the provisions of this act shall take appropriate steps to ensure that appropriate agency officials and employees understand such requirements. Each agency shall establish, and in appropriate cases impose, administrative sanctions for failure of an official or



employee to report as provided by law. Refusal or persistent failure of a person or agency to comply with the mandatory reporting requirements of this act may result in the discontinued access to Bureau information or assistance until such agency complies with the law.

J. All expungement orders which are presented to the Bureau for alterations to criminal history records must be accompanied by a payment of One Hundred Fifty Dollars (\$150.00) payable to the Bureau. The subject of the criminal history, whose record is being amended or updated based upon an expungement order, is responsible for such payment. Payment shall be rendered before any expungement order may be processed by the Bureau. Payment of the fee shall be waived if the subject of the criminal history record has been granted an expungement under the provisions of paragraph 3 of subsection A of Section 18 of Title 22 of the Oklahoma Statutes. Added by Laws 1976, c. 259, § 12, operative July 1, 1976. Amended by Laws 1994, c. 259, § 4, eff. Sept. 1, 1994; Laws 2000, c. 258, § 3, eff. July 1, 2000; Laws 2003, c. 199, § 12, eff. Nov. 1, 2003; Laws 2004, c. 556, § 2, eff. Nov. 1, 2004; Laws 2005, c. 378, § 1, eff. Sept. 1, 2005; Laws 2006, c. 16, § 80, emerg. eff. March 29, 2006; Laws 2015, c. 178, § 2, eff. Nov. 1, 2015. NOTE: Laws 2005, c. 223, § 3 repealed by Laws 2006, c. 16, § 81, emerg. eff. March 29, 2006.

§74-150.12A. Missing or runaway persons - Reports - National Crime Information Center entries - Procedures and guidelines - Family abduction reports - Missing children publicity and hotline.

A. It shall be the duty of any sheriff, chief of police, city marshal, constable, or any other law enforcement officer, immediately upon receipt of any report of a missing or runaway person, to send one copy of such report to the Oklahoma State Bureau of Investigation and enter such information, when applicable, to the National Crime Information Center. Within seventy-two (72) hours of location or discovery of the missing or runaway person, the sheriff, chief of police, city marshal, constable, or any other law enforcement officer shall notify the Oklahoma State Bureau of Investigation and remove the entry from the National Crime Information Center. Upon location or discovery of the missing or runaway person, the sheriff, chief of police, city marshal, constable or any other law enforcement officer shall immediately make the appropriate entry to the National Crime Information Center in accordance with NCIC standard operating procedures.

B. The Oklahoma State Bureau of Investigation and the Oklahoma Law Enforcement Telecommunications System shall jointly establish the procedures and guidelines necessary for enacting and maintaining an electronic database for missing and runaway persons in the State of Oklahoma which is compatible with the data collection entry

procedures of the National Crime Information Center. The Oklahoma State Bureau of Investigation shall establish guidelines for law enforcement officers concerning the collection and dissemination of information concerning missing or runaway persons.

C. Whenever a missing or runaway person report regarding a person born in the State of Oklahoma and under eighteen (18) years of age is received by a sheriff, chief of police, city marshal, constable or any other law enforcement officer, and there is reason to believe that the person is the victim of a family abduction, the reporting agency shall notify the Oklahoma State Bureau of Investigation, the Bureau shall immediately notify the State Commissioner of Health that the person has been reported to be missing. The Director of the Oklahoma State Bureau of Investigation and the State Commissioner of Health shall jointly establish the procedures and forms necessary for the transmittal of information between the Oklahoma State Bureau of Investigation and the State Department of Health required pursuant to the provisions of Section 150.1 et seq. of this title.

D. The Bureau shall establish a program to periodically publicize the names and pictures of missing children along with a missing children hot-line number on OETA.

Added by Laws 1983, c. 144, § 1, eff. Nov. 1, 1983. Amended by Laws 1984, c. 87, § 1, eff. Nov. 1, 1984; Laws 1985, c. 86, § 3, operative July 1, 1985; Laws 1986, c. 44, § 1, eff. Nov. 1, 1986; Laws 1996, c. 196, § 3, eff. July 1, 1996.

§74-150.12B. Forms for reporting domestic abuse - Report of incidents.

A. The Oklahoma State Bureau of Investigation shall provide forms for the reporting of domestic abuse to each person required to submit such reports pursuant to the provisions of Section 3 of this act and shall establish guidelines for the collection and reporting of domestic abuse incident information pursuant to the provisions of the Domestic Abuse Reporting Act.

B. The Director of the Oklahoma State Bureau of Investigation shall compile a monthly and annual statistical report which shall include the number of reported incidents of domestic abuse for each county and for the state as a whole, the types of crime involved in the domestic abuse, the days of the week the incidents occurred, and the hours of the day the incidents occurred. The statistical reports shall not include the names of any of the persons involved in an incident of domestic abuse or any information which would serve to identify such persons as individuals.

C. Copies of the monthly and annual statistical reports shall be available to the public upon request.

Added by Laws 1986, c. 197, § 4, eff. Nov. 1, 1986.

§74-150.13. Rangers - Appointment.

A. The Director of the Oklahoma State Bureau of Investigation is hereby authorized to appoint, with the approval of the Commission, not to exceed twenty special officers, who shall not be salaried employees of the Bureau of Investigation but who shall at all times be subject to the orders and directions of the Director; provided that the special officers shall not have authority to enforce any laws except the provisions of the Oklahoma Statutes relating to larceny of domestic animals, livestock or farm and ranch equipment or supplies, with respect to which they shall have the same authority as any other peace officer. These officers shall be known as rangers.

B. Rangers shall not receive any compensation or expenses from the State of Oklahoma or any of its departments, agencies or subdivisions for their services. Before the issuance of a special commission each ranger shall enter into a good and sufficient bond executed by a surety company authorized to do business in the State of Oklahoma in the sum of Five Hundred Thousand Dollars (\$500,000.00), and approved by the Director, to indemnify all persons against damages accruing as a result of any illegal or unlawful acts on the part of the rangers; provided that all special commissions shall expire on January 1 of the odd-numbered year after the appointment. The Director may renew, suspend or revoke any special commission at any time.

Added by Laws 1976, c. 259, § 13, operative July 1, 1976. Amended by Laws 1984, c. 69, § 1, emerg. eff. March 29, 1984; Laws 2007, c. 47, § 1, eff. Nov. 1, 2007.

§74-150.13A. Oil and gas industry crimes - Special officers.

A. The Director of the Oklahoma State Bureau of Investigation is hereby authorized to appoint, with the approval of the Oklahoma State Bureau of Investigation Commission, special officers that shall have enforcement authority related to the investigation of oil and gas industry crimes, which shall include the larceny of equipment, property, supplies or products. The number of special officers shall not exceed twenty (20) positions and those special officers shall not be salaried employees of the Bureau, but shall at all times be subject to the orders and directions of the Director. In addition, the special officers shall not have authority to enforce any laws except the provisions of the Oklahoma Statutes relating directly to oil and gas industry crimes, for which they will have the same authority as any other peace officer. The special officers shall be known as Special Investigators.

B. Special Investigators shall not receive any compensation or expenses from this state or any of its departments, agencies or subdivisions for their services. Before the issuance of a special commission, each Special Investigator shall enter into a good and

sufficient bond executed by a surety company authorized to do business in this state in the sum of Five Hundred Thousand Dollars (\$500,000.00). The bond shall also be approved by the Director and shall indemnify all persons against damages accruing as a result of any illegal or unlawful acts on the part of the Special Investigators. The special commissions shall expire on January 1 of the odd-numbered year after the appointment. The Director may renew, suspend or revoke any special commission at any time. Added by Laws 2011, c. 126, § 1, eff. Nov. 1, 2011. Amended by Laws 2012, c. 89, § 1, eff. Nov. 1, 2012.

§74-150.16. Rental or charter of aircraft.

The Oklahoma State Bureau of Investigation is hereby authorized to own and operate aircraft and to rent or charter aircraft on a project or mission basis, such rental or charter to last only for the duration of the project or mission. The Bureau is also authorized to pay, from any funds available to the Bureau, expenses involved in qualifying multiengine and instrument pilots as may be required to accomplish agency responsibilities. Added by Laws 1980, c. 319, § 7, emerg. eff. June 17, 1980. Amended by Laws 1982, c. 377, § 8, emerg. eff. May 14, 1982; Laws 2012, c. 156, § 1, eff. Nov. 1, 2012.

§74-150.17. Transfer of Statistical Analysis Division of Crime Commission to Bureau of Investigation.

A. Effective July 1, 1980, the Statistical Analysis Division of the present Oklahoma Crime Commission shall be transferred to the Oklahoma State Bureau of Investigation. All unexpended funds, property, records, personnel and any outstanding financial obligations or encumbrances of the Crime Commission which relate to the Statistical Analysis Division are hereby transferred to the Oklahoma State Bureau of Investigation.

B. Effective July 1, 1988, the personnel transferred from the Oklahoma Crime Commission to the Oklahoma State Bureau of Investigation and persons occupying the position of any such personnel on July 1, 1988, shall become subject to the provisions of the Merit System of Personnel Administration. All incumbent employees subject to this subsection shall be classified without regard to status or examinations. Such employees shall be granted status in the class of positions to which the employee's position is allocated by the Office of Personnel Management.

C. It is the intent of the Legislature that the mission of the Statistical Analysis Division not be changed by this transfer, and that the Oklahoma State Bureau of Investigation continue prior cooperative agreements made with the Criminal Justice Agencies of the state.

Amended by Laws 1988, c. 324, § 10, operative July 1, 1988.

§74-150.17a. Transfers of Criminal Justice Resource Center functions.

A. Effective July 1, 2009, the Criminal Justice Resource Center of the Legislative Service Bureau shall be transferred to the Oklahoma State Bureau of Investigation and the Office of the Attorney General as follows:

1. The functions of the Criminal Justice Resource Center relating to administration and research shall be transferred to the Office of Criminal Justice Statistics, which is hereby created within the Information Services Division of the Oklahoma State Bureau of Investigation;

2. The functions of the Criminal Justice Resource Center relating to data processing and information technology shall be transferred to the Information Technology Systems Division of the Oklahoma State Bureau of Investigation; and

3. The functions of the Criminal Justice Resource Center relating to the Domestic Violence Fatality Review Board shall be transferred to the Office of the Attorney General.

All unexpended funds, property, records, personnel and any outstanding financial obligations or encumbrances of the Criminal Justice Resource Center are hereby transferred to the entities specified in this subsection.

B. Effective July 1, 2009, the personnel transferred from the Criminal Justice Resource Center to the Oklahoma State Bureau of Investigation and the Office of the Attorney General and persons occupying the position of any such personnel on July 1, 2009, shall become employees of such agencies and shall not be subject to the provisions of the Merit System of Personnel Administration.

C. Effective July 1, 2009, any reference in the Oklahoma Statutes to the Criminal Justice Resource Center shall be a reference to the Oklahoma State Bureau of Investigation or the Office of the Attorney General, as appropriate with respect to the content of the reference.

Added by Laws 2009, c. 178, § 1.

§74-150.18. Reward System - Creation - Implementation - Information required to collect - Additional requirements.

A. There is hereby created an Oklahoma Reward System to be administered by the Oklahoma State Bureau of Investigation for the purpose of providing a method of disbursing cash awards, referred to as a reward, to persons giving valuable information resulting in the arrest and conviction of an accused person or materially assisting in the investigation of the commission or attempted commission of a crime as determined by the Oklahoma State Bureau of Investigation.

B. The Oklahoma State Bureau of Investigation shall implement such procedures and regulations as are necessary to carry out the

purposes of this act. Such procedures shall include a method for determining the amount of reward to be offered for information on a crime or series of crimes and which such crimes shall have a reward offered to assist in their solution.

C. Any person seeking to collect all or part of a reward offered under the provisions of this section shall submit the following information to the Oklahoma State Bureau of Investigation:

1. The crime which was committed;
2. The name of the victim of the crime;
3. The name of the person arrested and convicted;
4. The name of the law enforcement agency with which the

applicant cooperated; or

5. A written statement from that law enforcement agency providing details of the extent of the cooperation provided.

D. The Oklahoma State Bureau of Investigation shall make such additional requirements as deemed necessary to assure proper disbursement of the reward funds. Any person regularly employed as a peace officer, district attorney or assistant district attorney or any member of immediate family shall be prohibited from receiving any cash award from said fund.

Added by Laws 1981, c. 83, § 1, operative July 1, 1981. Amended by Laws 2015, c. 210, § 1, eff. Nov. 1, 2015.

#### §74-150.19a. OSBI Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma State Bureau of Investigation to be designated the "OSBI Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies received from the sale of surplus property, fees and receipts collected pursuant to the Oklahoma Open Records Act, fines, forfeitures, fees, charges, receipts, donations, gifts, bequests, contributions, devises, interagency reimbursements, federal funds unless otherwise provided by federal law or regulation, or any other source. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma State Bureau of Investigation for operating expenses of the Bureau, for the purpose of implementing the Oklahoma Reward System pursuant to Section 150.18 of this title, and to purchase equipment and provide training to law enforcement agencies located in the state, pursuant to Section 62.9 of this title. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1986, c. 201, § 6, emerg. eff. June 4, 1986. Amended by Laws 2004, c. 276, § 3, eff. Nov. 1, 2004; Laws 2012, c. 304, § 833.

§74-150.21. Legal division established - Duties - Restrictions.

The Oklahoma State Bureau of Investigation shall establish or provide for a legal division and the Director may employ two attorneys as needed, which attorneys, in addition to advising the Director, the Commission and employees of the Bureau on legal matters, may appear for and represent the Director, the Commission and employees of the Bureau in administrative hearings and other legal actions and proceedings. No Bureau attorney shall enter an appearance in a criminal action nor engage in private practice of the law while in the employment of the Oklahoma State Bureau of Investigation, except for the purpose of representing the agency in motions to quash subpoenas, other discovery matters, expungement applications, evidentiary hearings, and forfeiture proceedings. It shall continue to be the duty of the Attorney General to give official opinions to and to prosecute and defend actions for the Director, Commission and employees of the Bureau, if requested to do so.

Added by Laws 1982, c. 64, § 1, emerg. eff. March 30, 1982. Amended by Laws 1998, c. 388, § 2, eff. July 1, 1998; Laws 2002, c. 42, § 3, eff. Nov. 1, 2002.

§74-150.21a. Crimes information unit.

A. The Director of the Oklahoma State Bureau of Investigation may establish a crimes information unit within the Bureau.

B. With authorization from the Director of the Bureau, the crimes information unit or any employee of the Bureau may:

1. Investigate organized crime, criminal conspiracies, and threats of violent crime;
2. Collect information concerning the activity and identity of individuals reasonably believed to be engaged in organized crime, criminal conspiracies, or threatening violent crime;
3. Analyze collected information and disseminate such information to other law enforcement agencies for the purposes of criminal investigation and crime prevention;
4. Coordinate the effort of this state with local, state and federal agencies to protect its citizens against organized crime, criminal conspiracies and threats of violent crime by creating a clearinghouse of crime-related information for use by local, state and federal law enforcement agencies; and
5. Provide training to peace officers of this state concerning the legal collection, preservation and dissemination of crime-related information.

C. Release of information compiled pursuant to this section shall be prohibited except for release of information to law enforcement officers and prosecutorial authorities for the purpose of criminal investigation, criminal prosecution, and crime prevention. Unauthorized release or unauthorized use of this

information shall be a misdemeanor and shall be punishable by incarceration in the county jail not exceeding one (1) year or a fine not exceeding Fifty Thousand Dollars (\$50,000.00), or by both such fine and imprisonment. As used in this section, "unauthorized release" or "unauthorized use" shall include, but not be limited to, giving the information to any person who is not a law enforcement officer unless necessitated by an ongoing criminal investigation, or release of information to a law enforcement officer who is not engaged in a criminal investigation requiring the information or who is not authorized by his or her agency to receive such information, or release of information in violation of any rules promulgated by the Bureau. Information collected and compiled under the authority of this section shall be privileged and not discoverable nor subject to subpoena or order for production issued by any court, other than production in a district court criminal proceeding for the prosecution of crimes which are the subject of the information sought. The Director of OSBI shall make a quarterly report to the OSBI Commission of all information collected and compiled under the authority of this section.

Added by Laws 1996, c. 154, § 1, eff. Nov. 1, 1996.

§74-150.21b. OSBI reports concerning use of deadly force.

Notwithstanding any other provisions of law, when the Commissioner of Public Safety has requested the Oklahoma State Bureau of Investigation to conduct a criminal investigation of any incident involving the use of deadly force by a commissioned officer of the Department of Public Safety while in the official performance of such officer's duties, the Commissioner may use the report and the investigative information and materials in the furtherance of administrative matters within the Department, including, but not limited to, taking personnel actions and conducting internal investigations. Under no circumstances shall an OSBI report of its investigation of any incident involving the use of deadly force by a commissioned officer of any law enforcement agency other than the Department of Public Safety be provided to the employing agency for the purpose of or be used by that agency for the purpose of administrative matters or any purpose other than criminal prosecution.

Added by Laws 1999, c. 230, § 4, emerg. eff. May 26, 1999. Amended by Laws 2004, c. 130, § 10, emerg. eff. April 20, 2004.

§74-150.22. Special motor carrier enforcement officers - Transfer to State Bureau of Investigation.

A. As of July 1, 1985, the persons employed as of June 30, 1985, by the Corporation Commission as special motor carrier enforcement officers and as the supervisor officer pursuant to Section 171.1 of Title 47 of the Oklahoma Statutes shall be and are



ordered transferred to the Oklahoma State Bureau of Investigation for the purpose of oil and gas theft investigations.

B. No employee transferred pursuant to this section shall be required to accept a lesser grade or salary than presently received plus any salary adjustments provided by the Legislature for state employees. No entrance examination shall be required for the persons so transferred.

C. All such persons shall retain all leave, sick or annual, and any retirement benefits which have accrued during their tenure with the Commission.

Added by Laws 1985, c. 282, § 5, emerg. eff. July 22, 1985.

§74-150.23. Sidearms and badges - Custody and possession upon retirement or death - Purchase of rifles and shotguns.

A. An officer, investigator, or agent of the Oklahoma State Bureau of Investigation, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Wildlife Conservation, the Law Enforcement Division of the Oklahoma Horse Racing Commission, the State Fire Marshal's Office, the Oklahoma Tourism and Recreation Department, the Office of Inspector General and the Oklahoma Child Support Services divisions of the Department of Human Services, a Probation and Parole officer or Internal Affairs agent of the Department of Corrections, law enforcement officers employed by the Grand River Dam Authority or the office of a district attorney shall be entitled to receive, upon retirement by reason of length of service, the continued custody and possession of the sidearm and badge carried by such officer, investigator, or agent immediately prior to retirement.

B. An officer, investigator, or agent specified in subsection A of this section may be entitled to receive, upon retirement by reason of disability, the continued custody and possession of the sidearm and badge carried by such officer or agent immediately prior to retirement upon written approval of the applicable Director of the appropriate Bureau, Department, Commission, or district attorney.

C. Custody and possession of the sidearm and badge of an officer, investigator, or agent who dies while employed by any Bureau, Department, Commission, or office specified in subsection A of this section may be awarded by the applicable Director of the appropriate Bureau, Department, Commission, or office to the spouse or next of kin of the deceased officer, investigator, or agent.

D. A correctional officer of the Oklahoma Department of Corrections shall be entitled to receive, upon retirement by reason of length of service, the continued custody and possession of the firearm and badge carried by such officer immediately prior to retirement.

E. In addition to the firearm carried by a correctional officer of the Department of Corrections, the retired correctional officer may purchase the rifle or shotgun, or both, issued to the correctional officer immediately prior to retirement. The cost to the retired agent of purchasing the rifle or shotgun, or both, shall be the price the Department of Corrections paid at the time of purchase, and upon payment of that price, the retired correctional officer shall be entitled to ownership of the rifle or shotgun, or both.

F. In addition to the sidearm carried by a retired agent of the Oklahoma State Bureau of Investigation, the retired agent may purchase the rifle or shotgun, or both, issued to the retired agent immediately prior to retirement. The cost to the retired agent of purchasing the rifle or shotgun, or both, shall be the price the Oklahoma State Bureau of Investigation paid at the time of purchase, and upon payment of that price, the retired agent shall be entitled to ownership of the rifle or shotgun, or both.

Added by Laws 1987, c. 103, § 1, emerg. eff. May 22, 1987. Amended by Laws 1997, c. 134, § 1, eff. July 1, 1997; Laws 1999, c. 230, § 1, emerg. eff. May 26, 1999; Laws 2004, c. 275, § 15, eff. July 1, 2004; Laws 2005, c. 169, § 3, eff. Nov. 1, 2005; Laws 2010, c. 259, § 1, eff. Nov. 1, 2010; Laws 2014, c. 319, § 1, eff. Nov. 1, 2014; Laws 2015, c. 292, § 2, eff. Nov. 1, 2015; Laws 2016, c. 210, § 45, emerg. eff. April 26, 2016; Laws 2018, c. 86, § 1, eff. Nov. 1, 2018.

NOTE: Laws 2015, c. 138, § 1 repealed by Laws 2016, c. 210, § 46, emerg. eff. April 26, 2016.

§74-150.24. Automated fingerprint identification system - Coordination with law enforcement agencies.

On or before January 1, 1991, there shall be established within the Oklahoma State Bureau of Investigation a computerized fingerprint identification system (AFIS). The Oklahoma State Bureau of Investigation shall coordinate the use of this system and equipment with federal, state, county, and municipal law enforcement agencies. All county sheriff departments and all police departments for municipalities may participate in this system. The Oklahoma State Bureau of Investigation shall establish standards and guidelines for fingerprinting for the automated fingerprint identification system. The Oklahoma State Bureau of Investigation may place any fingerprint received by the Bureau for any purpose in its AFIS database.

Added by Laws 1990, c. 282, § 4, operative July 1, 1990. Amended by Laws 1994, c. 35, § 1, eff. Sept. 1, 1994.

§74-150.25. A.F.I.S. Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma State Bureau of Investigation, to be designated the "A.F.I.S. Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma State Bureau of Investigation, from appropriations, federal grants and assessments levied to said fund pursuant to law. All monies accruing to the credit of said fund are hereby appropriated and shall be budgeted and expended by the Oklahoma State Bureau of Investigation for the purpose of maintaining and operating the Automated Fingerprint Identification System (A.F.I.S.) until the indebtedness for the purchase of the automated fingerprint identification system equipment has been satisfied and to purchase equipment and provide training to law enforcement agencies located in the state, pursuant to Section 62.9 of this title. After the indebtedness has been satisfied, any monies not necessary for the maintenance, operating and upgrading expenses of the A.F.I.S. may be used for purchase, renovation or leasing of buildings, upgrading of laboratory equipment, and other capital expenditures of the Oklahoma State Bureau of Investigation and to purchase equipment and provide training to law enforcement agencies located in the state, pursuant to Section 62.9 of this title. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment. Added by Laws 1990, c. 282, § 5, operative July 1, 1990. Amended by Laws 1994, c. 188, § 3, eff. Sept. 1, 1994; Laws 2004, c. 276, § 4, eff. Nov. 1, 2004; Laws 2012, c. 304, § 834.

§74-150.26. Information transmittal - Forms and procedures.

The Director of the Oklahoma State Bureau of Investigation shall establish the procedures and forms necessary for the transmittal of information between the Oklahoma State Bureau of Investigation and participating law enforcement and criminal justice agencies. Added by Laws 1990, c. 282, § 6, operative July 1, 1990.

§74-150.27. Deoxyribonucleic acid (DNA) laboratory - Coordination of use with law enforcement agencies - Forensic DNA technical manager.

A. There shall be established within the Oklahoma State Bureau of Investigation (OSBI) a deoxyribonucleic acid (DNA) laboratory for the purpose of determining DNA profiles to be used for evidence in criminal proceedings. The OSBI shall coordinate the use of this laboratory and equipment with federal, state, county, and municipal law enforcement agencies. All county sheriff departments and all police departments for municipalities may participate in this laboratory. The OSBI shall establish standards and guidelines for the deoxyribonucleic acid (DNA) laboratory and shall comply with any

regulations applicable to DNA testing, sampling and laboratory standards.

B. The OSBI may make a DNA profile of any blood or saliva specimen received for any other purpose by the Bureau and place the DNA profile in its DNA population database. The DNA population database shall not be indexed by donor name, and the Bureau shall promulgate rules to protect the privacy of the DNA donors.

C. The OSBI may contract for the services of a Forensic DNA Technical Manager as reasonably necessary to ensure the continued operations of the DNA laboratory. The OSBI shall be exempt from the competitive bidding requirements of the Oklahoma Central Purchasing Act for the purpose of soliciting, negotiating, and effectuating such a contract or contracts.

Added by Laws 1991, c. 227, § 3, emerg. eff. May 23, 1991. Amended by Laws 1994, c. 35, § 2, eff. Sept. 1, 1994; Laws 2002, c. 235, § 3, emerg. eff. May 9, 2002; Laws 2004, c. 143, § 3, eff. Nov. 1, 2004; Laws 2005, c. 441, § 4, eff. Jan. 1, 2006; Laws 2006, c. 303, § 3, eff. Nov. 1, 2006.

§74-150.27a. OSBI Combined DNA Index System (CODIS) Database.

A. There is hereby established within the Oklahoma State Bureau of Investigation the OSBI Combined DNA Index System (CODIS) Database for the purpose of collecting and storing blood or saliva samples and DNA profiles, analyzing and typing of the genetic markers contained in or derived from DNA, and maintaining the records and samples of DNA of individuals:

1. Convicted of any felony offense;
2. Required to register pursuant to the Sex Offenders

Registration Act;

3. Subject to the availability of funds, eighteen (18) years of age or older arrested for the commission of a felony under the laws of this state or any other jurisdiction, upon being booked into a jail or detention facility. Provided, the DNA sample shall not be analyzed and shall be destroyed unless one of the following conditions has been met:

- a. the arrest was made upon a valid felony arrest warrant,
- b. the person has appeared before a judge or magistrate judge who made a finding that there was probable cause for the arrest, or
- c. the person posted bond or was released prior to appearing before a judge or magistrate judge and then failed to appear for a scheduled hearing; and

4. Subject to the availability of funds, convicted of a misdemeanor offense of assault and battery, domestic abuse, stalking, possession of a controlled substance prohibited under Schedule IV of the Uniform Controlled Dangerous Substances Act,

outraging public decency, resisting arrest, escaping or attempting to escape, eluding a police officer, Peeping Tom, pointing a firearm, threatening an act of violence, breaking and entering a dwelling place, destruction of property, negligent homicide, or causing a personal injury accident while driving under the influence of any intoxicating substance, or, upon arrest, any alien unlawfully present under federal immigration law.

The purpose of this database is the detection or exclusion of individuals who are subjects of the investigation or prosecution of sex-related crimes, violent crimes, or other crimes in which biological evidence is recovered, and such information shall be used for no other purpose.

B. Any DNA specimen taken in good faith by the Department of Corrections, its employees or contractors, the county sheriff, its employees or contractors or a peace officer, and submitted to the OSBI may be included, maintained, and kept by the OSBI in a database for criminal investigative purposes despite the specimen having not been taken in strict compliance with the provisions of this section or Section 991a of Title 22 of the Oklahoma Statutes.

C. Upon the request to OSBI by the federal or state authority having custody of the person, any individual who was convicted of violating laws of another state or the federal government, but is currently incarcerated or residing in Oklahoma, shall submit to DNA profiling for entry of the data into the OSBI DNA Offender Database. This provision shall only apply when such federal or state conviction carries a requirement of sex offender registration or DNA profiling. The person to be profiled shall pay a fee of One Hundred Fifty Dollars (\$150.00) to the OSBI.

D. The OSBI CODIS Database is specifically exempt from any statute requiring disclosure of information to the public. The information contained in the database is privileged from discovery and inadmissible as evidence in any civil court proceeding. The information in the database is confidential and shall not be released to the public. Any person charged with the custody and dissemination of information from the database shall not divulge or disclose any such information except to federal, state, county or municipal law enforcement or criminal justice agencies. Any person violating the provisions of this section upon conviction shall be deemed guilty of a misdemeanor punishable by imprisonment in the county jail for not more than one (1) year.

E. The OSBI shall promulgate rules concerning the collection, storing, expungement and dissemination of information and samples for the OSBI CODIS Database. The OSBI shall determine the type of equipment, collection procedures, and reporting documentation to be used by the Department of Corrections, a county sheriff's office or a law enforcement agency in submitting DNA samples to the OSBI in accordance with Section 991a of Title 22 of the Oklahoma Statutes.

The OSBI shall provide training to designated employees of the Department of Corrections, a county sheriff's office and a law enforcement agency in the proper methods of performing the duties required by this section.

F. The OSBI CODIS Database may include secondary databases and indexes including, but not limited to:

1. Forensic index database consisting of unknown evidence samples;
2. Suspect index database consisting of samples taken from individuals as a result of criminal investigations;
3. Convicted offender index database authorized pursuant to subsection A of this section; and
4. Missing persons and unidentified remains index or database consisting of DNA profiles from unidentified remains and relatives of missing persons.

G. 1. Any person convicted of a felony offense who is in custody shall provide a blood or saliva sample prior to release.

2. Subject to the availability of funds, any person convicted of a misdemeanor offense of assault and battery, domestic abuse, stalking, possession of a controlled substance prohibited under Schedule IV of the Uniform Controlled Dangerous Substances Act, outraging public decency, resisting arrest, escaping or attempting to escape, eluding a police officer, Peeping Tom, pointing a firearm, threatening an act of violence, breaking and entering a dwelling place, destruction of property, negligent homicide, or causing a personal injury incident while driving under the influence of any intoxicating substance who is in custody shall provide a blood or saliva sample prior to release.

3. Every person who is convicted of a felony offense whose sentence does not include a term of incarceration shall provide a blood or saliva sample as a condition of sentence.

4. Subject to the availability of funds, every person who is convicted of a misdemeanor offense of assault and battery, domestic abuse, stalking, possession of a controlled substance prohibited under Schedule IV of the Uniform Controlled Dangerous Substances Act, outraging public decency, resisting arrest, escape or attempting to escape, eluding a police officer, Peeping Tom, pointing a firearm, threatening an act of violence, breaking and entering a dwelling place, destruction of property, negligent homicide, or causing a personal injury accident while driving under the influence of any intoxicating substance whose sentence does not include a term of incarceration shall provide a blood or saliva sample as a condition of sentence.

5. Subject to the availability of funds, any person eighteen (18) years of age or older who is arrested for the commission of a felony under the laws of this state or any other jurisdiction shall, upon being booked into a jail or detention facility, submit to DNA

testing for law enforcement identification purposes. Provided, the DNA sample shall not be analyzed and shall be destroyed unless one of the following conditions has been met:

- a. the arrest was made upon a valid felony arrest warrant,
- b. the person has appeared before a judge or magistrate judge who made a finding that there was probable cause for the arrest, or
- c. the person posted bond or was released prior to appearing before a judge or magistrate judge and then failed to appear for a scheduled hearing.

Added by Laws 1994, c. 40, § 2, eff. July 1, 1996. Amended by Laws 1996, c. 153, § 3, emerg. eff. May 7, 1996; Laws 1997, c. 260, § 10, eff. Nov. 1, 1997; Laws 2001, c. 88, § 2, eff. Nov. 1, 2001; Laws 2001, c. 225, § 3, eff. July 1, 2001; Laws 2002, c. 235, § 4, emerg. eff. May 9, 2002; Laws 2004, c. 143, § 4, eff. Nov. 1, 2004; Laws 2005, c. 1, § 128, emerg. eff. March 15, 2005; Laws 2005, c. 441, § 5, eff. Jan. 1, 2006; Laws 2009, c. 218, § 3, emerg. eff. May 19, 2009; Laws 2016, c. 181, § 3, eff. Nov. 1, 2016; Laws 2017, c. 194, § 3, eff. Nov. 1, 2017.

NOTE: Laws 2004, c. 61, § 1 repealed by Laws 2005, c. 1, § 129, emerg. eff. March 15, 2005.

§74-150.28. Deoxyribonucleic acid (DNA) laboratory - Acquisition or transmittal of specimens and information - Procedures.

The Director of the Oklahoma State Bureau of Investigation shall establish the procedures, methods and forms necessary for the acquisition or transmittal of specimens and information between the Oklahoma State Bureau of Investigation and participating law enforcement and criminal justice agencies.

Added by Laws 1991, c. 227, § 4, emerg. eff. May 23, 1991.

§74-150.29. Petty cash fund.

The Oklahoma State Bureau of Investigation is hereby given authority to create a petty cash fund not to exceed Four Hundred Dollars (\$400.00) for each office of the Oklahoma State Bureau of Investigation, which may be expended for the purpose of providing change for cash payments for criminal history record checks and other Oklahoma Open Records Act search and copy fees.

Added by Laws 1993, c. 71, § 1, eff. July 1, 1993. Amended by Laws 2001, c. 74, § 2, eff. Nov. 1, 2001; Laws 2012, c. 156, § 2, eff. Nov. 1, 2012.

§74-150.30. Audits of petty cash fund.

Any audit including but not limited to a financial statement audit performed by the State Auditor and Inspector's Office or an independent licensed public accountant on the funds, accounts,

vouchers and books and fiscal affairs of the Oklahoma State Bureau of Investigation shall include an audit of the petty cash fund created pursuant to the provisions of the section detailing the various items of receipts and expenditures of the fund.

Added by Laws 1993, c. 71, § 2, eff. July 1, 1993.

§74-150.31. Business operations - Rules and procedures - Accounts receivable.

The Oklahoma State Bureau of Investigation may promulgate rules and establish procedures for the business operations of the Bureau under the Oklahoma Open Records Act. The Bureau is hereby granted the authority to establish policies and procedures for creating accounts receivable for individuals, corporations, and government agencies for providing copies of its open records in advance of payment, including the providing of criminal history information and related services.

Added by Laws 1993, c. 71, § 3, eff. July 1, 1993.

§74-150.32. Firearms Laboratory Improvement Fund.

A. There is hereby established the "Firearms Laboratory Improvement Fund". The fund shall be a continuing fund for the Oklahoma State Bureau of Investigation. The fund shall not be subject to fiscal year limitations and shall consist of monies received from all state agencies which seize assets pursuant to the Uniform Controlled Dangerous Substances Act during the fiscal year ending June 30, 1994. Each agency's contribution shall be determined on a pro rata basis based on the percentage of forfeitures collected by the agency during the fiscal year ending June 30, 1993, in relation to the total monetary value of all forfeitures collected by all agencies contributing to the fund. The amount each agency is to contribute shall be determined by the Director of the Office of Management and Enterprise Services and the Cabinet Secretary for Safety and Security. Funds shall be transferred pursuant to a time schedule established by the Director of the Office of Management and Enterprise Services and the Cabinet Secretary for Safety and Security, but all such funds shall be transferred as available. The total amount of money to be paid into the fund shall not exceed One Hundred Forty-five Thousand Dollars (\$145,000.00). Funds collected in the Drugfire Project Fund during the 1994 fiscal year shall be carried over into the Firearms Laboratory Improvement Fund. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. The Firearms Laboratory Improvement Fund shall be used to upgrade the firearms laboratory services of the Oklahoma State Bureau of Investigation criminalistics laboratory. Expenditures



from the fund shall be used only for training of personnel, matching funds for federal grants to obtain laboratory instrumentation, the purchase of laboratory instrumentation and equipment, and to upgrade existing laboratory instrumentation and equipment. If the Firearms Laboratory Improvement Fund is not expended by June 30, 1996, funds contributed by agencies shall be repaid to the agencies.

Added by Laws 1993, c. 237, § 1, eff. July 1, 1993. Amended by Laws 1994, c. 193, § 1, eff. July 1, 1994; Laws 2012, c. 304, § 835.

NOTE: Editorially renumbered from § 150.29 of this title to avoid duplication in numbering.

§74-150.33. Repealed by Laws 1994, c. 193, § 2, eff. July 1, 1994.

§74-150.34. Judicial background investigations.

Of the full-time-equivalent employees authorized for the Oklahoma State Bureau of Investigation, one employee shall be employed for the purpose of conducting judicial background investigations requested by the Judicial Nominating Commission. When not conducting investigations for the Judicial Nominating Commission, the employee may be involved in investigations as requested by the Council on Judicial Complaints and in other investigations as deemed appropriate by the Director of the Oklahoma State Bureau of Investigation; provided, however, the first priority of the employee will be to respond to requests of the Commission.

Added by Laws 1995, c. 235, § 3, eff. Sept. 1, 1995. Amended by Laws 2012, c. 153, § 2, eff. Nov. 1, 2012.

§74-150.35. Forensic Science Improvement Revolving Fund - Creation - Use of fund

There is hereby created in the State Treasury a revolving fund for the Oklahoma State Bureau of Investigation to be designated the "Forensic Science Improvement Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all appropriated funds, any funds from state, federal or other grants, the funds collected from assessments provided by Section 1313.4 of Title 20 of the Oklahoma Statutes, any monies transferred from the OSBI Revolving Fund; and any other monies designated to or deposited to the benefit of this fund. All monies accruing to the credit of this fund are hereby appropriated and may be budgeted and expended by the Oklahoma State Bureau of Investigation for the purpose of improvement of the forensic science services of the Oklahoma State Bureau of Investigation including, but not limited to:

1. Purchase, construction, renovation, financing or leasing of facilities and equipment;
2. Purchase, rental, upgrades, repair, and maintenance of instrumentation and equipment;

3. Salaries, benefits, training, equipment, supplies, and overhead expenses for agency personnel;
4. Education, training and development of OSBI personnel;
5. Destruction of seized property and chemicals;
6. Accreditation and quality assurance expenses;
7. Professional services contracts;
8. Purchase equipment and provide training to law enforcement agencies located in this state, pursuant to Section 62.9 of this title; and

9. Enhancement or implementation of forensic technologies. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2001, c. 225, § 5, eff. July 1, 2001. Amended by Laws 2004, c. 276, § 5, eff. Nov. 1, 2004; Laws 2012, c. 304, § 836.

§74-150.36. Short title.

This act shall be known and may be cited as the "Forensic Laboratory Accreditation Act".

Added by Laws 2002, c. 351, § 2, emerg. eff. May 30, 2002.

§74-150.37. Definitions - Accreditation - Evidence in criminal trials.

A. For purposes of this act:

1. "ABFT" shall mean the American Board of Forensic Toxicology, an accrediting body for toxicology;

2. "Accredited" shall mean recognized formally by an accrediting body as meeting or exceeding applicable quality standards;

3. "Accrediting body" shall mean a nationally recognized organization that has developed and maintained an independent system, based upon ISO/IEC 17025 standards, for providing laboratories with an impartial review of laboratory operations and that provides formal recognition or certification to laboratories who demonstrate continued compliance with those standards and other supplemental forensic standards which are specific to the maintenance and testing of forensic evidence;

4. "ISO/IEC 17025" shall mean the International Organization of Standards/International Electrotechnical Commission standard 17025 that is published by the International Organization for Standardization and the International Electrotechnical Commission and included as a standard in general requirements for the competence of testing and calibration laboratories;

5. "Forensic laboratory" shall mean a laboratory operated by the state or any unit of municipal, county, city or other local

government that examines physical evidence in criminal matters and provides opinion testimony in a court of law;

6. "Toxicology analysis" shall mean a laboratory analysis whereby biological samples are tested for alcohol and/or other toxic or intoxicating substances;

7. "IAI" shall mean the International Association for Identification; and

8. "Supplemental forensic standards" shall mean additional requirements specifically related to maintenance and analysis of forensic evidence required in addition to the calibration and testing requirements of ISO/IEC 17025 standards.

B. Effective July 1, 2005, all forensic laboratories as defined in this act established or operating prior to that date shall be accredited. The following exceptions shall apply:

1. Breath testing for alcohol;

2. Field testing, crime scene processing, crime scene evidence collection, searches, examinations or enhancements of digital evidence, and crime scene reconstruction;

3. Latent print identification performed by an IAI certified latent print examiner;

4. Marijuana identification using methods generally accepted in the forensic field that are approved by a forensic laboratory accredited in controlled substances;

5. All forensic laboratories established on or after July 1, 2005, as defined in this act, shall be accredited within two (2) years of establishment; and

6. Forensic laboratories that exclusively and solely perform forensic toxicology analysis may meet this requirement by being either accredited through an accrediting body as defined in this section or accredited by ABFT.

C. On or after July 1, 2005, testimony, results, reports, or evidence of forensics analysis produced on behalf of the prosecution in a criminal trial shall be done by an accredited forensic laboratory. This section shall not apply to:

1. Testimony, results, reports, or evidence of forensic analysis produced by a forensic laboratory established after July 1, 2005, and not yet required to be accredited as set forth in subsection B of this section;

2. Testimony, results, reports, or evidence of forensic analysis produced by a forensic laboratory prior to July 1, 2005. Such testimony, results, reports, or evidence need not be performed by an accredited forensic laboratory and may be produced or presented on behalf of the prosecution in a criminal trial after July 1, 2005, as long as the forensic analysis was produced prior to that date;

3. Testimony, results, reports, or evidence of breath testing for alcohol;

4. Testimony, results, reports, or evidence of field testing, crime scene processing, crime scene evidence collection, searches, examinations or enhancements of digital evidence, and crime scene reconstruction;

5. Testimony, results, reports, or evidence of latent print identification performed by an IAI certified latent print examiner; and

6. Testimony, results, reports, or evidence of marijuana identification using methods generally accepted in the forensic field that are approved by a forensic laboratory accredited in controlled substances.

Added by Laws 2002, c. 351, § 3, emerg. eff. May 30, 2002. Amended by Laws 2003, c. 203, § 1, emerg. eff. May 9, 2003; Laws 2011, c. 137, § 2, eff. Nov. 1, 2011.

§74-150.38. Child Abuse Response Team (CART) - Employees - Qualifications - Report.

A. Subject to the availability of funds, there is hereby established within the Oklahoma State Bureau of Investigation the Child Abuse Response Team (CART) for the purpose of investigating cases of physical and sexual abuse of a child. For the purpose of implementing CART, the Bureau shall employ at least eight Law Enforcement Special Agents assigned to the CART, which shall be full-time-equivalent positions within the Bureau. The previously unclassified positions of CART investigator and CART forensic interviewer shall be transferred to and placed in the classified service without a loss in salary.

B. In addition to any other law or rule specifying requirements or qualifications for an OSBI agent to be employed by the Bureau, the Child Abuse Response Team employees shall be qualified for the respective positions as follows:

1. Every CART Agent shall:

- a. have at least three (3) years of experience as a criminal investigator in a law enforcement agency or agencies,
- b. be currently certified as a peace officer by the Council on Law Enforcement Education and Training (CLEET),
- c. have served as the primary criminal investigative officer in a law enforcement agency or agencies on cases of physical or sexual abuse of a child,
- d. have graduated from an accredited college or university with a bachelor degree,
- e. have experience in conducting forensic interviews of children in cases of physical or sexual abuse of a child,

- f. have experience testifying in cases of physical or sexual abuse of a child, and
- g. have completed at least one hundred (100) hours of education or training on forensic interviewing of a child.

2. If the director of the Oklahoma State Bureau of Investigation is unable to find a person whose qualifications meet or exceed the qualifications specified for the position of Law Enforcement Special Agent assigned to the CART, the director is authorized to offer such position to a person whose qualifications substantially meet the qualifications specified for the position.

C. The Bureau may promulgate rules, procedures and forms necessary to establish and implement the functions of the Child Abuse Response Team and to coordinate responsibilities with other persons or agencies having responsibilities relating to child abuse investigation and response to child abuse. Members of the Child Abuse Response Team are authorized, when available, to be involved and utilized in investigations of crimes other than cases of physical and sexual abuse of a child.

D. On or before July 1, 2015, the Bureau shall submit to the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives a statistical report regarding the activities of the CART.

Added by Laws 2006, c. 326, § 2, eff. July 1, 2006. Amended by Laws 2012, c. 153, § 3, eff. Nov. 1, 2012; Laws 2014, c. 406, § 1, emerg. eff. June 3, 2014.

§74-150.38a. Repealed by Laws 2012, c. 153, § 5. eff. Nov. 1, 2012.

§74-151.1. Internet Crimes Against Children unit - Local cooperative agreements.

A. The Oklahoma State Bureau of Investigation shall establish an Internet Crimes Against Children (ICAC) unit for the primary purpose of investigating Internet crimes committed against children, including, but not limited to, offenses related to child pornography and solicitation of minors for pornography, prostitution or sex-related offenses. The unit shall additionally promote safe Internet use among children and their parents by various media or printed-material campaigns or by offering educational programs to schools or communities throughout this state. The Bureau shall employ sufficient employees to investigate and implement the ICAC unit.

B. The Director of the Oklahoma State Bureau of Investigation is hereby authorized to enter into local cooperative agreements with local law enforcement agencies for the purpose of appointing ICAC Affiliate Task Force Agents to assist the ICAC unit of the Bureau. ICAC Affiliate Task Force Agents shall be employees and commissioned law enforcement officers of the local law enforcement agency

entering into agreement with the Oklahoma State Bureau of Investigation and shall not be employees of the Bureau. ICAC Affiliate Task Force Agents shall have general peace officer powers and the authority to arrest persons throughout the state for the purpose of investigating Internet crimes committed against children including, but not limited to, offenses related to child pornography, solicitation of minors for pornography, prostitution or sex-related offenses. ICAC Affiliate Task Force Agents shall promote safe Internet use among children and parents of children by various media or printed-material campaigns or by offering educational programs to schools or communities throughout Oklahoma. The Director of the Bureau may renew, suspend or revoke any agreement appointing an ICAC Affiliate Task Force Agent at any time. ICAC Affiliate Task Force Agents serve solely at the discretion and will of the Director of the Oklahoma State Bureau of Investigation. Added by Laws 2006, c. 183, § 3, emerg. eff. May 22, 2006. Amended by Laws 2012, c. 115, § 2, eff. Nov. 1, 2012.

§74-151.2. Renumbered as § 2-106.3 of Title 47 by Laws 2008, c. 302, § 14, emerg. eff. June 2, 2008.

§74-152.2. Definitions.

For purposes of this act:

1. "Broker" means every person whose primary business is buying, selling, or otherwise dealing in used materials as agent for the seller of the used materials, or as agent for the buyer of the used materials, or as agent for both;
2. "Bureau" means the Oklahoma State Bureau of Investigation;
3. "Dealer" means every person whose primary business is buying, selling, or otherwise dealing in used materials and who has a fixed, designated place or places of business within this state;
4. "Director" means the Director of the Oklahoma State Bureau of Investigation;
5. "Gas" means natural gas, including casinghead gas, and any and all other hydrocarbons not defined as oil;
6. "Load ticket" means an invoice or other shipping paper described and required by Section 1013 of Title 68 of the Oklahoma Statutes or other manifest required by state or federal law describing the cargo;
7. "Oil" means crude petroleum oil, and any other liquid hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods;
8. "Oil field equipment" means equipment, machinery or materials that are part of or incident to drilling, well servicing, exploration, development, maintenance, production, transportation and operation of oil and gas properties and includes equipment and materials that are part of or incident to the construction,

maintenance and operation of oil and gas wells, oil and gas leases, gasoline plants and refineries;

9. "Oil reclaimer" means any person who reclaims, salvages, or in any manner removes or extracts oil from the waste products associated with the production, storage, and transportation of oil, including but not limited to salt water, and the residue from oil storage tank bottoms;

10. "Peddler" means every person who is not a dealer or broker and whose primary business is buying, selling, or otherwise dealing in used materials;

11. "Person" means any individual, copartnership, corporation, common law or statutory trust or association of whatever character;

12. "Pipeline equipment" means all pipes, fitting, pumps, telephone and telegraph lines, and all other material and equipment used as part of or incident to the construction, maintenance and operation of a pipeline for the transportation of oil, gas, water, or other liquid or gaseous substance;

13. "Transportation" or "transport" means the movement of oil or gas or salt water by any vehicle in this state. The term does not include movement by railroad tank car or by pipeline. The term transportation or transport shall not apply to the transportation of oil or gas when such oil or gas is contained in the ordinary equipment of a motor vehicle and is used only for the operation of the motor vehicle in which contained;

14. "Transporter" means any person who actually transports oil or gas or salt water in any vehicle on any road, street, or highway in this state;

15. "Unlawful gas" means gas transported or taken in violation of any law of this state;

16. "Unlawful oil" means any oil transported or taken in violation of any law of this state;

17. "Used materials" means pipeline equipment or oil field equipment after the equipment has once been placed in the use for which it first was manufactured and intended; and

18. "Vehicle" means every device upon or in which any person or property is or may be transported or drawn.

Added by Laws 1985, c. 187, § 1, eff. Nov. 1, 1985. Amended by Laws 1986, c. 201, § 9, operative July 1, 1986; Laws 2008, c. 364, § 2, eff. Jan 1, 2009.

#### §74-152.3. Additional powers and duties of Bureau.

In addition to the other powers and duties of the Oklahoma State Bureau of Investigation provided by law, the Bureau shall have the power and duty to:

1. Review records from any oil reclaimer to ensure that oil is not stolen;

2. To enter upon any public or private property to conduct inspections at reasonable hours to ensure that any operation of an oil reclaiming facility is not a conduit for unlawful oil and for the purpose of investigating oil or gas theft operations and to take necessary action if any operation is found to be a conduit for stolen oil or gas;

3. Advise, consult, and cooperate with other agencies of this state, the federal government, other states and interstate agencies, and with affected groups and political subdivisions concerning oil reclaiming operations, the transportation of unlawful oil and unlawful gas and stolen oil field equipment;

4. Institute and maintain or intervene in any action or proceeding where deemed necessary by the Bureau to ensure that any operation of an oil reclaiming facility is not a conduit for unlawful oil or for the purpose of prosecuting persons involved in oil field equipment theft;

5. Conduct investigations of organized oil or gas theft rings and stolen oil field equipment rings;

6. Determine sources and outlets for unlawful oil or unlawful gas or stolen oil field equipment;

7. Stop any vehicle transporting or appearing to transport any oil, gas or salt water, for the purpose of inspecting, measuring, and taking samples of the cargo and inspecting load tickets to ensure that such vehicle is not transporting unlawful gas or unlawful oil;

8. Stop any vehicle transporting or appearing to transport any oil field equipment, for the purpose of inspecting the cargo being transported and to inspect bills of lading to ensure that the vehicle is not transporting stolen oil field equipment;

9. Investigate any theft of oil or gas or oil field equipment of which the agency receives notice;

10. Arrest or cause the arrest of any person when reasonable grounds exist to believe such person is in possession of unlawful oil, unlawful gas or stolen oil field equipment;

11. Coordinate the efforts of this state to reduce oil, gas and oil field equipment theft with local, state, and federal law enforcement agencies;

12. Develop educational programs on detection and prevention of oil, gas and oil field equipment theft; and

13. Exercise all incidental powers necessary and proper for the administration and enforcement of the provisions of this act.

Added by Laws 1985, c. 187, § 2, eff. Nov. 1, 1985. Amended by Laws 1986, c. 201, § 10, operative July 1, 1986; Laws 2008, c. 364, § 3, eff. Jan. 1, 2009.

§74-152.4. Oil reclamation - Inspections.



The Director, investigators, and any other agent of the Bureau shall have the right at all times to go upon property where oil is being reclaimed in order to inspect, gauge, or take samples from pipelines, tank farms, pump stations, and any and all other facilities used for the reclamation of oil.

Added by Laws 1985, c. 187, § 3, eff. Nov. 1, 1985.

§74-152.5. Disposition of monies - Reports - Oil and Gas Theft Recovery Revolving Fund.

A. All monies received from fines and forfeitures for violations of the provisions of this act on behalf of the Bureau, when collected by the court clerk, shall be deposited by such clerk as follows:

1. Fifty percent (50%) thereof with the county treasurer to be credited to the general fund of the county and so reported; and

2. Fifty percent (50%) shall be transmitted to the Oil and Gas Theft Recovery Fund by cash voucher and so reported.

B. All transmittals of monies under this section shall be accompanied by a report showing the name of the court, the number of the case, the style of the case and the amount of fine and forfeiture in each separate instance.

C. There is hereby created in the State Treasury a revolving fund for the Bureau, to be designated the "Oil and Gas Theft Recovery Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Bureau, from fines and forfeitures received pursuant to this act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Bureau for the purpose of effectuating the provisions of this act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1985, c. 187, § 4, eff. Nov. 1, 1985. Amended by Laws 2012, c. 304, § 837.

§74-152.6. Certain peace officers authorized to stop certain vehicles - Taking samples and inspecting load ticket - Presumption of unlawful cargo.

A. Each agent of the Oklahoma State Bureau of Investigation, each agent of the Federal Bureau of Investigation, each highway patrolman, each sheriff and each state-certified peace officer in this state is authorized to stop any vehicle transporting or appearing to transport oil, gas or salt water, for the purpose of inspecting, measuring, and taking samples of the cargo and inspecting the load ticket of such vehicle to ensure that the cargo conforms to such load ticket. Except as authorized in subsection C

of this section, upon stopping any vehicle pursuant to this section, such patrolmen, agents, sheriffs or peace officers are not authorized to take any samples of the cargo of such vehicle until the vehicle arrives at its destination as indicated on its load ticket.

B. Each agent of the Oklahoma State Bureau of Investigation, each agent of the Federal Bureau of Investigation, each highway patrolman, each sheriff and each state-certified peace officer in this state is authorized to stop any vehicle transporting or appearing to transport oil field equipment, for the purpose of inspecting the cargo and inspecting the bill of lading of the vehicle to ensure that the cargo conforms to the bill of lading.

C. Such patrolmen, agents, sheriffs or peace officers may take samples of the cargo of such vehicle if the vehicle has an out-of-state destination as indicated on its load ticket or if no destination is indicated on the load ticket.

D. A rebuttable presumption that the cargo is unlawful oil or unlawful gas and probable cause for the arrest of any person transporting oil, gas or salt water and the seizure of the vehicle and the oil or gas transported in the vehicle pursuant to Section 152.8 of this title shall be established if:

1. The person transporting oil or gas or salt water fails to produce the load ticket upon proper request therefor;

2. The load ticket does not contain such information so as to describe or otherwise evidence the cargo as required by state or federal laws; or

3. The inspection, measuring, or taking samples of said oil or gas or salt water reveals that the contents of the vehicle are not the same as those described in the load ticket.

Added by Laws 1985, c. 187, § 5, eff. Nov. 1, 1985. Amended by Laws 2008, c. 364, § 4, eff. Jan. 1, 2009.

§74-152.7. Failure to stop vehicle or permit inspection - Penalties - Disposition of monies.

A. Each person transporting oil or gas or salt water who:

1. Willfully and knowingly fails to stop his vehicle when commanded to do so by any person authorized to stop and inspect a vehicle pursuant to Section 5 of this act; or

2. Willfully fails to permit inspection by such authorized person of the contents of the vehicle or the load ticket in the possession of such person or accompanying such vehicle, upon conviction, shall be punished by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00), or by imprisonment in the county jail for not more than six (6) months or by both such fine and imprisonment.

B. Any monies received from fines pursuant to this section shall be deposited pursuant to Section 4 of this act.

Added by Laws 1985, c. 187, § 6, eff. Nov. 1, 1985.

§74-152.8. Transportation of unlawful oil or gas as public nuisance - Seizure and forfeiture of certain property - Recovery procedure.

A. The transportation of all unlawful oil or unlawful gas is hereby declared to be a public nuisance and such unlawful gas or unlawful oil shall be forfeited to the state. Except as provided by this section and Section 8 of this act all vehicles being used to transport said unlawful oil or unlawful gas shall also be forfeited to the state.

B. Except as authorized by subsection C of this section, all property taken or detained under this section by any authorized person shall not be repleviable, and shall be deemed to be in the custody of the office of the district attorney of the county in which such property was seized, subject only to the decree of a court of competent jurisdiction. If sufficient evidence exists, as determined by the district attorney, that any oil or gas seized is unlawful oil or unlawful gas or that any vehicle seized was used to transport such unlawful oil or unlawful gas, said district attorney shall follow the procedures provided in Section 8 of this act dealing with notification of seizure, intent and forfeiture, final disposition procedures, and release to innocent claimants with regard to all property seized by such authorized persons. If sufficient evidence does not exist, as determined by the district attorney, that any oil or gas seized is unlawful oil or unlawful gas or that any vehicle seized was used to transport such unlawful oil or unlawful gas, the district attorney may release such oil or gas or vehicle but shall notify any appropriate state or federal agency of any possible permit or license violations.

C. 1. The owner of a vehicle, upon submission of a written statement, under oath, to the office of the district attorney of the county in which said property was seized that such owner had no knowledge of the unlawfulness of the oil or gas or that the oil or gas became unlawful without his knowledge after the creation of his interest or that the vehicle was being used for the purpose charged without his knowledge, and upon execution of a lien pursuant to this subsection and entry of the lien on the certificate of title, shall be entitled to recover the possession of the vehicle prior to the commencement of the action.

2. The office of the district attorney of the county in which property was seized shall have a lien upon any vehicle seized pursuant to this section. If the title to the vehicle is not with the person from whom such vehicle was seized, the person having title shall be given notice within five (5) days of such seizure and of the opportunity to recover the vehicle pursuant to this subsection. The lien on such vehicle shall be preferred to all other liens or encumbrances which may attach to or upon such vehicle.

3. The office of the district attorney claiming the lien within ten (10) days of seizure of the vehicle shall file in the office of the county clerk of the county in which such property was seized a statement verified by affidavit setting forth:

- a. the registration number of the seized vehicle;
- b. the name of the person having title to said vehicle; and
- c. a description of the vehicle including its value.

In addition, the office of the district attorney claiming the lien shall provide for the entry of the lien on the certificate of title pursuant to the Motor Vehicle Title Act. Such statement shall be filed and the lien recorded on the certificate of title prior to the recovery of the vehicle by the owner pursuant to this subsection.

4. Any person having title to the seized vehicle on which a lien is claimed pursuant to this subsection may at any time discharge the lien by depositing with the county clerk of the county in which property was seized a corporate surety bond made payable to the state in an amount not less than the value of the vehicle seized. Within three (3) business days after the deposit of bond is made, the county clerk shall serve upon the office of the district attorney claiming the lien, written notice setting forth:

- a. the number of the lien claim;
- b. the name of the vehicle owner;
- c. the property description shown on the lien claim;
- d. the names of the principal and surety; and
- e. the bond penalty.

The party seeking to discharge the lien shall prepare and deliver the notice to the county clerk of the county in which the property was seized and pay a fee of Five Dollars (\$5.00) to cover the cost of filing and mailing. An abbreviated notice may be used if the same refers to and encloses a copy of the lien claim and a copy of the bond with the clerk's filing stamp thereon. The notice shall be mailed by registered or certified mail at the option of the county clerk.

If a bond is deposited, the district attorney shall have five (5) days after the notice is mailed within which to file a written objection with the county clerk of said county. If a written objection is not timely made, the county clerk shall immediately show the lien released of record. If an objection is timely made, the county clerk shall set a hearing within five (5) days thereafter and notify by ordinary mail both the office of the district attorney and the party making the deposit of the date and time thereof. The only grounds for objection shall be that: The surety is not authorized to transact business in this state; the bond is not properly signed; the amount is less than the value of the vehicle seized; the power of attorney of the surety's attorney-in-fact does

not authorize the execution; there is no power of attorney attached if the bond is executed by anyone other than the surety's president and attested by its secretary; or a cease and desist order has been issued against the surety either by the Insurance Commissioner or a court of competent jurisdiction. Within two (2) business days following the hearing the county clerk shall either sustain or overrule the objections and notify the parties of his ruling by ordinary mail. If the objections are sustained, the ruling of the county clerk shall be conclusive for lien release purposes unless appealed within ten (10) days to the district court. If the objections are overruled, the county clerk shall immediately show the lien released of record.

The bond shall: Name the office of the district attorney in which the property was seized as obligee and the party seeking the release as principal; be executed by both the principal and the surety; have a proper power of attorney attached if executed by an attorney-in-fact; be executed by a corporate surety authorized to transact business in this state; and be conditioned that the principal and surety will pay the full amount of the claim as established in any appropriate court proceeding, plus any court costs, but in no event shall the liability of the principal or surety under the bond exceed the bond penalty. The conditions of any bond filed pursuant to this section shall be deemed to comply with the requirements hereof, regardless of the language or limitations set forth therein, if both the principal and surety intend that the bond be filed to secure a lien release under this section.

The bond shall stand in lieu of the released lien. The bond shall stand liable for such principal, interest, and court costs. The bond principal and surety are necessary parties to an action against the substituted security, and by filing a bond the parties subject themselves to personal jurisdiction in the court where the action is properly filed and may be served with process as in other cases.

5. If the district attorney fails to file a forfeiture proceeding pursuant to Section 8 of this act, upon application of the party filing the bond and the payment of a fee of Ten Dollars (\$10.00), the county clerk shall appropriately note on the bond that the same has been released. The clerk shall not incur liability to any lien claimant for the release of a bond in good faith.

6. Upon conviction of the owner of the vehicle for violating the provisions of this act, the vehicle so seized upon which a lien has been filed pursuant to this subsection or any bond posted for the discharge of the lien on such vehicle shall be forfeited to the state pursuant to forfeiture proceedings provided by Section 8 of this act.

7. Upon the acquittal of such person charged with violating the provisions of this section or upon the dismissal with prejudice of said charge against such person or it is shown that the owner of such vehicle was not knowledgeable concerning the illegal use of his vehicle, the lien on the vehicle shall be immediately discharged in accordance with procedures for the discharge of liens, or the bond posted shall be returned to the person posting such bond.  
Added by Laws 1985, c. 187, § 7, eff. Nov. 1, 1985.

§74-152.9. Seizure and forfeiture proceedings.

A. Any person authorized to stop and inspect a vehicle pursuant to Section 152.6 of this title shall seize any unlawful oil or unlawful gas and shall seize any vehicle or trailer which is being used to transport such unlawful oil or unlawful gas. Except as authorized by Section 152.8 of this title, such property shall be held as evidence until a forfeiture has been declared or a release ordered.

B. Notice of seizure and intended forfeiture proceeding shall be filed in the office of the clerk of the district court for the county in which such unlawful oil or unlawful gas and vehicle or trailer is seized and shall be given all owners and parties in interest.

C. Notice shall be given to:

1. The Oklahoma Tax Commission Gross Production Division;
2. Each owner or party in interest whose rights, title, or interest is of record in the Oklahoma Tax Commission, by mailing a copy of the notice by certified mail to the address as given upon the records of the Oklahoma Tax Commission;
3. Each owner or party in interest whose name and address is known, by mailing a copy of the notice by registered mail to the last-known address; and
4. All other owners, whose addresses are unknown, but who are believed to have an interest in the unlawful oil or unlawful gas, vehicle or trailer, by one publication in a newspaper of general circulation in the county where the seizure was made.

D. Within sixty (60) days after the mailing or publication of the notice, the owner of the unlawful oil or unlawful gas, vehicle or trailer and any other party in interest or claimant may file a verified answer and claim to the unlawful oil or unlawful gas, vehicle or trailer described in the notice of seizure and of the intended forfeiture proceeding.

E. If at the end of sixty (60) days after the notice has been mailed or published there is no verified answer on file, the court shall hear evidence upon the fact of the unlawful use and shall order the unlawful oil or unlawful gas, vehicle or trailer forfeited to the state, if such fact is proved.

F. If a verified answer is filed, the forfeiture proceeding shall be set for hearing.

G. At the hearing the state shall prove beyond a reasonable doubt by competent evidence that the oil or gas seized is unlawful oil or unlawful gas and that any vehicle or trailer seized was being used to transport the unlawful oil or unlawful gas.

H. The claimant of any right, title, or interest in the unlawful oil, unlawful gas, vehicle or trailer may prove that the lien mortgage or conditional sales contract of the claimant is bona fide and that such right, title, or interest was created without any knowledge of the unlawfulness of the oil or gas or that the oil or gas became unlawful without the knowledge of the claimant after the creation of the interest of the claimant, or that the vehicle or trailer was being used for the purpose charged without the knowledge of the claimant.

I. In the event of such proof, the court shall order the unlawful oil or unlawful gas, vehicle or trailer released to the bona fide or innocent owner, lien holder, mortgagee, or vendor if the amount due the person is equal to, or in excess of, the value of the unlawful oil or unlawful gas, vehicle or trailer as of the date of the seizure.

J. If the amount due to such person is less than the value of the unlawful oil or unlawful gas, vehicle or trailer or if no bona fide claim is established, the unlawful oil or unlawful gas, vehicle, trailer or bond shall be forfeited to the state and the unlawful oil or unlawful gas, vehicle or trailer shall be sold under judgment of the court, as on sale upon execution.

K. The proceeds of the sale of any unlawful oil or unlawful gas, vehicle, trailer or bond shall be distributed as follows, in the order indicated:

1. All gross production and petroleum excise taxes due to the Oklahoma Tax Commission;

2. To the bona fide innocent purchaser, conditional sales vendor, or mortgagee of the unlawful gas or unlawful oil, vehicle or trailer, if any, up to the amount of the interest of the person in the unlawful gas or unlawful oil, vehicle or trailer, when the court declaring the forfeiture orders a distribution to such person;

3. To the payment of the actual expenses of preserving the property;

4. The remainder of such proceeds shall be remitted forthwith as follows:

- a. fifty percent (50%) thereof with the county treasurer to be credited to the general fund of the county and so reported, and
- b. fifty percent (50%) shall be transmitted to the State Treasurer and shall be placed to the credit of the

agency bringing the action or on whose behalf the action is brought; and

5. The sheriff executing the sale shall issue a bill of sale or certificate to the purchaser of the oil or gas and the Tax Commission, upon the presentation of the certificate of clearance, shall issue a license, if a license is required, permitting the purchaser of the oil or gas to move the same into commerce.

L. If the court finds that oil or gas seized is not unlawful, the court shall order the oil or gas released to the owner and shall order any vehicle or trailer used to transport the oil and gas released to the owner as the right, title, or interest of the owner appears on the record of the Oklahoma Tax Commission as of the date of the seizure.

Added by Laws 1985, c. 187, § 8, eff. Nov. 1, 1985. Amended by Laws 2008, c. 364, § 5, eff. Jan. 1, 2009.

§74-152.10. Additional employees for investigation of oil field theft and fraud.

The Oklahoma State Bureau of Investigation, subject to the availability of funds, shall be granted an additional two full-time-equivalent employees to be employed for the purpose of conducting oil field theft and fraud investigations except in cases of emergency.

Added by Laws 2002, c. 339, § 1, eff. July 1, 2002. Amended by Laws 2012, c. 153, § 4, eff. Nov. 1, 2012.

NOTE: This section was editorially renumbered from § 150.36 of this title to avoid duplication in numbering.

§74-152.11. Bill of sale or invoice - Records - Violation.

A. Before purchasing or acquiring pipeline equipment, oil field equipment or used materials, a dealer, broker, or peddler shall require that a bill of sale or invoice for the used materials be executed by the seller or the person who acquires the pipeline equipment, oil field equipment or used materials. The dealer, broker, or peddler shall keep a copy of each bill of sale or invoice at the place of business of the dealer, broker or peddler.

B. The bill of sale or invoice shall include:

1. The name and address of the dealer, broker, or peddler;

2. The serial or other identifying number of the pipeline equipment, oil field equipment or used materials, if available;

3. The kind, make, size, weight, length, and quantity of the pipeline equipment, oil field equipment or used materials purchased or acquired;

4. The date of the purchase or acquisition, if different from the date of the bill of sale or invoice;

5. The name and address of the seller; and



6. The legal description and well name or physical address of the property at the time purchased or acquired.

C. A dealer, broker or peddler shall keep at the place of business of the dealer, broker or peddler all records required to be kept pursuant to this section for two (2) years after the date of the purchase or acquisition of the materials.

D. A person, dealer, peddler or broker who violates the provisions of this section shall, upon conviction, be punished by a fine of not less than Five Hundred Dollars (\$500.00) for each violation.

Added by Laws 2008, c. 364, § 6, eff. Jan. 1, 2009.

#### §74-152.12. Inspections.

A. Any agent of the Oklahoma State Bureau of Investigation, any agent of the Federal Bureau of Investigation, any commissioned officer of the Department of Public Safety, and each sheriff in this state may enter the business premises of a dealer, broker or peddler during normal business hours to inspect the premises and the records of the dealer, broker or peddler to determine whether the dealer, broker or peddler is in compliance with the requirements provided in Section 6 of this act.

B. A dealer, broker or peddler must allow and shall not interfere with inspections conducted pursuant to this section.

C. Each inspection conducted under this section shall be commenced and completed with reasonable promptness and shall be conducted in a reasonable manner.

Added by Laws 2008, c. 364, § 7, eff. Jan. 1, 2009.

#### §74-166.1. Creation - Director - Contracts.

A. There is hereby created the State Department of Rehabilitation Services, to be governed by the Commission for Rehabilitation Services.

B. The Director of the Department of Rehabilitation Services shall be the chief executive officer of the Department. The Director shall have the training and experience necessary for the administration of the Department, as determined by the Commission for Rehabilitation Services. The Director may employ such staff as may be necessary to perform the duties of the Department.

C. The Department may make and enter into all contracts necessary or incidental to the performance of its duties and may purchase or lease equipment, furniture, materials and supplies, and incur such other expenses as may be necessary to maintain and operate the Department.

Added by Laws 1993, c. 364, § 1, emerg. eff. June 11, 1993. Amended by Laws 2004, c. 543, § 1, eff. July 1, 2004.

§74-166.2. Commission for Rehabilitation Services - Powers and duties.

A. Effective July 1, 1993, there is hereby created the Commission for Rehabilitation Services, an agency of the State of Oklahoma, a body corporate and politic, with powers of government and with the authority to exercise the rights, privileges and functions as herein specified, with its lawful operations deemed to be an essential governmental function of the State of Oklahoma with all the attributes thereof.

B. The Commission shall appoint and remove the Director of the Department of Rehabilitation Services, approve programs, policy and budget, and perform the necessary functions of a governing board for the State Department of Rehabilitation Services.

C. 1. The Commission shall consist of three (3) members, to be appointed by June 15, 1993, as follows:

- a. one member shall be appointed by the President Pro Tempore of the Oklahoma State Senate for a three-year term,
- b. one member shall be appointed by the Speaker of the Oklahoma House of Representatives for a three-year term, and
- c. one member shall be appointed by the Governor for a three-year term.

2. Thereafter, beginning with the expiration of the terms of the three members initially appointed, the Commission shall consist of three (3) members, appointed as follows:

- a. one member shall be appointed by the President Pro Tempore of the Oklahoma State Senate and shall serve a term of one (1) year,
- b. one member shall be appointed by the Speaker of the Oklahoma House of Representatives and shall serve a term of two (2) years, and
- c. one member shall be appointed by the Governor and shall serve a term of three (3) years.

3. Thereafter, at the expiration of the term, or termination of the member's service for any reason, the original appointing authority shall appoint a successor for a term of three (3) years, or for the remainder of an unexpired term.

D. Members of the Commission shall be knowledgeable of and have concern for rehabilitation issues and disability issues; provided, that such requirement shall not exclude participation of lay persons as Commission members. All members shall be residents of the state and qualified electors at the time of their appointment. Before entering upon the duties of their office, members of the Commission shall take the Constitutional oath of office and the same shall be filed with the Secretary of State. A member of the Commission may be reappointed to succeed himself or herself. Commission members

shall be reimbursed for travel expenses incurred in the performance of their duties as provided in the State Travel Reimbursement Act.

E. The original appointing authority may remove any commissioner for misconduct, incompetency or neglect of duty, after giving such commissioner a written statement of charges, and opportunity for a hearing.

Added by Laws 1993, c. 364, § 2, emerg. eff. June 11, 1993. Amended by Laws 2004, c. 543, § 2, eff. July 1, 2004.

§74-166.3. Meetings - Secretary - Employees - Office.

A. The Commission for Rehabilitation Services shall meet a minimum of ten (10) times per calendar year and shall hold a regular annual meeting at which it shall elect from among its membership a chairperson and a vice-chairperson. Special meetings may be held at such times as may be deemed necessary or advisable by a majority of the Commission members.

B. 1. All meetings of the Commission shall be open and public and shall be held in accordance with the provisions of the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes, and the Oklahoma Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes.

2. A secretary of the Commission shall be appointed by the Commission, and shall hold office at the pleasure of the Commission. The secretary may or may not be a member of the Commission. The Commission may employ such other persons and may rent or purchase such equipment as it deems necessary or desirable to carry out the provisions of this act.

3. The Commission may establish an office which shall be acquired pursuant to the provisions of Section 63 of this title. Added by Laws 1993, c. 364, § 3, emerg. eff. June 11, 1993. Amended by Laws 1994, c. 280, § 6, eff. July 1, 1994.

§74-166.4. Transfer of Rehabilitation Services Division of Department of Human Services.

A. Effective July 1, 1993, the Rehabilitation Services Division of the Department of Human Services is hereby transferred from the Department of Human Services and the Oklahoma Public Welfare Commission to the State Department of Rehabilitation Services, created pursuant to Section 1 of this act.

B. The transfer shall include:

1. All powers, duties, responsibilities, properties, assets, fund balances, encumbrances, obligations, records, personnel and liabilities including, but not limited to, liability for all Rehabilitation Services Division employees' sick leave, annual leave, holidays, unemployment benefits and workers' compensation benefits accruing to employees prior to July 1, 1993, which are attributable to the Rehabilitation Services Division;

2. All programs funded by the federal Rehabilitation Act as amended;

3. All related programs and facilities presently operated by the Rehabilitation Services Division of the Department of Human Services as follows:

- a. vocational and related rehabilitation services,
- b. the Oklahoma Library for the Blind and Physically Handicapped,
- c. the Vending Facility Program,
- d. the Transitional Living Center for the Deaf,
- e. telecommunications devices for the deaf,
- f. interpreter services,
- g. telephone relay service,
- h. the Disability Determination Unit,
- i. the Oklahoma School for the Blind, and
- j. the Oklahoma School for the Deaf; and

4. All real property as follows:

- a. the Oklahoma City Evaluation Center located at 5813 South Robinson in Oklahoma City, Oklahoma,
- b. the Library for the Blind and Physically Handicapped located at 300 N.E. 18th Street in Oklahoma City, Oklahoma,
- c. the Transitional Living Center located at 5903 N.W. 52nd Street in Warr Acres, Oklahoma,
- d. the Oklahoma School for the Blind located at 3300 Gibson in Muskogee, Oklahoma, and
- e. the Oklahoma School for the Deaf located at East 10th and Tahlequah Streets in Sulphur, Oklahoma.

C. Any unresolved transfer issues or items shall be resolved contractually by the Commission for Rehabilitation Services and the Commission for Human Services, with the approval of the Governor.  
Added by Laws 1993, c. 364, § 4, emerg. eff. June 11, 1993.

§74-166.5. Commission for Rehabilitation Services - Powers and duties - Trust for the School for the Blind and School for the Deaf.

A. The Commission for Rehabilitation Services shall have the powers and duties to:

1. Adopt bylaws and promulgate rules for the regulation of its affairs and the conduct of its business;
2. Formulate policies and adopt rules for the effective administration of the duties of the State Department of Rehabilitation Services;
3. Adopt an official seal;
4. Establish an office;
5. Sue and to be sued, subject to the provisions of The Governmental Tort Claims Act;

6. Make and enter into all contracts necessary or incidental to the performance of its duties and the execution of its powers;

7. Purchase or lease equipment, furniture, materials and supplies, and incur such other expenses as may be necessary to maintain and operate the Commission and the State Department of Rehabilitation Services, or to discharge its duties and responsibilities or to make any of its powers effective;

8. Acquire by purchase, lease, gift, solicitation of gift or by any other manner, and to maintain, use and operate or to contract for the maintenance, use and operation of or lease of any and all property of any kind, real, personal or mixed or any interest therein unless otherwise provided by this act; provided that, all contracts for real property shall be subject to the provisions of Section 63 of this title;

9. Appoint such officers, agents and employees as it deems necessary to operate and maintain the Commission and to prescribe their duties and to fix their compensation;

10. Perform such other acts as shall be necessary for the accomplishment of the purposes of Chapter 5A of this title; and

11. Serve as trustee for the trust created in subsection B of this section for the benefit of the Oklahoma School for the Blind and the Oklahoma School for the Deaf.

B. 1. The Commission for Rehabilitation Services is hereby authorized and directed to create a trust into which all real property held by the Commission for the benefit of the Oklahoma School for the Blind and the Oklahoma School for the Deaf shall be transferred.

2. The property placed in trust:

- a. shall be held for the sole benefit of the Oklahoma School for the Blind and the Oklahoma School for the Deaf,
- b. if not needed for use by the schools, may be leased or rented to others and all income received from such leases or rentals shall be payable to the Commission and deposited in the Rehabilitation Services Disbursing Fund for use by the Commission to fulfill the purposes of the Oklahoma School for the Blind and the Oklahoma School for the Deaf, and
- c. may be sold if the commissioners, acting as trustees, determine that the sale is in the best interest of the Oklahoma School for the Blind or the Oklahoma School for the Deaf. The proceeds from the sale of the property shall be held in the trust corpus and shall be invested by the State Treasurer. Income derived from the corpus shall be used by the Commission for the purposes of the Oklahoma School for the Blind and the Oklahoma School for the Deaf.

3. The corpus of the trust may be disbursed only upon legislative approval.

4. The trust may be dissolved only upon legislative approval.

C. Upon the creation of the trust authorized in subsection B of this section, the Office of Management and Enterprise Services shall provide all necessary assistance to the Department of Rehabilitation Services to identify and transfer all real property held by or for the benefit of the Oklahoma School for the Blind and the Oklahoma School for the Deaf to the trust.

Added by Laws 1993, c. 364, § 5, emerg. eff. June 11, 1993. Amended by Laws 2001, c. 95, § 1, eff. Nov. 1, 2001; Laws 2001, c. 329, § 10, emerg. eff. June 1, 2001; Laws 2004, c. 543, § 3, eff. July 1, 2004; Laws 2012, c. 304, § 838.

§74-166.6. Repealed by Laws 1998, c. 418, § 76, eff. July 1, 1998.

§74-166.7. Rehabilitation Services Disbursing Fund.

A. There is hereby created in the State Treasury a revolving fund for the Commission on Rehabilitation Services, to be designated the "Rehabilitation Services Disbursing Fund" provided that the fund may be designated by fiscal year designations as the Commission may determine. The fund shall be a continuing fund, not subject to fiscal year limitations. The fund shall consist of receipts from the federal government, monies appropriated to the State Department of Rehabilitation Services by the State Legislature, and other receipts of the State Department of Rehabilitation Services as shall be directed by the Commission for Rehabilitation Services. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Commission for Rehabilitation Services as may be necessary in order to carry out the duties imposed upon the Commission by law. Expenditures from the Rehabilitation Services Disbursing Fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. Appropriations, federal monies or any other monies collected by or for the Department and monies from the current and prior fiscal years may be transferred to and between the agency disbursing funds for the current or prior fiscal years, the Medical and Assistance Funds and any other funds authorized for the use by the Department as necessary to carry out the duties of the Commission. All transfer requests shall be in writing to the Office of Management and Enterprise Services. Such monies transferred shall be included in the Department's budget work program. The Department shall maintain records of the transfers.

C. Receipt and expenditure of unanticipated federal funds awarded to the Department after the commencement of the fiscal year

shall be exempt from expenditure limitations, provided that any such funds are included in the Department's budget work program.

D. The Director of the Department may request through the Director of the Office of Management and Enterprise Services the early transfer by the Oklahoma Tax Commission of tax collection to the General Revenue Fund for the purpose of early allocation to the Department's disbursing funds to alleviate cash-flow problems.

E. The Department of Rehabilitation Services may direct all or a portion of federal and state funds received and appropriated for services to Older Individuals who are Blind (OIB) to qualified community-based, nonprofit organizations accredited by the National Accreditation Council for Blind and Low Vision Services to administer, pursuant to contract, services for older individuals with vision impairments including, but not limited to, assisting in correcting or modifying visual disabilities including optical vision aids, in-home training, orientation and mobility, Braille instruction, adaptive skills training, information and referral, peer counseling and other appropriate services designed to assist an older individual who is blind with daily living activities.

F. Funds received by the Commission for OIB Rehabilitation Services from the federal Rehabilitation Services Administration and state matching funds may, in their entirety, be used to fund the Independent Living Older Blind program as established in The Rehabilitation Act of 1973, as amended.

G. Services provided by qualified Older Independent Blind contractors may be dependent upon budget parameters and staffing. Added by Laws 1996, c. 239, § 9, eff. Sept. 1, 1996. Amended by Laws 2012, c. 304, § 839; Laws 2017, c. 126, § 1, eff. July. 1, 2017; Laws 2018, c. 304, § 22, emerg. eff. May 10, 2018.

NOTE: Editorially renumbered from § 166.7 of Title 75 to provide consistency in numbering.

NOTE: Laws 2017, c. 321, § 1 repealed by Laws 2018, c. 304, § 23, emerg. eff. May 10, 2018.

§74-166.8. Employee performance recognition program - Direct service delivery staff incentive program

A. The Commission for Rehabilitation Services is hereby authorized to:

1. Establish an employee performance recognition program that recognizes outstanding job performance and productivity within the State Department of Rehabilitation Services;

2. Expend monies available from the Department's operating funds to purchase recognition awards for presentation to employees with exceptional job performance records, or who make other significant contributions to the operation of the Department. Such awards may be presented at a formal or informal ceremony, banquet or reception, the cost of which may be expended from monies available

in the Department's operating funds. Awards to recognize employee achievement pursuant to this subsection may consist of wearing apparel, service pins, plaques, writing pens, or other items valued at not more than One Hundred Dollars (\$100.00) per award.

Discussion regarding the selection of the annual Commissioner's Award shall be confidential.

B. Notwithstanding any other provisions of law, the Commission for Rehabilitation Services is authorized to use receipt of funds from the Social Security reimbursement program for a direct service delivery staff incentive program. Incentives may be awarded if case service costs are reimbursed for job placement of Social Security or Supplemental Security Income recipients at the Substantial Gainful Activity (SGA) level for nine (9) months pursuant to 42 U.S.C., Section 422, and under those conditions and criteria as are established by the federal reimbursement program.

Added by Laws 2001, c. 103, § 1, eff. Nov. 1, 2001. Amended by Laws 2007, c. 145, § 1, eff. Nov. 1, 2007; Laws 2016, c. 83, § 1, eff. Nov. 1, 2016.

§74-166.9. Donations of tax refunds to School for the Blind/School for the Deaf - Revolving fund.

A. Each state individual income tax return form and each corporate income tax return form for tax years commencing after December 31, 2001, shall contain a designation for donations of tax refunds to the Oklahoma School for the Blind/Oklahoma School for the Deaf.

B. The monies generated pursuant to subsection A of this section shall be paid to the State Treasurer by the Oklahoma Tax Commission and placed to the credit of the Oklahoma School for the Deaf/Oklahoma School for the Blind Revolving Fund.

C. There is hereby created in the State Treasury a revolving fund for the State Department of Rehabilitation Services to be designated the "Oklahoma School for the Deaf/Oklahoma School for the Blind Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies apportioned to the fund pursuant to the provisions of this section. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Department of Rehabilitation Services for the purpose of funding programs at the Oklahoma School for the Deaf and the Oklahoma School for the Blind. Such monies shall be equally divided between the two designated schools. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

D. If a taxpayer makes a donation pursuant to subsection A of this section in error, such taxpayer may file a claim for refund at



any time within three (3) years from the due date of the tax return pursuant to Section 2373 of Title 68 of the Oklahoma Statutes. Prior to the apportionment set forth in this section, an amount equal to the total amount of refunds made pursuant to this subsection during any one (1) year shall be deducted from the total donations received pursuant to this section during the following year and such amount deducted shall be paid to the State Treasurer and placed to the credit of the Income Tax Withholding Refund Account.

Added by Laws 2001, c. 329, § 11, emerg. eff. June 1, 2001. Amended by Laws 2012, c. 304, § 840.

NOTE: Editorially renumbered from § 166.8 of this title to avoid duplication in numbering.

§74-166.10. Short title - Purpose.

A. Sections 1 through 3 of this act shall be known and may be cited as the "Oklahoma Ticket to Work and Work Incentives Improvement Act", as authorized by Section 1305 et seq., 42 U.S.C., the federal Ticket to Work and Work Incentives Improvement Act of 1999, Public Law 106-170.

B. The purposes of the Oklahoma Ticket to Work and Work Incentives Improvement Act are to:

1. Provide employment and training preparation, placement services and health care coverage to working individuals with disabilities by enabling them to reduce their dependency on Social Security Disability Insurance or Supplemental Security Income cash benefit programs;

2. Provide individuals with disabilities who receive Supplemental Security Income cash benefits the ability to purchase Medicaid coverage enabling them to maintain health care coverage while working; and

3. Ensure that programs and services provided to persons with disabilities produce productive outcomes.

C. The Oklahoma Legislature recognizes the following findings:

1. It is important to support programs that provide training and employment services to individuals with disabilities in order to help them lead productive work lives;

2. Health care coverage is important to all individuals and is particularly important to individuals with disabilities who often cannot afford the insurance available to them through the private market;

3. Many individuals with disabilities fear losing health care coverage, including necessary support services, which ultimately hinders the individuals from maximizing their employment, earning potential, and independence;

4. Many Social Security Disability Insurance and Supplemental Security Income beneficiaries risk losing Medicare or Medicaid

coverage that is linked to their existing cash benefits, a risk that is an equal, or greater, work disincentive than the loss of cash benefits associated with obtaining work;

5. Many individuals with disabilities have greater opportunities for employment than ever before, aided by important public policy initiatives such as the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), advancements in public understanding of disability, and innovations in assistive technology, medical treatment, and rehabilitation; and

6. Creating financial incentive work programs, providing better choices in obtaining training and placement services, maintaining health care coverage while working, and redesigning existing service-related programs may eliminate barriers to work for persons with disabilities and may greatly improve their short- and long-term financial and personal well-being.

D. As used in the Oklahoma Ticket to Work and Work Incentives Improvement Act, "Medicaid" means the medical assistance program established in Title XIX of the Social Security Act, 42 U.S.C.A., Section 1396 et seq., and administered in this state by the Oklahoma Health Care Authority.

Added by Laws 2001, c. 365, § 1, emerg. eff. June 4, 2001.

NOTE: Editorially renumbered from § 166.8 of this title to avoid duplication in numbering.

#### §74-166.11. Ticket to Work and Self-Sufficiency Program.

A. The State Department of Rehabilitation Services, pursuant to rules promulgated by the Commission for Rehabilitation Services, shall establish a "Ticket to Work and Self-Sufficiency Program". The purpose of the Ticket to Work and Self-Sufficiency Program is to enhance the range of choices and options available to Social Security Disability Insurance and Supplemental Security Income disability beneficiaries who are seeking vocational rehabilitation services to obtain and maintain employment opportunities.

B. Components of the Ticket to Work and Self-Sufficiency Program pursuant to federal Ticket to Work and Work Incentives Improvement Act of 1999 shall include, but not be limited to:

1. Program participation guidelines, eligibility requirements, and program performance standards;
2. Requirements for periodic quality assurance reviews and customer service satisfaction surveys; and
3. Requirements for a dispute resolution process.

C. The Commission for Rehabilitation Services shall promulgate any rules necessary to implement provisions of the Oklahoma Ticket to Work and Work Incentives Improvement Act regarding the Ticket to Work and Self-Sufficiency Program.

D. On or before January 15, 2002, the Department of Rehabilitation Services shall prepare a summary report of the Ticket

to Work and Self-Sufficiency Program's findings and results to be submitted to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Governor.

Added by Laws 2001, c. 365, § 2, emerg. eff. June 4, 2001.

NOTE: Editorially renumbered from § 166.9 of this title to avoid duplication in numbering.

§74-166.12. State Department of Rehabilitation Services - Request for national criminal background check.

The State Department of Rehabilitation Services is hereby authorized to request from the Oklahoma State Bureau of Investigation national criminal background checks as provided for in Section 150.9 of Title 74 of the Oklahoma Statutes on all persons seeking employment with the Department.

Added by Laws 2011, c. 76, § 1, eff. Nov. 1, 2011.

§74-166.13. Program to broaden availability of support service providers in the deaf-blind community - Support Service Providers Grant Program Fund.

A. Subject to the availability of funds, the State Department of Rehabilitation Services shall:

1. Establish a program to broaden the availability of support service providers (SSPs) in the deaf-blind community;

2. Develop a mission statement for the program and promulgate rules necessary to implement and administer the program;

3. Provide grants to SSPs and organizations that provide services for deaf-blind adults or deaf-blind children and their families. The services shall include but are not limited to:

- a. transportation for doctor appointments, shopping or errands,
- b. reading mail or other correspondence,
- c. making telephone calls,
- d. recreation or wellness activities,
- e. civic or religious activities,
- f. deaf-blind meetings or events, and
- g. occasional special events such as weddings, funerals or religious ceremonies.

The Department may prioritize and limit the amount and scope of services offered subject to funding limitations and considering the needs of the deaf-blind recipients and their families; and

4. Use a request-for-proposal process to award grants to SSPs. SSPs that receive grants pursuant to this section may expend the grant monies for any purpose authorized in this subsection. The total amount of grants awarded pursuant to this section shall not exceed Three Hundred Thousand Dollars (\$300,000.00) annually.

B. After establishing a program pursuant to subsection A of this section and subject to the availability of funds, the

Department may develop a certification requirement and training program for SSPs and organizations that provide services for deaf-blind adults or deaf-blind children and their families with the primary priority of service to the deaf-blind recipients and their families.

C. The structure and scope of the program established in subsection A of this section may be expanded upon legislative approval and funding. The program shall be aligned with other initiatives of the Department to avoid duplication or overlap of services or programming; however, the Department may use a combination of services or programs to provide a comprehensive support program for deaf-blind adults or deaf-blind children and their families. The Department may solicit and accept private or public funds from individuals and entities to implement and administer the program.

D. There is hereby created in the State Treasury a revolving fund for the State Department of Rehabilitation Services to be designated the "Support Service Providers Grant Program Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. The fund shall consist of monies appropriated to the Department by the State Legislature and any other monies acquired by the Department pursuant to subsection C of this section. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department in order to carry out the duties imposed in this section. Expenditures from the Support Service Providers Grant Program Fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2018, c. 141, § 2.

§74-168. Library for the Blind and Physically Handicapped - Transfer of land - Indebtedness and bonds.

A. The Office of Management and Enterprise Services is hereby authorized to transfer to the Oklahoma Capitol Improvement Authority, for the purpose of erecting, operating and maintaining a building for the Library for the Blind and Physically Handicapped, the land described as a part of the Northwest Quarter of Section 27, Township 12 North, Range 3 West of the Indian Meridian, Oklahoma County, Oklahoma, more particularly described as follows: Beginning at the Southeast corner of the said NW 1/4 of the said Section 27; thence S 89 degrees 59' 33" W, a distance of 152.77 feet to a point; thence S 89 degrees 59' 29" W, a distance of 479.34 feet to a point; thence N 0 degrees 46' 09" E, a distance of 341.21 feet to the point and place of beginning; thence S 89 degrees 59' 29" W, a distance of 121.90 feet to a point; thence N 0 degrees 03' 26" W, a distance of 138.82 feet to a point; thence S 89 degrees 59' 29" W, a distance of

290.00 feet to a point; thence W 0 degrees 07' 52" W, a distance of 334.28 feet to a point; thence N 89 degrees 59' 29" E, a distance of 320.00 feet to a point; thence N 89 degrees 58' 51" E, a distance of 99.15 feet to a point; thence S 0 degrees 46' 09" W, a distance of 473.17 feet to the point and place of beginning, retaining an easement for vehicular access over and across a forty-foot-wide strip of land, said strip being the Westerly forty (40) feet of the above described property, containing three and fifty-nine one-hundredths (3.59) acres.

B. For the purpose of paying the costs of the project authorized in subsection A of this section, the Oklahoma Capitol Improvement Authority is hereby authorized to borrow money on the credit of rental payments made by the Department of Human Services and, in anticipation of the collection of such rental payments, to issue negotiable bonds not to exceed the sum of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) as may be necessary for such purpose as determined by the Authority. The Authority may retain such legal counsel as it deems necessary for this purpose subject to all requirements of the Public Competitive Bidding Act of 1974.

In order to prevent any defaults or threatened defaults in the payment of said bonds, the Authority is hereby authorized to require the State Department of Rehabilitation Services to be housed in said building and to pay rent for the use and occupancy of said building. Rents paid by the State Department of Rehabilitation Services shall be placed in the Oklahoma Capitol Improvement Authority Fund for the purpose of maintenance of the building, retiring said bonds, and related expenses. When all bonds issued for the construction of this building have been paid in full, the building shall become the property of the State Department of Rehabilitation Services and shall thereafter be under the full and exclusive supervision of the State Department of Rehabilitation Services.

C. The State Treasurer is hereby authorized to purchase said negotiable bonds.

D. The interest rate on the bonds issued pursuant to this section shall not exceed ten percent (10%) per annum.

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

Added by Laws 1987, p. 1726, S.J.R. No. 5, § 1. Amended by Laws 1987, c. 236, § 141, emerg. eff. July 20, 1987; Laws 1993, c. 364, § 22, emerg. eff. June 11, 1993; Laws 2012, c. 304, § 841.

§74-168.1. Travis Leon Harris Building - Designation.

The Oklahoma Library for the Blind and Physically Handicapped Building shall be named the "Travis Leon Harris Building".

Added by Laws 1989, S.J.R. No. 22, p. 1655, § 1.

§74-168.2. Travis Leon Harris Building - Marker.

The Oklahoma Capitol Improvement Authority shall cause a suitable marker to be placed on the Oklahoma Library for the Blind and Physically Handicapped Building designating it as the "Travis Leon Harris Building".

Added by Laws 1989, S.J.R. No. 22, p. 1655, § 2.

§74-169.1. Repealed by Laws 2000, c. 251, § 4, eff. July 1, 2000.

§74-169.2. Repealed by Laws 2003, c. 8, § 8, eff. July 1, 2003.

§74-169.2a. Repealed by Laws 2003, c. 8, § 8, eff. July 1, 2003.

§74-169.2b. Repealed by Laws 2003, c. 8, § 8, eff. July 1, 2003.

§74-174. Investigation of state eleemosynary institutions.

At the request of the Governor, or with his sanction, the State Department of Public Welfare shall investigate any state eleemosynary institution against which complaint is made, and the Department of Public Welfare shall have the power to summon any person to appear and produce such books and papers as shall be designated in the summons and to take testimony under oath concerning the matter and institution under investigation. The Department shall have the power to administer oaths to such persons as may be summoned and to enforce such powers as are given to notaries public when they are taking depositions. Evidence of persons restrained in prisons or any other places of detention, if deemed necessary or requested by the witness, shall be taken out of the hearing of persons in authority about such institutions and be preserved and kept secret, and be used only by the Department so far as may be by him deemed necessary to correct or remedy any wrong that is or may be disclosed.

R.L.1910, § 8904. Amended by Laws 1978, c. 244, § 30, eff. July 1, 1978.

§74-175. Report to Governor of investigation.

When a special investigation of any institution is made at the request of the Governor, it shall be the duty of the Department of Public Welfare to make a report in writing to the Governor within a reasonable time after its termination.

R.L.1910, § 8095. Amended by Laws 1978, c. 244, § 31, eff. July 1, 1978.

§74-177. Investigation of complaints against hospitals and homes.

It shall be the duty of the State Department of Public Welfare to investigate all complaints made in the form of a sworn affidavit

against such institutions as are named in the preceding section, and all orphanages of whatever name or character, which are conducted by individuals for their own personal gain or profit, or which either charge for their services or subsist wholly or in part by money collected by subscription from the public as a charity. In event the complaints are found to be true, the Department shall have the power to order such institutions closed, and upon failure or refusal of the proprietors or operators of such institutions to obey the order shall file a complaint in a court of competent jurisdiction and ask that they be legally restrained from operating said institutions, and if guilty of malpractice, mistreatment or any illegal act, that they be punished according to law.

R.L.1910, § 8097. Amended by Laws 1978, c. 244, § 32, eff. July 1, 1978.

§74-178. Renumbered as Title 10, § 416 by Laws 1982, c. 312, § 48, emerg. eff. May 28, 1982.

§74-179. Renumbered as Title 10, § 417 by Laws 1982, c. 312, § 48, emerg. eff. May 28, 1982.

§74-180. Renumbered as Title 10, § 418 by Laws 1982, c. 312, § 48, emerg. eff. May 28, 1982.

§74-188. Inspection of domiciliary facilities.

(a) It shall be the duty of the State Commissioner of Health to visit and inspect, and examine into the conditions and management of, each domiciliary facility receiving payment from the Department of Public Welfare for services on behalf of a person or persons living in the facility, or receiving payment for services from any such person who is a recipient of public assistance and whose Schedule of Maximum Money Payments for Assistance Plans in Accordance With Living Arrangements, as approved by the Oklahoma Public Welfare Commission, includes an item for maintenance or nursing care; and to make report of his findings to the Director of Public Welfare, and any other state agency that might have an official interest in the findings. For the purposes of this section, a domiciliary facility shall mean any home, establishment, institution, or other facility providing living accommodations, or special living arrangements, or nursing or medical care, for three or more persons living therein.

(b) Whenever the Director of Public Welfare requests him to do so, the State Commissioner of Health shall cause a special inspection to be made to ascertain whether patients or residents of any such domiciliary facility are receiving proper care or treatment, or whether the facility is being operated in accordance with applicable law, and rules and regulations of the Oklahoma

Public Welfare Commission; and, whenever the Director of Public Welfare requests him to do so, the State Commissioner of Health shall cause a special investigation to be made to determine whether a patient or resident of any such domiciliary facility has been abused or mistreated, or has not received proper care. After making any such special inspection or investigation, the State Commissioner of Health shall make a written report of his findings to the Director of Public Welfare.

(c) If, as a result of any inspection, investigation or examination, the State Commissioner of Health determines that a criminal law has been or might have been violated, he shall inform the district attorney of his findings, for appropriate action.

(d) The duties and responsibilities vested in the State Commissioner of Health by this section shall be in addition to those vested in the State Commissioner of Health by other laws. Laws 1967, c. 357, § 1, emerg. eff. May 18, 1967; Laws 1971, c. 337, § 7, operative July 1, 1971.

§74-190. Transfer of employees to State Commissioner of Health - Status.

All persons serving as employees of the Commissioner of Charities and Corrections under the provisions of Section 2, Chapter 357, O.S.L. 1967, as amended by Section 1, Chapter 409, O.S.L. 1968 (74 O.S. Supp. 1970, Section 189), when Sections 7 and 8 of this act become effective shall be in the classified service under the State Merit System of Personnel Administration and be entitled to continue to serve as employees of the State Commissioner of Health under Section 8 of this act, provided that such employees shall not receive less salaries and benefits than they were receiving on the effective date of this act.

Added by Laws 1971, c. 337, § 9, operative July 1, 1971.

§74-191. Transfer of employees from other state agencies - Status.

If any employee of the State Department of Health who heretofore or hereafter has been transferred from another state agency, or terminated his employment by such other state agency to be immediately reemployed by the State Department of Health, he shall retain the same status, rights and privileges and retention points that shall have accrued to him while employed by the other state agency in the classified service under the Merit System for Personnel Administration.

Added by Laws 1971, c. 337, § 10, operative July 1, 1971.

§74-192. Inspection of city and county jails - Standards.

A. The State Department of Health shall inspect at least once each year all city and county jails to ensure compliance with the



standards promulgated pursuant to the provisions of this section. The standards shall provide provision for:

1. Uniform admission and release procedures;
2. Uniform, safe, and sensible security measures;
3. Proper, fit, and sanitary conditions;
4. Inmates to be fed a wholesome and adequate diet;

5. Inmates to have adequate clothing and a useable bed. Such facility shall have showers with hot and cold running water, toilets, and water basins provided in the ratio of not less than one to every twenty prisoners. Counties may build barracks-style jails, single or double cell, to meet the security needs of the county for minimum security prisoners. These jails shall meet all the minimum requirements set forth in this section or any other provision of law. Except as otherwise provided in this section, all facilities under this section shall have showers with hot and cold running water, toilets and water basins provided in the ratio of not less than one to every twenty prisoners. Counties may also build tent jails, which shall be temporary in nature, to meet the security needs of the county for minimum security prisoners. The temporary tent jails shall not be required to meet the minimum requirements set forth in this section or any other provision of law. The State Board of Health shall promulgate minimum standards for temporary tent jails, which standards shall be designed to specifically address and take into consideration the temporary status of the inmate housing needs of the county;

6. Inmates to be properly advised of rules of the facility in which they are detained;

7. Staff members to receive training in order to assist them in performing their assigned tasks, such training to be provided through a program approved by the State Department of Health. All employees who work in direct contact with inmates after the first year of employment shall receive, at a minimum, four (4) hours' review of material as required by the State Department of Health and at a maximum, eight (8) hours of detention officer training per year after the first year of employment;

8. Proper steps to be taken to ensure the safety and segregation of women, the infirm, and minors;

9. Adequate medical care, provided such medical care shall be limited to illnesses or injuries incurred during the time beginning with the arrest and throughout the time of incarceration. This shall not prevent an inmate from applying for assistance and receiving assistance, provided the inmate meets or exceeds established requirements;

10. No person to be confined without twenty-four-hour supervision; and

11. At least one designated exit in the facility that will permit prompt evacuation of inmates and staff in an emergency. A

facility in existence on November 1, 1985, shall not be required to construct additional exits if it has one exit which is deemed adequate by the State Fire Marshal.

In the event such inspection shall reveal to the State Department of Health the commission of a crime or crimes incidental to the operations of a city or county jail facility, it shall be the duty of the Department to initiate a complaint with the appropriate district attorney, and to cooperate in the prosecution of the alleged offender in the event an information is filed pursuant to such complaint.

B. Any county, city, or town may operate a holding facility for the incarceration of persons under arrest who are to be charged with a crime, which holding facility shall not be required to meet the standards established in this section for jails, as long as no person is held therein for a period longer than twelve (12) hours and as long as an employee of the county, city, or town is available to render aid to or to release any person so confined in the event aid or release is required because of a health or life-endangering emergency.

C. Notwithstanding any other provision of law or rule, any county or municipality that operates a jail facility which houses forty or fewer prisoners at all times which:

1. Provides twenty-four-hour supervision of prisoner activity that is conducted either by direct observation or electronically by closed-circuit television; and

2. Provides an intercommunication system that terminates in a location that is staffed twenty-four (24) hours a day and is capable of providing an emergency response,

shall not be required to have more than one detention officer or dispatcher on-site to provide for the security, custody, and supervision of prisoners.

D. Any county or municipality that operates a jail facility which houses more than forty and less than seventy-five prisoners at all times which:

1. Provides twenty-four-hour supervision of prisoner activity that is conducted either by direct observation or electronically by closed-circuit television; and

2. Provides an intercommunication system that terminates in a location that is staffed twenty-four (24) hours a day and is capable of providing an emergency response,

shall be required to have more than one detention officer or one detention officer and at least one other basic CLEET-certified person on the same premises as the jail facility to provide for the security, custody, and supervision of prisoners.

Within ninety (90) days after June 9, 1994, the State Board of Health shall promulgate new rules governing square footage requirements, double-celling of prisoners and the ratio of showers,

toilets, and water basins to prisoners. The rules so promulgated shall be governed by the guidelines enumerated in this section, and shall be designed to carry out the intent and purpose of the guidelines. Each city or county jail facility in this state shall be in compliance with the rules so promulgated on or before January 1, 1995.

E. The State Department of Health shall employ inspectors and other personnel as necessary and specifically authorized by the Legislature in order to carry out the provisions of this section and may rent or purchase premises or equipment in order to assist inspectors in the performance of their functions.

Added by Laws 1977, c. 137, § 1, eff. Oct. 1, 1977. Amended by Laws 1978, c. 244, § 38, eff. July 1, 1978; Laws 1983, c. 116, § 1, operative July 1, 1983; Laws 1985, c. 62, § 1, eff. Nov. 1, 1985; Laws 1986, c. 77, § 1, emerg. eff. April 2, 1986; Laws 1994, c. 367, § 8, emerg. eff. June 9, 1994; Laws 1995, c. 1, § 32, emerg. eff. March 2, 1995; Laws 2004, c. 154, § 1, eff. Nov. 1, 2004; Laws 2005, c. 180, § 1, eff. July 1, 2005; Laws 2007, c. 51, § 2, eff. Nov. 1, 2007; Laws 2014, c. 322, § 1, eff. Nov. 1, 2014; Laws 2018, c. 71, § 1, eff. Nov. 1, 2018.

NOTE: Laws 1994, c. 368, § 2 repealed by Laws 1995, c. 1, § 40, emerg. eff. March 2, 1995.

#### §74-193. Right of entry - Report of inspection.

A. Inspectors employed by the State Department of Health shall be permitted to enter all jail premises and administrative offices for the purpose of performing their assigned duties.

B. The results of these inspections shall be presented in the form of a written report to the person immediately responsible for the administration of the facility inspected and such other offices the Department deems appropriate. The report shall contain:

1. A list of deficiencies in the condition or operation of the facility and specific proposals for their solution; and

2. A statement as to whether or not the facility inspected is in substantial compliance with the jail standards established pursuant to Section 192 of this title.

Added by Laws 1977, c. 137, § 2, eff. Oct. 1, 1977. Amended by Laws 1978, c. 244, § 39, eff. July 1, 1978; Laws 2018, c. 71, § 2, eff. Nov. 1, 2018.

#### §74-194. Deficient facility - Closing.

If the deficiencies listed in the report have not been corrected, within sixty (60) days after delivery of the report, the Commissioner of Health shall be authorized to file a complaint with the Attorney General or the district attorney for the purpose of assistance in obtaining compliance or to close the deficient facility. Provided, that upon demonstration of a good-faith effort

by the governmental entity involved to correct said deficiencies and achieve compliance with the established standards, the Commissioner of Health shall extend the time for compliance a reasonable period before filing the complaint requesting assistance in obtaining compliance or the closing of the facility. An action to close such facility shall be brought in the district court having jurisdiction in the county in which the facility is located. Upon the issuance of an order by the district court to close the facility, the facility shall be closed and prisoners shall be removed to a suitable facility at the expense of the governmental entity responsible for the facility ordered closed. Provided, that upon demonstration of a good-faith effort by the governmental entity involved to correct said deficiencies and achieve compliance with the established standards, the district court shall extend the time for compliance a reasonable period before ordering the facility closed.

Added by Laws 1977, c. 137, § 3, eff. Oct. 1, 1977. Amended by Laws 1978, c. 244, § 40, eff. July 1, 1978; Laws 1985, c. 62, § 2, eff. Nov. 1, 1985; Laws 2018, c. 71, § 3, eff. Nov. 1, 2018.

§74-195. Contracts for incarceration of prisoners.

Any county, city or town is hereby authorized to contract, in accordance with the Interlocal Cooperation Act, with any other county, city or town for incarceration of prisoners awaiting trial or serving a sentence, so long as the jail facility where said prisoners are to be held is in compliance with the standards established by this act.

Laws 1977, c. 137, § 4, eff. Oct. 1, 1977.

§74-197. Administrative Procedures Act - Application.

All rules and regulations promulgated pursuant to the powers contained in this act shall be subject to the Administrative Procedures Act.

Laws 1977, c. 137, § 8, eff. Oct. 1, 1977.

§74-212. Duties and powers - Deputies - Audit of books of subdivisions of state - Cost of examination.

A. STATE TREASURER AND OKLAHOMA TAX COMMISSION

1. The State Treasurer and the Oklahoma Tax Commission shall prepare annual financial statements in accordance with the reporting requirements set forth by the Governmental Accounting Standards Board (GASB). The State Treasurer and the Tax Commission shall prescribe and implement sound internal control, accounting and recordkeeping practices consistent with and to facilitate compliance with all reporting requirements as set forth by law.

2. The annual financial statements of the State Treasurer and the Tax Commission shall be delivered by the State Treasurer and the

Tax Commission to the State Auditor and Inspector within ninety (90) calendar days after the close of the state fiscal year.

3. The State Auditor and Inspector shall perform an audit of the annual financial statements of the State Treasurer and the Tax Commission for each state fiscal year. Such audits shall be conducted in accordance with auditing standards generally accepted in the United States and the standards applicable to financial audits contained in Government Auditing Standards, latest revised edition, issued by the Comptroller General of the United States. The State Auditor and Inspector shall complete the audits not later than ninety (90) calendar days after the financial statements are delivered to the State Auditor and Inspector. The annual audit reports and related financial statements shall be delivered by the State Auditor and Inspector to the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives. The annual audit report and related financial statements of the State Treasurer shall also be delivered to the Attorney General and the members of the Cash Management and Investment Oversight Commission created by Section 71.1 of Title 62 of the Oklahoma Statutes. The annual audit report and related financial statements of the Tax Commission shall also be delivered to the Director of the Office of Management and Enterprise Services and the Legislative Service Bureau. The State Auditor and Inspector shall conduct unannounced cash audits of the State Treasury at least once each quarter.

4. The audit of the Tax Commission shall be continuous in nature. The Tax Commission shall furnish the necessary office space for the employees of the State Auditor and Inspector making the audit and, to the extent of the amount included in the Tax Commission's appropriation therefor, the Tax Commission shall pay the expenses of the audits, including personal services, equipment and supplies, from the appropriation.

#### B. STATE AGENCIES

1. Except as otherwise provided by law, the State Auditor and Inspector shall audit at least once every two (2) fiscal years the books and accounts of all state agencies whose duty it is to collect, disburse or manage funds of the state. The State Auditor and Inspector shall audit a state agency each fiscal year if that state agency is required to be audited on an annual basis pursuant to the federal Single Audit Act of 1984, as amended, 31 U.S.C., Section 7501 et seq. If the state agency is audited only once every two (2) fiscal years, the audit shall cover both fiscal years.

2. Except as otherwise provided by law, the scope of audits performed by the State Auditor and Inspector shall include all funds collected, disbursed, or managed by a state agency including, but not limited to, all special, revolving, depository, canteen, or other nonstate funds.

3. As used in this section, "state agency" means every agency, board, or commission included in the primary government of the State of Oklahoma. For purposes of this paragraph, the primary government of the State of Oklahoma includes all agencies, boards, and commissions included in the primary government in the State of Oklahoma Comprehensive Annual Financial Report. The agencies, boards, and commissions included in the primary government of the State of Oklahoma shall be determined using criteria set by the Governmental Accounting Standards Board.

4. As used in this subsection, "audit" means any of the following:

- a. "financial audit", which means an audit of financial statements in order to express an opinion on the fairness with which they are presented in conformity with generally accepted accounting principles or any other comprehensive basis of accounting, as defined by the American Institute of Certified Public Accountants' Professional Standards, latest revised edition. Financial audits must be conducted in accordance with auditing standards generally accepted in the United States and the standards applicable to financial audits contained in Government Auditing Standards, latest revised edition, issued by the Comptroller General of the United States,
- b. "operational audit", which means an audit conducted in accordance with applicable Government Auditing Standards, the purpose of which is to evaluate management's performance in administering assigned responsibilities in accordance with applicable laws, administrative rules, and other policies and guidelines and to determine the extent to which the internal control, as designed and placed in operation, promotes and encourages the achievement of management's control objectives in the categories of compliance, reliability of financial records and reports, and safeguarding of assets,
- c. "performance audit", which means an audit of a program, activity, or function of a state agency conducted in accordance with applicable Government Auditing Standards. The term includes, but is not limited to, an audit to assess program, activity, or function effectiveness, economy and efficiency, internal control, or compliance,
- d. "special or investigative audit", which means an audit with respect to a particular situation which may be, but is not required to be, conducted in accordance with applicable Government Auditing Standards, and

- e. any other type of engagement conducted in accordance with Government Auditing Standards.

C. GUBERNATORIAL REQUEST

Whenever called upon to do so by the Governor, it shall be the duty of the State Auditor and Inspector to examine the books and accounts of any officer of the state or any of the officer's predecessors. The cost of the audit shall be borne by the entity to be audited.

D. COUNTY TREASURER

The State Auditor and Inspector shall examine without notice all books and accounts of each county treasurer of the state twice each year.

E. DISTRICT ATTORNEYS

1. The State Auditor and Inspector shall annually audit the books and accounts of the several offices of the district attorneys of this state. The audits shall be reported in separate reports for each entity. The audit may include, but shall not be limited to, the audit of the financial records, performance measures, and compliance with state or federal statutes and rules, and compliance with any regulations of state or federal programs. The expense of the audits shall be paid by the entity audited.

2. The State Auditor and Inspector shall examine and file a report of the accounts established within the office of each district attorney for bogus check programs, drug task force programs, child support collection programs, and any other programs receiving any nonstate funds. The reports shall be filed with the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Executive Coordinator of the District Attorneys Council.

F. DEPARTMENT OF CORRECTIONS

The State Auditor and Inspector shall perform an annual audit, as defined in paragraph 4 of subsection B of this section, of the books and accounts of the Department of Corrections. The scope of the audit shall be determined by the State Auditor and Inspector using a risk-based approach. The audit may include, but shall not be limited to, the audit of the financial records, performance measures, and compliance with any state or federal statutes and rules, and compliance with any regulations of state or federal programs. The expense of the audits shall be paid by the Department of Corrections.

G. OKLAHOMA EMPLOYEES INSURANCE AND BENEFITS BOARD

The State Auditor and Inspector shall cause to be audited the books and accounts of the office of the Oklahoma Employees Insurance and Benefits Board. The audit may include, but shall not be limited to, the audit of the financial records, performance measures, compliance with any state or federal statutes and rules, and compliance with any regulations of state programs. The audit shall

be contracted out to private audit firms. The cost of the audit shall be borne by the Oklahoma Employees Insurance and Benefits Board.

#### H. DISTRICT ATTORNEY REQUEST

Whenever called upon to do so by any of the several district attorneys of the state, it shall be the duty of the State Auditor and Inspector to examine the books and accounts of any officer of any public entity. The cost of the audit shall be borne by the entity audited.

#### I. COUNTY OFFICERS BY REQUEST

Upon request of the county commissioners of any county or the Governor, the State Auditor and Inspector shall examine the books and accounts of all or any of the officers or custodians of the various funds of the county; and payment for such examination shall be made by the county so examined.

#### J. AUDITORS

The State Auditor and Inspector shall have power to employ auditors. No auditor shall examine the books or records of the county of the auditor's residence in counties of under two hundred thousand (200,000) population according to the most recent Federal Decennial Census. The State Auditor and Inspector may employ on an as-needed basis only, legal counsel to carry out the statutory duties of the Office of the State Auditor and Inspector.

#### K. EXAMINATION OF LEVIES

It shall be the duty of the State Auditor and Inspector to examine all levies to raise public revenue to see that they are made according to law and constitutional provisions. The State Auditor and Inspector shall have the power to order all excessive or erroneous lines (levies) to be corrected by the proper officers, and shall report any irregularities to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

#### L. PETITION AUDITS

1. The State Auditor and Inspector shall audit the books and records of any subdivision of the State of Oklahoma upon petition signed by the requisite number of voters registered in the subdivision and meeting the requirements set out in this subsection.

2. The petition must contain the number of signatures equivalent to ten percent (10%) of the registered voters of the subdivision as determined by the county election board or, if the county election board determines that the number of registered voters in the subdivision cannot be determined due to boundary lines not conforming to precinct lines, the required number of petitioners shall be twenty-five percent (25%) of the total number of persons voting in the last general election. If the subdivision is a public trust, the required number of petitioners shall be the same as those required for an audit of its beneficiary. The appropriate county



election board shall provide the number of signatures so required upon request.

3. The petition shall be in the form of an affidavit wherein the signatory shall declare upon oath or affirmation that the information given is true and correct and that he or she is a citizen of the entity to be audited. The petition shall clearly state that falsely signing shall constitute perjury. It shall include the signature of the individual, the name of the signatory in printed form, the individual's residential address, the date of signing, the public entity to be audited and the anticipated range of the cost of the audit provided by the State Auditor and Inspector.

4. Any person desiring to petition for an audit shall list the areas, items or concerns they want to be audited, and request from the State Auditor and Inspector the anticipated range of cost of the audit. Within thirty (30) days from the receipt of the request, the State Auditor and Inspector shall mail a petition form to the person requesting the information which shall state the anticipated range of the cost and the items or concerns to be audited. The circulators of the petition shall have thirty (30) days from the date the petition is mailed by the State Auditor and Inspector to obtain the requisite number of signatures and return it to the State Auditor and Inspector.

5. Upon collection of the required number of signatures, the person desiring the audit shall present the signed petitions to the State Auditor and Inspector. Within thirty (30) days of receipt of the petitions, the State Auditor and Inspector shall present the petitions to the county election board located in the county in which the subdivision is located.

6. The county election board shall determine whether the signers of the petition are registered voters of the county in which the subdivision to be audited is located and whether the petition has the requisite number of signatures of such registered voters. The county election board shall certify the petition as having the required number of signatures or as failing to have the required number of signatures and return it to the State Auditor and Inspector.

7. The cost of the audit shall be borne by the public entity audited. Upon notification by the State Auditor and Inspector of receipt of the petition, certified by the county election board as having the required number of signatures, the public entity shall encumber funds in an amount specified by the State Auditor and Inspector, which shall be within the range of anticipated cost stated on the petition from any funds not otherwise specifically appropriated or allocated. Payment for the audit from such encumbered funds shall be made as work progresses, and final payment shall be made on or before its publication.

8. The names of the signers of any petition shall be confidential and neither the State Auditor and Inspector, the county election board nor the county treasurer may release them to any other person or entity except upon an order from a court of competent jurisdiction.

M. PENALTIES FOR NONPAYMENT

Except as otherwise provided by law, the cost of any services provided by the State Auditor and Inspector or as specified in an audit contract shall be borne by the entity or fund audited and shall be due and payable upon receipt of progress billing during the course of an audit. Any such costs not paid within ninety (90) days of the date of receipt of billing shall incur a penalty of Ten Dollars (\$10.00) per day for each day from the date of receipt of billing.

R.L. 1910, § 8119. Amended by Laws 1939, p. 63, § 1, emerg. eff. May 9, 1939; Laws 1979, c. 30, § 138, emerg. eff. April 6, 1979; Laws 1988, c. 276, § 8, operative July 1, 1988; Laws 1991, c. 319, § 2, emerg. eff. June 12, 1991; Laws 1994, c. 92, § 1, emerg. eff. April 21, 1994; Laws 1997, c. 136, § 3, eff. July 1, 1997; Laws 1999, c. 192, § 1, emerg. eff. May 21, 1999; Laws 2001, c. 321, § 1; Laws 2010, c. 413, § 1, eff. July 1, 2010; Laws 2012, c. 304, § 842; Laws 2014, c. 187, § 1, eff. Nov. 1, 2014.

NOTE: Laws 1979, c. 33, § 1 repealed by Laws 1988, c. 276, § 10, operative July 1, 1988.

§74-212.1. Advising county officers on procedural and technical accounting and budget procedures - Duty of county officers.

The State Auditor and Inspector, or his designee, shall advise county officers on procedural and technical matters relating to accounting and budget procedures. It shall be the duty of the county officers with notice of such advice to follow the instructions or advice of the State Auditor and Inspector until relieved of such duty by a court of competent jurisdiction or until the Supreme Court shall hold otherwise.

Laws 1979, c. 33, § 2.

§74-212.2. Contracting with counties for development of uniform computer systems.

The Office of the State Auditor and Inspector is authorized to enter into a contract with each board of county commissioners of this state for the purpose of providing uniform computer systems development, including computer software, for county government in accordance with the provisions of Sections 178.4 and 693 of Title 19 of the Oklahoma Statutes.

Added by Laws 1987, c. 203, § 19, operative July 1, 1987.

§74-212.3. Form for joint school district millage certifications.

The State Auditor and Inspector shall prescribe and require the statewide use of a form for joint school district millage certifications.

Added by Laws 2001, c. 358, § 23, eff. July 1, 2001.

§74-212.4. Assistants to State Auditor and Inspector.

The State Auditor and Inspector shall employ, and make the appointment of such assistants as may be necessary to fulfill his duties. No appointments to positions shall be made in excess of the positions authorized by act of the Legislature for the State Auditor and Inspector's office.

Added by Laws 1947, p. 380, § 24, emerg. eff. Feb. 25, 1947.

Amended by Laws 1979, c. 30, § 21, emerg. eff. April 6, 1979.

Renumbered from § 41.24 of Title 62 by Laws 2009, c. 441, § 64, eff. July 1, 2009.

§74-212A. Audits of government entities.

A. 1. Except as otherwise provided by law, all government entities, as defined by the Governmental Accounting Standards Board, shall have an audit conducted in accordance with auditing standards generally accepted in the United States of America and Government Auditing Standards. Copies of any audit, performance audit, agreed-upon-procedures report, or other attestation engagement report produced by a person other than the State Auditor shall be filed with the State Auditor and Inspector by that person. The expense of the audit shall be paid by the government entity. For fiscal years ending after December 31, 1995, all government entities receiving public funds that are included in the reporting entity of the State of Oklahoma shall file a copy of the audit required by this paragraph with the Director of the Office of Management and Enterprise Services no later than four (4) months after the end of the fiscal year of the government entity. For purposes of this paragraph, the reporting entity of the State of Oklahoma includes all government entities included in the State of Oklahoma Comprehensive Annual Financial Report. The government entities included in the State of Oklahoma reporting entity shall be determined by the Director of the Office of Management and Enterprise Services using criteria set by the Governmental Accounting Standards Board.

2. Any public accountant or certified public accountant filing an audit, performance audit, agreed-upon-procedures report or other attestation engagement report with the State Auditor and Inspector pursuant to this section shall be required to pay a filing fee of One Hundred Dollars (\$100.00) for the purposes of processing such reports and ensuring compliance with the provisions of this section. Such payments shall be deposited in the State Auditor and Inspector Revolving Fund, created pursuant to Section 227.9 of this title.

B. All registrants, as defined in the Oklahoma Accountancy Act, before entering into audit contracts required under this section, shall satisfy the Oklahoma Accountancy Board and the State Auditor and Inspector that such registrant meets Government Auditing Standards and has a current permit to practice issued by the Oklahoma Accountancy Board.

The State Auditor and Inspector shall receive annual reports from the Oklahoma Accountancy Board of all registrants meeting the requirements of this subsection. The Oklahoma Accountancy Board shall provide changes and updates to the annual report to the State Auditor and Inspector upon request.

C. Schedules of federal awards expended will be in a form consistent with the guidance in the most recent audit guide for state and local governments prepared by "The American Institute of Certified Public Accountants". State agencies or other pass-through grantors of federal awards expended will not place reporting requirements on a grantee or subrecipients in addition to the required federal compliance reports and schedules of federal awards expended, without approval of the State Auditor and Inspector.

D. All governmental entities shall report grant funds received, administered or used by the entity and all grant funds under the direct or indirect control of the governmental entity or any of its employees in their employment capacity. A copy of the report shall be filed with the State Auditor and Inspector and the Director of the Office of Management and Enterprise Services within four (4) months after the end of the fiscal year of the governmental entity. The State Auditor and Inspector may audit any funds reported. The cost of the audit shall be paid by the governmental entity unless the grant provides for the cost of audits from grant funds.

Added by Laws 1991, c. 319, § 3, emerg. eff. June 12, 1991. Amended by Laws 1993, c. 260, § 8, operative July 1, 1993; Laws 1994, c. 299, § 1, eff. July 1, 1994; Laws 1996, c. 290, § 14, eff. July 1, 1996; Laws 1999, c. 192, § 2, emerg. eff. May 21, 1999; Laws 2005, c. 459, § 9, eff. July 1, 2005; Laws 2010, c. 413, § 2, eff. July 1, 2010; Laws 2012, c. 304, § 843.

§74-212B. Format of electronic submissions to State Auditor and Inspector.

Copies of any audit, performance audit, agreed-upon procedure report, or other attestation engagement report produced by a person other than the State Auditor and Inspector that is required to be filed with the State Auditor and Inspector pursuant to Section 212A of Title 74 of the Oklahoma Statutes, shall be submitted in electronic, read-only format. The State Auditor and Inspector shall make such reports available to the public at no charge on the State Auditor and Inspector's website.

Added by Laws 2011, c. 347, § 6.

§74-213. Examination of public institutions - Quality control reviews - Special audits.

A. It shall be the duty of the State Auditor and Inspector, or designee, to examine and report upon the books and financial accounts of the public, educational, charitable, penal and reformatory institutions belonging to the state; to prescribe and enforce correct methods of keeping financial accounts of the state institutions and instruct the proper officers thereof in the performance of their duties concerning the same; to examine the books and accounts of all public institutions under the control of the state at least once each year. Any officer of such public, educational, charitable, penal and reformatory institutions who shall refuse or willfully neglect to comply with such direction of the State Auditor and Inspector within a reasonable time shall be guilty of a misdemeanor.

B. Each board of regents of institutions in The Oklahoma State System of Higher Education shall require a quality control review of the internal audit function required pursuant to subsection D of Section 3909 of Title 70 of the Oklahoma Statutes for each institution under its governance at least once every three (3) years. This review shall be in accordance with the "Quality Assurance Review Manual for Internal Auditing" developed by the Institute of Internal Auditors or any successor organization thereto. A copy of the report on the quality control review shall be filed with the State Auditor and Inspector.

C. 1. The State Auditor and Inspector shall perform a special audit on elementary, independent, and technology center school districts upon receiving a written request to do so by any of the following: the Governor, Attorney General, President Pro Tempore of the Senate, Speaker of the House of Representatives, State Board of Education, or the elementary, independent, or technology center school district board of education.

2. The State Auditor and Inspector shall perform a special audit on any institution of higher education within The Oklahoma State System of Higher Education whenever the State Auditor and Inspector deems it appropriate or upon receiving a written request to do so by any of the following: the Governor, the Attorney General, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the governing board of the institution of higher education, or the president of the institution of higher education.

3. The special audit shall include, but not necessarily be limited to, a compliance audit. Such audits shall be designed to review items for management's compliance with statutes, rules, policies and internal control procedures or other items applicable to each entity. The costs of any such audit shall be borne by the

audited entity and may be defrayed, in whole or in part, by any federal funds available for that purpose.

D. In addition to any special audit conducted by the State Auditor and Inspector as provided for in subsection C of this section, the State Auditor and Inspector shall, contingent upon the availability of funding, perform a special audit, without notice, on not more than four common school districts each year. The special audit shall be in a form as determined by the State Auditor and Inspector.

E. The State Auditor and Inspector shall perform a special audit without notice on the office of any district attorney or on any division of the Department of Corrections upon receiving a written request to do so by any of the following: the Governor, the Attorney General, or joint request of the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The State Auditor and Inspector shall perform a special audit without notice on any penal institution, corrections program, contract for service or prison bed space provided to the Department of Corrections, or any program administered by a district attorney's office or staff of such office whenever the State Auditor and Inspector deems it appropriate or upon receiving a written request to do so by any of the following: the Governor, the Attorney General, or joint request of the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The special audit shall include, but not necessarily be limited to, a compliance audit. Such audits shall be designed to review items for compliance with statutes, rules, policies and internal control procedures or other items applicable to each entity. The costs of any such audit shall be paid by the state agency and may be defrayed, in whole or in part, by any federal funds available for that purpose through any audited program.

R.L.1910, § 8120. Amended by Laws 1979, c. 30, § 139, emerg. eff. April 6, 1979; Laws 1987, c. 203, § 22, operative July 1, 1987; Laws 1988, c. 276, § 9, operative July 1, 1988; Laws 1989, c. 335, § 22, eff. July 1, 1989; Laws 1991, c. 319, § 4, emerg. eff. June 12, 1991; Laws 1993, c. 287, § 3; Laws 1994, c. 317, § 4, eff. July 1, 1994; Laws 1995, c. 1, § 33, emerg. eff. March 2, 1995; Laws 1997, c. 136, § 4, eff. July 1, 1997; Laws 1998, c. 13, § 1, eff. July 1, 1998; Laws 1999, c. 192, § 3, emerg. eff. May 21, 1999; Laws 1999, c. 324, § 1, emerg. eff. June 8, 1999; Laws 2001, c. 33, § 172, eff. July 1, 2001; Laws 2009, c. 250, § 4, eff. July 1, 2009; Laws 2010, c. 477, § 6, eff. July 1, 2010.

NOTE: Laws 1989, c. 315, § 61 repealed by Laws 1990, c. 337, § 26. Laws 1994, c. 92, § 2 repealed by Laws 1995, c. 1, § 40, emerg. eff. March 2, 1995.

§74-213.1. Repealed by Laws 1990, c. 277, § 5, operative July 1, 1990.

§74-213.2. Performance Audit Division.

A. There is hereby created in the Office of the State Auditor and Inspector a Performance Audit Division, subject to the discretion of the State Auditor and Inspector. An Assistant State Auditor and Inspector may be appointed to direct the operations of the Division, subject to the supervision and control of the State Auditor and Inspector at all times.

B. The State Auditor and Inspector, deputies and agents of the Performance Audit Division may examine all books and accounts of all public officers, institutions and other governmental entities specified in Sections 212 through 227.9 of this title to instruct the proper officers thereof in the performance of their duties and to prescribe cost-effective methods of operating such governmental entities; provided, however, the State Auditor and Inspector shall perform the examinations authorized in this subsection upon receiving a written request to do so by the Governor, the chief executive officer of a governmental entity or pursuant to a joint or concurrent resolution of the Legislature. A copy of the examination shall be given to the examined entity. A copy of any examination conducted pursuant to this subsection shall be submitted to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the appropriations and budget chairs of the House of Representatives and the Senate, and the Minority Leader of the House of Representatives and of the Senate.

C. The cost of the examinations authorized pursuant to subsection B of this section shall be borne by the examined agency in an amount not to exceed the actual costs of the examination. Prior to the start of such an examination, the State Auditor and Inspector shall prepare in writing and present to the affected state agency an estimate of the cost of the examination. If the estimate requires revision, the State Auditor and Inspector shall notify the agency in a prompt manner. Except as otherwise provided, the State Auditor and Inspector shall recover its costs for the examination pursuant to monthly progress billings presented by the State Auditor and Inspector to the Office of Management and Enterprise Services detailing current monthly costs for each examination. In addition, the State Auditor and Inspector shall provide a copy of the billing to the affected state agency. The Office of Management and Enterprise Services may deduct the amounts billed from the next subsequent allotment for the corresponding state agency and transfer the funds to the State Auditor and Inspector Revolving Fund.

D. The salaries and traveling expenses of the Assistant State Auditor and Inspector, deputies and agents of the Performance Audit Division and the costs of material, supplies and equipment for the

Division shall be paid from funds made available through appropriation by the Legislature.

E. The State Auditor and Inspector shall submit an annual report of the Performance Audit Division to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, appropriations and budget chairs of the House of Representatives and the Senate, and the Minority Leader of the Senate and of the House of Representatives.

Added by Laws 1992, c. 269, § 3, eff. Sept. 1, 1992. Amended by Laws 2004, c. 165, § 1; Laws 2012, c. 304, § 844.

§74-214. Uniform systems of bookkeeping - Alternate accounting systems - Instructions to state and county officers - Detailed examinations - Reports.

The State Auditor and Inspector shall prescribe a uniform system of bookkeeping for the use of all county officials to afford a suitable check upon their mutual acts and ensure a thorough inspection, and to ensure the safety of the state and county funds. He shall have full authority to prescribe a system of bookkeeping for all county officers which shall be in accordance with generally accepted accounting principles, as applied to governmental units, except when in conflict with Oklahoma Statutes, and when necessary instruct or cause to be instructed the state and county officers in the proper mode of keeping the accounts. Provided however, when a conflict with Oklahoma Statutes arises concerning accounting systems for those counties utilizing electronic data processing, the county may request in writing that the State Auditor and Inspector approve an alternate accounting procedure. The State Auditor and Inspector shall have the authority to approve or disapprove such requests. Annually, the State Auditor and Inspector shall provide a report of those counties requesting alternate accounting systems to the Speaker of the House of Representatives and the President Pro Tempore of the Senate. The State Auditor and Inspector shall not change any accounting systems or procedures during the last year of his term of office that would have an impact on the ability of any independent licensed public accountant to provide auditing services to such officers. He shall make a thorough examination of the books, accounts and vouchers of such officers, ascertaining in detail the various items of receipts and expenditures. He shall report to the Governor the refusal or neglect of any state or county officer to obey his instruction. He shall make a report of the result of his examination, which shall be filed in the Office of the State Auditor and Inspector, as well as any failure of duty by any financial officers, and the Governor may cause the result of such examination to be published. Provided, that no county officer shall be required to discard any books or supplies on hand.



R.L. 1910, § 8121; Laws 1979, c. 30, § 140, emerg. eff. April 6, 1979; Laws 1982, c. 249, § 17; Laws 1982, c. 315, § 6, emerg. eff. June 1, 1982; Laws 1988, c. 60, § 1, eff. Nov. 1, 1988; Laws 1993, c. 317, § 1, emerg. eff. June 7, 1993.

§74-215. Facilities for investigations - Exhibits and information - Powers and duties of State Auditor and Inspector.

All officers of the state and counties of the state and all officers and employees of other institutions mentioned in this article, must afford reasonable facilities for the investigation provided for in this article, and all such officers, manager and employees must make written exhibits to the Auditor and Inspector under oath in such form and in such manner as he may prescribe, and each and every person so required who shall refuse and neglect to make such written exhibit, or to make or to give such information as may be required by said State Auditor and Inspector, shall be deemed guilty of a misdemeanor; and if any person in making such exhibit or giving such information or affording any statement required under this article, on his oath, shall knowingly swear falsely concerning the same, he shall be deemed guilty of the felony of perjury and punished accordingly. The State Auditor and Inspector shall have full power and authority for the various purposes named to examine books, papers, accounts, bills, vouchers and any other documents, or property of any or all of the aforesaid state institutions, all state officers and custodians of any county or state funds, also to examine under oath, county or state officers and custodians of county and state funds aforesaid. The State Auditor and Inspector is empowered to issue subpoenas and administer oath in the performance of his duty, and any persons refusing access to said examiner to any such books or papers, or any officer, clerk, employee, or other persons aforesaid, who shall obstruct access and refuse to search for any required information, or who shall in any manner hinder the examination required by this article of the records, and books of the officers of public institutions or pertaining to the county and state officers aforesaid, shall be deemed guilty of a misdemeanor and shall be liable on conviction to a fine of not more than One Thousand Dollars (\$1,000.00) or imprisonment in the county jail for a period of not more than one (1) year or by both such fine and imprisonment in the discretion of the court.

R.L. 1910, § 8122. Amended by Laws 1979, c. 30, § 141, emerg. eff. April 6, 1979; Laws 1997, c. 133, § 587, eff. July 1, 1998.

§74-216. Annual report to governor - Other reports.

The State Auditor and Inspector shall report to the Governor the result of his examinations on the first day of November of each year, and shall embody in such report statistics of the state

institutions, of the county and state finances ascertained by him, which report shall be printed to the number of five hundred copies and shall be included with other officers' reports in the volume of executive documents. He shall also make a report upon any particular need at any time when required by the Governor. R.L.1910, § 8123; Laws 1979, c. 30, § 142, emerg. eff. April 6, 1979.

§74-217. Performance of duties by Deputy State Auditor and Inspector - Traveling expenses - Receipt of other compensation - False reports - Failure to perform duties.

If by reason of sickness, absence or other cause, the State Auditor and Inspector is temporarily unable to perform the duties of the office, the Deputy State Auditor and Inspector shall perform the duties of the office of State Auditor and Inspector until such disability ceases, whenever the same will not be inconsistent with the Constitution.

The State Auditor and Inspector shall be reimbursed actual and necessary travel expenses when traveling on official state business as provided by the State Travel Reimbursement Act.

If the State Auditor and Inspector, or any deputy, or employee, shall at any time, directly or indirectly, receive compensation for service, or neglect of service, other than that provided for in this article, such person shall be guilty of a felony. The making of a false report knowingly by the State Auditor and Inspector, or any assistant or deputy, authorized by this article, of the financial condition of any office or institution required or authorized to be examined by this article shall be a felony, and any failure to perform the duties required of them to be performed by this article shall constitute a misdemeanor.

R.L. 1910, § 8124. Amended by Laws 1917, c. 260, p. 475, § 1; Laws 1943, p. 248, § 20; Laws 1979, c. 30, § 143, emerg. eff. April 6, 1979; Laws 1997, c. 133, § 588, eff. July 1, 1998; Laws 2010, c. 413, § 3, eff. July 1, 2010.

§74-219. Repealed by Laws 2010, c. 413, § 30, eff. July 1, 2010.

§74-219A. Education and training of staff members.

The State Auditor and Inspector shall provide adequate continuing professional education for all staff members necessary to comply fully with federal requirements to ensure the acceptability of all audits performed under Section 2 of this act. Such training may take the form of courses presented by competent state and federal employees, the American Institute of Certified Public Accountants and other organizations recognized by the Office of Management and Budget as competent to provide such training. Employees of other state entities who can demonstrate they are

mandated to participate in continuing professional education because of their assignment may be included in relevant training sessions if, within available resources, the State Auditor and Inspector is reimbursed for the costs of their participation.

Added by Laws 1991, c. 319, § 5, emerg. eff. June 12, 1991.

§74-223. Report of irregularities and derelictions - Prosecution by Attorney General.

When any regular or special audit by the State Auditor and Inspector of the books, records and accounts of any state or county officer, board, or commission reveals irregularities or dereliction in the receipt or disbursement or management of public funds or property which are grounds for prosecution, it shall be the mandatory duty of the State Auditor and Inspector to within thirty (30) days of the completion of such audit, file a report with the Governor and the Attorney General setting forth in detail such irregularities or derelictions. It shall be the duty of the Attorney General pursuant to Section 18b of this title to conduct an investigation to determine if prosecution is warranted and to prosecute by either civil or criminal action or both if he determines prosecution is warranted.

Amended by Laws 1982, c. 26, § 2, operative Oct. 1, 1982.

§74-225. Reports as additional - Public Records.

The reports required by this act are in addition to all other reports required by law to be made, and shall be public records. Laws 1959, p. 356, § 3.

§74-226. Repealed by Laws 2010, c. 413, § 30, eff. July 1, 2010.

§74-226A. Audit of expenditures of county sales tax revenue - Report of irregularities to Attorney General.

As part of the annual audit of the books and records of a county, the State Auditor and Inspector shall make an audit of the expenditures of county sales tax revenue in order to determine whether the expenditures are being made according to law and constitutional provisions. The audit shall consist of a review of the ledgers and records of the expenditures of the sales tax proceeds. However, the annual audit required by this section shall only apply to any county sales tax revenue which is designated for a specific purpose as set forth in the ballot as passed by the voters of the county. The expense of the audit shall be paid by the county. The State Auditor and Inspector shall make a report of the audit and shall retain its report of the audit. The State Auditor and Inspector shall report any irregularities in the expenditure of sales tax proceeds to the Office of the Attorney General within thirty (30) days from the making of the report.

Added by Laws 1998, c. 196, § 3, eff. Nov. 1, 1998.

§74-227.3. Deposit of revenue into fund.

The Oklahoma Tax Commission is by this act required to apportion monthly and place to the credit of the Circuit Engineering District Revolving Fund created pursuant to Section 1 of this act one-third of one percent (1/3 of 1%) of the total gasoline excise taxes apportioned under the provisions of paragraph 4 of subsection A of Section 500.6 of Title 68 of the Oklahoma Statutes, or under the provisions of the cited paragraph as the same may be amended or reenacted.

Added by Laws 1963, c. 115, § 3, emerg. eff. May 31, 1963. Amended by Laws 1965, c. 366, § 7, eff. July 1, 1965; Laws 1979, c. 30, § 149, emerg. eff. April 6, 1979; Laws 1984, c. 289, § 8, operative July 1, 1984; Laws 2005, c. 414, § 2, eff. July 1, 2006.

§74-227.6. Payments into fund - Disbursements.

All payments made by counties and county officers and other public officers to the State Auditor and Inspector for services or expenses in connection with the performance of the lawful duties of his office shall be made by warrant payable to the "State Auditor and Inspector Revolving Fund" and such warrants shall be deposited in the State Auditor and Inspector Revolving Fund. All payments for salaries, compensation, travel expenses, and other expenses of the State Auditor and Inspector and his employees for services or expenses in connection with the performance of the lawful duties of his office with respect to the examination or audit of counties, county funds or other public funds shall be paid by state warrant from such State Auditor and Inspector Revolving Fund to the extent of available funds. From and after the effective date of this act no county, county officer or other public officer shall make direct payment to any employee of the State Auditor and Inspector other than in accordance herewith.

Laws 1965, c. 366, § 6; Laws 1970, c. 43, § 6, emerg. eff. March 3, 1970; Laws 1979, c. 30, § 151, emerg. eff. April 6, 1979.

§74-227.8. Payment for services by state agencies - Agreements - Deposits.

Notwithstanding the provisions of any other law, any state agency, board, commission, city or town, common school, technology center school, county, institution of higher education, public trust or political subdivision of the state may enter into agreements with the State Auditor and Inspector to perform audits, investigative or consultant services and the entity shall pay the State Auditor and Inspector for the services. Payments made by such entity shall be deposited in the State Treasury to the credit of the State Auditor and Inspector Revolving Fund created by Section 227.9 of this title.

Expenses incurred in auditing such books and accounts, including compensation of necessary personnel, including consultants, or causing the books and accounts to be audited, shall be paid by the entity in the same manner as now provided by law for other disbursements.

Added by Laws 1968, c. 343, § 5, emerg. eff. May 9, 1968. Amended by Laws 1979, c. 30, § 152, emerg. eff. April 6, 1979; Laws 1991, c. 319, § 6, emerg. eff. June 12, 1991; Laws 1993, c. 317, § 2, emerg. eff. June 7, 1993; Laws 2001, c. 33, § 173, eff. July 1, 2001.

§74-227.9. State Auditor and Inspector Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Office of the State Auditor and Inspector to be designated the "State Auditor and Inspector Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all money paid to and received by the State Auditor and Inspector from state agencies, boards and commissions authorized by statute to pay the expense of audits and consulting services, money received for performance of audits and consulting services pursuant to contract entered into under the authority of Section 227.8 of this title, funds received from state agencies, boards and commissions receiving federal grants of funds which require periodic audits under said grants or any federal regulations, all money received from counties, cities, towns and public trusts in payment of audit expense, funds appropriated to state agencies, boards and commissions for payment of audit expense, and fees collected pursuant to Section 212A of this title. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Office of the State Auditor and Inspector for expenses necessary for the performance of duties imposed upon the Office of the State Auditor and Inspector by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment. The State Auditor and Inspector shall at the close of each fiscal year pay into the General Revenue Fund of the state any unencumbered balance remaining in said revolving fund in excess of Eight Hundred Fifty Thousand Dollars (\$850,000.00).

Added by Laws 1970, c. 43, § 5, emerg. eff. March 3, 1970. Amended by Laws 1979, c. 30, § 153, emerg. eff. April 6, 1979; Laws 1985, c. 304, § 10, emerg. eff. July 24, 1985; Laws 1991, c. 319, § 7, emerg. eff. June 12, 1991; Laws 1993, c. 260, § 9, operative July 1, 1993; Laws 2010, c. 413, § 4, eff. July 1, 2010; Laws 2012, c. 304, § 845.

§74-227.10. Renumbered as Section 20 of Title 1 of the Oklahoma Statutes by Laws 2007, c. 359, § 22, eff. Jan. 1, 2008.

§74-227.11. Renumbered as Section 21 of Title 1 of the Oklahoma Statutes by Laws 2007, c. 359, § 22, eff. Jan. 1, 2008.

§74-227.12. Renumbered as Section 24 of Title 1 of the Oklahoma Statutes by Laws 2007, c. 359, § 22, eff. Jan. 1, 2008.

§74-227.13. Renumbered as Section 25 of Title 1 of the Oklahoma Statutes by Laws 2007, c. 359, § 22, eff. Jan. 1, 2008.

§74-227.14. Renumbered as Section 27 of Title 1 of the Oklahoma Statutes by Laws 2007, c. 359, § 22, eff. Jan. 1, 2008.

§74-227.15. Renumbered as Section 28 of Title 1 of the Oklahoma Statutes by Laws 2007, c. 359, § 22, eff. Jan. 1, 2008.

§74-227.16. Repealed by Laws 2006, c. 269, § 11, eff. July 1, 2007.

§74-227.17. Renumbered as Section 29 of Title 1 of the Oklahoma Statutes by Laws 2007, c. 359, § 22, eff. Jan. 1, 2008.

§74-227.18. Renumbered as Section 30 of Title 1 of the Oklahoma Statutes by Laws 2007, c. 359, § 22, eff. Jan. 1, 2008.

§74-227.19. Renumbered as Section 31 of Title 1 of the Oklahoma Statutes by Laws 2007, c. 359, § 22, eff. Jan. 1, 2008.

§74-227.20. Renumbered as Section 32 of Title 1 of the Oklahoma Statutes by Laws 2007, c. 359, § 22, eff. Jan. 1, 2008.

§74-227.20A. Renumbered as Section 33 of Title 1 of the Oklahoma Statutes by Laws 2007, c. 359, § 22, eff. Jan. 1, 2008.

§74-227.21. Renumbered as Section 34 of Title 1 of the Oklahoma Statutes by Laws 2007, c. 359, § 22, eff. Jan. 1, 2008.

§74-227.22. Renumbered as Section 35 of Title 1 of the Oklahoma Statutes by Laws 2007, c. 359, § 22, eff. Jan. 1, 2008.

§74-227.23. Renumbered as Section 36 of Title 1 of the Oklahoma Statutes by Laws 2007, c. 359, § 22, eff. Jan. 1, 2008.

§74-227.24. Renumbered as Section 37 of Title 1 of the Oklahoma Statutes by Laws 2007, c. 359, § 22, eff. Jan. 1, 2008.

§74-227.25. Renumbered as Section 38 of Title 1 of the Oklahoma Statutes by Laws 2007, c. 359, § 22, eff. Jan. 1, 2008.

§74-227.26. Renumbered as Section 39 of Title 1 of the Oklahoma Statutes by Laws 2007, c. 359, § 22, eff. Jan. 1, 2008.

§74-227.27. Renumbered as Section 40 of Title 1 of the Oklahoma Statutes by Laws 2007, c. 359, § 22, eff. Jan. 1, 2008.

§74-227.28. Renumbered as Section 41 of Title 1 of the Oklahoma Statutes by Laws 2007, c. 359, § 22, eff. Jan. 1, 2008.

§74-227.29. Renumbered as Section 42 of Title 1 of the Oklahoma Statutes by Laws 2007, c. 359, § 22, eff. Jan. 1, 2008.

§74-227.30. Renumbered as Section 43 of Title 1 of the Oklahoma Statutes by Laws 2007, c. 359, § 22, eff. Jan. 1, 2008.

§74-228. Internal audits - Supervisory responsibility.

The administrative head and the governing body of any state agency, board, department or commission having internal audit functions shall have direct supervisory responsibility over all internal audits conducted by the agency, board, department or commission. Such supervisory responsibility shall include, but not be limited to, the duty of assuring that all internal audits are conducted in accordance with the "Standards for the Professional Practice of Internal Auditing" developed by the Institute of Internal Auditors or any successor organization thereto. Added by Laws 1992, c. 36, § 1, eff. Sept. 1, 1992. Amended by Laws 1994, c. 317, § 5, eff. July 1, 1994.

§74-229. Internal audit reports.

In addition to other requirements regarding audits prescribed by law, all state agencies, departments, boards and commissions that conduct internal audits shall submit internal audit reports, including initial and final reports, to the State Auditor and Inspector. Each audit shall be identified clearly as either an initial internal audit report or as a final internal audit report. Added by Laws 1992, c. 269, § 1, eff. Sept. 1, 1992.

§74-231. Bureau created.

There is hereby created a bureau to be known as the "Oklahoma Geological Survey," which shall be under the direction of a commission, to be known as the State Geological Commission, composed of the Governor, the President of the State University, and the State Superintendent of Public Instruction. R.L. 1910 Sec. 8125. R.L.1910, § 8125.

§74-232. Direction and supervision.

The Geological Survey of the State of Oklahoma located at Norman, Oklahoma, is hereby placed under the direction and supervision of the Board of Regents of the University of Oklahoma. Added by Laws 1923-24, c. 46, p. 49, § 1, emerg. eff. March 7, 1924.

§74-234. Duties of bureau.

The said bureau shall have for its object and duties the following:

First. A study of the geological formations of the state with special reference to its mineral deposits, including coal, oil, gas, asphalt, gypsum, salt, cement, stone, clay, lead, zinc, iron, sand, road building material, water resources and all other mineral resources.

Second. The preparation and publication of bulletins and reports, accompanied with necessary illustrations and maps, including both general and detailed descriptions of the geological structure and mineral resources of the state.

Third. The consideration of such other scientific and economic questions as, in the judgment of the commission, shall be deemed of value to the people.

R.L.1910, § 8127.

§74-235. Reports.

The director shall present to the Governor a biennial report, ready for printing, showing the progress and condition of said bureau, together with such other information as the commission may deem necessary: Provided, that the commission shall have authority to print and distribute said report.

R.L.1910, § 8128.

§74-237. Right of way.

In order to carry out the provisions of this article, it shall be lawful for all persons employed by the bureau to enter and cross all lands within the state. Provided, that in so doing no damage shall be done to private property.

R.L.1910, § 8130.

§74-238. Located at university.

Until suitable laboratories, libraries and testing apparatus are provided by the state for prosecuting the work of the survey, said survey shall be located at the State University. The commission shall enter into arrangements with the Board of Regents of the State University for the use, by members of the staff of the survey, or such rooms, laboratories, libraries and apparatus as may be necessary for the carrying on of such work.

R.L.1910, § 8131.



§74-241. Survey created - Supervision - Object and duties.

(a) The Archeological Survey of the State of Oklahoma, located at Norman, Oklahoma, shall be under the direction and supervision of the Regents of the University of Oklahoma and shall be known as the Oklahoma Archeological Survey.

(b) The Oklahoma Archeological Survey shall have for its object and duties the following:

(1) Excavation of historical sites, ruins and mounds for the purpose of securing data and objects relating to early man in Oklahoma;

(2) Fundamental research in Oklahoma archeology and encouragement of public cooperation in the preservation of Oklahoma antiquities;

(3) Research in and study of anthropology and related social and physical sciences both prior to excavation and thereafter in order to plan and aid in the discovery of archeological sites and artifacts and in their proper assessment and preservation once discovered;

(4) Publication of findings in terms of their scientific and popular and cultural values;

(5) Display and custodianship of relics, artifacts, sites and other tangible results of the operations of the survey;

(6) Educational activities providing a stimulus to archeological efforts and the encouragement of archeological societies, parks and museums; and

(7) To initiate, operate and maintain a program of archeology which shall include the specific responsibilities set out above which shall not be limited to those areas of action.

Laws 1970, c. 172, § 1, emerg. eff. April 10, 1970.

§74-245. Survey created - Director - Object and duties - Copies - Report.

A. The Climate Office of the State of Oklahoma located at Norman, Oklahoma, shall be under the direction and supervision of the Board of Regents of the University of Oklahoma and shall be known as the Oklahoma Climatological Survey. The Oklahoma Climatological Survey is hereby re-created, to continue until July 1, 2020, in accordance with the provisions of the Oklahoma Sunset Law.

B. The director of the Oklahoma Climatological Survey shall be appointed by the Board and shall either serve as the state climatologist or appoint another current employee of the Survey to serve as state climatologist. The salary of the director shall be determined by the Board.

C. The Oklahoma Climatological Survey shall have for its object and duties the following:

1. To acquire, archive, process and disseminate, in the most cost-effective way possible, all climate and weather information which is or could be of value to policy and decision makers in the state;

2. To act as the representative of the state in all climatological and meteorological matters both within and outside the state when requested to do so by the legislative or executive branches of the state government;

3. To prepare, publish and disseminate periodic regular climate summaries for those individuals, agencies and organizations whose activities are related to the welfare of the state and are affected by climate and weather;

4. To conduct and report on studies of climate and weather phenomena of significant socioeconomic importance to the state;

5. To evaluate the significance of natural and man-made, deliberate and inadvertent changes or modifications in important features of the climate and weather affecting the state, and to report this information to those agencies and organizations in the state who are likely to be affected by such changes or modifications; and

6. To maintain and operate the Oklahoma Mesonet, a statewide environmental monitoring network which is overseen by the Mesonet Steering Committee, comprised of representatives of the University of Oklahoma and Oklahoma State University according to its Memorandum of Agreement. The director of the Oklahoma Climatological Survey shall be accountable for executing the policies of the Mesonet Steering Committee.

D. The director is authorized to certify copies as being authentic reproductions of weather records held in the state.

E. The director of the Oklahoma Climatological Survey shall present a report each year to the Board of Regents of the University of Oklahoma showing the progress, condition and all other information which the Board may deem necessary.

Added by Laws 1982, c. 63, § 1, operative Oct. 1, 1982. Amended by Laws 1988, c. 13, § 1; Laws 1994, c. 14, § 1; Laws 2000, c. 18, § 1; Laws 2003, c. 208, § 1, emerg. eff. May 12, 2003; Laws 2006, c. 51, § 1; Laws 2012, c. 100, § 1; Laws 2014, c. 57, § 1.

#### §74-250.4. State officers - Salaries.

Pursuant to provisions of the Constitution of the State of Oklahoma from and after the beginning date of a term of office which commences in, or after, January 2016, the following officers of the State of Oklahoma shall be annually compensated for their services, payable monthly, as follows:

1. The Governor shall receive a salary of One Hundred Forty-seven Thousand Dollars (\$147,000.00);

2. The Lieutenant Governor shall receive a salary of One Hundred Fourteen Thousand Seven Hundred Thirteen Dollars (\$114,713.00);

3. The Attorney General shall receive a salary of One Hundred Thirty-two Thousand Eight Hundred Twenty-five Dollars (\$132,825.00);

4. The State Superintendent of Public Instruction shall receive a salary of One Hundred Twenty-four Thousand Three Hundred Seventy-three Dollars (\$124,373.00);

5. Each member of the Corporation Commission shall receive a salary of One Hundred Fourteen Thousand Seven Hundred Thirteen Dollars (\$114,713.00);

6. The State Treasurer shall receive a salary of One Hundred Fourteen Thousand Seven Hundred Thirteen Dollars (\$114,713.00);

7. The State Auditor and Inspector shall receive a salary of One Hundred Fourteen Thousand Seven Hundred Thirteen Dollars (\$114,713.00);

8. The State Insurance Commissioner shall receive a salary of One Hundred Fourteen Thousand Seven Hundred Thirteen Dollars (\$114,713.00); and

9. The Commissioner of Labor shall receive a salary of One Hundred Five Thousand Fifty-three Dollars (\$105,053.00).

Added by Laws 1965, c. 502, § 2, emerg. eff. July 19, 1965. Amended by Laws 1970, c. 85, § 1; Laws 1974, c. 311, § 1, emerg. eff. May 31, 1974; Laws 1978, c. 239, § 1, emerg. eff. April 26, 1978; Laws 1982, c. 182, § 1; Laws 1994, c. 239, § 3; Laws 1997, c. 384, § 1, emerg. eff. June 11, 1997; Laws 2014, H.J.R. No. 1096, § 3, eff. July 1, 2014; Laws 2015, c. 338, § 1.

§74-250.4-1. Repealed by Laws 1997, c. 384, § 106, eff. July 1, 1997.

§74-250.4-2. Repealed by Laws 2009, c. 304, § 1, eff. Nov. 1, 2009.

§74-250.4-3. Repealed by Laws 1990, c. 266, § 101, operative July 1, 1990.

§74-250.4a. Legislators - Salary or emoluments.

Any member of the Legislature who may, during the time for which he was elected Senator or member of the House of Representatives, be appointed or elected to any office incident to which the salary or emoluments thereof are increased, shall receive during the term for which he was elected or appointed to such office the salary or emoluments which under the provisions of law appertain to such office at the beginning of the time for which he was elected Senator or member of the House of Representatives.

Added by Laws 1982, c. 359, § 3, emerg. eff. June 2, 1982.

§74-250.5. Repealed by Laws 1970, c. 85, § 2 and by Laws 1970, c. 205, § 1, eff. Jan. 11, 1971.

§74-250.6. Salary rates of certain educational officers - Limits and conditions on salary and expense expenditures.

(a) It is the intent of the Legislature that the Oklahoma State Regents for Higher Education establish a maximum annual salary for the Chancellor for Higher Education and presidents of universities and colleges. The maximum salary and expense allowance should not exceed the salary and maintenance of Governor's Mansion established for the Governor of the State of Oklahoma.

(b) State officers and employees shall not be paid any salary, fee, wage, remuneration, expense allowance, or other compensation on warrants issued by the State Treasurer except when claim for payment is made on the prescribed payroll form of the agency for which services are performed, except:

1. Reimbursement for travel expenses incurred on official state business shall be made as provided by statute on approved travel claims; and

2. Reimbursement for officials and employees of the state, for miscellaneous emergency purchases or other purchases not available through their agency's normal purchasing process, shall be on approved miscellaneous claims. Provided, such reimbursements shall be subject to the agency head's approval; must be accompanied by evidence of payments; and the purchases must not otherwise be restricted by state statutes. Reimbursements which exceed One Hundred Dollars (\$100.00) per claim shall include a written statement of justification for the purchase as support documentation for the claim.

Nothing in this section is intended to keep a state agency from being reimbursed for services performed by employees of one agency for another.

Nothing in this section shall affect the method of payment of any expense allowance to any state officer or employee specifically authorized by statute, or the payment to uniformed employees for maintenance and cleaning of uniforms where the payment is made under an accountable plan as defined by the Internal Revenue Service. Laws 1970, c. 85, § 3; Laws 1979, c. 47, § 96, emerg. eff. April 9, 1979; Laws 1983, c. 334, § 11, emerg. eff. June 30, 1983; Laws 1993, c. 291, § 3, eff. July 1, 1993; Laws 1994, c. 2, § 29, emerg. eff. March 2, 1994.

NOTE: Laws 1993, c. 129, § 3 repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994.

§74-250.7. Corporation Commission members - Chairman.

Each Corporation Commissioner holding office after the effective date of this act shall receive as compensation the salary

established by the Legislature for Corporation Commissioners. The person elected Corporation Commission Chairman by those members constituting the Corporation Commission shall receive additional annual compensation in the amount of Two Thousand Dollars (\$2,000.00) payable monthly, while serving in the capacity of Chairman.

Amended by Laws 1982, c. 182, § 2; Laws 1982, c. 358, § 20, emerg. eff. June 2, 1982.

§74-250.16. Repealed by Laws 2009, c. 304, § 2, eff. Nov. 1, 2009.

§74-255. Appointments and tenure - Citizenship - Exceptions.

The heads of the departments except as otherwise herein provided are hereby authorized and empowered to appoint persons to hold positions created in their respective departments. The persons so appointed shall hold office at the will of such state officer and in the case of all boards and commissioners, such board or commission shall, by vote thereof, except as otherwise provided, appoint persons to hold positions created under such boards or commissions by this act, and the said persons so appointed shall hold office at the will of such officer, boards or commissions making said appointment, provided that any board or commission may authorize the secretary of such board or commission to make said appointment.

Provided further, that it shall be unlawful for the heads of any department, or any departments, except institutions of higher learning and state hospitals, the State Health Department, the Highway Department in the employment of engineers and technicians, schools for mentally retarded and State Veterans Facilities as pertains to doctors, dentists, nurses and other trained technicians, to employ in any way any person who is not a citizen of the United States, and repealing all laws in conflict herewith. The provisions of this act shall in no way be interpreted to repeal any provision of the laws heretofore enacted creating the Merit System of the State of Oklahoma.

Laws 1919, c. 211, p. 302, § 2; Laws 1967, c. 36, § 1, emerg. eff. March 24, 1967.

§74-271. Senate and House of Representatives - Powers as to employees.

A. The Senate and the House of Representatives of the State of Oklahoma are hereby authorized to employ such administrative, professional, clerical, stenographic and other employees as in the judgment of each body, respectively, shall by them be deemed necessary and proper.

B. Each week during the legislative session, the Senate and the House of Representatives are hereby authorized to employ chaplains and pages as deemed necessary by the respective bodies.

C. Each body shall be the sole judge of the number, duties, and compensation of its employees.

Added by Laws 1915, c. 264, § 1. Amended by Laws 1929, c. 38, p. 39, § 1, emerg. eff. March 20, 1929; Laws 1995, c. 336, § 1, emerg. eff. June 8, 1995.

§74-283. Salaries fixed by statute are maximum salaries - No claim for excess above appropriation.

The amount of salary as fixed by any statute, heretofore or hereafter enacted, creating positions or fixing salaries for positions of any officer or employee of the State of Oklahoma, except as limited by Section 10 of Article XXIII of the Constitution of the State of Oklahoma, shall be and it is intended by the Legislature to be the maximum salary which each of the respective officers or employees shall receive or be entitled to receive; and none of such salaries, nor any part of any such salary shall constitute a valid claim against the State of Oklahoma in excess of the amount or amounts specifically appropriated therefor. Laws 1941, p. 454, § 1.

§74-284. Repealed by Laws 1994, c. 242, § 56.

§74-284.1. Certain state agencies prohibited from implementing lagged payroll system prior to July 1, 1991.

Any state agency which was not utilizing a lagged payroll system on or before January 1, 1990, shall be prohibited from implementing a lagged payroll system prior to July 1, 1991.

Added by Laws 1990, c. 341, § 1, eff. July 1, 1990.

§74-284.2. Pay increase funds - Prohibition of expenditure for contracted private employees.

No funds appropriated for the purpose of implementing the pay increase provided in Section 1 of this act shall be expended by any employing public agency, board, commission or other public employing entity in order to increase compensation for persons employed by a private business entity that has entered into contract with the public employing entity to provide personnel services to the public employing entity in order for the public employing entity to perform duties imposed upon it by law or functions the public employing entity is authorized to perform by law. The provisions of this section shall not be construed to prohibit increases in compensation to a vendor performing other types of services pursuant to a sole source contract or contract awarded pursuant to the Oklahoma Central Purchasing Act.

Added by Laws 1998, c. 257, § 2, eff. Jan. 1, 1999.

§74-291. Repealed by Laws 1995, c. 335, § 7, eff. Nov. 1, 1995.

§74-291.1. Legislators - Per diem.

Members of the Legislature shall be allowed a per diem in lieu of expenses in an amount authorized by the provisions of the Internal Revenue Code of 1986, as amended, for deductibility of expenses for travel while away from home without additional documentation for each night spent away from home in the performance of their official duties within the state during regular and extraordinary legislative sessions, not to exceed the number of legislative days per week.

Added by Laws 1975, c. 254, § 2, operative Jan. 1, 1976. Amended by Laws 1979, c. 260, § 4, emerg. eff. June 5, 1979; Laws 1985, c. 7, § 2, eff. July 1, 1985; Laws 1985, c. 344, § 10, emerg. eff. July 30, 1985; Laws 1989, c. 247, § 2, emerg. eff. May 18, 1989; Laws 1997, c. 384, § 16, eff. July 1, 1997.

§74-291.1a. Legislators - Mileage and per diem.

Members of the Legislature who are authorized by the Speaker of the House of Representatives and the President Pro Tempore of the Senate, to attend official meetings and sessions concerning legislation during a legislative recess shall be entitled to receive reimbursement for mileage and per diem in the same manner as provided for in Sections 291 and 291.1 of Title 74 of the Oklahoma Statutes.

Laws 1979, c. 274, § 3, emerg. eff. June 5, 1979.

§74-291.1b. Legislators - Reimbursable trips.

Members of the Legislature shall receive mileage reimbursement pursuant to Section 500.4 of Title 74 of the Oklahoma Statutes for the number of miles necessarily and conveniently traveled by the most usual and feasible route to be present upon convening of the regular or extraordinary sessions of the Legislature by such member in each and every trip in going to and returning from the place of meeting of the Legislature. Each member shall be entitled to mileage reimbursement for one (1) round trip per week in traveling to and from the meeting of the Legislature. A member not claiming per diem reimbursement may elect to receive mileage for not to exceed as many trips as there are legislative days for a week during each week the Legislature is actually in regular or extraordinary session, provided that no single, round-trip mileage reimbursement may exceed the per diem allowance. Members of the Legislature shall receive mileage reimbursement, for the use of privately owned vehicles pursuant to Section 500.4 of Title 74 of the Oklahoma Statutes for the number of miles necessarily and conveniently traveled by the most usual and feasible route to be present in attending meetings of committees of which they are members or to which they are invited by Committee Chairmen when the Legislature is

not in session, subject to the approval of the presiding officer of each house for the members of the respective houses.  
Added by Laws 1995, c. 335, § 6, eff. Nov. 1, 1995.

§74-291.2. Board on Legislative Compensation - Meetings - Changes in legislative compensation - Quorum - Terms - Officers - Lobbyists.

The Board on Legislative Compensation created by Section 21 of Article V of the Oklahoma Constitution shall meet on the third Tuesday of October in every odd-numbered year at nine o'clock a.m. in the State Capitol Building, at which meeting the Board shall review the compensation paid to members of the State Legislature and, if necessary, change the compensation. The Board may, at the call of its chairman or upon a majority vote of its membership, hold such additional meetings as are necessary to carry out its official duties. Any change in legislative compensation shall be made by the Board no later than the third Tuesday of November in said odd-numbered year. Five members of the Board shall constitute a quorum and a majority vote of such quorum shall be necessary for the Board to act. The appointed members of said Board shall serve terms which run concurrently with the terms of the respective appointing authorities and shall serve at their pleasure. The Director of the Office of Management and Enterprise Services shall serve as Secretary to the Board. The Board shall elect such other officers as they deem needed from their membership. No member of the Board shall be a lobbyist as required to be registered pursuant to the Oklahoma Campaign Compliance and Ethical Standards Act.

Added by Laws 1977, c. 226, § 1, emerg. eff. June 14, 1977. Amended by Laws 1990, c. 198, § 1, emerg. eff. May 10, 1990; Laws 2012, c. 304, § 846.

§74-291.3. Advice to Legislature - Travel expenses.

When requested by a concurrent resolution, the Board shall advise the Legislature on various items of legislative expenditures as specified in the resolution. When meeting pursuant to this section, the members shall be reimbursed for travel expenses while on official business in accordance with the State Travel Reimbursement Act.

Amended by Laws 1985, c. 178, § 69, operative July 1, 1985.

§74-291.10. Staff Review Committee of the Senate - Membership - Clerk.

There is hereby created a Staff Review Committee of the Senate which shall consist of the President Pro Tempore as chairman, the Majority Floor Leader as vice chairman, the Minority Floor Leader, the chairman of the Appropriations Committee and the vice chairman of the Appropriations Committee. The Secretary of the Senate shall serve as clerk of the committee.



Laws 1981, c. 279, § 1, eff. July 1, 1981.

§74-291.11. Meetings - Duties.

The Staff Review Committee shall meet prior to July 1 of each year, and at such other times as are required, to review the performance of members of the Senate Staff, to approve salaries, to establish schedules of work and other personnel policies and to perform such other duties as it deems necessary in reviewing the work of the Senate Staff.

Laws 1981, c. 279, § 2, eff. July 1, 1981.

§74-291.12. Repealed by Laws 1995, c. 336, § 5, emerg. eff. June 8, 1995.

§74-291.13. Repealed by Laws 1995, c. 336, § 5, emerg. eff. June 8, 1995.

§74-291.13a. Repealed by Laws 1995, c. 336, § 5, emerg. eff. June 8, 1995.

§74-291.14. Repealed by Laws 1995, c. 336, § 5, emerg. eff. June 8, 1995.

§74-291.15. Repealed by Laws 1995, c. 336, § 5, emerg. eff. June 8, 1995.

§74-291.16. Repealed by Laws 1995, c. 336, § 5, emerg. eff. June 8, 1995.

§74-291.17. Repealed by Laws 1995, c. 336, § 5, emerg. eff. June 8, 1995.

§74-291.18. Repealed by Laws 1995, c. 336, § 5, emerg. eff. June 8, 1995.

§74-291.19. Incentive bonuses.

The Staff Review Committee shall be empowered to award to any Senate Staff employee an incentive bonus of up to Five Hundred Dollars (\$500.00), provided that no employee shall receive bonuses of more than Five Hundred Dollars (\$500.00) during any fiscal year and provided that no more than ten percent (10%) of the total number of Senate Staff personnel receive such bonuses during any fiscal year. Such incentive bonuses shall be awarded on the basis of exceptional service.

Laws 1981, c. 279, § 10, eff. July 1, 1981.

§74-292.2. Permanent employees of House of Representatives - Salaries and emoluments.

The positions of permanent employment within the House of Representatives and the salaries attached thereto shall be prescribed by the Speaker of the House of Representatives. The salaries of permanent employees of the House of Representatives shall be increased at the same rate as is prescribed by law for that particular fiscal year for comparable salaries of employees within the classified service of the Merit System of Personnel Administration. All employees of the House of Representatives shall be paid out of the State Treasury from funds appropriated by the Legislature for said purposes on warrants of the State Treasurer issued on vouchers certified by the Speaker of the House of Representatives or his designee.

Added by Laws 1985, c. 318, § 3, emerg. eff. July 29, 1985. Amended by Laws 1995, c. 336, § 2, emerg. eff. June 8, 1995.

§74-292.2a. Temporary employees of House of Representatives - Compensation.

A. The House of Representatives, during each regular or special session, shall provide by simple resolution for the employment of its temporary employees.

B. The temporary employees of the House of Representatives shall receive additional compensation at the rate of Twelve Dollars and fifty cents (\$12.50) per month for each year of prior legislative experience, not to exceed a total additional compensation of Two Hundred Dollars (\$200.00) per month. Such employees shall be credited with one (1) year of prior experience for each legislative session in which the employee was employed by the State House of Representatives or the State Senate.

Added by Laws 1995, c. 336, § 3, emerg. eff. June 8, 1995.

§74-292.3. Repealed by Laws 1995, c. 336, § 5, emerg. eff. June 8, 1995.

§74-292.4. Repealed by Laws 1995, c. 336, § 5, emerg. eff. June 8, 1995.

§74-292.5. Repealed by Laws 1995, c. 336, § 5, emerg. eff. June 8, 1995.

§74-292.6. Repealed by Laws 1995, c. 336, § 5, emerg. eff. June 8, 1995.

§74-292.7. Repealed by Laws 1995, c. 336, § 5, emerg. eff. June 8, 1995.

§74-292.8. Repealed by Laws 1995, c. 336, § 5, emerg. eff. June 8, 1995.

§74-292.9. Repealed by Laws 1995, c. 336, § 5, emerg. eff. June 8, 1995.

§74-292.10. Short title.

This act shall be known and may be cited as the "Oklahoma State Employees' Direct Deposit Act".

Added by Laws 1991, c. 229, § 1, eff. July 1, 1991.

§74-292.11. Definitions.

As used in the Oklahoma State Employees' Direct Deposit Act:

1. "Direct deposit system" means a method of electronically transferring a payroll claim for an employee to a financial institution;

2. "Employee" means any person in the classified, unclassified or exempt service of any state agency, board or Commission. "Employee" shall include any person who is an employee of the Oklahoma State Regents for Higher Education or any institution under the authority of the Oklahoma State Regents for Higher Education. "Employee" shall not include any person who is an employee of any school district or political subdivision of this state; and

3. "Employer" means any state agency, board, commission, department, institution, authority, officer, bureau, council, office, the Oklahoma State Regents for Higher Education or any institution under the authority of the State Regents for Higher Education, or other entity created by the Oklahoma Constitution. "Employer" shall not include any school district or political subdivision of this state.

Added by Laws 1991, c. 229, § 2, eff. July 1, 1991. Amended by Laws 2004, c. 308, § 2.

§74-292.12. Implementation and administration of direct deposit system.

A. The Director of the Office of Management and Enterprise Services is hereby directed to implement a direct deposit system for employees who are subject to the provisions of the Oklahoma State Employees' Direct Deposit Act. There shall be no service charge of any type paid by the state employee at any time which shall decrease the net amount of the employee's salary deposited to the financial institution of the personal choice of the employee as a result of the implementation and administration of the Oklahoma State Employees' Direct Deposit Act.

1. Employees hired after December 31, 2004, shall participate in the direct deposit system. At the time the employee enters on

duty, the employee shall identify a financial institution that will serve as a personal depository agent for the employee.

2. Employees hired before December 31, 2004, shall participate in the direct deposit system. No later than June 30, 2007, each employee hired before December 31, 2004, who is not a participant in the direct deposit system, shall identify a financial institution that will serve as a personal depository agent for the employee.

B. The Director of the Office of Management and Enterprise Services shall promulgate rules as necessary for implementation and administration of the system, which shall include limited exceptions to required participation by employees.

C. All employers shall begin offering direct deposit to any eligible employee not later than January 1, 1992.

Added by Laws 1991, c. 229, § 3, eff. July 1, 1991. Amended by Laws 2004, c. 308, § 3; Laws 2012, c. 304, § 847.

§74-314. Investigation of fires - Report to fire marshal - Record of fires.

The State Fire Marshal and the chief of the fire department of every city or village in which a fire department is established, and the mayor of every incorporated village or town in which no fire department exists, and the sheriff of the county shall investigate the cause, origin and circumstances of every fire occurring in such city, village, town or county by which property has been destroyed or damaged, and shall especially make investigation as to whether such fire was the result of carelessness or design. Said investigation shall begin within two (2) days, not including Sundays, of the occurrence of such fire, and the said Fire Marshal shall have the right to supervise and direct such investigation whenever he deems it necessary or expedient. The officer making the investigation of fires, shall forthwith notify said Fire Marshal and shall within a week of the occurrence of the fire furnish to the said Fire Marshal a written statement of all facts relating to the cause and origin of the fire, and such other information as may be called for by blanks provided by said Marshal. The State Fire Marshal shall keep in his office a record of all fires occurring in the state, together with all facts, statistics and circumstances including the origin of the fires, which may be determined by the investigation provided by this act; such records shall at all times be open to the public inspection, and such portions of it as the insurance commissioner may deem necessary shall be transcribed and forwarded to him within fifteen (15) days from the 1st day of January of each year.

Laws 1910-11, c. 46, p. 115, § 4.

§74-315. May take testimony - Causing arrest - Report to Insurance Commissioner.

The said State Fire Marshal shall, when in his opinion further investigation is necessary, take or cause to be taken the testimony on oath of all persons supposed to be cognizant of any facts or to have means of knowledge in relation to the matter as to which an examination is herein required to be made, and shall cause the same to be reduced to writing; and if he shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson, or with the attempt to commit the crime of arson, or of conspiracy to defraud, or criminal conduct in connection with such fire, he shall cause such person to be arrested and charged with such offense, or either of them shall furnish to the proper prosecuting attorney all such evidence, together with the names of witnesses and all information obtained by him including a copy of all pertinent and material testimony taken in the case, and shall report to the Insurance Commissioner as often as such Commissioner shall require, his proceedings, and the progress made in all prosecutions under this act, and the result of all cases which are finally disposed of.

Added by Laws 1910-11, c. 46, p. 115, § 5.

§74-316. Witnesses and evidence - Administration of oath or affirmations - Punishment for contempt - Prosecutions - Right of entry.

The State Fire Marshal and the Assistant Fire Marshal shall each have power in any county in the State of Oklahoma to summons and compel the attendance of witnesses before them, or either of them, to testify in relation to any matter which by any of the provisions of this act is made a subject of inquiry and investigation and may require the production of any books, papers or documents deemed pertinent thereto by them, or either of them. Said State Fire Marshal, Assistant Fire Marshal are each hereby authorized and empowered to administer oaths or affirmations to any person appearing as witness before them and false swearing in any matter or proceedings aforesaid shall be the felony of perjury and shall be punished as such. Any witness who refuses to be sworn or refuses to testify or who disobeys any lawful order of the said State Fire Marshal, Assistant State Fire Marshal, or who fails or refuses, to produce any book, paper or document, touching on any matter under examination, or who is guilty of any contemptuous conduct after being summoned by them or either of them, to appear before them, or either of them, to give testimony in relation to any matter or subject under investigation as aforesaid, shall be deemed guilty of a misdemeanor and it shall be the duty of the State Fire Marshal, Assistant State Fire Marshal, or either of them to make complaint against said person or persons so refusing to comply with the summons or order of the said State Fire Marshal, or Assistant State Marshal, before any justice of the peace, police magistrate, or any

court of record in the county in which said investigation is being had, and upon the filing of such complaint such court shall proceed in the same manner as other criminal cases and upon conviction of any such person guilty of violation of the provisions of this act, shall be fined in a sum of not exceeding Twenty-five Dollars (\$25.00) and imprisonment until such fine is paid; provided, however, that any person so convicted shall have the right of appeal. Said State Fire Marshal and his subordinates or either of them shall have the authority at all times of day or night in the performance of the duties imposed by the provisions of this act, to enter upon and examine any building or premises where any fire has occurred and other buildings adjoining or near the same. All investigations held by or under the direction of the said State Fire Marshal, may, in his discretion be private, and persons other than those required to be present by the provisions of this act, may be excluded from the place where such investigation is held and witnesses may be kept separate and apart from each other and not be allowed to communicate with each other until they have been examined.

Added by Laws 1910-11, c. 46, p. 116, § 6. Amended by Laws 1997, c. 133, § 589, eff. July 1, 1998.

§74-317. Examination of buildings and premises - Correctional facilities - Reports - Orders for repair, demolition, etc. - Appeals - Execution of orders - Collection of expenses - Penalties.

The State Fire Marshal, any assistants to the State Fire Marshal, the chief of the fire department of all the cities and towns where a fire department is established, the mayor of the cities and towns where no fire department exists, the chief of a fire protection district created pursuant to Sections 901.1 et seq. of Title 19 of the Oklahoma Statutes and the sheriff of all counties, upon the complaint of any person having an interest in any building or property adjacent, and without any complaint, shall have the right at all reasonable hours for the purpose of an examination to enter into and upon all buildings and premises within their jurisdiction. The State Fire Marshal shall, at least once each year, make a fire inspection of all correctional facilities under the jurisdiction and control of any state agency, county, city or town. The correctional facilities shall include, but not be limited to, institutions within the Department of Corrections as defined by Section 502 of Title 57 of the Oklahoma Statutes, juvenile institutions under the jurisdiction and control of the Department of Institutions, Social and Rehabilitative Services, as listed in Section 2-7-606 of Title 10A of the Oklahoma Statutes, and jails. The State Fire Marshal shall issue a report containing findings of the inspection as to each facility under the jurisdiction and control of a state agency, to the director of the agency. As to any

other correctional facility, the State Fire Marshal shall issue the report to the person immediately responsible for the administration of the facility inspected. Whenever any of the officers shall find any building or other structure which for the want of proper repair, or by reason of age and dilapidated condition, or for any cause is especially liable to fire, and which is so situated as to endanger other buildings or property, or so occupied that a fire would endanger persons and property therein, the officers shall order the building or buildings to be repaired, torn down, demolished, materials removed and all dangerous conditions remedied. Whenever the officers determine that a threat to life is imminent, the officers are permitted to order the evacuation of the occupants of the building or buildings. If the officer finds in a building or upon any premises any combustible or explosive material, rubbish, rags, waste, oils, gasoline or inflammable conditions of any kind, dangerous to the safety of buildings or property, the officer shall order the materials removed or conditions remedied. The order shall be made against the owner, lessee, agent or occupant of the buildings or premises and, thereupon, the order shall be complied with by the owner, lessee, agent or occupant, and within the time fixed in the order. If the owner, lessee, agent or occupant deems itself aggrieved by an order of any of the officers, and desires a hearing, that person may complain or appeal in writing to the State Fire Marshal within ten (10) days from the service of the order, and the State Fire Marshal shall at once investigate the complaint, and shall fix a time in the county where the property is located, when and where the complaint will be heard by the State Fire Marshal. The State Fire Marshal may affirm, modify, revoke or vacate the order at the hearing, and unless the order is revoked or vacated by the State Fire Marshal, it shall remain in force and be complied with by the owner, lessee, agent or occupant within the time fixed in the order, or within the time as may be fixed by the State Fire Marshal at the hearing. If a person is aggrieved by the final order of the State Fire Marshal as made at the hearing, that person may, within ten (10) days thereafter, appeal to the district court of the county in which the property is situated, notifying the State Fire Marshal in writing of the appeal within three (3) days thereafter, which notice shall be delivered personally to the State Fire Marshal or by registered mail to the office of the State Fire Marshal at Oklahoma City, Oklahoma. The party appealing shall, within three (3) days thereafter, file with the clerk of the district court in which the appeal is made, a bond in an amount to be fixed by the court but in no case less than One Hundred Dollars (\$100.00), with at least sufficient sureties to be approved by the court, conditioned to pay all costs on the appeal in case the appellant failed to sustain the same or the appeal be dismissed for any cause. The district court shall hear and determine the appeal de novo, in

the same manner as other issues of law and fact are heard and tried in the courts, and the State Fire Marshal shall be plaintiff in the action. The district court shall hear and determine the appeal at the next regular term of district court in the county where the order was issued, and may sustain, modify or annul the order of the State Fire Marshal, and the decision of the district court shall be final. The State Fire Marshal shall execute the final order of the district court, and if the order is adverse to the appellant, the State Fire Marshal is empowered to cause the building or premises to be repaired, torn down, demolished, materials removed and all dangerous conditions remedied, as the case may be, at the expense of the appellant. If the appellant fails, refuses or neglects to comply with the order, or pay the expense incurred by the State Fire Marshal in executing the same within thirty (30) days thereafter, the expense shall be certified by the State Fire Marshal to the county assessor of the county in which the property is situated and the county assessor shall enter the expense on the tax list of the county as a special charge against the real estate on which the building is or was situated, and the same shall be collected as other taxes and, when collected, shall be paid to the county treasurer and credited to the general fund of the county in which the property is located. Any person being the owner, occupant, lessee or agent of buildings or premises, who willfully fails, neglects or refuses to comply with any order of any officer named in this section shall be guilty of a misdemeanor and shall be fined not more than Fifty Dollars (\$50.00) nor less than Ten Dollars (\$10.00) for each day's neglect.

Added by Laws 1910-11, c. 46, p. 117, § 7. Amended by Laws 1923, c. 189, p. 334, § 2; Laws 1978, c. 163, § 2, emerg. eff. April 7, 1978; Laws 1992, c. 397, § 10, eff. July 1, 1992; Laws 2004, c. 432, § 1, eff. July 1, 2004; Laws 2009, c. 234, § 163, emerg. eff. May 21, 2009.

§74-317.1. Bed and breakfast establishments - Exemption from State Fire Marshal Commission standards.

A. The following bed and breakfast establishments shall be exempt from standards adopted by the State Fire Marshal Commission, including but not limited to standards published by the National Fire Protection Association, the Building Officials and Code Administrators (BOCA) National Building Code and the Life Safety Code, as it relates to sprinkler system and exit requirements only:

1. Bed and breakfast establishments which are open for business prior to the effective date of this act; and
2. Bed and breakfast establishments which open for business on or after the effective date of this act and which provide sleeping accommodations of four rooms or less.



B. Municipalities may enact ordinances for bed and breakfast establishments which are the same as or different from the rules adopted by the State Fire Marshal Commission relating to sprinkler system and exit requirements only.

C. For purposes of this section, "bed and breakfast establishment" means a private house where sleeping accommodations are available for transient guests for pay, maximum guest occupancy in general not to exceed the total of two guests per room, and where breakfast only is included in the rent.

Added by Laws 1995, c. 220, § 1, eff. July 1, 1995.

§74-317.2. Churches - Temporary overnight accommodations.

A. The Oklahoma Uniform Building Code or any building code adopted by any political subdivision of this state, or any rules or regulations promulgated thereto, may permit the authority having jurisdiction to allow a church that is occupancy-rated an A3 building pursuant to any codes adopted by the Oklahoma Uniform Building Code Commission to utilize its building space for temporary overnight visitors for the purpose of religious retreats, ministry programs, overnight or lock-in events, emergency or catastrophic occurrences, to shelter transient persons or to accommodate displaced persons due to hardship or inclement weather. Such building use shall not constitute a change in code occupancy rating, purposes or activities. Provided, any temporary overnight visitor space utilized by a church within its existing buildings as authorized by this section shall be authorized only for a limited duration, unless the Governor has declared a state of emergency or exigent circumstances exist. The church acting pursuant to the provisions of this section shall not charge for its accommodations nor be deemed a bed and breakfast, hotel or motel for any code occupancy rating purposes.

B. Churches which temporarily accommodate overnight visitors as provided in this section shall have one of the following:

1. An automatic sprinkler system in the area of overnight accommodations that is monitored by a third party; or

2. A hard-wired stand-alone fire and smoke alarm in the area of overnight accommodations in addition to an exit door or window opening directly to a public way, exit court or yard area.

C. Nothing in the Oklahoma Uniform Building Code or any code adopted by any political subdivision of this state, or any rules or regulations promulgated pursuant thereto, shall be construed to cause a church to be in violation of the Oklahoma Uniform Building Code or any building code adopted by a political subdivision of this state for the sole reason the church offers temporary overnight visitor services within the authority of this section.

D. As used in this section:

1. "Church" means a facility that is owned by a religious organization and that is used primarily for religious services;

2. "Religious organization" means any church, seminary, synagogue, temple, mosque, religious order, religious corporation, association or society, whose identity is distinctive in terms of common religious creed, beliefs, doctrines, practices or rituals, of any faith or denomination, including any organization qualifying as a church or religious organization under Section 501(c)(3) or 501(d) of the United States Internal Revenue Code; and

3. "Temporary" means no more than seventy-five (75) days in a calendar year.

Added by Laws 2016, c. 378, § 1, eff. Nov. 1, 2016. Amended by Laws 2017, c. 250, § 1, eff. July 1, 2017, emerg. eff. May 12, 2017.

§74-318. Penalty for failure of duty.

Any officer referred to in this act, who neglects to comply with any of the requirements of this act, shall be punished by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred Dollars (\$200.00), to be recovered as provided in section 7 of this act.

Laws 1910-11, c. 46, p. 118, § 8.

§74-320. Engagement in other duties prohibited.

The State Fire Marshal shall not engage in any other business that may be a conflict of interest with duties of the State Fire Marshal. The State Fire Marshal and the Assistant State Fire Marshal shall at all times be ready for such duties as are required by Sections 314 through 326.11 of this title.

Laws 1910-11, c. 46, p. 119, § 10. Amended by Laws 2011, c. 276, § 1, eff. Nov. 1, 2011.

§74-324.1. State Fire Marshal Commission - Membership - Tenure.

There is hereby re-created the State Fire Marshal Commission, which shall consist of seven (7) members appointed by the Governor. The Governor shall appoint initially one member who shall serve for a term of five (5) years, one member from a statewide association of career and volunteer firefighters who shall serve for a term of four (4) years, one member from a statewide association of municipalities who shall serve for a term of three (3) years, one member from a statewide association of Fire Chiefs, both career and volunteer, who shall serve for a term of two (2) years, one member who shall be a Fire Investigator who shall serve for a term of one (1) year, one member representing a statewide association of electrical workers who shall serve a term of one (1) year, and one member representing a statewide organization of exclusively professional firefighters who shall serve a term of two (2) years. The members of the Commission shall thereafter be appointed for a term of five (5)

years and the appointments shall be subject to Senate confirmation; provided the associations named shall be represented by at least one member.

Added by Laws 1965, c. 257, § 1, eff. July 1, 1965. Amended by Laws 1981, c. 36, § 1, emerg. eff. April 8, 1981; Laws 1983, c. 333, § 28, emerg. eff. June 29, 1983; Laws 2001, c. 200, § 1, eff. Nov. 1, 2001; Laws 2012, c. 268, § 1, eff. Nov. 1, 2012.

§74-324.2. Chairman - Rules - Quorum and meetings - Minutes - Reports.

The Commission shall select a chair. The Commission is hereby authorized to adopt rules necessary for the licensure, regulation and enforcement of the fire extinguishers pursuant to the Fire Extinguisher Licensing Act and for conducting its proceedings. Any four members shall constitute a quorum. The Commission shall meet monthly on such date as it may designate and may meet at such other times as it may deem necessary, or when called by the chairman or by any four members. Complete minutes of each meeting shall be kept and filed in the office of the State Fire Marshal and shall be available for public inspection during reasonable office hours. The Commission shall report annually to the Governor and to the Speaker of the House of Representatives and the President Pro Tempore of the Senate of the affairs of the Commission and the office of the State Fire Marshal.

Added by Laws 1965, c. 257, § 2, eff. July 1, 1965. Amended by Laws 1981, c. 272, § 23, eff. July 1, 1981; Laws 2005, c. 52, § 1, emerg. eff. April 18, 2005; Laws 2013, c. 111, § 17, eff. Nov. 1, 2013.

§74-324.4. State Fire Marshal - Assistant State Fire Marshal.

A. The State Fire Marshal Commission shall appoint a full-time State Fire Marshal. The State Fire Marshal shall administer and enforce the provisions of law pertaining to the Office of the State Fire Marshal to include, but not be limited to, fire and arson investigations, code enforcement, and public education under the supervision of the State Fire Marshal Commission and in accordance with Commission policies. The State Fire Marshal shall be a person of good moral character and a resident of Oklahoma at the time of appointment. The State Fire Marshal must have a minimum of ten (10) years' experience in fire protection, fire prevention, investigation, or criminal justice, which may include experience with any state, county, municipal, federal, military, or industrial fire protection or criminal justice agency. Successful completion of a degree in fire protection and prevention, criminal justice or administration from an accredited college or university, may be substituted for experience on a year-to-year basis. The State Fire Marshal shall possess administrative ability and experience. The State Fire Marshal may be required to obtain certification as a

peace officer in the State of Oklahoma from the Council on Law Enforcement Education and Training, and shall be subject to an extensive background investigation, psychological testing, and drug testing. The Commission may also require additional qualifications. The State Fire Marshal must have or be able to obtain a valid Oklahoma driver license and be a citizen of the United States.

B. The Commission shall appoint a full-time Assistant State Fire Marshal upon recommendation from the State Fire Marshal. The Assistant State Fire Marshal must have a minimum of seven (7) years experience in fire protection, fire prevention, investigations or criminal justice, which may include experience with any state, county, municipal, federal, military, or industrial fire protection or criminal justice agency. Successful completion of a degree in fire protection and prevention, criminal justice, or administration from an accredited college or university, may be substituted for experience on a year-to-year basis. The Assistant State Fire Marshal shall possess administrative ability and experience. The Assistant State Fire Marshal may be required to obtain certification as a peace officer from the Council on Law Enforcement and Education Training, and shall be subject to an extensive background investigation, psychological testing, and drug testing. The Commission may require additional qualifications. The Assistant State Fire Marshal must have or be able to obtain a valid Oklahoma driver license and be a citizen of the United States.

Added by Laws 1965, c. 257, § 4, eff. July 1, 1965. Amended by Laws 1983, c. 202, § 5, operative July 1, 1983; Laws 2001, c. 381, § 17, eff. July 1, 2001.

§74-324.5. Office of State Fire Marshal agents.

Office of State Fire Marshal agents shall be appointed by and subject to the supervision and control of the State Fire Marshal or designee. All agents are employees of the State of Oklahoma and subject to the provisions of the Oklahoma Merit System of Personnel Administration. All agents shall be required to obtain and maintain peace officer certification from the Council on Law Enforcement Education and Training and must have or be able to obtain a valid Oklahoma driver license and be citizens of the United States. The State Fire Marshal Commission shall have the authority to appoint such other employees as shall be necessary in discharging the duties of their office.

Added by Laws 1965, c. 257, § 5, eff. July 1, 1965. Amended by Laws 1971, c. 266, § 1, emerg. eff. June 17, 1971; Laws 2001, c. 381, § 18, eff. July 1, 2001.

§74-324.7. Rules, regulations and specifications - Regulation of liquefied petroleum gas and flammable liquids.

A. Except as otherwise specified by subsection B of this section, the State Fire Marshal Commission shall have the power and duty to prescribe, adopt, and promulgate, in the manner set forth in this act, such reasonable rules, regulations, or specifications on matters relating to the safeguarding of life and property from the hazards of fire and explosion arising from storage, handling, and use of flammable and combustible materials, and from conditions hazardous to life or property in the use or occupancy of buildings or premises, as are deemed just and reasonable and in accordance with the codes as last adopted by the Oklahoma Uniform Building Code Commission, and not inconsistent with this act, and to revoke, amend, or supersede the same. Exceptions to these standards shall be granted to detention and correction facilities in existence on November 1, 1985, when noncompliance would not result in a life-threatening condition to inmates incarcerated in such facilities. All such rules, regulations, and specifications or any revisions or amendments thereto shall not become effective until promulgated in accordance with the provisions of the Administrative Procedures Act.

B. 1. Liquefied petroleum gas defined by Section 420.1 of Title 52 of the Oklahoma Statutes shall be regulated by the Oklahoma Liquefied Petroleum Gas Board.

2. Flammable liquids stored in tanks at service stations shall be regulated by the Corporation Commission.

C. For the purpose of this section:

1. "Flammable liquids" means all petroleum products used as motor fuel and all grades of gasoline, kerosene, diesel fuel and aviation fuel having a vapor pressure not exceeding forty (40) pounds per square inch absolute at one hundred (100) degrees Fahrenheit;

2. "Service station" means any facility including but not limited to businesses serving the public, marinas and airports where flammable liquids are stored in aboveground tanks and dispensed for retail sales into the fuel tanks of airplanes, vessels or motor vehicles of the public; and

3. "Aboveground tank" means any stationary vessel at a service station and is located above the surface of the ground or on the ground which is designed to contain an accumulation of flammable liquids and which is constructed of nonearthen materials that provide structural support.

Added by Laws 1965, c. 257, § 7, eff. July 1, 1965. Amended by Laws 1985, c. 62, § 3, eff. Nov. 1, 1985; Laws 1990, c. 252, § 1, operative July 1, 1990; Laws 2003, c. 168, § 8, eff. July 1, 2003; Laws 2009, c. 439, § 18, emerg. eff. June 2, 2009.

§74-324.7a. Assistance and cooperation of State Fire Marshal.

A. The Office of the State Fire Marshal in pursuance of its duties to protect the health, safety and welfare of the public and

property from the hazards of fire and explosion arising from the storage, handling, and use of flammable and combustible materials shall assist and cooperate with the Commission in the performance of its duties under this act by making investigations, fire fighting, gathering evidence and filing reports or complaints with the Commission concerning flammable liquids stored in aboveground tanks. The Office of the State Fire Marshal shall report any violations of the Oklahoma Aboveground Tank Regulation Act or rules promulgated thereto to the Commission.

B. Upon the request of the Commission, the Office of the State Fire Marshal shall assist the Commission with the training of its enforcement employees or agents in the standards and practices on matters relating to the safeguarding of life and property from the hazards of fire and explosions arising from storage, handling, and use of flammable liquids located at service stations.

Added by Laws 1990, c. 252, § 12, operative July 1, 1990. Amended by Laws 2003, c. 168, § 9, eff. July 1, 2003.

§74-324.8. Uniform force and effect - Authority of cities, towns and counties.

The rules promulgated pursuant to Section 324.1 et seq. of this title shall have uniform force and effect throughout the state and no municipality or subdivision shall enact or enforce any ordinances, rules for construction of or major alterations to buildings with standards less stringent than the building code, as last adopted by the Oklahoma Uniform Building Code Commission. Provided, nothing in this act shall prevent or take away from any city, town or county, the authority to enact and enforce rules containing higher standards and requirements than those provided herein nor prevent or take away from any city, town or county the authority to amend such adopted codes to make changes necessary to accommodate local conditions. And provided further, that nothing in this act shall in any way impair the power of any municipality, county or subdivision to regulate the use of land by zoning, building codes or restricted fire district regulations.

Added by Laws 1965, c. 257, § 8, eff. July 1, 1965. Amended by Laws 1971, c. 236, § 1, emerg. eff. June 12, 1971; Laws 1990, c. 199, § 1, emerg. eff. May 10, 1990; Laws 1991, c. 324, § 3, emerg. eff. June 14, 1991; Laws 2001, c. 136, § 1, eff. Nov. 1, 2001; Laws 2005, c. 119, § 1, eff. July 1, 2005; Laws 2009, c. 439, § 19, emerg. eff. June 2, 2009.

NOTE: Laws 2009, c. 80, § 2 repealed by Laws 2010, c. 2, § 100, emerg. eff. March 3, 2010.

§74-324.9. Investigations - Reports - Fees, fines and administrative penalties.

A. The State Fire Marshal or deputies of the State Fire Marshal may make investigations to determine the origin and cause of fires, explosions, or suspected arson, and violations of other related laws and codes. The State Fire Marshal and the agents of the State Fire Marshal shall be peace officers and have and exercise all the powers and authority of other peace officers, with responsibility for the enforcement of statutes relating to the State Fire Marshal. This shall include the authority to enforce, issue citations for violations of state and city-adopted codes, and make arrests for felony offenses relevant to the duties of the State Fire Marshal. All reports and all results of investigations relevant to the State Fire Marshal statutes shall be available and shall be freely interchanged between the Office of the State Fire Marshal and the Oklahoma State Bureau of Investigation.

B. The State Fire Marshal Commission may establish fees, fines, and administrative penalties for inspections, plan reviews, and permits as provided in the adopted codes of the Commission, as long as the fees, fines, and administrative penalties do not conflict with any applicable state law. All fees, fines, and administrative penalties shall be adopted in accordance with the Administrative Procedures Act.

Added by Laws 1965, c. 257, § 9, eff. July 1, 1965. Amended by Laws 1999, c. 143, § 1, eff. July 1, 1999; Laws 2004, c. 432, § 2, eff. July 1, 2004; Laws 2009, c. 439, § 20, emerg. eff. June 2, 2009.

#### §74-324.10. Additional powers of Fire Marshal.

In addition to any other authority or powers provided by law herein granted, the State Fire Marshal shall be authorized to:

1. Advise, assist and coordinate with the State Emergency Management Director in the development of Emergency Management plans;

2. Assist any city, town or county in the enforcement of the Codes herein adopted upon the request of the officials thereof; and

3. Serve as a code variance and appeals board for the trades and industries he or she regulates which do not have statutory code variance and appeals boards.

Added by Laws 1965, c. 257, § 10, eff. July 1, 1965. Amended by Laws 2003, c. 329, § 59, emerg. eff. May 29, 2003; Laws 2015, c. 82, § 1, eff. Nov. 1, 2015.

#### §74-324.11. Building permits - Conformity to building codes - Authority of cities, towns and counties - Construction or alteration of correctional or assisted living facilities.

A. No person, firm, corporation, partnership, organization, city, town, school district, county or other subdivision of government shall commence the construction or major alteration of any buildings or structures to be used as schools, hospitals,

churches, asylums, theaters, meeting halls, hotels, motels, apartment houses, rooming houses, rest homes, nursing homes, day nurseries, convalescent homes, orphanages, auditoriums, assisted living facilities, dormitories, factories, stadiums, or warehouses, including all defined occupancies within these groups, or install original equipment for the operation or maintenance thereof without obtaining a permit. Said permit, for which a charge may be made in conformity with the local ordinance, except as limited herein as to governmental agencies, shall be obtained from the city, town or county in whose jurisdiction the construction or alteration is planned.

B. All such construction or alteration so planned shall conform to the applicable provisions of the building code, as last adopted by the Oklahoma Uniform Building Code Commission.

C. Application for such building permit shall be made to, and such building permit shall be issued by, any city, town or county in whose jurisdiction the construction or alteration is planned. The city, town or county may require the submission of plans and specifications covering the proposed construction or alteration and may refuse to issue such permit unless the work so planned is in accordance with the applicable provisions of the city, town or county's building code. In all geographical areas wherein no such permit is required by local authorities such permit must be obtained from the State Fire Marshal, who may require the submission of plans and specifications covering the proposed construction or alteration, and shall refuse to issue such permit unless the work so planned is in accordance with the applicable provisions of the building code, as last adopted by the Oklahoma Uniform Building Code Commission; provided, that the foregoing provisions of this sentence shall not apply to locations in any geographical area that are owned or operated by a state beneficiary public trust or have been purchased or leased from a state beneficiary public trust.

D. Nothing in this act shall be construed as repealing any ordinance of any city, town or county requiring the submission to the local authorities of plans and specifications and the obtaining of permits, but the power or authority of any such city, town or county to levy or assess any charge for such permit or to make and enforce requirements prerequisite to the issuance of such permit, other than requiring compliance with such building code, shall, as to governmental agencies, be limited as hereinafter set forth.

E. No city, town or county requested to issue any such permit to any city, town, school district, county or other subdivision of government shall charge, assess or collect any fee or other charge for such permit except the regular and customary inspection fees fixed by ordinance for inspection of the work to be done under such permit, and no other charge, fee or other conditions of any kind under the authority of this title shall be made a condition of or



prerequisite to the obtaining of such permit by any such governmental agency.

F. No bids may be let for the construction or major alteration of any correctional facility as defined by Section 317 of this title until plans and specifications for such construction or alteration have been submitted to the State Fire Marshal for approval. The State Fire Marshal shall approve said plans and specifications if the work so planned conforms with the applicable provisions of the building code, as last adopted by the Oklahoma Uniform Building Code Commission.

G. 1. Notwithstanding anything to the contrary in the fire code and/or building code, as last adopted by the Oklahoma Uniform Building Code Commission, all facilities to be licensed as assisted living facilities, or additions to existing assisted living facilities, constructed after November 1, 2008, shall be constructed with the guidelines of the I-II building occupancies if at any time in their operation they house residents who are not capable of responding to emergency situations without physical assistance from staff of the facility or are not capable of self preservation.

2. Assisted living facilities licensed prior to July 1, 2008, may house residents who are not capable of responding to emergency situations without physical assistance from the staff or are not capable of self preservation under the following conditions: As part of the annual licensure renewal process, the facility shall disclose if any residents who reside in the facility are not capable of responding to emergency situations without physical assistance from staff or are not capable of self preservation, and the facility shall be required to install fire sprinkler protection and an alarm system within the facility in accordance with the building guidelines set forth in the building code for I-II facilities.

3. Assisted living facilities licensed to house six or fewer residents prior to July 1, 2008, shall be permitted to install 13D or 13R fire sprinkler protection in lieu of meeting I-II sprinkler requirements, with approval of the municipal fire marshal or compliance with local codes.

4. For purposes of this subsection:

- a. the term "assisted living center" shall include an assisted living center licensed as such by the State Department of Health and the assisted living center component of a continuum care facility licensed by the State Department of Health, and
- b. the terms "fire code" and "building code" shall be deemed to include:
  - (1) any and all appendices, commentary, amendments and supplements to, and replacements or restatements of the Codes, and

- (2) any and all other laws, ordinances, regulations, codes or standards pertaining to assisted living center construction, occupancy and maintenance for the protection of lives and property from fire.

Added by Laws 1965, c. 257, § 11, eff. July 1, 1965. Amended by Laws 1971, c. 236, § 2, emerg. eff. June 12, 1971; Laws 1973, c. 190, § 1, emerg. eff. May 17, 1973; Laws 1978, c. 163, § 3, emerg. eff. April 7, 1978; Laws 1990, c. 199, § 2, emerg. eff. May 10, 1990; Laws 2001, c. 136, § 2, eff. Nov. 1, 2001; Laws 2008, c. 397, § 1, eff. July 1, 2008; Laws 2009, c. 439, § 21, emerg. eff. June 2, 2009; Laws 2010, c. 231, § 1, eff. Nov. 1, 2010.

§74-324.11a. Smoke detectors required for certain buildings - Testing by lessees - New construction or remodeling - Penalties.

A. Any person, partnership, corporation, organization, the state, or city, town, county, or other subdivision of this state, owning a building or structure used as a hospital, church, theater, hotel, motel, apartment house, rooming house, dormitory, rest home, nursing home, day nursery, convalescent home, auditorium, or child care institution, existing or constructed in the State of Oklahoma, shall install in such building or structure a smoke detector or detectors in accordance with the nationally recognized codes, standards, or practices adopted by the State Fire Marshal Commission to safeguard life and property from the hazards of smoke and fire.

B. For the purpose of this section, the term smoke detector means a device which is:

1. Designed to detect visible or invisible products of combustion;
2. Designed with an alarm audible to the rooms it serves;
3. Powered by either battery, alternating current, or other power source; and
4. Tested and listed for use as a smoke detector by a recognized testing laboratory.

C. Any person, partnership, corporation, state, municipality, county, or other subdivision of this state who is a lessor of a residential rental property shall explain to the lessee or tenant the method of testing the smoke detector to ensure that it is in working order. The responsibility for checking a smoke detector to find out whether such detector is in working order is with the tenant or lessee leasing or renting a one- or two-family dwelling, including an apartment in each apartment house, and not with the person, partnership, corporation, state, municipality, county, or other subdivision of this state who is a lessor of the residential rental property to the lessee or tenant.

D. Beginning November 1, 1997, all new construction or remodeling of residential dwellings which require a building permit

shall include the installment of smoke detectors or the electrical wiring necessary for the installment of electrical smoke detectors.

E. Any person who violates any provision of subsection A of this section or any person who tampers with, removes, destroys, disconnects or removes power from any installed smoke detector, except in the course of inspection, maintenance or replacement of the detector, upon conviction, is guilty of a misdemeanor and may be fined not less than Fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00).

F. Nothing in this section shall be construed to allow any political subdivision in this state to enact laws imposing upon owners of any dwelling described in subsection A of this section a greater duty with regard to the installation, testing, repair and replacement of smoke detectors than is required by this section.

G. The State Fire Marshal Commission shall prescribe, adopt, and promulgate the rules necessary to effectuate the provisions of this section which shall include a practical time table for compliance with the provisions of this act.

H. Municipalities may enact ordinances in order to enforce the rules of the State Fire Marshal Commission as provided by this section.

Added by Laws 1984, c. 88, § 1, operative Nov. 1, 1984. Amended by Laws 1988, c. 45, § 1, eff. Nov. 1, 1988; Laws 1993, c. 295, § 5, eff. Sept. 1, 1993; Laws 1997, c. 42, § 1, eff. Nov. 1, 1997.

§74-324.11b. Hotels or motels - School or college housing - Provision of visual smoke detectors to deaf or hard-of-hearing guests.

A. Any person, partnership, corporation, organization, state, city, town, county, or other subdivision of this state, operating a building or structure used as a hotel or motel, within the State of Oklahoma, shall provide, at no additional charge to deaf and hard-of-hearing guests and upon request of such guests, portable smoke detectors of the type suitable for providing visual warning to such guests, a room equipped with fixed visual warning smoke detectors or a ground floor guest room accessible to the out-of-doors. Each hotel or motel shall have available at least one portable visual warning smoke detector, one room equipped with a fixed visual warning smoke detector or one ground floor guest room accessible to the out-of-doors for each fifty guest rooms of such hotel or motel. No hotel or motel shall be required to have more than a total of six portable visual warning smoke detectors, six rooms with fixed visual warning smoke detectors or six ground floor guest rooms accessible to the out-of-doors. Each hotel or motel shall have at least one such smoke detector, one room equipped with a fixed visual warning smoke detector or one ground floor guest room accessible to the out-of-doors.

B. Any school or college that provides housing to deaf and hard-of-hearing individuals shall make a visual warning smoke detector available for each such individual's use and may require users to post a refundable deposit.

Added by Laws 1989, c. 146, § 1, eff. Nov. 1, 1989. Amended by Laws 1998, c. 246, § 38, eff. Nov. 1, 1998.

§74-324.11c. Removable coverings over emergency escape and rescue openings in residences.

Any residential occupancy built or retrofitted after November 1, 2005, that have installed bars, grills, covers, screens, or similar devices that are placed over emergency escape and rescue openings, bulkhead enclosures, windows, or window wells, shall be releasable or removable from the inside without the use of a key, tool, or force greater than that which is required for normal operation of the escape and rescue openings, bulkhead enclosures, windows, or window wells.

Added by Laws 2005, c. 54, § 1, eff. Nov. 1, 2005.

§74-324.12. Transfer of powers and duties to Fire Marshal.

Upon the effective date of this act the powers and duties conferred by the provisions of 74 O.S.1961, Sections 314 through 318 and Section 320, are hereby vested in the Office of the State Fire Marshal.

Amended by Laws 1983, c. 333, § 28, emerg. eff. June 29, 1983.

§74-324.13. Administrative procedures.

The Fire Marshal Commission and the State Fire Marshal shall be subject to the provisions of the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes.

Added by Laws 1965, c. 257, § 13, eff. July 1, 1965. Amended by Laws 1997, c. 206, § 1, eff. Nov. 1, 1997.

§74-324.14. Legal advisor.

The Attorney General shall be the legal advisor for the office of the State Fire Marshal and the Fire Marshal Commission and shall appear for and represent the State Fire Marshal, the Fire Marshal Commission and any of his deputies or agents in any and all litigation that may arise in the discharge of their respective duties.

Laws 1965, c. 257, § 14, eff. July 1, 1965.

§74-324.18. Repealed by Laws 2015, c. 13, § 1, eff. Nov. 1, 2015.

§74-324.19. Violations - Penalties.

Any person, firm or corporation who fails to comply with the provisions of Section 1 of this act shall be subject to payment of a

fine of not more than One Thousand Dollars (\$1,000.00) for each day's failure to comply with this act.

Laws 1980, c. 96, § 2, eff. Oct. 1, 1980.

§74-324.20. Collection and disposition of funds.

All monies collected by the Office of the State Fire Marshal from contracts or other sources, for services performed, shall be deposited in the State Treasury for credit to the State Fire Marshal Revolving Fund created in Section 324.20b of this title.

Added by Laws 1984, c. 180, § 4, operative July 1, 1984. Amended by Laws 1985, c. 308, § 3, emerg. eff. July 24, 1985; Laws 1986, c. 190, § 7, operative July 1, 1986; Laws 2001, c. 381, § 19, eff. July 1, 2001.

§74-324.20b. State Fire Marshal Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the State Fire Marshal to be designated the "State Fire Marshal Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies received from the sale of surplus property, fees and receipts collected pursuant to the Oklahoma Open Records Act, fines, forfeitures, fees, charges, receipts, donations, gifts, bequests, contributions, devises, interagency reimbursements, federal funds unless otherwise provided by federal law or regulation, or any other source. The fund shall consist of no more than Five Hundred Fifty Thousand Dollars (\$550,000.00). All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Fire Marshal for authorized purposes. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1998, c. 169, § 1, eff. July 1, 1998. Amended by Laws 2003, c. 265, § 4, eff. July 1, 2003; Laws 2005, c. 269, § 4, eff. July 1, 2005; Laws 2012, c. 304, § 848.

§74-324.21. Certified copy of fire investigation report - Fee.

The Office of the State Fire Marshal shall be authorized to prepare under the Seal of the Office and deliver upon request, a certified copy of fire investigation reports, as authorized in Section 314 of Title 74 of the Oklahoma Statutes, charging a fee of Two Dollars (\$2.00) per page for each document so authenticated. Fees collected by the Office of the State Fire Marshal shall be deposited in the State Treasury for credit to the General Revenue Fund of the state.

Added by Laws 1984, c. 180, § 5, operative July 1, 1984.

§74-325.1. Firefighter Training Advisory Committee.

A. The Oklahoma Council on Firefighter Training is hereby abolished and all powers, duties and responsibilities of the Oklahoma Council on Firefighter Training shall be transferred to the Office of the State Fire Marshal. All equipment, vehicles, records, furniture and fixtures of the Oklahoma Council on Firefighter Training shall be turned over to the Office of the State Fire Marshal by January 1, 2018. Any unexpended balance of the Oklahoma Council on Firefighter Training's operational funds as of January 1, 2018, shall be transferred to the State Fire Marshal Revolving Fund.

B. There is hereby established within the Office of the State Fire Marshal, the Firefighter Training Advisory Committee.

C. The Committee shall consist of representatives of the Oklahoma State Fire Service, with the total number and length of appointments to be determined by the State Fire Marshal Commission.

D. The Committee shall:

1. Advise and assist the State Fire Marshal Commission in identifying firefighter training needs and setting the firefighter training goals for the State of Oklahoma;

2. Advise and assist the State Fire Marshal Commission in interacting with the Homeland Security Department's Preparedness and Awareness Division on firefighter training and grants;

3. Advise and assist the State Fire Marshal Commission in administering and maintaining the incentive and recognition programs established for Oklahoma firefighters; and

4. Advise and assist the State Fire Marshal Commission in ensuring that the state has consistent basic and continuing education programs that include steps for all ranks or positions of career and volunteer firefighters, by setting minimum standards for career, recommended levels for volunteer, identifying training programs and courses required for fire service members to achieve those levels.

E. The Committee shall assist the State Fire Marshal Commission in advising the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the State Senate and the Oklahoma State Fire Service on fire and emergency service training needs for the state. The State Fire Marshal Commission shall submit an annual report or recommendations regarding fire and emergency service training needs to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the State Senate not later than December 31 each year.

F. The Committee shall meet at the discretion of the State Fire Marshal Commission.

Added by Laws 2004, c. 515, § 2, eff. July 1, 2004. Amended by Laws 2012, c. 161, § 1, eff. Nov. 1, 2012; Laws 2017, c. 232, § 2, eff. July 1, 2017.

§74-325.2. Incident Command Site Task Force.

A. There is hereby created, to continue until September 1, 2008, the "Incident Command Site Task Force".

B. The Task Force shall consist of fifteen (15) members:

1. Three members shall be appointed by the Governor as follows:

- a. one member from the Oklahoma Office of Homeland Security,
- b. one member from the Oklahoma State Firefighters Association, and
- c. one member who is a rural fire coordinator with incident command experience;

2. Two members shall be appointed by the Speaker of the Oklahoma House of Representatives as follows:

- a. one member who is a firefighter with the rank of officer from a rural area, and
- b. one member of the Oklahoma House of Representatives;

3. Two members shall be appointed by the President Pro Tempore of the State Senate as follows:

- a. one member who is a firefighter with the rank of officer from an urban area, and
- b. one member of the State Senate;

4. The State Fire Marshal, or a designee;

5. The State Director of the Oklahoma Department of Career and Technology Education, or a designee;

6. The Director of Oklahoma State University Fire Service Training, or a designee;

7. The Chair of the Oklahoma Council on Firefighter Training, or a designee;

8. The Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry, or a designee;

9. The Director of the Oklahoma Department of Emergency Management, or a designee;

10. The Commissioner of Public Safety, or a designee; and

11. The Director of the International Fire Service Training Association, or a designee.

C. The appointed member from the Oklahoma House of Representatives and the appointed member from the State Senate shall serve as cochairs of the Task Force. The cochairs shall convene the first meeting of the Task Force. The members of the Task Force shall elect any other officers during the first meeting and upon a vacancy in any office. The Task Force shall meet as often as necessary.

D. Appointments to the Task Force shall be made by August 1, 2007.

E. A majority of the members of the Task Force shall constitute a quorum. A majority of the members present at a meeting may act for the Task Force.

F. Nonlegislative members of the Task Force shall be reimbursed by their respective agencies for necessary travel expenses incurred in the performance of duties pursuant to the provisions of the State Travel Reimbursement Act. Legislative members of the Task Force shall be reimbursed for necessary travel expenses incurred in the performance of duties in accordance with the provisions of Section 456 of Title 74 of the Oklahoma Statutes.

G. Administrative support for the Task Force including, but not limited to, personnel necessary to ensure the proper performance of the duties and responsibilities of the Task Force shall be provided by the Office of the State Fire Marshal to be supplemented, if necessary, by the state agencies involved in the Task Force.

H. The Task Force shall study and make recommendations of appropriate incident command systems including, but not limited to, unified command for managing multidiscipline and multijurisdictional fire incidents occurring in this state. Recommendations shall be consistent with the National Incident Management System (NIMS).

I. The Task Force shall publish a report of findings and recommendations by September 1, 2008, including recommendations for any resulting legislation.

Added by Laws 2007, c. 175, § 2, eff. Nov. 1, 2007.

§74-325.3. Unified command protocol for emergency incidents - Training curriculum and materials - Locations - Records.

A. Oklahoma State University Fire Service Training in conjunction with the Oklahoma Office of Homeland Security and the State Fire Marshal Commission shall develop a program to educate firefighters on a unified command protocol for emergency incidents occurring in this state. This program shall be offered statewide by Oklahoma State University Fire Service Training. Methods of training may include, but are not limited to:

1. Live classroom sessions with approved instructors;
2. Live exercises and drills with approved instructors;
3. Interactive television;
4. Independent study; and
5. Web-based methods.

B. The training program shall be in compliance with the National Incident Management System (NIMS) and shall include provisions consistent with the National Fire Protection Association training courses.

C. The program shall have curriculum and training materials that are consistently utilized by all training providers at all training locations.

D. Subject to funding, these programs shall be offered at facilities approved by Oklahoma State University Fire Service Training and shall include, but not be limited to, other



institutions of higher education, technology center school facilities, local fire departments and other qualified entities.

E. Oklahoma State University Fire Service Training shall carry out all duties and responsibilities in accordance with Section 3401.2 of Title 70 of the Oklahoma Statutes.

Added by Laws 2007, c. 175, § 3, eff. Nov. 1, 2007. Amended by Laws 2013, c. 220, § 3, eff. Nov. 1, 2013; Laws 2017, c. 232, § 3, eff. July 1, 2017.

#### §74-325.4. Firefighter Training Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Office of the State Fire Marshal to be designated the "Firefighter Training Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies received by the Office of the State Fire Marshal from the General Revenue Fund or any source pursuant to the provisions of any law or agreement. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Office of the State Fire Marshal for payment of the firefighter training programs through Oklahoma State University Fire Service Training. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2007, c. 175, § 4, eff. Nov. 1, 2007. Amended by Laws 2012, c. 304, § 849.

#### §74-326.1. Short title.

This act shall be known and may be cited as the "Fire Safety Standard and Firefighter Protection Act".

Added by Laws 2008, c. 155, § 1, eff. Jan. 1, 2009.

#### §74-326.2. Definitions.

As used in the Fire Safety Standard and Firefighter Protection Act:

1. "Agent" means any person authorized by the Tax Commission to purchase and affix stamps on packages of cigarettes;

2. "Cigarette" means any roll for smoking, whether made wholly or in part of tobacco or any other substance, irrespective of size or shape, and whether or not such tobacco or substance is flavored, adulterated or mixed with any other ingredient, if the wrapper is in greater part made of any material except tobacco;

3. "Manufacturer" means:

a. any entity which manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere that such manufacturer intends to be

sold in this state, including cigarettes intended to be sold in the United States through an importer, or

- b. the first purchaser anywhere that intends to resell in the United States cigarettes manufactured anywhere that the original manufacturer or maker does not intend to be sold in the United States, or
- c. any entity that becomes a successor of an entity described in subparagraph a or b of this paragraph;

4. "Quality control and quality assurance program" means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the testing. Such a program ensures that the testing repeatability remains within the required repeatability values stated in paragraph 6 of subsection B of Section 3 of this act for all test trials used to certify cigarettes in accordance with this act;

5. "Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall ninety-five percent (95%) of the time;

6. "Retail dealer" means any person, other than a manufacturer or wholesale dealer, engaged in selling cigarettes;

7. "Sale" means any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatever or any agreement therefor. In addition to cash and credit sales, the giving of cigarettes as samples, prizes or gifts, and the exchanging of cigarettes for any consideration other than money, are considered sales;

8. "Sell" means to sell, or to offer or agree to do the same;

9. "Tax Commission" means the Oklahoma Tax Commission; and

10. "Wholesale dealer" means any person other than a manufacturer who sells cigarettes to retail dealers or other persons for purposes of resale, and any person who owns, operates or maintains one or more cigarette vending machines in, at or upon premises owned or occupied by any other person.

Added by Laws 2008, c. 155, § 2, eff. Jan. 1, 2009.

§74-326.3. Cigarette sale requirements - Test method and performance standard - Cigarettes with lowered permeability bands - Test reports - Review of legislation - Exceptions.

A. Except as provided in subsection H of this section, no cigarettes may be sold or offered for sale in this state or offered for sale or sold to persons located in this state unless the cigarettes have been tested in accordance with the test method and meet the performance standard specified in this section, a written certification has been filed by the manufacturer with the State Fire Marshal in accordance with Section 4 of this act, and the cigarettes have been marked in accordance with Section 5 of this act.

B. The following requirements shall be applicable:

1. Testing of cigarettes shall be conducted in accordance with the American Society of Testing and Materials (ASTM) standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes";

2. Testing shall be conducted on ten layers of filter paper;

3. No more than twenty-five percent (25%) of the cigarettes tested in a test trial in accordance with this section shall exhibit full-length burns. Forty replicate tests shall comprise a complete test trial for each cigarette tested;

4. The performance standard required by this section shall only be applied to a complete test trial;

5. Written certifications shall be based upon testing conducted by a laboratory that has been accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization (ISO), or other comparable accreditation standard required by the State Fire Marshal;

6. Laboratories conducting testing in accordance with this section shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The repeatability value shall be no greater than nineteen-hundredths (0.19);

7. This section does not require additional testing if cigarettes are tested consistent with this act for any other purpose; and

8. Testing performed or sponsored by the State Fire Marshal to determine a cigarette's compliance with the performance standard required shall be conducted in accordance with this section.

C. Each cigarette listed in a certification submitted pursuant to Section 4 of this act that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in this section shall have at least two nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least fifteen (15) millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there shall be at least two bands fully located at least fifteen (15) millimeters from the lighting end and ten (10) millimeters from the filter end of the tobacco column, or ten (10) millimeters from the labeled end of the tobacco column for nonfiltered cigarettes.

D. A manufacturer of a cigarette that the State Fire Marshal determines cannot be tested in accordance with the test method prescribed in paragraph 1 of subsection B of this section shall propose a test method and performance standard for the cigarette to the State Fire Marshal. Upon approval of the proposed test method and a determination by the State Fire Marshal that the performance standard proposed by the manufacturer is equivalent to the

performance standard prescribed in paragraph 3 of subsection B of this section, the manufacturer may employ such test method and performance standard to certify such cigarette pursuant to Section 4 of this act. If the State Fire Marshal determines that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in this act, and the State Fire Marshal finds that the officials responsible for implementing those requirements have approved the proposed alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the fire safety standards of that state's law or regulation under a legal provision comparable to this section, then the State Fire Marshal shall authorize that manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in this state, unless the State Fire Marshal demonstrates a reasonable basis why the alternative test should not be accepted under this act. All other applicable requirements of this section shall apply to the manufacturer.

E. Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of three (3) years, and shall make copies of these reports available to the State Fire Marshal and the Attorney General upon written request. Any manufacturer who fails to make copies of these reports available within sixty (60) days of receiving a written request shall be subject to a civil penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each day after the sixtieth day that the manufacturer does not make such copies available.

F. The State Fire Marshal may adopt a subsequent ASTM Standard Test Method for Measuring the Ignition Strength of Cigarettes upon a finding that such subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM Standard E2187-04 and the performance standard in paragraph 3 of subsection B of this section.

G. The State Fire Marshal shall review the effectiveness of this section and report every three (3) years to the Legislature the State Fire Marshal's findings and, if appropriate, recommendations for legislation to improve the effectiveness of this act. The report and legislative recommendations shall be submitted no later than June 30 following the conclusion of each three-year period.

H. The requirements of subsection A of this section shall not prohibit:

1. Wholesale or retail dealers from selling their existing inventory of cigarettes on or after January 1, 2009, if the wholesale or retail dealer can establish that state tax stamps were

affixed to the cigarettes prior to January 1, 2009, and the wholesale or retail dealer can establish that the inventory was purchased prior to January 1, 2009, in comparable quantity to the inventory purchased during the same period of the prior year; provided, that in no event may a wholesale or retail dealer sell or offer for sale a cigarette in this state that does not comply with this act after January 1, 2010;

2. The sale of cigarettes solely for the purpose of consumer testing. For purposes of this subsection, the term "consumer testing" means an assessment of cigarettes that is conducted by a manufacturer or under the control and direction of a manufacturer, for the purpose of evaluating consumer acceptance of such cigarettes, utilizing only the quantity of cigarettes that is reasonably necessary for such assessment; or

3. Wholesale or retail dealers from selling, until July 1, 2009, cigarettes manufactured in this state as determined by the State Fire Marshal.

I. This act shall be implemented in accordance with the implementation and substance of the laws of those states that have enacted reduced cigarette ignition propensity standards as of the effective date.

Added by Laws 2008, c. 155, § 3, eff. Jan. 1, 2009.

§74-326.4. Written certification of testing and performance - Oklahoma Fire Safe Cigarette directory - Recertification - Fee - Enforcement fund - Altered cigarettes.

A. Each manufacturer shall submit to the State Fire Marshal a written certification attesting that:

1. Each cigarette listed in the certification has been tested in accordance with Section 3 of this act; and

2. Each cigarette listed in the certification meets the performance standard set forth in Section 3 of this act.

B. Each cigarette listed in the certification shall be described with the following information:

1. Brand, or trade name on the package;

2. Style, such as lights, ultralights, or low tar;

3. Length in millimeters;

4. Circumference in millimeters;

5. Flavor, such as menthol or chocolate, if applicable;

6. Filter or nonfilter;

7. Package description, such as soft pack or box;

8. Marking pursuant to Section 5 of this act;

9. The name, address and telephone number of the laboratory, if different than the manufacturer that conducted the test; and

10. The date that the testing occurred.

C. The certifications shall be made available to the Attorney General for purposes consistent with this act and the Tax Commission

for the purposes of ensuring compliance with this section. No later than January 31, 2009, the Office of the Oklahoma State Fire Marshal shall develop and make available for public inspection, on its web site and in such other forms as the State Fire Marshal deems appropriate, an Oklahoma Fire Safe Cigarette directory of all certified cigarettes under this act. The State Fire Marshal's directory shall be provided to the Attorney General no later than January 31, 2009. The State Fire Marshal shall update the directory as necessary to keep the directory current and in conformity with the requirements of this act and shall provide all updates to the Attorney General. The directory shall also include a list of cigarettes exempted pursuant to paragraph 3 of subsection H of Section 3 of this act. A wholesale or retail dealer shall consider any cigarette listed on the State Fire Marshal's web site to be lawful to sell in this state for purposes of the wholesale or retail dealer's compliance with this act, unless the wholesale or retail dealer has actual knowledge that the cigarette does not comply.

D. Each cigarette certified under this section shall be recertified every three (3) years. Initial cigarette certifications may be made at any time.

E. At the time it submits a written certification under this section, a manufacturer shall pay to the State Fire Marshal a fee of One Thousand Dollars (\$1,000.00) for each brand family of cigarettes listed in the certification. The fee paid shall apply to all cigarettes within the brand family certified, and shall include any new cigarette certified within the brand family during the three-year certification period.

F. There is established in the State Treasury a separate, nonlapsing fund to be known as the "Fire Safety Standard and Firefighter Protection Act Enforcement Fund". The fund shall consist of all certification fees submitted by manufacturers, and shall, in addition to any other monies made available for such purpose, be available to the State Fire Marshal solely to support processing, testing, enforcement and oversight activities under this act.

G. If a manufacturer has certified a cigarette pursuant to this section, and thereafter makes any change to such cigarette that is likely to alter its compliance with the reduced cigarette ignition propensity standards required by this act, that cigarette shall not be sold or offered for sale in this state until the manufacturer retests the cigarette in accordance with the testing standards set forth in Section 3 of this act and maintains records of that retesting as required by Section 3 of this act. Any altered cigarette which does not meet the performance standard set forth in Section 3 of this act may not be sold in this state.

Added by Laws 2008, c. 155, § 4, eff. Jan. 1, 2009.

§74-326.5. "FSC" mark - Provision of certification copies to wholesalers and agents - Inspection.

Cigarettes that are certified by a manufacturer in accordance with Section 4 of this act shall be marked with the letters "FSC", which signify Fire Standards Compliant, appearing in eight-point type or larger and permanently printed, stamped, engraved or embossed on the package at or near the UPC Code. Manufacturers certifying cigarettes in accordance with Section 4 of this act shall provide a copy of the certifications to all wholesale dealers and agents to which they sell cigarettes. Wholesale dealers, agents and retail dealers shall permit the State Fire Marshal, the Tax Commission, the Attorney General, and their employees to inspect markings of cigarette packaging marked in accordance with this section.

Added by Laws 2008, c. 155, § 5, eff. Jan. 1, 2009.

§74-326.6. Violation of act - Penalties - Forfeiture - Action by Fire Marshal or Attorney General.

A. A manufacturer, wholesale dealer, agent or any other person or entity who knowingly sells or offers to sell cigarettes, other than through retail sale, in violation of Section 3 of this act, shall be subject to a civil penalty not to exceed Five Hundred Dollars (\$500.00) for each pack of such cigarettes sold or offered for sale; provided, that in no case shall the penalty against any such person or entity exceed One Hundred Thousand Dollars (\$100,000.00) during any thirty-day period.

B. A retail dealer who knowingly sells or offers to sell cigarettes in violation of Section 3 of this act shall be subject to a civil penalty not to exceed Five Hundred Dollars (\$500.00) for each pack of such cigarettes sold or offered for sale; provided, that in no case shall the penalty against any retail dealer exceed Twenty-five Thousand Dollars (\$25,000.00) for sales or offers to sell during any thirty-day period.

C. In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to Section 4 of this act shall be subject to a civil penalty of at least Seventy-five Thousand Dollars (\$75,000.00) and not to exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) for each such false certification.

D. Any person violating any other provision in this act shall be subject to a civil penalty for a first offense not to exceed One Thousand Dollars (\$1,000.00), and for a subsequent offense subject to a civil penalty not to exceed Five Thousand Dollars (\$5,000.00) for each such violation.

E. Any cigarettes that have been sold or offered for sale that do not comply with the performance standard required by Section 3 of

this act shall be considered contraband and subject to forfeiture. Cigarettes forfeited pursuant to this section shall be destroyed; provided, however, that prior to the destruction of any cigarette forfeited pursuant to these provisions, the true holder of the trademark rights in the cigarette brand shall be permitted to inspect the cigarette.

F. In addition to any other remedy provided by law, the State Fire Marshal or Attorney General may file an action in the court of competent jurisdiction for a violation of this act, including petitioning for injunctive relief or to recover any costs or damages suffered by the state because of a violation of this act, including enforcement costs relating to the specific violation and attorney fees. Each violation of this act or of rules adopted under this act constitutes a separate civil violation for which the State Fire Marshal or Attorney General may obtain relief.

G. Whenever any law enforcement personnel or duly authorized representative of the State Fire Marshal shall discover any cigarettes that have not been marked in the manner required by Section 5 of this act, such personnel are hereby authorized and empowered to seize and take possession of such cigarettes. Such cigarettes shall be turned over to the Tax Commission, and shall be forfeited to the state. Cigarettes seized pursuant to this section shall be destroyed; provided, however, that prior to the destruction of any cigarette seized pursuant to these provisions, the true holder of the trademark rights in the cigarette brand shall be permitted to inspect the cigarette.

Added by Laws 2008, c. 155, § 6, eff. Jan. 1, 2009.

#### §74-326.7. Rules - Tax Commission inspection.

A. The State Fire Marshal may promulgate rules, pursuant to the Administrative Procedures Act, necessary to effectuate the purposes of this act.

B. The Tax Commission in the regular course of conducting inspections of wholesale dealers, agents and retail dealers, as authorized under Sections 301 through 325 of Title 68 of the Oklahoma Statutes may inspect such cigarettes to determine if the cigarettes are marked as required by Section 5 of this act. If the cigarettes are not marked as required, the Tax Commission shall notify the State Fire Marshal.

Added by Laws 2008, c. 155, § 7, eff. Jan. 1, 2009.

#### §74-326.8. Examination of documents.

To enforce the provisions of this act, the Attorney General, the Tax Commission and the State Fire Marshal, their duly authorized representatives and other law enforcement personnel are hereby authorized to examine the books, papers, invoices and other records of any person in possession, control or occupancy of any premises



where cigarettes are placed, stored, sold or offered for sale, as well as the stock of cigarettes on the premises. Every person in the possession, control or occupancy of any premises where cigarettes are placed, sold or offered for sale, is hereby directed and required to give the Attorney General, the Tax Commission and the State Fire Marshal, their duly authorized representatives and other law enforcement personnel the means, facilities and opportunity for the examinations authorized by this section. Added by Laws 2008, c. 155, § 8, eff. Jan. 1, 2009.

§74-326.9. Cigarette Fire Safety Standard and Firefighter Protection Act Fund.

There is hereby established in the State Treasury a special fund to be known as the "Cigarette Fire Safety Standard and Firefighter Protection Act Fund". The fund shall consist of all monies recovered as penalties under Section 6 of this act. The monies shall be deposited to the credit of the fund and shall, in addition to any other monies made available for such purpose, be made available to the state entity responsible for administering the provisions of this act to support fire safety and prevention programs.

Added by Laws 2008, c. 155, § 9, eff. Jan. 1, 2009.

§74-326.10. Sale of cigarettes outside state or United States.

Nothing in this act shall be construed to prohibit any person or entity from manufacturing or selling cigarettes that do not meet the requirements of Section 3 of this act if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States and that person or entity has taken reasonable steps to ensure that such cigarettes will not be sold or offered for sale to persons located in this state.

Added by Laws 2008, c. 155, § 10, eff. Jan. 1, 2009.

§74-326.11. Preemption.

A. This act shall cease to have the force and effect of law if a federal reduced cigarette ignition propensity standard that preempts this act is adopted and becomes effective.

B. Notwithstanding any other provision of law, the local governmental units of this state may neither enact nor enforce any ordinance or other local law or regulation conflicting with, or preempted by, any provision of this act or with any policy of this state expressed by this act, whether that policy be expressed by inclusion of a provision in the act or by exclusion of that subject from the act.

Added by Laws 2008, c. 155, § 11, eff. Sept. 1, 2008.

§74-357.4. Transfer to United States as National Monument or National Military Park.

The Oklahoma Historical Society shall have power and authority to transfer and convey Fort Gibson Military Park, or any part thereof, to the United States of America or to any of its duly authorized agencies for the purpose of the designation, maintenance, and operation of said military park as a National Monument or a National Military Park. Said transfer may be made without any other considerations than that the United States Government will designate and maintain said park, or any part thereof, as a National Monument or a National Military Park.

Amended by Laws 1984, c. 261, § 6, operative July 1, 1984.

§74-357.6. Designation as Fort Arbuckle, Oklahoma.

The area near and on the site of Fort Arbuckle be and is hereby officially designated as "Fort Arbuckle, Oklahoma".

Laws 1961, p. 722, § 1.

§74-357.7. Discontinuation of use of other name.

All state departments and agencies are hereby directed to discontinue the use of the name "Hoover, Oklahoma" for said area and to substitute in lieu thereof the designation "Fort Arbuckle, Oklahoma".

Laws 1961, p. 722, § 2.

§74-360.11. Repealed by Laws 1991, c. 313, § 11, eff. Sept. 1, 1991.

§74-360.12. Repealed by Laws 1991, c. 313, § 11, eff. Sept. 1, 1991.

§74-360.13. Repealed by Laws 1991, c. 313, § 11, eff. Sept. 1, 1991.

§74-360.14. Repealed by Laws 1991, c. 313, § 11, eff. Sept. 1, 1991.

§74-360.15. Short title.

This act shall be known and may be cited as the "Oklahoma Campus Security Act".

Added by Laws 1991, c. 313, § 4, eff. Sept. 1, 1991.

§74-360.16. Definitions

As used in the Oklahoma Campus Security Act:

1. "Campus" means the real property, buildings and other improvements within this state owned, leased or rented by an

institution of higher education, a public school district, a private school or an airport public trust, as defined in this section;

2. "Campus police officer" means an individual holding a commission from and employed by an institution of higher education, a public school district, a private school or an airport public trust pursuant to the Oklahoma Campus Security Act, who may also be known as a "campus public safety officer", an "airport officer", an "airport police officer" or an "airport security officer";

3. "Commission" means a certificate of appointment by the governing board of an institution of higher education or of a private school or a board of education of a public school district of an individual certified as a full-time police or peace officer pursuant to Section 3311 of Title 70 of the Oklahoma Statutes;

4. "Governing board" means the board of regents or trustees which determines management policy and has responsibility for the general government of an institution of higher education or of a private school or the board of education of a public school district;

5. "Institution of higher education" means a college, university, higher educational center, or other constituent agency of The Oklahoma State System of Higher Education or a private college or university in this state whose accreditation is recognized by the Oklahoma State Regents for Higher Education pursuant to Section 4103 of Title 70 of the Oklahoma Statutes;

6. "Public school district" means all free schools supported by public taxation and shall include K-12 schools and technology center schools;

7. "Airport public trust" means a public trust created under the laws of this state which operates an airport and whose beneficiary is an Oklahoma municipality or a combination of one or more Oklahoma municipalities and/or one or more Oklahoma counties; and

8. "Private school" means a school that offers a course of instruction for students in one or more grades from prekindergarten through grade twelve and is not operated by a governmental entity. Added by Laws 1991, c. 313, § 5, eff. Sept. 1, 1991. Amended by Laws 2007, c. 29, § 1, eff. Nov. 1, 2007; Laws 2012, c. 48, § 2, eff. Nov. 1, 2012; Laws 2017, c. 64, § 1, eff. Nov 1, 2017.

§74-360.17. Jurisdiction of campus police officers - Authority of campus police departments.

A. The jurisdiction of campus police officers includes the campus and pursuant to an agreement authorized by Section 360.15 et seq. of this title, the highways, streets, roads, alleys, easements, and other public ways immediately adjacent to their campus and any other areas authorized by such agreement. This delineation of jurisdiction, however, shall not be understood as limiting the

completion of any necessary enforcement activities which began within these jurisdictions and are in compliance with the agreements made with the municipality or county sheriff pursuant to Section 360.15 et seq. of this title. In the absence of an agreement, only those law enforcement activities which began on campus may be completed off campus and such activities must be completed in a timely manner. Such law enforcement activities shall only be authorized if the campus police have coordinated the activities with the local law enforcement agency having jurisdiction in that off campus area. In addition, a campus police officer shall have jurisdiction in other locations pursuant to an agreement authorized by Section 360.15 et seq. of this title. Such agreement may authorize the chief administrative officer of the law enforcement agency to request assistance pursuant to the agreement. Campus police officers, commissioned pursuant to Section 360.15 et seq. of this title, shall have the same powers, liabilities, and immunities as sheriffs or police officers within their jurisdiction.

B. As limited by law, the provisions of this section, and the governing board, a CLEET certified campus police officer shall have the authority to enforce:

1. State criminal statutes;
2. Municipal ordinances, if authorized by an agreement with the municipality; and
3. Rules and regulations of the school, institution of higher education or airport public trust or its beneficiary employing such campus police officer.

C. As limited by law, the provisions of this section, and the governing board, the campus police department shall have the same authority as a municipal police department.

D. Campus police departments formed by private institutions of higher education pursuant to Section 360.15 et seq. of this title shall be deemed to be public agencies in the State of Oklahoma for the limited purposes of enforcing the criminal statutes of Oklahoma and making agreements with local law enforcement agencies or political subdivisions of the state pursuant to Section 360.15 et seq. of this title, provided, that the trustees of airport public trusts shall also be deemed to be a public agency of this state as provided in Section 179 of Title 60 of the Oklahoma Statutes. Added by Laws 1991, c. 313, § 6, eff. Sept. 1, 1991. Amended by Laws 2012, c. 48, § 3, eff. Nov. 1, 2012.

§74-360.18. Establishment of campus police departments – Commission of campus police officers.

A. Governing boards of institutions of higher education or private schools, boards of education of public school districts and airport public trusts are authorized to establish campus police departments pursuant to the provisions of the Oklahoma Campus

Security Act. In the case of airport public trusts operating more than one airport, the board of trustees of such airport public trust is authorized to establish campus police departments at any airport it operates, but is not required to establish campus police departments at all airports operated by such airport public trust. These boards may employ and commission campus police officers and may designate uniforms, badges and insignia to be worn by such officers and displayed on vehicles or other equipment of the department. Campus police departments shall use the following words or phrases, alone or in any combination, in conjunction with the uniform, badges, insignia or on vehicles utilized by these departments: university police, university public safety department, campus police department, campus police officer, campus public safety department, campus public safety officer, airport officer, airport police officer, airport security officer, airport public safety officer or any standardized title such as director, chief, major, captain, lieutenant, sergeant, or corporal. Upon appointment, each such officer shall be given a written commission, with a photo identification, evidencing the officer's appointment and authority. The form of this commission shall be prescribed by the governing boards specified in Section 360.15 et seq. of this title. Persons employed by a governing board which has established a campus police department but who are not campus police officers shall not be permitted to wear uniforms, badges or insignia specified in this subsection or receive commissions or photo identification of the type provided campus police officers.

B. The commission of a campus police officer may be suspended or revoked by the governing board for any reason. Such commission also may be suspended or revoked by the district attorney in whose district the officer is employed for cause related to the campus police officer's ability to exercise the powers of such commission in the interest of public security or suspended or revoked by the district attorney upon conviction of the campus police officer for larceny, theft, embezzlement, false pretense, fraud, any nonconsensual sex offense, any offense involving a minor as a victim, any offense involving the possession, use, distribution or sale of a controlled dangerous substance, or any offense involving a firearm. The commission of a campus police officer convicted of a felony or of a crime involving moral turpitude shall be revoked by the district attorney upon conviction. The commission of a campus police officer no longer employed by the governing board, except an officer who is retiring, shall be relinquished to the board, or its representative, at the time of cessation of the employment. When a commission is revoked or relinquished, the campus police department shall take possession of all campus police officer insignia, badges, identification cards and weapons issued to the officer. A person who fails to relinquish the insignia, badges, identification cards

or weapons, upon conviction, shall be deemed guilty of a misdemeanor and shall be punished by the imposition of a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for not to exceed one (1) year, or by both such fine and imprisonment.

C. Governing boards shall notify the Council on Law Enforcement Education and Training (CLEET) when an officer is commissioned or a commission is relinquished or revoked. The governing boards shall provide CLEET with all information regarding commissioned officers requested by CLEET.

D. A campus police officer employed pursuant to the Oklahoma Campus Security Act shall not be able to participate in either the Oklahoma Police Pension and Retirement System or the Oklahoma Law Enforcement Retirement System, unless otherwise entitled to by law. Added by Laws 1991, c. 313, § 7, eff. Sept. 1, 1991. Amended by Laws 2012, c. 48, § 4, eff. Nov. 1, 2012; Laws 2017, c. 64, § 2, eff. Nov. 1, 2017.

#### §74-360.19. Employment of security personnel.

Whether or not governing boards establish campus police departments pursuant to the Oklahoma Campus Security Act, nothing in this act shall be construed as prohibiting governing boards from:

1. Employing personnel licensed pursuant to the Oklahoma Security Guard and Private Investigator Act, Section 1750.1 et seq. of Title 59 of the Oklahoma Statutes to be employed as campus security;

2. Contracting with municipalities to authorize their local municipal police department, or with sheriffs departments, or with retired commissioned police officers to provide security services; or

3. Providing courtesy patrols, watchmen, traffic control personnel or other persons for the performance of safety or security duties for which such personnel are trained.

Added by Laws 1991, c. 313, § 8, eff. Sept. 1, 1991.

#### §74-360.20. Municipal and county sheriff departments - Jurisdictional agreements.

Municipalities and county sheriff departments having overlapping or concurrent jurisdiction with a proposed campus police department, may enter into agreements with the proposed campus police department recognizing jurisdictional boundaries and providing for mutual assistance. Any such agreements shall be executed by the governing boards of the educational institution or airport public trust and the governing body of the municipality or sheriff, and shall not serve to prevent other law enforcement agencies from having concurrent or overlapping jurisdiction. Nothing in Section 360.15 et seq. of this title or any action pursuant to Section 360.15 et

seq. of this title shall be deemed to create an agent-principal relationship between any campus police officer and any municipality or county.

Added by Laws 1991, c. 313, § 9, eff. Sept. 1, 1991. Amended by Laws 2012, c. 48, § 5, eff. Nov. 1, 2012.

§74-360.21. Collection of fines, penalties, etc. - Prosecution of offenses.

A. Criminal fines, penalties, fees or penalty assessments imposed by a municipal or district court pursuant to state law or municipal ordinance as the result of an arrest or a citation issued by an officer commissioned pursuant to this act shall be collected and distributed as required by law.

B. The district attorney of the district where the unlawful conduct is alleged to have taken place shall have authority to prosecute such offense upon complaint being signed by a campus police officer commissioned pursuant to this act. Any municipal ordinance offense shall be prosecuted in a municipal court.

C. A campus police department or any officer thereof enforcing state law or municipal ordinance as authorized by the Oklahoma Campus Security Act shall not be deemed to be acting under the authority of any political subdivision of the state, except the governing board establishing the department or commissioning the officer if such governing board is the governing board of an institution in The Oklahoma State System of Higher Education or is a school district.

Added by Laws 1991, c. 313, § 10, eff. Sept. 1, 1991.

§74-361. Bond.

Before entering upon the duties of his office, the State Treasurer shall execute a bond to the state, with good and sufficient sureties to be approved by the Governor, in the penal sum of Fifty Thousand Dollars (\$50,000.00): Provided, that said sum may be increased at any time by the Governor.

R.L.1910, § 8135.

§74-362. Custody of public money.

He shall have charge of and safely keep all public monies which shall be paid into the State Treasury, and pay out the same as directed by law.

R.L.1910, § 8136.

§74-363. Accounts.

He shall keep an accurate account of the receipts and disbursements of the Treasury, in books provided for that purpose at the expense of the state, in which he shall specify the names of

persons from whom received, to whom paid, on what account the same is received or paid out, and the time of such receipt or payment. R.L.1910, § 8137.

§74-364. Accounts with counties.

He shall also keep an account with each organized county of the state, in which each county shall be charged with the amount of the tax levied according to the statement of assessments and levy transmitted to him by the State Auditor and Inspector and credited with the amounts received from the county treasurer.

R.L.1910, § 8138; Laws 1979, c. 30, § 55, emerg. eff. April 6, 1979.

§74-365. Receipt of warrants as payment - Redemption and cancellation.

Redemption of Warrants. He shall receive in payment of public dues, the warrants drawn by the State Treasurer in conformity with the law; or redeem the same, if there be money in the Treasury appropriated for that purpose, and on redeeming such warrant, or receiving the same in payment, he shall cause the person presenting such warrant to endorse the same and the Treasurer shall perforate the date and the word "Canceled" with perforator, and shall enter in his book, in separate columns the number of such warrant, its date, amount and the name of the person to whom payable, the date of the payment and the amount of interest if any, paid thereon.

R.L.1910, § 8139; Laws 1915, c. 4, § 1; Laws 1979, c. 47, § 98, emerg. eff. April 9, 1979.

§74-366. Interest on warrants persented and not redeemed - Termination of interest.

When any warrant shall be presented to the Treasurer for redemption, and there shall be no funds in the Treasury appropriated for that purpose, the Treasurer shall endorse thereon the date of its presentation, with his signature thereto, and thereafter such warrant shall draw interest at the rate of four percent (4%) per annum, and whenever there shall be funds in the Treasury for the redemption of warrants so presented and endorsed, the Treasurer shall give notice of the fact in some newspaper published at the seat of government, and at the expiration of thirty (30) days after the date of such notice, the interest on such warrant shall cease.

R.L.1910, § 8140; Laws 1937, p. 31, § 1.

§74-369. Examination of monies and books.

He shall as often as required submit his books, accounts, vouchers and the funds in the Treasury to the inspection of either branch of the Legislature, or any committee appointed for that purpose by the Legislature or by the Governor; and the committee so appointed are hereby empowered to administer to the Treasurer an



oath, and it shall be their duty to rigidly examine him and all his clerks, deputies and others under oath touching all matters connected with the business of his office; such committee shall require the funds of the state in the hands of the Treasurer not legally deposited in a bank to be produced in cash, and counted in their presence, and shall see that the money so counted is not borrowed, and to determine that fact, may compel any and all persons to appear before them on subpoena issued by them and served and testify fully, and if they have good reason to believe that any part of the money so offered to be counted is borrowed, the committee shall retain all the money so offered as the funds of the state, and place it in safe keeping until the matter be fully investigated, and if the Treasurer be retained in office the funds shall be returned to him, if not retained, the funds shall be paid to his successor as soon as he may be inducted into office. If there is good reason to suspect any fraud in the Treasurer, the Governor shall appoint such committee and order an investigation. Each member of said committee shall be allowed Three Dollars (\$3.00) per day for the time necessarily employed.

R.L.1910, § 8143.

§74-370. Warrants and accounts to be paid in full.

He shall in no case purchase or receive any warrant redeemable at the Treasury, or any audited account at a less value than expressed thereon, nor shall he receive any fee or reward, aside from his annual salary for transacting any business connected with the duties of his office.

R.L.1910, § 8144.

§74-371. Treasurer to pay loss caused by negligence.

If in any instance the Treasurer shall neglect to call to account any delinquents, whereby the public revenue may suffer loss, he shall be held and deemed accountable for the sums due by such delinquents to all intents and purposes, the same as if the funds had actually been paid into his office.

R.L.1910, § 8145.

§74-372. Deposits with State Treasurer by city treasurer.

The State Treasurer of the State of Oklahoma shall receive and accept any surplus funds or monies offered for deposit with him by an official voucher drawn by any city treasurer of any city of the State of Oklahoma. Said Treasurer in accepting said funds shall act as a depository for the same. Said funds so deposited may be withdrawn by an official transfer voucher on drafts drawn against said account by the city treasurer depositing same, said drafts to be countersigned by the city clerk of said city, and any interest earned by said deposit shall be credited to said account. Said

withdrawal voucher or draft must be made payable only to the city or town treasurer drawing same.

Laws 1941, p. 457, § 1.

§74-373. Consolidation of the State Bond Advisor.

A. The Office of the State Bond Advisor is hereby consolidated into the Office of the State Treasurer.

B. Any funds appropriated to, in the possession of, or allocated to the Office of the State Bond Advisor shall be deemed to be funds of and shall be transferred to the Office of the State Treasurer.

C. All books, papers, records, property, functions, powers, duties and obligations of the Office of the State Bond Advisor are hereby transferred to the Office of the State Treasurer.

D. All personnel of the Office of the State Bond Advisor are hereby transferred to the Office of the State Treasurer.

E. All rules, regulations, acts, orders, determinations and decisions pertaining to the functions and powers herein transferred and assigned to the Office of the State Treasurer, in force at the time of such transfer or assignment, shall continue in force and effect until duly modified or abrogated by the State Treasurer or until otherwise provided by law.

Added by Laws 2017, c. 374, § 1, eff. Nov. 1, 2017.

§74-423. Repealed by Laws 2013, c. 245, § 2, eff. Nov. 1, 2013.

§74-424. Repealed by Laws 2013, c. 245, § 2, eff. Nov. 1, 2013.

§74-425. Oklahoma Commission on Interstate Cooperation.

A. There is hereby established the Oklahoma Commission on Interstate Cooperation. This Commission shall be composed of:

1. Five members of the House of Representatives, to be appointed by the Speaker of the House of Representatives;
2. Five members of the Senate, to be appointed by the President Pro Tempore of the Senate;
3. The Lieutenant Governor;
4. The Director of the Office of Management and Enterprise Services; and
5. Three administrative officials or employees, to be appointed by the Governor.

B. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall serve alternately each year as ex officio chairman and vice-chairman of the Commission. In addition, the Governor shall be an ex officio honorary nonvoting member of the Commission.

Added by Laws 1955, p. 464, § 3, emerg. eff. June 10, 1955. Amended by Laws 1981, c. 272, § 25, eff. July 1, 1981; Laws 2013, c. 245, § 1, eff. Nov. 1, 2013.

§74-427. Functions of commission.

It shall be the function of this Commission:

(1) To carry forward the participation of this state as a member of the Council of State Governments.

(2) To encourage and assist legislative, executive, administrative and judicial officials and employees of this state to develop and maintain friendly contact by correspondence, by conference and otherwise with officials and employees of the other states of the federal government and of local units of government.

(3) To endeavor to advance cooperation between this state and other units of government whenever it seems advisable to do so by formulating proposals for, and by facilitating:

(a) The adoption of compacts.

(b) The enactment of uniform or reciprocal statutes.

(c) The adoption of uniform or reciprocal administrative rules and regulations.

(d) The informal cooperation of governmental offices with one another.

(e) The personal cooperation of governmental officials and employees with one another, individually.

(f) The interchange and clearance of research and information.

(g) Any other suitable process.

(4) In short, to do all such acts as will, in the opinion of this Commission, enable this state to do its part - or more than its part - in forming a more perfect union among the various governments of the United States and in developing the Council of State Governments for that purpose.

Laws 1955, p. 465, § 5.

§74-428. Reports - No compensation - Expenses.

The Commission shall report to the Governor, to the President Pro Tempore of the Senate and to the Speaker of the House of Representatives at least thirty (30) days prior to the convening of each regular legislative session, and at such other times as it deems appropriate. The members of the Commission shall serve without compensation for such service but shall be reimbursed for all official travel and necessary expenses at rates now provided, or which may hereafter be provided by law for state officials and employees under the provisions of the State Travel Reimbursement Act. Members of the Joint Committee on Interstate Cooperation shall be reimbursed for official travel and necessary expenses in the same manner as provided by law for members of the State Legislature. Members of the Governor's Committee on Interstate Cooperation shall

be reimbursed for official travel and necessary expenses from the Governor's Contingency and Emergency Fund or such other fund or funds as are available for such purposes.

Laws 1955, p. 465, § 6; Laws 1981, c. 272, § 26, eff. July 1, 1981.

§74-429. Joint governmental agency.

The Council of State Governments is hereby declared to be a joint governmental agency of this State and of the other states which cooperate through it.

Laws 1955, p. 465, § 7.

§74-450. Legislative Council Abolished - Reports.

A. The State Legislative Council, the Executive Committee, and all standing and special committees thereof are hereby abolished. Except as otherwise provided in this section, all powers, duties, responsibilities, property, assets, and liabilities administered by the State Legislative Council for the benefit of the Oklahoma Legislature shall be transferred to either the Senate or the House of Representatives as determined by the President Pro Tempore of the Senate and the Speaker of the House of Representatives acting jointly.

B. All annual reports or other reports required by law to be submitted to the State Legislative Council, after July 1, 1981, shall be submitted to the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

Amended by Laws 1983, c. 334, § 12, emerg. eff. June 30, 1983; Laws 1985, c. 319, § 5, operative Oct. 1, 1985.

§74-450.1. Legislative Fiscal Office and Joint Bill Processing Department abolished - Legislative Service Bureau created.

A. The Legislative Fiscal Office and Joint Bill Processing Department are hereby abolished.

B. There is hereby created the Legislative Service Bureau which shall serve both the House of Representatives and the Senate. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall employ a Director of the Legislative Service Bureau, who shall employ such personnel as necessary to implement the responsibilities imposed upon the Bureau by the Legislature by concurrent resolution.

C. 1. The Legislative Service Bureau shall be responsible for such services as directed by the Speaker of the House of Representatives and the President Pro Tempore of the Senate; and any area of production of proposed legislation as directed by the Speaker of the House of Representatives and President Pro Tempore of the Senate.

2. The Legislative Service Bureau shall be a clearinghouse for the Legislature for all budgetary forms, research reports and information.

3. Any reference in the Oklahoma Statutes to the Legislative Fiscal Office or the Joint Bill Processing Department shall be a reference to the Legislative Service Bureau.

Added by Laws 1985, c. 319, § 6, operative Oct. 1, 1985. Amended by Laws 1994, c. 279, § 9, eff. July 1, 1994; Laws 1995, c. 292, § 7, eff. July 1, 1995.

§74-450.2. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§74-452.3. Repealed by Laws 1994, c. 279, § 11, eff. July 1, 1994.

§74-452.4. Performance post audits.

The Legislative Service Bureau is authorized and directed, in addition to other duties and responsibilities which may be assigned to it, to conduct or cause to be conducted pursuant to a contract a continuing program of performance post audits of any or all state agencies, departments, commissions, offices, authorities and all other entities of the state government, or any function thereof, receiving state-appropriated funds, cash funds, federal funds or any other funds derived under the authority or by virtue of law. For the purpose of this section, "performance post audit" means an examination of the effectiveness of administration and its efficiency and adequacy in terms of the program of a state agency, authorized by law to be performed, and the conformance of expenditures with legislative intent in the appropriation of funds. Audits conducted shall include an analysis of the operation of all agencies of state government with special regard to their activities and the duplication of efforts between agencies and the quality of service being rendered.

Amended by Laws 1985, c. 319, § 19, operative Oct. 1, 1985.

§74-452.5. Assistance and cooperation of state entities.

The officials and employees of all entities of the state are hereby directed to aid, assist and cooperate fully with the Legislative Service Bureau in its performance of all audits and other functions.

Amended by Laws 1985, c. 319, § 20, operative Oct. 1, 1985.

§74-452.7. Repealed by Laws 2007, c. 93, § 12, eff. Nov. 1, 2007.

§74-452.8. Proposals for use of federal monies - Public hearings.

A. The Legislature may hold public hearings on the proposals submitted by state agencies, boards and commissions including those established by statute or Constitution for use of federal monies.

B. Prior to any public hearing on a proposal by the Joint Committee on Federal Funds, ten copies of each proposal shall be filed with the Speaker of the House of Representatives and the President Pro Tempore of the Senate. Additional complete copies shall be provided to the Legislature and individuals by the agencies, boards and commissions at no charge.

C. The Speaker of the House of Representatives and President Pro Tempore of the Senate may refer proposals to the Joint Committee on Federal Funds or other committees of the Legislature for public hearings. Said committees may take facts and make findings and recommendations on the proposals regarding the use and distribution of federal monies as provided by the plans.

D. If a proposal is referred to committees of the Legislature other than the Joint Committee on Federal Funds, such committees, by August 1, may make written reports regarding their findings and recommendations and submit such reports to the Joint Committee on Federal Funds. Said reports shall include a summary of public comments received through written or oral testimony during public hearings if a public hearing had been conducted. Where appropriate, the report may recommend amendments to the proposals for consideration by the Joint Committee on Federal Funds.

E. The Joint Committee on Federal Funds may hold further public hearings on the proposals.

Added by Laws 1982, c. 325, § 2, emerg. eff. June 1, 1982. Amended by Laws 2001, c. 94, § 2, emerg. eff. April 16, 2001.

#### §74-452.9. Format of acts.

Every act of the Legislature shall contain a separate provision that clearly expresses the subject of the bill. In the event a court of this state determines that a legislative measure violates the one-subject rule pursuant to Section 57 of Article V of the Oklahoma Constitution, the court shall provide written findings that detail each of the multiple subjects the court has determined are contained within such measure.

Added by Laws 2010, c. 379, § 1.

#### §74-452.10. Copies of financial audits, compliance audits and program reviews to be provided to certain state agencies.

A. Each state agency shall furnish copies of financial audits, compliance audits, and program reviews on its entity to the Office of Management and Enterprise Services, the State Auditor and Inspector, and the Legislative Service Bureau.

B. Each state agency shall furnish copies of all audits performed on its entity to the Legislature as required by the Legislative Review of State Audits Act.

C. Copies of audits furnished to the State Auditor and Inspector shall be furnished in accordance with the provisions of Section 212A of this title.

Added by Laws 1983, c. 334, § 14, emerg. eff. June 30, 1983.

Amended by Laws 1985, c. 319, § 22, operative Oct. 1, 1985; Laws 1996, c. 290, § 15, eff. July 1, 1996; Laws 2002, c. 401, § 1, eff. Nov. 1, 2002; Laws 2012, c. 304, § 850.

§74-452.11. Short title.

Sections 2 through 5 of this act shall be known and may be cited as the "Legislative Review of State Audits Act".

Added by Laws 2002, c. 401, § 2, eff. Nov. 1, 2002.

§74-452.12. Definitions.

For purposes of the Legislative Review of State Audits Act:

1. "Agency" includes, but is not limited to, any constitutionally or statutorily created board, bureau, commission, office, institution, authority, university, college, and any other person or administrative division of state government expending or encumbering state funds, handling money on behalf of the state, or holding any trust funds on behalf of the state from any source derived. The term "agency" shall not include the Governor, the Legislature or any branch, committee or officer thereof, the courts or any political subdivision of the state;

2. "Audit" includes all types of audits as defined by Government Auditing Standards issued by the United States Comptroller General and includes, but is not limited to, an examination, an investigation or a review required by or performed as a result of state or federal law or program or rules thereof or any examination, investigation or review in which any agency, state or federal funds or both state and federal funds are expended for any agency matter relating to:

- a. compliance by an agency with all applicable state and federal laws and rules,
- b. internal controls,
- c. the efficiency and the economy of agency financial operations. Economy and efficiency audits include determining:
  - (1) whether the agency is acquiring, protecting and using its resources economically and efficiently,
  - (2) the causes of inefficiencies or uneconomical practices, and
  - (3) whether the agency has complied with laws and rules concerning economy and efficiency, or

- d. the effectiveness of an agency in achieving desired program results. Program audits include determining:
  - (1) the extent to which the desired results or benefits established by the Legislature or other body are being achieved,
  - (2) the effectiveness of organizations, programs, activities or functions, and
  - (3) whether the agency has complied with significant laws and rules applicable to the program.

The term "audit" shall not include position audits or payroll audits performed by the Office of Management and Enterprise Services, inmate sentence audits conducted by the Oklahoma Department of Corrections or confidential requests made by any member of the Legislature or the Governor's office;

3. "Auditor" means any person, corporation, partnership, federal agency or state agency, or other legal public or private entity performing any service meeting the definition of "practice of public accounting" in the Oklahoma Accountancy Act on an agency;

4. "Audit report" means the final report in a written document which contains the comments and recommendations of the auditor. The audit report shall also include, if any, comments of the agency on which the audit was performed; and

5. "Records" includes, but is not limited to, books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics, prepared, owned, used, or in the possession of or retained by the auditor, or the agency, or both the auditor and agency.

Added by Laws 2002, c. 401, § 3, eff. Nov. 1, 2002. Amended by Laws 2012, c. 304, § 851.

§74-452.13. Review of audit by legislative committees.

A. Upon the completion of the audit report, the agency shall deliver two copies of the audit report to the Speaker of the House of Representatives and two copies of the audit report to the President Pro Tempore of the Senate.

B. 1. Upon receipt of any audit report, the Speaker of the House of Representatives shall submit one copy of the audit report to the Chairman of the House Appropriations and Budget Committee, or successor committee. The President Pro Tempore of the Senate shall submit one copy of the audit report to the Chairman of the Senate Appropriations Committee, or successor committee. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each send a copy of the audit report to the appropriate standing committee of the respective body having oversight of the agency submitting the audit report.

2. Each committee shall review the audit report.



C. 1. The members of the legislative committee or any other member of the Legislature reviewing the audit report shall have access to all documents and working papers and any agency documents and records relating to the audit unless specifically precluded by state or federal law.

2. Any contract or agreement with an auditor to perform an audit authorized or required by state or federal law or rule shall contain a provision informing the auditor that all documents, working papers and records relating to the audit shall be made available for inspection, upon request, to the legislative committee or to any other member of the Legislature reviewing the final audit report unless specifically precluded by state or federal law.

D. In reviewing any audit report, or in the performance of reviewing any supporting documents and working papers relating to the audit, members of the Legislature shall be subject to the statutory provisions or other laws or rules regarding the confidentiality of records of the agency under review.

Added by Laws 2002, c. 401, § 4, eff. Nov. 1, 2002.

#### §74-452.14. Agency response.

A. Each agency body responsible, pursuant to law, for governing and administering an agency shall review each audit report submitted to the Legislature pursuant to Section 4 of this act and shall submit a written agency response regarding the audit pursuant to this section.

B. The written agency response shall include:

1. The name and address of the agency;

2. Identification of the audit performed and the name of the auditor;

3. Any changes implemented or changes proposed to an agency program, financial operation, management process or other agency operation as a result of the audit;

4. A plan of action for achieving any recommendation of the auditor;

5. A statement for each recommendation in the audit report explaining the reasons for not implementing such recommendation including, but not limited to, need for statutory changes to implement additional costs or a showing that the recommended change would not be a cost benefit to the agency or the state; and

6. Any other information requested by the Speaker of the House of Representatives or by the President Pro Tempore of the Senate or by a standing committee reviewing the audit.

C. The written response shall be submitted to the Speaker of the House of Representatives and the President Pro Tempore of the Senate within thirty (30) days after the audit report has been submitted to the Legislature pursuant to Section 4 of this act.

Added by Laws 2002, c. 401, § 5, eff. Nov. 1, 2002.

§74-452.15. Legislative Service Bureau to contract with entity to perform duties of Legislative Actuary - Qualifications.

A. The Legislative Service Bureau is authorized and directed to enter into a contract with a person or firm for the purposes of performing the services and duties of the Legislative Actuary as provided for in the Oklahoma Pension Legislation Actuarial Analysis Act.

B. The person or firm who shall perform the duties of the Legislative Actuary shall:

1. Be a member of the American Academy of Actuaries, an Associate or Fellow of the Society of Actuaries or an enrolled actuary; and

2. Have substantially provided actuarial services for large, public retirement systems.

Added by Laws 2006, c. 292, § 15, eff. July 1, 2006.

§74-456. Meetings of committees and subcommittees - Expenses - Per diem - Travel expenses - Association or organization membership dues.

A. Committees and subcommittees of each house of the Legislature are hereby authorized to meet when the Legislature is not in session, subject to the approval of the presiding officer of the respective house.

B. When the Legislature is not in session, members of the Legislature shall be reimbursed their expenses in attending meetings of committees and subcommittees of which they are members or to which they are invited by committee chairs and shall be reimbursed as provided in subsection C of this section for expenses for such meetings and such other legislative business as may be authorized by the rules or by resolution of the member's respective house.

C. In addition to reimbursement for mileage as authorized by law, per diem in lieu of expenses in the amount of Twenty-five Dollars (\$25.00) is hereby authorized for not to exceed twenty (20) days when the Legislature is not in session. The President Pro Tempore of the Senate and the Speaker of the House of Representatives may authorize per diem for meetings exceeding twenty (20) days for members of their respective houses as they deem necessary.

D. A per diem in lieu of expenses in the amount deductible without additional documentation pursuant to the Internal Revenue Code of 1986, as amended, is hereby authorized for meetings outside the state by members, officers and employees of the Legislature. A per diem in lieu of expenses in the amount deductible without additional documentation pursuant to the Internal Revenue Code of 1986, as amended, for the destination within the geographical area of travel is hereby authorized for official travel to high-rate

geographical areas, as designated in Section 500.9 of this title, by members, officers and employees of the Legislature. Provided, however, that members and employees of the Legislature may, in lieu of the above provisions, be reimbursed for out-of-state travel pursuant to the State Travel Reimbursement Act.

E. In addition to reimbursement allowed under subsection D of this section, reimbursement for out-of-state transportation costs shall be made at an amount not exceeding the cost of coach airplane fare. Provided that reimbursement for travel by commercial airplane on a first-class basis may be made if coach-class space is not available within a reasonable time and is justified by attachments to claim for reimbursement. Claims for reimbursement for first-class transportation by commercial airline shall be accompanied by the passenger's duplicate of airline ticket, or other airline receipt which includes information as to class of accommodation for which reimbursement is claimed.

F. Members, officers and employees of the Legislature shall be reimbursed for any membership dues or fees paid to any association or organization connected with the performance of their duties with the state, upon the approval of the Speaker of the House of Representatives or the President Pro Tempore of the Senate.

Added by Laws 1939, p. 20, § 6. Amended by Laws 1949, p. 629, § 2; Laws 1963, c. 298, § 2; Laws 1965, c. 424, § 2; Laws 1967, c. 338, § 1, emerg. eff. May 18, 1967; Laws 1968, c. 113, § 2, emerg. eff. April 1, 1968; Laws 1969, c. 280, § 1, emerg. eff. April 25, 1969; Laws 1970, c. 284, § 4, emerg. eff. April 23, 1970; Laws 1971, c. 2, § 1, emerg. eff. Feb. 22, 1971; Laws 1975, c. 254, § 1, emerg. eff. June 5, 1975; Laws 1977, c. 97, § 1, emerg. eff. May 30, 1977; Laws 1979, c. 239, § 6, eff. July 1, 1979; Laws 1980, c. 282, § 1; Laws 1981, c. 272, § 30, eff. July 1, 1981; Laws 1995, c. 336, § 4, emerg. eff. June 8, 1995; Laws 1997, c. 384, § 17, eff. July 1, 1997.

§74-456.2. Joint committees of Legislature may be established.

In addition to those joint committees provided by law, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall be authorized to establish joint committees of the Legislature as they deem necessary. Said joint committees shall be composed of members from the Senate to be appointed by the President Pro Tempore of the Senate, and members from the House to be appointed by the Speaker of the House of Representatives. Joint committees and subcommittees of joint committees shall be authorized to meet when the Legislature is not in session, subject to such restrictions as may be imposed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives. Members of the Legislature and the officers thereof shall be reimbursed their expenses in attending meetings of joint committees and subcommittees

of joint committees of which they are members or to which they are invited by committee chairmen when the Legislature is not in session.

Laws 1981, c. 272, § 44, eff. July 1, 1981.

§74-456.3. Per diem and mileage for legislators when Legislature not in session.

Members of the Legislature who are officers of each house of the Legislature shall receive the same per diem and mileage reimbursement when the Legislature is not in session as that provided by law for members of the Legislature for travel to and from the State Capitol in the performance of their duties. Claims for reimbursement under this section shall be approved by the presiding officer of the appropriate house.

Laws 1981, c. 272, § 45, eff. July 1, 1981.

§74-456.7. Repealed by Laws 2013, c. 209, § 45, eff. July 1, 2013.

§74-464. Electronic filing required.

Whenever any provision of law directs that a report, administrative rule, budget work program, budget request, or any other document be filed with the Governor, President Pro Tempore of the Senate or the Speaker of the House of Representatives, such documents shall be filed electronically, except as otherwise provided in this section. The Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives shall each create or cause to be created on the official websites for the Governor, Senate and House of Representatives, respectively, a mechanism for such filings to be made, with an electronic return receipt provided to the person making the filing. If for any reason the person required to file such document determines that it cannot be filed electronically, the person shall file a printed copy in lieu of such electronic filing and shall include an explanation of the reason that the document could not be filed electronically.

Added by Laws 2008, c. 311, § 1, eff. Nov. 1, 2008.

§74-471. Advisory committee created - Members - Duties.

There is hereby established an advisory committee to the Legislature of Oklahoma and to the Governor of Oklahoma. Such committee shall be composed of four (4) members of the Oklahoma Bar to be appointed by the Governor with the advice of the President of the Oklahoma Bar Association and two (2) members, at least one of whom is a member of the House of Representatives, to be appointed by the Speaker of the House of Representatives and two (2) members, at least one of whom is a member of the Senate, to be appointed by the President Pro Tempore of the Senate. Each member shall serve for four (4) years or until his death, resignation, or failure or

refusal, certified by the remaining members, to perform his duties, renders his place vacant, whereupon the vacancy shall be filled in the same manner as the original appointment. In the event a legislative member fails to retain his seat in his respective house prior to the expiration of his term on the committee, his place on the committee shall be rendered vacant. The members of such committee, hereafter called commissioners, shall be the official commissioners of the State of Oklahoma to the National Conference of Commissioners on Uniform State Laws. They shall attend the annual meetings of such national conference. They shall report annually to the Legislature and to the Governor concerning the work of said conference and all other matters relating to their duties. They shall advise the Legislature and its committees concerning proposals for uniform and model state laws, the effect which such proposals would have on the law of this state, and such other matters as may be pertinent to desirable uniformity in legislation between this state and other states.

Laws 1947, p. 628, § 1; Laws 1975, c. 173, § 1, emerg. eff. May 21, 1975; Laws 1981, c. 272, § 31, eff. July 1, 1981; Laws 1982, c. 27, § 1, operative Oct. 1, 1982; Laws 1992, c. 364, § 16, emerg. eff. June 4, 1992.

#### §74-472. Participation in national conference.

The State of Oklahoma shall participate in the support of the work of the National Conference of Commissioners on Uniform State Laws by contributing the state's fair pro rata share to the support of the work of the conference, which shall be paid out of the funds provided for the expenses of the Governor.

Laws 1949, c. 628, § 2.

#### §74-473. Holding other office - Honorary members - No compensation - Expenses.

Notwithstanding any other provision of law, the holding of other office or employment under the government of this state or of the United States shall not be inconsistent with service on said advisory committee. Citizens of this state who are accredited by the National Conference on Uniform State Laws as associate members or as life members shall be honorary members of said committee, and shall be authorized to participate in the performance of its duties. Commissioners and honorary members of the committee shall receive no compensation for their services, except as other State officials and employees are reimbursed, for all necessary and proper expenses incurred in performing their duties, including attendance at meetings of the National Conference on Uniform State Laws, which reimbursement shall be made out of the funds provided for the expenses of the office of the Governor.

Added by Laws 1949, p. 628, § 3. Amended by Laws 1957, p. 540, § 1, emerg. eff. June 1, 1957.

§74-474. Cumulative character - Repeals.

The provisions of this act are cumulative except that any act, or part of an act, inconsistent with Section 3 of this act is hereby repealed.

Laws 1949, p. 629, § 4.

§74-475. Partial invalidity.

If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Laws 1949, p. 629, § 5.

§74-476. Recognition of Dr. Merrill as lifetime commissioner.

Dr. Maurice H. Merrill is hereby recognized for his attainment of status of a lifetime commissioner of the State of Oklahoma to the National Conference on Uniform State Laws.

Laws 1967, p. 712, S.J.R. No. 8, § 1, emerg. eff. April 17, 1967.

§74-477. Continuation of payment of expenses - Vacancies.

Any person who attains the status of honorary or lifetime member of the National Conference on Uniform State Laws shall continue to be recognized as a commissioner of the State of Oklahoma with full power to represent the State of Oklahoma in all votes and other proceedings of the Conference in addition to the three whose appointment is otherwise provided by law and shall continue to receive reimbursement for all necessary and proper expenses incurred in the performance of his duties as such official commissioner of the State of Oklahoma of the National Conference of Commissioners on Uniform State Laws, including attendance at meetings at the National Conference of Commissioners on Uniform State Laws which reimbursement shall be paid out of the funds provided for the expenses of the Office of the Governor. Upon such elevation to lifetime membership status of any of the official commissioners of Oklahoma in the National Conference on Uniform State Laws there shall be deemed a vacancy in the three regular memberships provided by Title 74, Oklahoma Statutes 1961, Section 471, and the Governor is hereby authorized to fill such vacancies as and in the manner provided by law.

Laws 1967, p. 712, S.J.R. No. 8, § 2, emerg. eff. April 17, 1967.

§74-480. Creation - Composition - Terms - Officers - Travel reimbursement - Quorum.

A. There is hereby created the Oklahoma Advisory Committee on Intergovernmental Relations which shall be an advisory committee to the Oklahoma Legislature.

B. The Oklahoma Advisory Committee on Intergovernmental Relations shall be composed as follows:

1. One elected municipal official or designee from a municipality with a population of less than fifty thousand (50,000) persons, one elected municipal official or designee from a municipality with a population of fifty thousand (50,000) persons or more and one elected county official, all of whom shall be appointed by the Speaker of the House of Representatives;

2. One elected municipal official or designee from a municipality with a population of less than fifty thousand (50,000) persons, one elected municipal official or designee from a municipality with a population of fifty thousand (50,000) persons or more and one elected county official, all of whom shall be appointed by the President Pro Tempore of the Senate;

3. The President of the Oklahoma County Officers Association or designee;

4. The President of the Oklahoma Association of County Commissioners or designee;

5. The President of the Board of Directors of the Oklahoma Municipal League or designee;

6. The members of the Oklahoma Congressional Delegation or staff members designated by the members of the delegation;

7. Four members of the House of Representatives who shall be appointed by the Speaker of the House of Representatives;

8. Four members of the Senate who shall be appointed by the President Pro Tempore of the Senate;

9. The Director of the State Department of Transportation or designee;

10. The Chairman of the Oklahoma Tax Commission or designee;

11. The Governor or designee; and

12. The President of the Oklahoma State School Board Association or designee.

C. The terms of office of the members appointed by the Speaker of the House of Representatives and the members appointed by the President Pro Tempore of the Senate shall be two (2) years. Legislative members currently serving on the Committee may serve until July 1, 1996. Legislative members may be reappointed to successive office for one additional term.

D. The chairman and vice-chairman of the Committee shall be designated by the Speaker of the House of Representatives and the President Pro Tempore of the Senate as provided for in this subsection. The appointment of the chairman and vice-chairman shall be from the legislators appointed to the Committee. The Speaker of the House of Representatives shall designate the initial chairman

who shall serve until the convening of the First Regular Session of the 42nd Oklahoma Legislature. The President Pro Tempore of the Senate shall designate the initial vice-chairman who shall serve until the convening of the First Regular Session of the 42nd Oklahoma Legislature. Thereafter, the chairmanship shall alternate every two (2) years between the House of Representatives and the Senate, beginning with the convening of the First Regular Session of the Legislature. In the event of the absence or disability of both the chairman and the vice-chairman, the members of the Committee shall elect a temporary chairman by a majority vote of those present and voting.

E. The appointed members of the Committee shall serve at the pleasure of the appointing authority.

F. Any legislative members of the Advisory Committee shall be reimbursed for their necessary travel incurred in the performance of their duties pursuant to Section 456 of Title 74 of the Oklahoma Statutes. Nonlegislative members of the Advisory Committee shall receive necessary travel expenses incurred in the performance of their duties according to provisions of the State Travel Reimbursement Act. All such travel reimbursement authorized by this subsection shall be paid by the Legislative Service Bureau.

G. A majority of the membership of the Committee, excluding the congressional membership, shall constitute a quorum for the purpose of conducting Committee business.

Added by Laws 1987, c. 203, § 65, operative July 1, 1987. Amended by Laws 1995, c. 140, § 1, emerg. eff. May 2, 1995.

#### §74-481. Meetings - Public hearings - Staff assistance.

A. The Advisory Committee on Intergovernmental Relations shall hold meetings as it deems necessary. The Committee may hold public hearings from time to time on matters within its purview.

B. Each officer, board, commission, council, department, or agency of state government, and each political subdivision of the state, shall cooperate with the Committee in carrying out the functions and duties imposed by this act.

C. The House of Representatives and Senate shall provide the Committee with the staff assistance necessary for the Committee to perform its functions.

Added by Laws 1987, c. 203, § 66, operative July 1, 1987.

#### §74-482. Powers and duties.

The Advisory Committee on Intergovernmental Relations shall:

1. Serve as a forum for the discussion and resolution of intergovernmental problems;
2. Engage in such activities and make such studies and investigations as are necessary or desirable in the accomplishment of its purposes as provided for in this act;



3. Consider, on its own initiative, ways and means of fostering better relations among local governments and between local governments and the state government;

4. Propose legislation, constitutional amendments, and model local ordinances necessary to implement recommendations of the Committee;

5. Encourage, and where appropriate, coordinate studies relating to intergovernmental relations conducted by universities, state, local, and federal agencies, and research and consulting organizations;

6. Review the recommendations of national commissions studying federal, state, and local government relationships and problems and assess their possible application to Oklahoma;

7. Review the fiscal relationships between state and local governments pursuant to federal proposals on general revenue sharing or federal programs having significant intergovernmental implications;

8. Undertake studies to determine the most effective means by which state government and local government organizations can participate in the federal grant system. Such studies shall make recommendations affecting the state executive and legislative branches and local government organizations, and shall develop an operational plan and recommendations for initial implementation actions;

9. Study the laws relating to the assessment and taxation of property;

10. Review technical and financial assistance available to counties, cities, municipalities and agencies owned and controlled by them, governmental conferences or councils, regional planning commissions, community development groups, community action agencies, and similar agencies for the purposes of aiding and encouraging an orderly, productive, and coordinated development of the state, and to strengthen local planning responsibility and capability; and

11. Make such studies as the Legislature may request.  
Added by Laws 1987, c. 203, § 67, operative July 1, 1987.

§74-483. Compensation and expenses.

No member of the Advisory Committee on Intergovernmental Relations shall receive a salary for duties performed as a member of the Committee. Reimbursement for necessary travel expenses incurred in the performance of their official duties as a member of the Committee shall be paid by the appointing authority in accordance with the provisions of the State Travel Reimbursement Act.  
Added by Laws 1987, c. 203, § 68, operative July 1, 1987.

§74-484. Annual report issued - Recommendations.

A. The Advisory Committee on Intergovernmental Relations shall issue reports of its findings and recommendations from time to time and shall issue an annual report on its work. Copies of the annual report shall be submitted to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate.

B. The Committee shall report to the Speaker of the House of Representatives and President Pro Tempore of the Senate on or before the first day of the 1990 regular session of the Legislature regarding the work of the Committee. The report shall also make recommendations as to the continuation of the Committee and any structural or staffing changes that the Committee deems necessary to the best interest of the state in the area of improving intergovernmental relations.

Added by Laws 1987, c. 203, § 69, operative July 1, 1987.

§74-485. Study of future regulatory activities - Rulemaking - Recommendations.

A. The Oklahoma Advisory Committee on Intergovernmental Relations shall take appropriate measures to study future federal rulemaking actions, to communicate its concerns and to make recommendations to the federal government regarding future regulatory activities of federal agencies that will affect the State of Oklahoma.

B. The cabinet secretaries appointed by the Governor pursuant to Section 10.3 of this title shall review the annual Unified Regulatory Agenda published pursuant to the federal Executive Order No. 12875 and make appropriate comments and recommendations regarding proposed regulatory actions within their cabinet responsibilities to the Oklahoma Advisory Committee on Intergovernmental Relations. The cabinet secretaries may also make recommendations to said committee regarding federal regulatory actions that should be prepared using a negotiated rulemaking process.

C. A copy of all reports prepared by the Oklahoma Advisory Committee on Intergovernmental Relations shall be filed with the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate.

Added by Laws 1994, c. 182, § 5, eff. July 1, 1994.

§74-500.1. Citation.

This act shall be known and may be cited as the "State Travel Reimbursement Act".

Added by Laws 1972, c. 123, § 1, operative July 1, 1972.

§74-500.2. Reimbursable expenses of state officials, employees and certain others.

A. Officials and employees of the state, traveling on authorized state business, may be reimbursed for expenses incurred in such travel in accordance with the provisions of the State Travel Reimbursement Act and existing statutes relating to state travel. Persons who are not state employees, but who are performing substantial and necessary services to the state which have been directed or approved by the appropriate department official shall enjoy the protection of the sovereign immunity of the state to the same extent as a paid employee. Such persons may be reimbursed for expenses incurred during authorized official travel under these same statutory provisions, provided it is indicated on the claim the person is not a state employee, a description of services performed is entered, and the agency head by approval of the claim certifies such services were substantial and necessary, and germane to the duties and functions of the reimbursing agency. Travel expenses incurred by a person during the course of seeking employment with a state agency, unless such travel is performed at the request of the employing agency, shall not be considered expenses incurred in performing substantial and necessary services to the state and shall not be reimbursed under the provisions of the State Travel Reimbursement Act.

B. The chief administrative officer of the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Military Department of the State of Oklahoma, the Department of Corrections, the Office of Management and Enterprise Services, the Alcoholic Beverage Laws Enforcement Commission, the Oklahoma Department of Agriculture, Food, and Forestry, the Oklahoma Department of Emergency Management, the State Fire Marshal, and the State Department of Health may arrange for and charge meals and lodging for a contingent of state personnel moved into an area for the purpose of preserving the public health, safety, or welfare or for the protection of life or property. The cost for meals or lodging so charged shall not exceed the amount authorized in the State Travel Reimbursement Act. The chief administrative officer of each agency involved in such an operation shall require the vendor furnishing meals, lodging, or both meals and lodging to submit an itemized statement for payment. When a claim for lodging is made for a contingent of state personnel, individual members of the contingent may not submit a claim for lodging. When a claim for meals is made for a contingent of state personnel, individual members of the contingent may not submit a claim for meals.

C. The Oklahoma Department of Commerce, the Oklahoma Center for the Advancement of Science and Technology, and the Oklahoma Department of Agriculture, Food, and Forestry are hereby authorized to enter into contracts and agreements for the payment of food, lodging, meeting facility and beverage expenses as may be necessary

for sponsoring seminars and receptions relating to economic development and science and technology issues. Such expenses may be paid directly to the contracting agency or business establishment. The Director of the Oklahoma Department of Commerce, the President of the Oklahoma Center for the Advancement of Science and Technology, and the Commissioner of Agriculture shall each provide a quarterly report of such expenditures to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

D. The Native American Cultural and Educational Authority is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and meeting facility as may be necessary to pursue the promotion of fundraising, marketing, and development of Native American educational programs and cultural projects, or to sponsor luncheons, seminars, and receptions relating to Native American educational, cultural, museum, and economic development issues. Such expenses may be paid directly to the contracting agency or business establishment. The Executive Director shall provide a monthly report of expenditures to the Board.

E. For purposes of this section:

1. "State agency" means any constitutionally or statutorily created state board, commission, or department, including the Legislature and the Courts;

2. State agencies are authorized to enter into contracts and agreements for the payment of food and lodging expenses as may be necessary for employees or other persons who are performing substantial and necessary services to the state by attending official conferences, meetings, seminars, workshops, or training sessions or in the performance of their duties. Such expenses may be paid directly to the contracting agency or business establishment, provided the meeting qualifies for overnight travel for the employees and the cost for food and lodging for each employee shall not exceed the total daily rate as provided in the State Travel Reimbursement Act;

3. State agencies are authorized to enter into contracts and agreements for the payment of conference registration expenses as may be necessary for employees or other persons who are performing substantial and necessary services to the state by attending official conferences, meetings, seminars, workshops, or training sessions. Such expenses may be paid directly to the contracting agency or business establishment; and

4. State agencies are authorized to enter into contracts and agreements for the payment of food and lodging expenses as may be necessary for employees attending an official course of instruction or training conducted or sponsored by any state agency. Expenses may be paid directly to the contracting agency or business establishment. The cost for food and lodging for each employee

shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

F. State agencies are authorized to make direct purchases of commercial airline tickets for use by employees in approved out-of-state travel. Each claim or invoice submitted to the Director of the Office of Management and Enterprise Services for the payment of the purchase shall bear the airline identifying ticket number, the name of the airline, total cost of each ticket purchased, class of accommodation and name of the employee for whom the ticket was purchased, and shall be filed on claim forms as prescribed by the Director of the Office of Management and Enterprise Services. The employee shall sign an affidavit stating that the employee used a direct purchase commercial airline ticket received for his or her approved out-of-state travel, or in lieu of the affidavit, the employee may file a travel claim in connection with said airline flight.

G. 1. The Director of the Office of Management and Enterprise Services is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and other authorized expenses as may be necessary to host, conduct, sponsor, or participate in conferences, meetings, or training sessions. The Director may establish accounts as necessary for the collection and distribution of funds, including funds of sponsors and registration fees, related to such conferences, meetings, and training sessions. Expenses incurred may be paid directly to the contracting agency or business establishment.

2. The cost of food for persons attending any conferences, meetings, and training sessions that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

H. 1. The Commissioner of the Department of Mental Health and Substance Abuse Services is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and other authorized expenses as may be necessary to host, conduct, sponsor, or participate in conferences, meetings, or training sessions. The Commissioner may establish accounts as necessary for the collection and distribution of funds, including funds of sponsors and registration fees, related to such conferences, meetings, and training sessions. Any expenses incurred may be paid directly to the contracting agency or business establishment.

2. The cost of food for persons attending any conferences, meetings, and training sessions that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

I. The Oklahoma Indigent Defense System is hereby authorized to enter into contracts and agreements for the payment of lodging as necessary for employees to carry out their duties in representing

any client whom the System has been properly appointed to represent. Such expenses may be paid directly to the contracting agency or business establishment. The cost for lodging for each employee shall not exceed the daily rate as provided in the State Travel Reimbursement Act.

J. The Oklahoma Tourism and Recreation Department is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and meeting facility and beverage expenses as may be necessary for seminars and receptions relating to familiarization tours and tourism development. The expenses may be paid directly to the contracting agency or business establishment. The Executive Director of the Oklahoma Tourism and Recreation Department shall provide a monthly report of any such expenditures to the Oklahoma Tourism and Recreation Commission.

K. The Oklahoma Tourism and Recreation Department is hereby authorized to enter into contracts and agreements for the payment of exhibitor fees and display space charges at expositions to promote the Department's recreational facilities and the tourism and recreation industry. The expenses may be paid directly to the contracting agency or business establishment; provided that no payment shall be made prior to the event unless it conveys a property right to the state for future availability and use.

L. 1. The Oklahoma Highway Safety Office of the Department of Public Safety is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and other authorized expenses as may be necessary, to host, conduct, sponsor, or participate in highway-safety-related conferences, workshops, seminars, meetings, or training sessions. The payments shall be for all persons in attendance, including, but not limited to, employees of political subdivisions or employees of the state or federal government. For purposes specified in this paragraph, only federal highway safety funds may be used in accordance with federal guidelines and regulations, and no appropriated state funds shall be used.

2. The cost of food for persons attending any highway safety conferences, workshops, seminars, meetings, and training sessions that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

M. 1. The Director of the Oklahoma State Bureau of Investigation is hereby authorized to enter into contracts and agreements for the payment of food, lodging and other authorized expenses as may be necessary to host, conduct, sponsor or participate in any conference, meeting, training session or initiative to promote the mission and purposes of the Bureau. The payments may be for all persons in attendance, including, but not limited to, employees of political subdivisions or employees of the state or federal government.

2. The cost of food for persons that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

N. The Oklahoma Homeland Security Director is hereby authorized to enter into contracts and agreements for the payment of food, lodging and other authorized expenses as may be necessary to host, conduct, sponsor, or participate in homeland-security-related conferences, meetings, workshops, seminars, exercises or training sessions. The expenses may be paid directly to the contracting agency or business establishment.

O. 1. The Insurance Commissioner of the Insurance Department of the State of Oklahoma is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and other authorized expenses as may be necessary to host, conduct, sponsor, or participate in conferences, meetings, or training sessions. The Commissioner may establish accounts as necessary for the collection and distribution of funds, including funds of sponsors and registration fees, related to such conferences, meetings, and training sessions. Any expenses incurred may be paid directly to the contracting agency or business establishment.

2. The cost of food for persons attending any conferences, meetings, and training sessions that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

P. 1. The State Regents for Higher Education is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and other authorized expenses as may be necessary to host, conduct, sponsor, or participate in conferences, meetings, or training sessions. The State Regents for Higher Education may establish accounts as necessary for the collection and distribution of funds, including funds of sponsors and registration fees, related to such conferences, meetings, and training sessions. Any expenses incurred may be paid directly to the contracting agency or business establishment.

2. The cost of food for persons attending any conferences, meetings, and training sessions that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

Q. 1. The Office of Educational Quality and Accountability is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and other authorized expenses as may be necessary to host, conduct, sponsor, or participate in conferences, meetings, or training sessions. The Office of Educational Quality and Accountability may establish accounts as necessary for the collection and distribution of funds, including funds of sponsors and registration fees, related to such conferences, meetings, and

training sessions. Any expenses incurred may be paid directly to the contracting agency or business establishment.

2. The cost of food for persons attending any conferences, meetings, and training sessions that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

R. 1. The Department of Securities is hereby authorized to enter into contracts and agreements for the payment of food, lodging, meeting facility, facilitator fees and travel expenses, exhibitor fees and other authorized expenses as may be necessary to host, conduct, sponsor or participate in conferences, meetings, training sessions or initiatives promoting or otherwise relating to investor education. The Department of Securities may establish accounts as necessary for the collection and distribution of funds, including funds of sponsors and registration fees, relating to such conferences, meetings, training sessions or initiatives. The payments may be for all persons in attendance, including, but not limited to, employees of the state or federal government or employees of political subdivisions of the state, including employees of boards of public education. Expenses incurred may be paid directly to the contracting agency or business establishment.

2. The cost of food for persons attending any conferences, meetings and training sessions that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

3. The Department of Securities is hereby authorized to pay stipends to teachers participating in the investor education program and monetary achievement awards to select participating students. No appropriated state funds shall be used.

S. Whenever possible it shall be the policy of each state agency to prepay airline fares and lodging expenses using a purchase card issued to the agency. This policy shall apply to instances where employees of the agency are traveling on behalf of state government.

Added by Laws 1972, c. 123, § 2, operative July 1, 1972. Amended by Laws 1978, c. 177, § 5, emerg. eff. April 11, 1978; Laws 1980, c. 119, § 1, emerg. eff. April 14, 1980; Laws 1981, c. 108, § 1, operative July 1, 1981; Laws 1981, c. 340, § 24, emerg. eff. June 30, 1981; Laws 1982, c. 23, § 1, eff. July 1, 1982; Laws 1984, c. 244, § 1, emerg. eff. May 29, 1984; Laws 1985, c. 347, § 15, emerg. eff. July 31, 1985; Laws 1986, c. 207, § 65, operative July 1, 1986; Laws 1986, c. 301, § 33, operative July 1, 1986; Laws 1989, c. 351, § 2, eff. Nov. 1, 1989; Laws 1990, c. 175, § 1, emerg. eff. May 3, 1990; Laws 1991, c. 216, § 17, operative July 1, 1991; Laws 1991, c. 297, § 7, operative July 1, 1991; Laws 1993, c. 129, § 4, eff. July 1, 1993; Laws 1993, c. 360, § 14, eff. July 1, 1993; Laws 1995, c. 128, § 2, eff. July 1, 1995; Laws 1995, c. 358, § 9, eff. July 1,



1995; Laws 1996, c. 33, § 1, eff. Nov. 1, 1996; Laws 1997, c. 92, § 1, eff. July 1, 1997; Laws 1997, c. 354, § 1, eff. July 1, 1997; Laws 1998, c. 5, § 27, emerg. eff. March 4, 1998; Laws 1998, c. 233, § 2, eff. Nov. 1, 1998; Laws 1998, c. 408, § 1, eff. July 1, 1998; Laws 1999, c. 1, § 33, emerg. eff. Feb. 24, 1999; Laws 1999, c. 289, § 15, eff. July 1, 1999; Laws 2000, c. 6, § 24, emerg. eff. March 20, 2000; Laws 2001, c. 355, § 3, emerg. eff. June 1, 2001; Laws 2004, c. 130, § 11, emerg. eff. April 20, 2004; Laws 2005, c. 223, § 4, eff. Nov. 1, 2005; Laws 2006, c. 16, § 82, emerg. eff. March 29, 2006; Laws 2007, c. 125, § 34, eff. July 1, 2007; Laws 2007, c. 256, § 1; Laws 2008, c. 321, § 1, eff. July 1, 2008; Laws 2009, c. 76, § 1, emerg. eff. Apr. 21, 2009; Laws 2012, c. 106, § 5; Laws 2013, c. 15, § 107, emerg. eff. April 8, 2013; Laws 2014, c. 109, § 1, eff. Nov. 1, 2014; Laws 2015, c. 352, § 1; Laws 2016, c. 76, § 2, emerg. eff. April 18, 2016.

NOTE: Laws 1993, c. 33, § 1 repealed by Laws 1993, c. 360, § 16, emerg. eff. June 10, 1993. Laws 1995, c. 36, § 25 repealed by Laws 1995, c. 358, § 12, emerg. eff. June 9, 1995. Laws 1995, c. 335, § 1 and Laws 1997, c. 286, § 1 repealed by Laws 1998, c. 5, § 29, emerg. eff. March 4, 1998. Laws 1998, c. 201, § 7 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999. Laws 1999, c. 121, § 1 repealed by Laws 2000, c. 6, § 33, emerg. eff. March 20, 2000. Laws 2005, c. 396, § 1 repealed by Laws 2006, c. 16, § 83, emerg. eff. March 29, 2006. Laws 2012, c. 304, § 853 repealed by Laws 2013, c. 15, § 108, emerg. eff. April 8, 2013.

#### §74-500.3. Authority for travel - Claims or vouchers - Limitations.

Authority to approve travel on official state business and approval of claims or vouchers for reimbursement of travel expenses shall be in conformity with Section 34.68 of Title 62 of the Oklahoma Statutes, or as may be provided in future legislation. Approval of a travel claim or voucher, as provided in that section, shall constitute authority for the travel set forth in such claim or voucher. Claims or vouchers for reimbursement for expenses incurred in official travel shall not cover more than one (1) fiscal year. Added by Laws 1972, c. 123, § 3, operative July 1, 1972. Amended by Laws 2014, c. 109, § 2, eff. Nov. 1, 2014; Laws 2016, c. 159, § 1, eff. Nov. 1, 2016.

#### §74-500.4. Mode of travel - Approval - Rate of reimbursement.

A. Authorized persons traveling on official state business within the State of Oklahoma may utilize railroads, airplanes, buses, whether intracity or intercity, or other public conveyance. Reimbursement for fares paid for airplane transportation shall not exceed coach class fare except as provided herein. Reimbursement for fares paid for airplane transportation may be at the business class fare rate for international travel. Other public conveyance

fares shall not exceed the lesser of the normal charge or coach class airplane fare. Taxicab or rideshare fares within the State of Oklahoma and communication charges may be reimbursed only upon justification as to the necessity for their use.

B. Agency heads or their authorized designees may approve the use of motor vehicles for official travel within the State of Oklahoma. If available, agency owned motor vehicles or motor vehicles leased from the State Motor Pool, either on a full-time basis or for individual trips, shall be utilized for such travel. Reimbursement for use of privately owned motor vehicles may be authorized by the agency head.

C. Reimbursement for authorized use of privately owned motor vehicles shall not exceed the amount prescribed by the Internal Revenue Code of 1986, as amended, or rules, procedures or other action by the Internal Revenue Service, for use in determining the standard mileage rate allowed for a business expense deduction. Distances for which reimbursement for use of privately owned motor vehicles is claimed shall be actual business miles based on a recognized Global Positioning System (GPS).

Added by Laws 1972, c. 123, § 4, operative July 1, 1972. Amended by Laws 1974, c. 90, § 2, operative July 1, 1974; Laws 1976, c. 173, § 1, operative July 1, 1976; Laws 1979, c. 239, § 1, eff. July 1, 1979; Laws 1980, c. 332, § 2, eff. July 1, 1980; Laws 1985, c. 7, § 3, eff. July 1, 1985; Laws 1989, c. 355, § 2, eff. Nov. 1, 1989; Laws 1995, c. 335, § 2, eff. Nov. 1, 1995; Laws 1997, c. 384, § 18, eff. July 1, 1997; Laws 1998, c. 408, § 2, eff. July 1, 1998; Laws 2016, c. 166, § 1, eff. Nov. 1, 2016.

§74-500.5. Travel by leased or rented automobile.

e A. Reimbursement for automobiles leased or rented within this state from so-called car rental agencies or private parties, to be used in lieu of a privately owned vehicle on official business for the state, shall not exceed the rate provided for the use of a privately owned automobile.

B. The actual cost of leasing or renting an automobile outside of this state to be used on official business for the state shall be reimbursed subject to the approval of the agency head or authorized designee.

Laws 1972, c. 123, § 5, operative July 1, 1972; Laws 1980, c. 332, § 3, eff. July 1, 1980.

§74-500.6. Travel by privately owned or chartered airplane - Reimbursement of fuel costs for personal aircraft used in criminal pursuits or searches.

A. Travel by any state officer or employee on official state business on any privately owned or chartered airplane may be reimbursed in an amount which, when added to per diem and

reimbursement for lodging for that trip, does not exceed the equivalent of automobile mileage plus per diem and reimbursement for lodging had a privately owned automobile been used for the trip. The provisions of Section 500.4 of this title shall apply to calculation of automobile mileage equivalent in this section.

B. Upon completion of each trip, the pilot of any airplane owned by this state shall enter into a record book the names of all passengers on the airplane, date, destination, mileage, duration, purpose, and expense of the trip. The pilot shall sign each entry in the record book. Said book may be inspected by the State Auditor and Inspector.

C. Expenses of the trip are to be charged to the state departments or agencies of the officers or employees using the airplane. For the purposes of this section the term expense of the trip shall include but is not limited to the cost of operating the airplane, the duration of the trip, and the salary of the pilot.

D. Any non-elected law enforcement official or citizen who offers for use his or her personal airplane or aircraft for searches or criminal pursuits may be reimbursed by the public entity requesting such assistance for the cost of fuel used during such official business. Each public entity authorizing the use of any airplane or other aircraft for such purpose shall establish a policy to verify information they deem necessary to reimburse such individual for cost of fuel used pursuant to this subsection. Such information shall be recorded and made available by the public entity in the same manner as required for other expenditures of public funds by the public entity.

Added by Laws 1972, c. 123, § 6, operative July 1, 1972. Amended by Laws 1985, c. 76, § 1, emerg. eff. May 21, 1985; Laws 2007, c. 62, § 21, emerg. eff. April 30, 2007; Laws 2014, c. 254, § 1.

#### §74-500.6A. Use of state aircraft - Travel logs.

A. No person shall travel on any aircraft owned, leased, chartered, or operated by the state to or from any place where such person:

1. Attends an event sponsored by, or an event in support of or in opposition to, a political party, a political action committee, or a political candidate;

2. Performs a service for which the person or any member of the immediate family of the person has or will receive compensation, including honoraria, other than the salary the person receives from the state;

3. Attends an event at which others in attendance have been or will be charged an admission fee or at which a donation of money or other thing of value is directly or indirectly charged, requested, solicited, demanded, exacted, sought, accepted, assigned, or received, unless:

- a. the admission fee or donation is charged, requested, solicited, demanded, exacted, sought, accepted, assigned, or received by a charitable or nonprofit association, or
- b. the admission fee is the regular and usual fee charged for admission to such event, and such event is not in any manner associated with, sponsored by, or designed to benefit a political party, a political candidate, or is otherwise intended to further a partisan political purpose; and

4. Attends an event at which an audience was charged an admission fee to see or hear the person, unless the admission fee is charged by a charitable or nonprofit association.

B. The Office of Management and Enterprise Services shall prescribe a travel log form, to be designated the "Travel Use Log", to record information to be used by a state entity providing the aircraft when a person travels on any aircraft owned, leased, chartered, or operated by the state. The information provided by the Travel Use Log form shall include:

1. The date and time of the flight;
2. The registration number of the aircraft flown;
3. The trip itinerary, including the date and time and each location from which the aircraft takes off or at which the aircraft lands during a trip;
4. The purpose of each landing during a trip, including but not limited to whether the landing is:
  - a. for the purpose of giving a speech or other presentation,
  - b. for attendance at a meeting, event, or other gathering, or
  - c. for the performance of a service;
5. The name of the group sponsoring the speech, presentation, meeting, event, or gathering, or receiving the service specified in paragraph 4 of this subsection;
6. The printed name of each person traveling on the aircraft, including the person, each crew member, and any other passengers traveling on the aircraft, and the location at which each such person, crew member, or passenger boarded and disembarked;
7. The state entity on whose behalf the passenger or crew member was traveling;
8. Total flight time;
9. Trip charges, including fuel costs, landing or hangar fees, pilot waiting time and total trip mileage;
10. Beginning and ending tachometer or Hobbs reading; and
11. Flight conditions and number of day and night landings.

C. The state entity providing an aircraft for travel shall promulgate rules establishing procedures to ensure:

1. That those persons who travel on such aircraft provide in a legible manner all information required by the Travel Use Log form;

2. That the Travel Use Log forms are maintained and made available upon request pursuant to the provisions of the Oklahoma Open Records Act;

3. That summaries of the Travel Use Log on the use of the aircraft compiled by a state entity be filed with the Governor, the Office of Management and Enterprise Services, the Speaker of the House of Representatives and the President Pro Tempore of the Senate annually. The summaries shall contain the following information:

- a. a chronological listing of the date and time of flights,
- b. a listing of each location from which the aircraft takes off or at which the aircraft lands during each trip,
- c. a listing of the names of each passenger,
- d. total flight time, and
- e. total cost of trip based on the number of hours of flight time at a standard hourly rate which shall be approximately the cost of chartering a comparable aircraft.

D. The signature on the Travel Use Log form of each crew member shall constitute certification that the information provided on the Travel Use Log form is true and correct to the best of the information and belief of that crew member.

E. The state entity providing an aircraft for travel by a person shall keep a copy of the completed Travel Use Log form required by this section for the time period required by the Archives and Records Act for each such trip.

F. The provisions of this section shall not be construed to prohibit immediate family members of the Governor or Lieutenant Governor from accompanying the Governor or Lieutenant Governor on a trip made in compliance with the provisions of this section on a state aircraft. As used in this section, "immediate family members" means a parent, a spouse, a child, a stepchild, a foster child, and any individual claimed by the Governor or Lieutenant Governor or the spouse of the Governor or Lieutenant Governor as a dependent for tax purposes.

G. The provisions of this section shall not be construed to prohibit a person from using an aircraft owned, leased, chartered, or operated by the state to travel to or from any place where the person is attending a function sponsored by an organization to which the State of Oklahoma pays membership dues even though the organization provides time on the agenda for functions separately sponsored by partisan political organizations.

Added by Laws 1998, c. 183, § 1, emerg. eff. April 29, 1998.

Amended by Laws 2012, c. 304, § 854.

§74-500.7. Travel status for meals and lodging.

A. Except as provided in subsection B of this section, travel status for meals and lodging purposes shall be defined as absence from the officer's or employee's home area and/or official station area while performing assigned official duties. Provided however, employees whose duties are normally mobile and statewide or multicounty in nature shall not be deemed to have an official station.

B. State officers or employees directed to participate in their official capacity in a disaster relief activity during a presidentially declared national disaster in Oklahoma after May 1, 1999, for a period of not more than six (6) months after the date of the presidentially declared national disaster, shall be eligible for reimbursement of meal and lodging costs established by the State Travel Reimbursement Act associated with the performance of their duties.

Added by Laws 1972, c. 123, § 7, operative July 1, 1972. Amended by Laws 1978, c. 179, § 10, emerg. eff. April 11, 1978; Laws 1999, c. 172, § 3, emerg. eff. May 21, 1999.

§74-500.8. Method of computing per diem.

A reimbursement in lieu of meal expenses, per day, while in official travel status, in an amount authorized by the provisions of the Internal Revenue Code of 1986, as amended, for deductibility of expenses for travel while away from home without additional documentation within the State of Oklahoma and outside the state is authorized. In computing reimbursement for meals a day shall be a period of twenty-four (24) hours. Reimbursement for each one-fourth (1/4) day consisting of six (6) hours or major fraction thereof, more than three (3) hours, may be made at the rate of one-fourth (1/4) of the daily allowable rate. Provided, however, that no reimbursement for meals shall be made for periods which do not include overnight status. If meals and lodging at a meeting, workshop, conference or other object of travel are furnished as a "package plan", reimbursement may be made, based upon a receipt, but at a daily rate of not to exceed the total daily rate provided in this act.

Added by Laws 1972, c. 123, § 8, operative July 1, 1972. Amended by Laws 1974, c. 90, § 3, operative July 1, 1974; Laws 1976, c. 173, § 2, operative July 1, 1976; Laws 1979, c. 239, § 2, eff. July 1, 1979; Laws 1982, c. 147, § 8, emerg. eff. April 12, 1982; Laws 1984, c. 166, § 8, operative July 1, 1984; Laws 1985, c. 7, § 4, eff. July 1, 1985; Laws 1990, c. 264, § 56, operative July 1, 1990; Laws 1992, c. 219, § 2, eff. Sept. 1, 1992; Laws 1995, c. 335, § 3, eff. Nov. 1, 1995; Laws 2001, c. 232, § 1, eff. July 1, 2001.

§74-500.9. Overnight lodging - Rate - Per diem allowance - Limitations and exceptions - Out-of-state trips.

A. Reimbursement for overnight lodging, while in official travel status, may be made at not to exceed an amount authorized by the provisions of the Internal Revenue Code of 1986, as amended, for deductibility of expenses for travel while away from home without additional documentation or the actual cost, if lower, per night except as provided in subsections C, D, F and H of this section and Section 500.9A of this title. Receipts issued by the hotel, motel or other public lodging place shall accompany claims for reimbursement.

B. A per diem allowance for meals and incidental expenses may be authorized by a travel claim issued in accordance with Section 500.3 of this title, which shall include all charges for meals and incidental expenses. Not to exceed an amount authorized by the provisions of the Internal Revenue Code of 1986, as amended, for deductibility of expenses for travel while away from home without additional documentation may be authorized on the travel claim for the performance of travel within the State of Oklahoma. In computing the per diem allowance, a day shall be a period of twenty-four (24) hours. Reimbursement for each one-fourth (1/4) day consisting of six (6) hours or major fraction thereof, more than three (3) hours, may be made at the rate of the daily allowable rate. When a traveler has lodging provided at no cost to the state, a ten-dollar lodging per diem allowance may be claimed in addition to the meals and incidental expenses per diem allowance. Provided, however, that no per diem shall be allowed pursuant to this section for periods of less than overnight in travel status. Reimbursement for expenses other than meals and lodging may also be made in accordance with the provisions of this act.

C. State officers or employees attending meetings, workshops, conferences or other objectives of trips which are conducted at a designated hotel, motel or other public lodging place or where lodging has been arranged for by the blocking of rooms or by rate reductions for the participants by the sponsor as evidenced by the announcement or notice of the meeting, workshop, conference or other objective shall be reimbursed the actual lodging expense not to exceed the single occupancy room rate charged by the designated hotel, motel or other public lodging place, provided that the officials or employees are in official travel status approved by the agency head or designee. Provided further, those state officers or employees attending meetings, workshops, conferences or other objectives of trips, which are conducted at a designated hotel, motel or other public lodging place as provided by this subsection, who choose to acquire less expensive lodging at another hotel, motel or other public lodging place shall be reimbursed the actual lodging expense not to exceed the single occupancy room rate charged by the

designated hotel, motel or other public lodging place. Provided further, those state officers or employees so choosing this option shall be reimbursed for local transportation costs incurred traveling between such optional lodging and the designated hotel, motel or other public lodging place not to exceed the difference between the cost of the designated lodging and the cost of the optional lodging. Receipts issued by the hotel, motel or other public lodging place shall accompany claims for reimbursement.

D. State officers and employees who have been required to attend hearings or meetings of any congressional committee or subcommittee or any federal agency, board or commission shall be reimbursed for their actual and necessary travel and lodging expenses; however, the agency head must approve any claims in connection with such expenses.

E. Reimbursement for meals and lodging on out-of-state trips shall not begin more than twenty-four (24) hours before the meeting, workshop, conference or other objective of trip begins and shall not continue more than twenty-four (24) hours after said meeting, workshop, conference or other objective of trip ends. This twenty-four-hour limit shall also apply for in-state travel when the agency determines that travel is of a duration where overnight travel prior to or after the trip objective would be necessary.

F. Reimbursement for meals and lodging incurred in official travel in areas outside of the United States to implement the objectives of contracts, grants, agreements or gifts for which funds from these sources are furnished shall be reimbursed from said funds at actual cost not to exceed the amount authorized United States Government employees in its periodical publication entitled "Standard Regulations (Government Civilians, Foreign Areas), Department of State, Washington, DC". Provided, however, travel to points outside of the United States, whether performed under authority of contract, grant, agreement or otherwise, shall not begin more than forty-eight (48) hours before or end more than forty-eight (48) hours after the objective of the trip.

G. Claims submitted to the Director of the Office of Management and Enterprise Services for payment under the provisions of this section shall be certified to by the principal fiscal officer or contract and grant administrator of each agency. Such officer shall certify that such claim complies with and is authorized under this section.

H. The Director of the Office of Management and Enterprise Services may authorize reimbursement for overnight lodging while in official travel status within the State of Oklahoma at a rate of up to one hundred fifty percent (150%) of the amount authorized in subsection A of this section if it is determined that no lodging was available at the maximum rate set out in subsection A of this section. Prior to authorizing such payment, the state officer or



employee shall certify the efforts made to obtain lodging at the rate set out in subsection A of this section and the reasons why such lodging was not available within a reasonable distance from the state officer's or employee's work location.

Added by Laws 1972, c. 123, § 9, operative July 1, 1972. Amended by Laws 1974, c. 90, § 4, operative July 1, 1974; Laws 1976, c. 173, § 3, operative July 1, 1976; Laws 1979, c. 239, § 3, eff. July 1, 1979; Laws 1980, c. 332, § 4, eff. July 1, 1980; Laws 1981, c. 340, § 25, eff. July 1, 1981; Laws 1982, c. 226, § 1, operative July 1, 1982; Laws 1984, c. 166, § 9, operative July 1, 1984; Laws 1985, c. 7, § 5, eff. July 1, 1985; Laws 1985, c. 178, § 71, operative July 1, 1985; Laws 1989, c. 355, § 3, eff. Nov. 1, 1989; Laws 1990, c. 77, § 1, operative July 1, 1990; Laws 1990, c. 264, § 57, operative July 1, 1990; Laws 1992, c. 219, § 3, eff. Sept. 1, 1992; Laws 1995, c. 335, § 4, eff. Nov. 1, 1995; Laws 1997, c. 354, § 2, eff. July 1, 1997; Laws 2001, c. 232, § 2, eff. July 1, 2001; Laws 2012, c. 304, § 855; Laws 2013, c. 244, § 4, eff. Nov. 1, 2013; Laws 2014, c. 109, § 3, eff. Nov. 1, 2014.

§74-500.9A. Expenses provided for in contract or grant.

Per diem payments, travel and other actual and necessary expenses may be paid if same is provided for in any contract or grant.

Laws 1979, c. 239, § 4, eff. July 1, 1979. Amended by Laws 1990, c. 264, § 58, operative July 1, 1990; Laws 1992, c. 219, § 4, eff. Sept. 1, 1992.

§74-500.10. Limitation on out of state travel.

No agency head nor his designee shall approve out of state travel except for personnel performing policy making, professional, technical, supervisory or administrative duties.

Laws 1972, c. 123, § 10, operative July 1, 1972.

§74-500.11. Reimbursement for out of state transportation costs.

A. Authorized persons traveling on official state business outside of the State of Oklahoma may utilize appropriate forms of transportation, including but not limited to, common carriers, transit system carriers, state owned or privately owned motor vehicles or airplanes, contract rental motor vehicles, commuter airplanes, or transportation by private parties to reach their destinations.

B. 1. Except as otherwise provided by this section, reimbursement for out of state transportation costs as authorized by this section shall not exceed the normal charge for the type of transportation used, but in no instance shall reimbursement for transportation used in lieu of commercial airplane exceed the cost of coach class air fare.

2. Reimbursement for travel by commercial airplane on a first-class basis may be made if coach class space is not available within a reasonable time and is justified by attachment to claim for reimbursement.

3. Claims for reimbursement for transportation by commercial airline shall be accompanied by the passenger's duplicate of airline ticket, or other airline receipt which includes information as to class of accommodation for which reimbursement is claimed.

4. If commuter airlines are the only airlines available to reach a destination, reimbursement for transportation used in lieu of commuter air fare shall not exceed the cost of the commuter air fare.

C. Reimbursement for authorized use of privately owned motor vehicles or vehicles from motor vehicle rental agencies used for out-of-state travel shall be limited to the actual cost for such vehicle but in no instance shall reimbursement for such vehicle exceed the cost for commercial coach class air fare or commuter air fare, whichever is appropriate. Distances for which reimbursement for use of privately owned motor vehicles or vehicles from vehicle rental agencies is claimed shall not exceed distances set forth in a recognized published national atlas or road map. Vicinity travel on official business shall be entered on travel claims as a separate item.

Added by Laws 1972, c. 123, § 11, operative July 1, 1972. Amended by Laws 1997, c. 214, § 1, emerg. eff. May 19, 1997.

#### §74-500.12. Miscellaneous travel expenses.

Reimbursement for miscellaneous travel expenses and local transportation costs incurred during out of state travel may be made on the basis of an itemization of such costs.

Laws 1972, c. 123, § 12, operative July 1, 1972.

#### §74-500.13. Registration fees.

No reimbursement for registration fees for attendance at meetings, workshops or conferences shall be made, except upon written or electronic receipt for such expenditures.

Added by Laws 1972, c. 123, § 13, operative July 1, 1972. Amended by Laws 2011, c. 292, § 14.

#### §74-500.14. Rejection of travel claims or vouchers.

The Director of the Office of Management and Enterprise Services shall reject any travel claim or voucher not in conformity with the provisions of this act or existing statutes relating to reimbursement for travel expenses.

Added by Laws 1972, c. 123, § 14, operative July 1, 1972. Amended by Laws 2012, c. 304, § 856.

§74-500.15. Claims - Submission.

All claims for reimbursement of travel expenses shall be submitted on the regular authorized form of travel expense claim, and shall be approved by the official or employee performing the travel, and approved by the official or employee designated in Section 34.68 of Title 62 of the Oklahoma Statutes, for the agency in which the employee works. Receipts may be provided to the Office of Management and Enterprise Services in electronic form. No travel claim shall be awarded if the filer of the claim has benefited from the personal receipt of frequent travel miles unless those miles are used to offset future claims against the state.

Added by Laws 1972, c. 123, § 15, operative July 1, 1972. Amended by Laws 2011, c. 292, § 15; Laws 2012, c. 304, § 857; Laws 2014, c. 109, § 4, eff. Nov. 1, 2014.

§74-500.16. Standard blank forms.

Standard blank forms of travel claims to be used to carry out the purposes of this act shall be prescribed by the Director of the Office of Management and Enterprise Services.

Added by Laws 1972, c. 123, § 16, operative July 1, 1972. Amended by Laws 2012, c. 304, § 858.

§74-500.16A. Payment of claims pursuant to State Travel Reimbursement Act - Procedure.

A. The Director of the Office of Management and Enterprise Services shall establish a procedure to expedite payment for a proper claim of a state employee for expenses recompensable pursuant to the provisions of the State Travel Reimbursement Act.

B. The procedure provided for in subsection A of this section shall:

1. Require payment within forty-five (45) days from the date on which a proper claim is submitted by the employee to the appropriate office of the agency for which the expenses were incurred; and

2. Provide for the payment of interest from the thirtieth day after receipt by the appropriate office of a proper claim for which payment has not been mailed, transmitted or delivered to the employee by the close of business on the forty-fifth day. Interest shall be at an annualized rate as reported by the State Treasurer to the Director of the Office of Management and Enterprise Services based on an average of the interest rate for thirty-day time deposits of state funds during the last calendar quarter of the last preceding fiscal year.

C. For purposes of this section, "proper claim" means a claim for reimbursement of incurred expenses supported by all requisite documentation and complete in all respects for processing for payment.

D. Any employee, after the passage of the forty-five day limit provided for in subsection B of this section, who is aggrieved by the delay in payment of a proper claim with interest or who failed to receive interest as provided for in this section may file a grievance with the Office of the Governor. The grievance shall be transmitted from the Office of the Governor to the Director of the Office of Management and Enterprise Services who, within fifteen (15) days after receipt of the grievance, shall:

1. Pay the claim with interest as provided for in this section; or

2. Report to the Governor and the aggrieved employee why such payment cannot be made.

Added by Laws 1986, c. 84, § 2, eff. Nov. 1, 1986. Renumbered from § 840.14a of this title by Laws 1994, c. 242, § 53. Amended by Laws 2012, c. 304, § 859.

§74-500.17. Review of travel expenditures.

All state departments, boards, commissions and institutions shall make a review each quarter year of its travel expenditures during the previous quarter year, and the head of such agency shall be authorized to make reductions in the per diem he approves as determined necessary.

Laws 1972, c. 123, § 17, operative July 1, 1972. Amended by Laws 1990, c. 264, § 59, operative July 1, 1990; Laws 1992, c. 219, § 5, eff. Sept. 1, 1992.

§74-500.18. Provisions mandatory - Exemptions.

A. Except for members of the Legislature, the Governor and the Lieutenant Governor, provisions of Sections 500.1 through 500.18 of this title shall be mandatory for all officials and employees of all departments, boards, commissions and institutions of the state, regardless of the provisions of any other act of the Legislature, except as provided by this section. The enactment of any measure in the future providing for travel reimbursement of state officers and employees on the basis of "actual and necessary" expenses or in any other manner inconsistent with Sections 500.1 through 500.18 of this title shall be deemed to provide for reimbursement in accordance with Sections 500.1 through 500.18 of this title unless a contrary intent is explicitly expressed in this section. Sections 500.1 through 500.18 of this title shall not apply, however, to travel reimbursements made by political subdivisions of this state, except as otherwise provided by law.

B. The agencies listed below are authorized certain exceptions and/or exemptions to the provisions of Sections 500.1 through 500.18 of this title to the extent specified:

1. Oklahoma Department of Agriculture, Food, and Forestry:

- a. The actual and reasonable expenses of travel and subsistence in pursuing and developing markets for Oklahoma agricultural products incurred by the Commissioner, Deputy Commissioner and such employees designated by the State Board of Agriculture within the marketing development programs of the Oklahoma Department of Agriculture, Food, and Forestry shall be reimbursed to the employee incurring such expenses. Reimbursement of such expenses shall be in accordance with rules adopted by the Board. Expenses claimed shall, prior to reimbursement, be reviewed by the Board at a regular meeting and individually approved or disapproved.
- b. The actual and necessary expenses of out-of-state travel and subsistence incurred by employees of the Forestry Division authorized to evaluate and acquire federal excess property or surplus property in other states for use in its fire protection program, shall be reimbursed to the employee incurring such expenses.

2. Department of Public Safety:

When traveling with the Governor or at the Governor's request, personnel assigned by the Commissioner for executive security and pilots on executive assignment shall be allowed their actual and necessary traveling expenses, upon claims approved by the Commissioner.

3. Department of Corrections:

The Department of Corrections shall be exempt from limitations of reimbursement for rented automobiles, as set forth in Section 500.5 of this title, when the rental is by a Correctional Officer or Transportation Officer for the limited purpose of transporting inmates. Reimbursement for the expense shall be on the basis of actual cost.

4. Oklahoma Tourism and Recreation Department:

The Oklahoma Tourism and Recreation Commission and Department staff who promote in-state and out-of-state business for Oklahoma's state-operated or state-owned parks, lodges, and golf courses and the tourism and recreation industry, may be reimbursed for the actual and necessary expense of travel, subsistence and entertainment for this purpose. The Director of the Oklahoma Tourism and Recreation Department may reimburse the Publisher of Oklahoma Today magazine and its staff for expenses for meals and other entertainment in order to gain advertising and promotion for Oklahoma Today magazine. The Oklahoma Tourism and Recreation Department may reimburse the Director of the Office of the Oklahoma Film and Music Commission and staff for the actual and necessary expenses for meals and other entertainment in order to promote the film and music industries in this state. Reimbursement of all

actual and necessary expenses shall be in accordance with rules adopted by the Oklahoma Tourism and Recreation Commission.

5. Oklahoma Department of Commerce:

- a. The actual and necessary expenses incurred by the Director and other employees of the Department authorized by the Director for the purpose of business recruitment shall be reimbursed. Reimbursement of expenses shall be in accordance with rules adopted by the Director of the Oklahoma Department of Commerce. Expenses claimed shall, prior to reimbursement, be reviewed by the Director and individually approved or disapproved.
- b. The Department, at the discretion of the Director, may charter aircraft for the purposes of carrying out its duties and responsibilities related to business recruitment and performing the duties of the Director. The cost of such charter shall be exempt from the provisions of Section 500.6 of this title. Claims filed with the Office of Management and Enterprise Services shall bear the following certification: The best interests of the citizens of Oklahoma were better served in that conventional ground transportation was not practical or feasible for this trip, aircraft from the Department of Public Safety were not available for this trip, and no other claim has been or will be filed as a payment for the cost of transportation in connection with this trip.

6. Office of Management and Enterprise Services:

The actual and necessary expenses of travel and subsistence incurred by the Director, any state employee approved by his or her appointing authority, or state officials, for travel outside the state in performance of duties related to bond financing shall be reimbursed to the employee or state official incurring such expenses. Reimbursement for lodging expenses shall be supported by three telephone bids from hotels within a reasonable distance of the activity for which the travel was approved.

7. Oklahoma Futures:

The actual and necessary expenses incurred by the members of Oklahoma Futures in the performance of their duties shall be reimbursed to the members incurring such expenses. Reimbursement of all actual and necessary expenses shall be in accordance with rules adopted by Oklahoma Futures.

8. Oklahoma Development Finance Authority:

The actual and necessary expenses incurred by the members and employees of the Oklahoma Development Finance Authority in the performance of their duties shall be reimbursed to the person

incurring such expenses. Reimbursement of all actual and necessary expenses shall be in accordance with the bylaws of the Authority.

9. Oklahoma Center for the Advancement of Science and Technology:

The actual and necessary expenses incurred by the members and employees of the Oklahoma Center for the Advancement of Science and Technology in the performance of their duties shall be reimbursed to the person incurring such expenses. Reimbursement of all actual and necessary expenses shall be in accordance with the bylaws of the Center.

10. Center for International Trade Development:

The actual and necessary expenses of travel, lodging and subsistence incurred by the Director and authorized employees of the Center for International Trade Development for performance of their duties for the purpose of business recruitment and assistance shall be reimbursed to the person incurring such expenses. Reimbursement of such expenses shall be in accordance with the rules adopted by the Director of the Center for International Trade Development. Expenses claimed shall be reviewed and individually approved or disapproved, prior to reimbursement, first by the Director, and finally by either the Vice President, Business and Finance of Oklahoma State University or the President of Oklahoma State University.

11. Oklahoma State Bureau of Investigation:

The actual and necessary expenses incurred by the Director and other employees of the Bureau authorized by the Director as a result of conducting investigations shall be reimbursed to each such employee incurring the expenses. Reimbursement of the expenses shall be in accordance with rules adopted by the Director of the Oklahoma State Bureau of Investigation. Prior to reimbursement, expenses claimed shall be reviewed by the Director and individually approved or disapproved.

12. Department of Human Services:

- a. The actual and necessary expenses of travel, lodging and subsistence incurred by employees of the Legal Division in the performance of their duties for the purpose of representing the Department of Human Services or any of its officials, employees, institutions or hospitals at any proceeding, including depositions, held before any court, administrative body or representative thereof, shall be reimbursed to the employee incurring such expenses. Expenses claimed shall be approved by the General Counsel and the Director of Human Services prior to reimbursement.
- b. The Department, at the discretion of the Director, may charter aircraft when determined by the Director such charter would be more practical or less expensive than

normal modes of transportation and when aircraft of the Department of Public Safety are unavailable. The costs of such charter shall be exempt from the provisions of Section 500.6 of this title.

13. Oklahoma Health Care Authority:

The actual and necessary expenses of travel, lodging and subsistence incurred by employees of the Legal Division in the performance of their duties for the purpose of representing the Authority or any of its officials or employees, at any proceeding, including depositions, held before any court, administrative body or representative thereof, shall be reimbursed to the employee incurring such expenses. Expenses claimed shall be approved by the Administrator prior to reimbursement.

14. Oklahoma State Bureau of Narcotics and Dangerous Drugs Control:

The actual and necessary expenses incurred by the Director and other employees of the Bureau authorized by the Director as a result of conducting investigations shall be reimbursed to each employee incurring the expenses. Reimbursement of the expenses shall be in accordance with rules adopted by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. Prior to reimbursement, expenses claimed shall be reviewed by the Director and individually approved or disapproved.

15. University Hospitals:

The actual and necessary expenses of travel, lodging and subsistence incurred by employees of the Legal Office in the performance of their duties for the purpose of representing the University Hospitals or any of its officials, employees, institutions or hospitals at any proceeding, including depositions, held before any court, administrative body or representative thereof, shall be reimbursed to the employee incurring such expenses. Expenses shall be approved by the Chief Executive Officer of the University Hospitals or by the University Hospitals Authority.

16. Oklahoma Historical Society:

The actual and necessary expenses of travel, subsistence and entertainment incurred by the Executive Director, Deputy Director and any employees designated by the Executive Committee of the Oklahoma Historical Society Board of Directors in pursuing and developing programs and projects for the preservation and marketing of Oklahoma history shall be reimbursed to the person incurring the expenses. Reimbursement of expenses shall be in accordance with rules adopted by the Oklahoma Historical Society Board of Directors. Prior to reimbursement, expenses claimed shall be reviewed by the Executive Committee at a regularly scheduled meeting and each claim shall be individually approved or disapproved.

17. The Oklahoma Department of Mines:



The actual and necessary expenses of travel, lodging and subsistence incurred by employees of the Department in the performance of their duties for the purpose of representing the Department or any of its officials or employees, at any proceeding, hearing or meeting with federal agencies, boards, commissions, congressional representatives, congressional committees or staff, shall be reimbursed to the employee incurring such expenses. Expenses claimed shall be approved by the Executive Director prior to reimbursement.

18. The Office of Attorney General:

The actual and necessary expenses of travel, lodging and subsistence incurred by its employees in the performance of their duties for the purpose of representing the state, the Legislature, any state board, agency or commission, or any employee or official of the state entitled to representation, at any proceeding, including depositions, held before any court, administrative body or any representative thereof, and the actual and necessary expenses incurred by employees as a result of conducting investigations shall be reimbursed to the employee incurring the expenses. The expenses shall be approved by the Attorney General prior to reimbursement.

19. District Attorneys Council:

The actual and necessary expenses of travel, lodging and subsistence incurred by each district attorney and other employees of the district attorney authorized by the district attorney in the performance of their duties for any district other than the district for which they are employed for the purpose of representing the state, any county, or any employee or official of the state entitled to representation at any proceeding, including depositions held before any court, administrative body or any representative of a court or administrative body, and the actual and necessary expenses incurred as a result of conducting investigations shall be reimbursed to each employee incurring the expenses. Reimbursement of the expenses shall be in accordance with rules adopted by the District Attorneys Council. Prior to reimbursement, expenses claimed shall be reviewed by the Council and individually approved or disapproved.

20. The Department of Securities:

The actual and necessary expenses of travel, lodging and subsistence incurred by the Administrator and other employees of the Department of Securities in the performance of their duties for the purpose of representing the Department of Securities, at any proceeding, including depositions, held before any court, administrative body or any representative thereof, conducting on-site examinations, or conducting investigations, shall be reimbursed to each employee incurring the expenses. The expenses shall be approved by the Administrator of the Department of Securities prior to reimbursement.

21. Corporation Commission:

The actual and necessary travel expenses incurred by the staff of the Public Utility Division as a result of conducting audits and/or reviews of utility service providers shall be reimbursed to each such employee incurring the expense. Reimbursement of the expenses shall be as set forth in procedures established by the appointing authority.

22. The Department of Human Services:

Employees of the Department of Human Services shall be reimbursed for their actual and necessary expenses of travel, lodging and subsistence incurred in the performance of their duties for the purpose of escorting and transporting children or adults in the care or custody of the Department:

- a. for out-of-state visitation, care, treatment and placement of a child welfare client,
- b. for out-of-state treatment for or placement of an adult protective services client,
- c. for out-of-state treatment for or placement of a resident of a state resource center, or
- d. for out-of-state treatment for or placement of an individual with a developmental disability who is living in the community in community residential services.

Expenses claimed shall be approved by the appropriate Division Administrator or Associate Director prior to reimbursement.

23. The Banking Department:

The actual and necessary expenses of travel and lodging incurred by the Commissioner and other employees of the Banking Department in the performance of their duties for the Banking Department shall be paid or reimbursed by the Banking Department to each employee incurring the expenses. The expenses shall be approved by the Banking Commissioner prior to payment or reimbursement.

24. Oklahoma Office of Homeland Security:

The actual and necessary expenses of travel, lodging, and subsistence incurred by the Oklahoma Homeland Security Director, as a result of the duties and responsibilities of the Director, shall be paid or reimbursed by the Oklahoma Office of Homeland Security.

25. The Grand River Dam Authority:

The actual and necessary expenses of travel and lodging incurred by the Board of Directors and other employees of the district in the performance of their duties for the Grand River Dam Authority shall be paid or reimbursed by the district to each Director or employee incurring the expenses. The expenses shall be approved by the General Manager of the Grand River Dam Authority prior to payment or reimbursement.

26. The Native American Cultural and Educational Authority:

The actual and necessary expenses incurred by the Directors and employees of the Native American Cultural and Educational Authority in performances of duties. The expenses shall be approved by the Director prior to payment or reimbursement.

27. Oklahoma Department of Career and Technology Education:

The actual and necessary expenses incurred by the Director and other employees of the Department, authorized by the Director, for the purpose of business recruitment, training, and the provision of technical assistance shall be reimbursed. Reimbursement of expenses shall be in accordance with rules adopted by the State Board of Career and Technology Education. Expenses claimed, prior to the reimbursement, will be reviewed by the Board and individually approved or disapproved.

C. The agencies listed in subsection B of this section shall be required to report annually the actual expenses excepted or exempted from Sections 500.1 through 500.18 of this title to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives. The report shall be submitted no later than the first day of September following the end of each fiscal year.

Added by Laws 1972, c. 123, § 18, operative July 1, 1972. Amended by Laws 1977, c. 242, § 1, eff. July 1, 1977; Laws 1980, c. 332, § 5, eff. July 1, 1980; Laws 1985, c. 178, § 70, operative July 1, 1985; Laws 1986, c. 207, § 66, operative July 1, 1986; Laws 1986, c. 301, § 34, operative July 1, 1986; Laws 1987, c. 222, § 119, operative July 1, 1987; Laws 1989, c. 355, § 4, eff. Nov. 1, 1989; Laws 1990, c. 258, § 50, operative July 1, 1990; Laws 1992, c. 368, § 2, eff. July 1, 1992; Laws 1994, c. 283, § 8, eff. Sept. 1, 1994; Laws 1995, c. 95, § 3, emerg. eff. April 13, 1995; Laws 1995, c. 358, § 10, emerg. eff. June 9, 1995; Laws 1996, c. 3, § 20, emerg. eff. March 6, 1996; Laws 1997, c. 354, § 3, eff. July 1, 1997; Laws 1998, c. 408, § 3, eff. July 1, 1998; Laws 1999, c. 1, § 34, emerg. eff. Feb. 24, 1999; Laws 1999, c. 387, § 1, emerg. eff. June 8, 1999; Laws 2000, c. 366, § 2, emerg. eff. June 6, 2000; Laws 2001, c. 5, § 51, emerg. eff. March 21, 2001; Laws 2001, c. 165, § 1, emerg. eff. May 2, 2001; Laws 2001, c. 355, § 4, emerg. eff. June 1, 2001; Laws 2002, c. 22, § 29, emerg. eff. March 8, 2002; Laws 2002, c. 460, § 42, eff. Nov. 1, 2002; Laws 2003, c. 3, § 86, emerg. eff. March 19, 2003; Laws 2004, c. 157, § 5, emerg. eff. April 26, 2004; Laws 2004, c. 524, § 5; Laws 2005, c. 146, § 1, eff. July 1, 2005; Laws 2006, c. 319, § 2, emerg. eff. June 9, 2006; Laws 2012, c. 304, § 860; Laws 2016, c. 269, § 10, eff. Nov. 1, 2016.

NOTE: Laws 1989, c. 351, § 3 repealed by Laws 1991, c. 335, § 37, emerg. eff. June 15, 1991. Laws 1994, c. 281, § 2 repealed by Laws 1995, c. 1, § 40, emerg. eff. March 2, 1995. Laws 1995, c. 1, § 34 repealed by Laws 1995, c. 358, § 12, emerg. eff. June 9, 1995. Laws 1995, c. 335, § 5 repealed by Laws 1996, c. 3, § 25, emerg. eff.

March 6, 1996. Laws 1998, c. 395, § 3 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999. Laws 2000, c. 267, § 1 repealed by Laws 2001, c. 5, § 52, emerg. eff. March 21, 2001. Laws 2001, c. 433, § 105 repealed by Laws 2002, c. 9, § 8, emerg. eff. Feb. 15, 2002. Laws 2001, c. 232, § 3 repealed by Laws 2002, c. 22, § 34, emerg. eff. March 8, 2002. Laws 2002, c. 9, § 4 repealed by Laws 2003, c. 3, § 87, emerg. eff. March 19, 2003. Laws 2002, c. 343, § 3 repealed by Laws 2003, c. 3, § 88, emerg. eff. March 19, 2003.

§74-500.20. Governor, Lieutenant Governor and spouses - Reimbursement for travel expenses.

The Governor of the State of Oklahoma is hereby authorized reimbursement for all actual and necessary travel expenses incurred when on official business of the state. Such actual and necessary expenses shall include the subsistence and transportation expenses of the Governor's spouse when accompanying the Governor on official business of the state, or when attending an official function at the request of the Governor. The provisions of this section shall also apply to the Lieutenant Governor, the Lieutenant Governor's spouse, and the Governor's personal assistant.

Added by Laws 1977, c. 87, § 3, emerg. eff. May 30, 1977. Amended by Laws 1979, c. 186, § 4, emerg. eff. May 17, 1979; Laws 1983, c. 302, § 5, emerg. eff. June 23, 1983; Laws 2003, c. 371, § 3.

§74-500.36. Per diem and other reimbursements for expenses not authorized for state boards and commissions - Certain statutory salaries excepted.

Effective July 1, 1985, no members of Oklahoma boards and commissions shall receive per diem payments or reimbursements for expenses other than those specifically authorized by Sections 500.1 through 500.54 of Title 74 of the Oklahoma Statutes or Section 1501-605 of Title 82 of the Oklahoma Statutes or except as otherwise provided by law. Provided that this section is not intended to prohibit the payment of statutory salaries to members of the Oklahoma Tax Commission, the Oklahoma Transportation Commission and the Oklahoma Pardon and Parole Board.

Added by Laws 1985, c. 178, § 80, operative July 1, 1985. Amended by Laws 1985, c. 306, § 4, emerg. eff. July 24, 1985.

§74-500.37. Direct deposit of travel reimbursements.

State officers and employees may receive any travel reimbursements that he or she may be entitled to through direct deposit if the officer or employee is receiving his or her payroll claims pursuant to the Oklahoma State Employees' Direct Deposit Act. Added by Laws 1999, c. 135, § 1, eff. Nov. 1, 1999.

§74-500.51. Transferred employees - Partial payment of moving expenses.

It is the purpose of this act to provide partial payment by the State of Oklahoma to a certified carrier for the cost of moving any employee permanently transferred at the request of a state agency. Laws 1972, c. 150, § 1, eff. July 1, 1972.

§74-500.52. Definitions.

In this act, unless the context requires a different definition:

1. "Carrier" means any common carrier registered and approved by the Oklahoma Corporation Commission;

2. "Employee" means any state officer or employee with the exception of elected officials;

3. "Permanent transfer" means a transfer in excess of twenty-one (21) weeks; and

4. "Household goods" means personal effects excluding automobiles, boats, trailers, other than a manufactured home which is the principal residence of the employee, animals or any other possession not normally considered as household goods.

Laws 1972, c. 150, § 2, eff. July 1, 1972; Laws 1974, c. 203, § 1; Laws 1981, c. 118, § 34.

§74-500.53. Services included.

Any employee who is permanently transferred at the request of any state agency to a location in excess of twenty-five (25) miles from the location of his previous place of employment shall be entitled to payment by the State of Oklahoma to the carrier for the following services provided by the carrier:

1. (a) The actual line-haul cost of moving ten thousand (10,000) pounds of the employee's household goods, said cost to include the packing, loading and unloading of the goods, respectively, or

(b) Movement of one manufactured home and its contents, regardless of the number of pieces into which it disassembles for transport, provided it is the principal residence of the employee; provided further, that said movement shall not exceed the equivalent cost of moving ten thousand (10,000) pounds of household goods the equivalent distance;

2. Special servicing of appliances at the origin and destination of the move; and

3. The insuring of the employee's household goods and/or manufactured home, in the amount of One Dollar (\$1.00) per pound, not to exceed Ten Thousand Dollars (\$10,000.00).

Any additional moving expenses incurred as a result of said transfer shall be assumed by the employee.

Laws 1972, c. 150, § 3, eff. July 1, 1972; Laws 1974, c. 203, § 2; Laws 1981, c. 118, § 35.

§74-500.54. Requisition - Competitive bids.

Any agency transferring an employee who comes under the provisions of Sections 500.51 through 500.55 of this title shall forward to the Office of Management and Enterprise Services a requisition requesting that the household goods and manufactured home of the employee be moved at state expense. Upon receipt of said requisition the Office of Management and Enterprise Services shall obtain bids from carriers registered and approved by the Corporation Commission. The most responsible carrier submitting the lowest bid shall be awarded the moving contract.

Added by Laws 1972, c. 150, § 4, eff. July 1, 1972. Amended by Laws 1974, c. 203, § 3; Laws 1981, c. 118, § 36; Laws 1983, c. 304, § 142, eff. July 1, 1983; Laws 2012, c. 304, § 861.

§74-500.55. Compliance with act required - Violations - Penalties.

A. No state agency shall move the household goods or manufactured home of any employee except in compliance with the provisions of this act.

B. Any person authorizing a violation of this section shall be guilty of a misdemeanor and upon conviction thereof shall be penalized by a fine not to exceed One Thousand Dollars (\$1,000.00) or imprisonment in the county jail for not to exceed ninety (90) days or by both such fine and imprisonment and any employment of such person in any position or capacity by the State of Oklahoma shall be terminated immediately upon such conviction whether or not any fine or confinement is imposed by the court.

Laws 1972, c. 150, § 5, eff. July 1, 1972; Laws 1974, c. 203, § 4; Laws 1981, c. 118, § 37; Laws 1992, c. 219, § 1, eff. Sept. 1, 1992.

§74-581. Contracts by department or institution with another for work - Payment - Disposition of proceeds.

That any department of the state government or any state institution may contract with any other department of state government or institution having under its control the personal services, labor and equipment, machinery or other facilities to perform needed work for or on behalf of the state or its subdivisions, department or institutions, when such work may be performed by the use of machinery, equipment, material and/or labor of the department or institution under its control contracting to furnish such service by the use of such facilities of its own, or those of any institution of the state under its control. The department or institution or subdivision obtaining and receiving such services shall pay or otherwise compensate the department or institution performing the work for the fair value thereof, including the cost of material used and proper compensation by

payment or exchange for any personal services, labor, equipment and material employed in performing such work or services; which said funds shall be deposited in a special depository account to be kept separately from all other collections and may be expended by the departments, subdivisions or institutions performing the services by voucher issued by said department or institution and drawn on the State Treasurer; provided, however, that when such services are performed by any department or institution having a revolving fund, such payments may be credited to and become a part of such revolving fund.

Laws 1943, p. 236, § 1.

§74-585. Use of state property only for official business -  
Penalty.

A. Any property acquired by the state shall be used only in the conduct of the official business of the state.

B. Any person convicted of violating the provisions of subsection A of this section is guilty of a misdemeanor.

Added by Laws 1998, c. 371, § 14, eff. Nov. 1, 1998.

§74-586. Short title.

This act shall be known and may be cited as the "Oklahoma Privatization of State Functions Act".

Added by Laws 1999, c. 281, § 1, eff. Jan. 1, 2000.

NOTE: Editorially renumbered from § 595 of Title 74 to provide consistency in numbering.

§74-587. Purpose of act.

It is hereby declared that the purpose of the Oklahoma Privatization of State Functions Act is to set guidelines for the privatization of state services in order to ensure that, if approved, the privatization of state services is cost effective and in the best interest of the citizens of this state.

Added by Laws 1999, c. 281, § 2, eff. Jan. 1, 2000.

NOTE: Editorially renumbered from § 595.1 of Title 74 to provide consistency in numbering.

§74-588. Definitions.

As used in the Oklahoma Privatization of State Functions Act:

1. "Agency" means an agency, board, commission or other entity of state government;

2. "Cost analysis" means a study that includes, but is not limited to:

- a. all direct personnel costs, materials and supplies, equipment, capital and equipment depreciation costs, rent, maintenance and repairs, utilities, insurance, travel, operations overhead, and general

- administrative overhead associated with privatization of a function, program, service, unit, or division,
- b. a feasibility study determining whether other state agencies could perform the function, program, service, unit, or division sought to be privatized,
  - c. an analysis of the cost savings and quality enhancements expected to be gained by privatizing, and
  - d. any other provisions that may be required by rules adopted by the Office of Management and Enterprise Services related to privatization;

3. "Cost analysis report" means a written report of the cost analysis; and

4. "Privatize" means to enter into contract for the performance of a duty or function which is currently being performed by a state employee.

Added by Laws 1999, c. 281, § 3, eff. Jan. 1, 2000. Amended by Laws 2003, c. 355, § 1, eff. Nov. 1, 2003; Laws 2012, c. 304, § 862.

NOTE: Editorially renumbered from § 595.2 of this title to provide consistency in numbering.

#### §74-588.1. Cost analysis - Report - Finding.

A. Before any agency contracts to privatize a function, program, service, unit, or division valued at One Million Dollars (\$1,000,000.00) or more, the agency must perform a cost analysis and provide a copy of the cost analysis report to the Office of Management and Enterprise Services.

B. The cost analysis shall include a provision for the protection and retention of third-party revenues currently being received for the performance of the function, program, service, unit or division sought to be privatized. Such protected third-party revenues shall include, but not be limited to, grants, contracts, federal matching programs, federal pass-through payments, sponsored programs and payment incentives currently being received as a result of the performance of the function, program, service, unit or division sought to be privatized.

C. The Office of Management and Enterprise Services shall review the cost analysis report and make a finding as to whether it fulfills the content requirements of the Oklahoma Privatization of State Functions Act and the rules of the Office. If the cost analysis report is found not to meet the requirements of the Oklahoma Privatization of State Functions Act or the rules of the Office, the Office shall return the cost analysis report to the agency with instructions.

D. The Director of the Office of Management and Enterprise Services shall promulgate rules necessary to implement the provisions of the Oklahoma Privatization of State Functions Act.



Added by Laws 2003, c. 355, § 2, eff. Nov. 1, 2003. Amended by Laws 2012, c. 304, § 863; Laws 2018, c. 227, § 1, eff. Nov. 1, 2018.

§74-589. Notification to employees of intent to privatize - Employee cost-saving recommendations.

A. Upon a finding by the Office of Management and Enterprise Services pursuant to Section 588.1 of this title that the agency has complied with the requirements of the Oklahoma Privatization of State Functions Act, and before any agency can contract to privatize a function, program, service, unit or division, the agency must provide:

1. Notification to employees impacted by the proposed privatization by the agency of its intent to privatize a function, program, service, unit, or division of the agency;

2. Notification to affected employees that they will have the opportunity to submit cost-savings recommendations for improving the operations, efficiency or organization of the entity being considered for privatization; and

3. Notification by the agency simultaneously with the notice required pursuant to paragraph 1 of this subsection, to the Director of the Office of Management and Enterprise Services of the intent of the agency to privatize a state function.

B. Upon a request by the affected employees, the agency shall provide information about the delivery of services to its employees as they develop recommendations to be considered. This information shall include revenue expenditure data, wage and salary data, an inventory of the supplies, equipment, and facilities associated with the program being privatized, and the cost analysis performed by the agency.

C. Any recommendations submitted by agency employees shall be considered by the agency, separate and apart from the bid process, with nonemployee bids. The agency shall make the final determination whether to accept the winning nonemployee bid or accept the employee recommendations in lieu of the winning bid.

D. After an agency has met the requirements of subsection A of this section, the agency shall notify the Director of the Office of Management and Enterprise Services, the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives of the intent of the agency to solicit bids in accordance with this section.

E. The agency shall provide a comprehensive written analysis of the contract cost based upon the designated bid, specifically including the costs of transition from public to private operation, severance payments to agency employees, and monitoring and otherwise administering contract performance.

F. The agency shall require the following information prior to entering into a contract to privatize a function, program, service, unit, or division:

1. Financial stability of the vendor, past and present litigation, and references related to past government contract performance information; and

2. Detail how the vendor will perform the contract, including staffing and equipment information.

G. The agency shall establish a plan and cost analysis on how to return the privatized function, program, service, unit, or division to the state if there is a contract cancellation.

H. Any contract with a vendor to privatize a function, program, service, unit, or division shall require that the payment to the contractor be linked to performance. The contract shall provide that the amount agreed upon in the contract may be reduced if the agency experiences a budget shortfall.

I. Each privatization contract shall contain provisions requiring the contractor to offer available employee positions pursuant to the contract to qualified regular employees of the agency whose state employment is terminated because of the privatization contract and who satisfy the hiring criteria of the contractor.

Added by Laws 1999, c. 281, § 4, eff. Jan. 1, 2000. Amended by Laws 2003, c. 355, § 3, eff. Nov. 1, 2003; Laws 2012, c. 304, § 864; Laws 2018, c. 227, § 2, eff. Nov. 1, 2018.

NOTE: Editorially renumbered from § 595.3 of this title to provide consistency in numbering.

#### §74-589.1. Certification.

Each agency deciding to privatize an agency function shall certify in writing to the Governor, President Pro Tempore of the Senate, Speaker of the House of Representatives, and the Office of Management and Enterprise Services that:

1. The provisions of the Oklahoma Privatization of State Functions Act and all other applicable laws regarding the privatization of the respective state functions have been complied with;

2. The quality and cost of the services to be provided by the selected bidder are likely to exceed the quality and cost benefit standards for the state function as formerly delivered by agency employees; and

3. The proposed privatization contract is in the best interest of the public.

Added by Laws 2003, c. 355, § 4, eff. Nov. 1, 2003. Amended by Laws 2012, c. 304, § 865.

§74-590. Conflict of interest - Prohibition of employment of state officer by business organization awarded contract.

A. Any state officer or employee who exercises discretionary or decision-making authority in awarding a privatization contract shall be prohibited for a period of one (1) year from the date that the privatization contract is awarded from becoming an officer or employee of a business organization which is a party to any privatization contract with the state agency in which the state officer or employee exercised such discretionary or decision-making authority.

B. In the event of a violation of the provisions of subsection A of this section, the business organization shall be prohibited, for a period of one (1) year from the date of the violation, from contracting with the state agency in which the state officer or state employee exercised discretionary or decision-making authority. Added by Laws 1999, c. 281, § 5, eff. Jan 1, 2000. Amended by Laws 2009, c. 187, § 1, eff. Nov. 1, 2009.

NOTE: Editorially renumbered from § 595.4 of Title 74 to provide consistency in numbering.

§74-591. Filing with Secretary of State.

Notwithstanding any other provision or provisions of law to the contrary, all bonds required or authorized by law to be executed by state officers, and their assistants, deputies and employees, conditioned for the faithful performance of duty, or containing such other conditions as may be prescribed by law, shall be filed in the office of the Secretary of State after the same have been approved by the proper officer, agency, board or commission as now provided by law. The provisions of this act shall apply only to such of the above mentioned bonds as the premiums on which are paid out of funds appropriated by the Legislature, or are paid out of fees which are authorized to be used for said purpose.

Laws 1947, p. 618, § 1.

§74-592. Examination of bonds - Certified copies.

Any person having an interest therein shall have the right to examine any of said bonds filed in the office of the Secretary of State at all reasonable times. The Secretary of State, shall upon request therefor, and upon receipt of the fees therefor, make and furnish certified copies of any of said bonds to any interested person.

Laws 1947, p. 618, § 2.

§74-593. Bonds required of appointees and employees - Conditions - Premiums.

State officers, boards and commissions, subject to the approval of the State Budget Director, shall require bonds of any persons

they appoint or employ, when deemed necessary to protect the state against loss or misapplication of public funds. Unless otherwise provided by law, each such bond shall be by a surety company licensed to do business in Oklahoma, shall be made payable to the State of Oklahoma, shall be conditioned that the person making the bond will faithfully perform the duties of his position, shall be in such amount as may be fixed by the state officer, board or commission requiring the bond, and upon a breach thereof shall be sued upon in the name of the State of Oklahoma by the Attorney General when the same is called to his attention; and the premium thereon shall be paid from funds appropriated or available for operation of the office of the state officer, or of the board or commission, requiring the bond, or for the operation of the office of the state officer, or of the board or commission, requiring the bond, or for the operation of the institution, if any, where or for which the person making the bond is employed.

Laws 1957, p. 541, § 1.

§74-594. Bonds for persons responsible for custody and control of special or nonstate funds.

Each person employed by any department, institution, or agency of the State of Oklahoma whose duties include custody, supervision or control and authority to expend money from any canteen, revolving, depository or special fund, whose revenue is derived from funds other than state collected or appropriated funds, shall be required to furnish a corporate surety bond in the penal sum of One Thousand Dollars (\$1,000.00) to Ten Thousand Dollars (\$10,000.00), as set by the person in charge of the institution, with a company qualified to do business in Oklahoma, to be approved as provided by law, to assure the faithful performance of his duties. All premiums on such bonds shall be paid by the State of Oklahoma.

Laws 1961, p. 469, § 1.

§74-601. Definitions.

As used in this act, and except as provided in Section 6 of this act:

(a) The words "official bond" shall mean any bond which is required to be furnished by or for any officer or employee of the State of Oklahoma or of any department, board, commission, institution, or agency thereof; by any statute or any valid rule, regulation, requirement or order of any State officer, department, board, commission, institution or agency; in connection with the qualification or official duties, or any part thereof, of any such officer or employee.

(b) The words "officer or employee" shall mean any officer or employee of the State of Oklahoma or of any department, board, commission, institution, or agency thereof.

Laws 1953, p. 423, § 1.

§74-602. Filing in office of Secretary of State.

Every official bond in effect on the effective date of this act shall be filed in the office of the Secretary of State, within ten (10) days after the effective date of this act, and it shall be the duty of any officer, department, board, commission, institution, or agency of the state having custody of any official bond on the effective date of this act to transmit it to the office of the Secretary of State within said ten-day period. If any such bond be not filed within said time, the officer or employee for whom or on whose behalf the said bond was executed shall be deemed not to have complied with the statute, rule, regulations, requirement or order requiring said officer or employee to be bonded; provided, that nothing herein shall be construed as preventing a recovery on said bond, against the surety or sureties, in the same manner as if the said bond had been properly filed in the Office of the Secretary of State.

Laws 1953, p. 424, § 2.

§74-603. Approval by Attorney General.

Except as to official bonds for which the Governor of the State of Oklahoma is the approving officer, no official bond executed on or after the effective date of this act may be accepted by any State officer, board, commission, institution, or agency, until the said bond has been first approved as to form by the Attorney General of the State of Oklahoma. All official bonds executed on and after the effective date of this act shall be transmitted to the Attorney General, and if approved by him as to form shall be transmitted by him to the office of the Secretary of State, who shall file the same. The Attorney General shall notify the officer, board, commission, institution, or agency transmitting said bond that the bond has been so approved. If the Attorney General shall disapprove any bond so transmitted to him, he shall return the bond to the transmitting officer, board, commission, institution, or agency, with a statement that the same has been disapproved.

Laws 1953, p. 424, § 3.

§74-604. Withdrawal from office of Secretary of State.

Official bonds filed in the office of the Secretary of State shall not be withdrawn from said office, except pursuant to a valid subpoena of a court or other officer or body authored to issue subpoenas; or in connection with other legal proceedings when the withdrawal is approved by the Attorney General.

Laws 1953, p. 424, § 4.

§74-605. Termination of obligation.

If for any lawful reason the obligation represented by an official bond be terminated sooner than is provided by the terms thereof, there may be filed in the Office of the Secretary of State, to be attached to said bond, the instrument terminating such obligation, as made or approved by the authority that accepted it. Laws 1953, p. 424, § 5.

§74-606. Exceptions from application of act.

The provisions of this act shall not apply to notaries public, and shall not apply to officers or employees of the following agencies or institutions: the Grand River Dam Authority; the Oklahoma Turnpike Authority; or The Oklahoma State System of Higher Education.

Laws 1953, p. 424, § 6.

§74-661.1. Positions subject to Merit System - Exceptions

A. Except as provided in subsection B of this section, all positions of the Office of the Secretary of State are subject to the Merit System of Personnel Administration.

B. The following positions of the Office of the Secretary of State shall be in the unclassified service:

1. The Secretary of State;
2. The Assistant Secretary of State;
3. The Chief Financial Officer;
4. The Deputy Assistant of Native American Affairs; and
5. One Executive Secretary.

Added by Laws 1982, c. 210, § 4, emerg. eff. April 29, 1982.

Amended by Laws 2016, c. 332, § 1.

§74-662. Display areas - Preservation of historical documents.

A. The Secretary of State is hereby authorized and directed to take measures necessary for the preservation and care of the original State Constitution.

B. Except as otherwise provided by subsection C of this section, the original State Constitution or its replica, and other historically significant artifacts and documents, shall be publicly displayed in an area to be designated by the Secretary of State in the State Capitol Building. The display area shall be under the jurisdiction and control of the Secretary of State.

C. The Secretary of State is authorized to elect an alternate secure location on state-owned property for the preservation or exhibition of the original State Constitution if the display of the original document in the State Capitol Building would place the document at risk for damage from heat, cold, light, moisture or other environmental factors which in the judgment of the Secretary of State requires display or storage of the original document in an alternate location.

Added by Laws 1965, p. 1218, S.J.R. No. 46, § 1, emerg. eff. June 30, 1965. Amended by Laws 1976, c. 120, § 1, emerg. eff. May 14, 1976; Laws 1998, c. 316, § 1, emerg. eff. May 28, 1998; Laws 2014, c. 132, § 1, eff. Nov. 1, 2014.

§74-662.1. Transfer of Great Seal to Logan County Courthouse in Guthrie.

Due to the history and uniqueness of the City of Guthrie, the original Great Seal of the State of Oklahoma or a replica thereof shall be transferred from the Office of the Secretary of State in Oklahoma City, Oklahoma, to Oklahoma's first Capitol Building which is now the Logan County Courthouse in Guthrie, Oklahoma, where it shall be permanently displayed, keeping the Secretary of State as the official custodian of such Seal. A duplicate of the original Great Seal shall be maintained by the Secretary of State in Oklahoma City, Oklahoma, for all official acts of the Governor for which the Great Seal is required.

Added by Laws 2001, H.J.R. No. 1003, § 1, emerg. eff. April 10, 2001.

§74-663. Microfilm system.

The Secretary of State is authorized and directed to provide a microfilm system in the offices of said Secretary of State for rapid information retrieval and copying.

Laws 1971, c. 260, § 4, emerg. eff. June 17, 1971.

§74-664. Transmittal of Executive Order to legislative leadership.

Copies of all Executive Orders signed by the Governor after July 1, 1981, shall be transmitted by the Secretary of State when such Orders are signed by the Governor to the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

Amended by Laws 1987, c. 207, § 24; Laws 1990, c. 300, § 22, eff. July 1, 1991.

§74-664.1. Refund of erroneous collections.

The Secretary of State may refund any monies received due to an erroneous collection. As used in this section, "erroneous collection" means:

1. A transaction filed by the Office of the Secretary of State and later found to be improper;
2. A transaction filed with the Office of the Secretary of State by a customer and the customer, within forty-five (45) days of the filing of the transaction, determines the transaction contains a mistake, corrects the mistake, and requests a refund;
3. A transaction in which the customer requests a refund the same day of payment and the customer presents the receipt as evidence of payment; or

4. An overpayment which has been accepted by the Office of the Secretary of State.

Added by Laws 1999, c. 421, § 41, eff. Nov. 1, 1999.

§74-665. Declaration of legislative intent.

In furtherance of its obligation to advance the general welfare of the state, the Legislature is cognizant of its duty to give all citizens their opportunities to reach their full potential.

Therefore, the Legislature declares its intent that any inhibiting conditions caused by any factors which impede the ability of an individual to reach the full potential of that individual are matters of public concern.

Added by Laws 1994, c. 189, § 1.

§74-666. Creation - Membership.

A. There is hereby created the Oklahoma Commission on the Status of Women. The Commission shall consist of thirty (30) members. The members shall be appointed as follows: ten members appointed by the Governor, ten members appointed by the President Pro Tempore of the Senate and ten members appointed by the Speaker of the House of Representatives. All members shall be appointed by the appropriate appointing authority for a term of five (5) years commencing with the date that the previous appointee's term expired. In making such appointments to the Commission, consideration shall be given to making the membership broadly representative of the geographic areas of the state and the several racial, religious and ethnic groups residing in the state. Each member shall hold office until the successor of the member is appointed and has qualified. A member of the Commission may be removed by the appropriate appointing authority for cause. A member appointed to fill a vacancy occurring before the expiration of a term of a member separated from the Commission for any cause shall be appointed for the remainder of the term of the member whose office has been so vacated. Members of the Commission shall receive no salary, but shall be entitled to travel reimbursement as provided by the State Travel Reimbursement Act, Section 500.1 et seq. of this title, from funds available to the appropriate appointing authority.

B. The Office of Management and Enterprise Services shall provide staff support to the Oklahoma Commission on the Status of Women.

Added by Laws 1994, c. 189, § 2. Amended by Laws 2003, c. 49, § 1, eff. July 1, 2003; Laws 2012, c. 304, § 866.

§74-667. Officers - Meetings.

Initially, the President Pro Tempore of the Senate shall name the chair of the Oklahoma Commission on the Status of Women and the Speaker of the House of Representatives shall name the vice-chair.



Any other officers deemed necessary shall be elected from among the members at the first meeting of the Commission. Thereafter, at the first meeting of each fiscal year, the Commission shall elect a chair, a vice-chair and such other officers deemed necessary to conduct the business of the Commission from among its members. The Commission shall meet at least once every three (3) months and at such other times as called by the chair or by a majority of the Commission.

Added by Laws 1994, c. 189, § 3.

§74-668. Repealed by Laws 2002, c. 491, § 7, eff. July 1, 2002.

§74-669. Powers and duties.

The Oklahoma Commission on the Status of Women shall have the power and the duty to:

1. Advise on equity issues relating to gender bias, state agencies and employees, communities, organizations and businesses of this state which desire the services of the Commission;
2. Monitor legislation as to whether the legislation is discriminatory toward one gender or whether the gender of an individual would have an effect on the enforcement of the legislation;
3. Act as a resource and a clearinghouse for research on issues related to women and gender bias;
4. Conduct meetings and seminars within the state as appropriate to support the goals and duties of the Commission; and
5. Report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives of its activities. The report recommendations may include recommendations concerning needed legislation or regulatory changes relating to equity and gender bias.

Added by Laws 1994, c. 189, § 5. Amended by Laws 2003, c. 216, § 1, emerg. eff. May 13, 2003.

§74-669.1. Oklahoma Commission on the Status of Women Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services designated the "Oklahoma Commission on the Status of Women Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all gifts and donations contributed to support the work of the Oklahoma Commission on the Status of Women. All monies accrued to the credit of the fund are hereby appropriated and may be budgeted and expended by the Director of the Office of Management and Enterprise Services on behalf of the Oklahoma Commission on the Status of Women for the purposes prescribed by the Legislature in creating the Commission.

Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2003, c. 49, § 2, eff. July 1, 2003. Amended by Laws 2012, c. 304, § 867.

§74-771. Committee defined.

As used herein, "legislative committee" means and includes the committee of the whole and any standing or special committee of the Senate or of the House of Representatives of any session of the Oklahoma Legislature, and any joint committee of said Senate and House.

Added by Laws 1959, p. 489, § 1, emerg. eff. June 8, 1959.

§74-772. Administration of oaths to witnesses.

The President of the Senate, the Speaker of the House of Representatives, and the chairman or other committee member presiding over a meeting of a legislative committee shall have power to administer oaths to witnesses appearing before said committee at said meeting.

Added by Laws 1959, p. 489, § 2, emerg. eff. June 8, 1959.

§74-773. Attendance of witnesses and production of evidence.

A. During any session of the Legislature, and when the Legislature is not in session, a legislative committee shall have power to issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents, testimony and evidence, and to cause the deposition of witnesses, either residing within or without the state, to be taken in the manner prescribed by law for the taking of depositions in civil actions in the district courts.

B. Failure of any person to comply with any subpoena issued in behalf of said committee or the refusal of any witness to testify to any matters regarding which he may be lawfully interrogated, upon application of the chairman or vice chairman of said committee or of a member of said committee authorized thereby to make such application, it shall be the duty of a judge of the district court of any county to proceed with respect to such person in the same manner and with the same powers to punish for contempt, as would be the case if the refusal had been a refusal to comply with a subpoena issued in a civil action, or a refusal of said person to testify in a civil action in said court. It shall also be the duty of the district court, when requested in the application, to issue *instanter* and *ex parte* an order requiring such person to attend at the time and place set out in said application to testify as a witness, and directing such person to bring with him any book,

writing or other thing under his control, said orders to be served as provided by law for the service of a subpoena. A judge of the district court shall have power to punish or enforce compliance, by attachment or otherwise, refusal to obey such orders as in other cases of refusal to obey the orders and processes of the court. It shall also be the duty of the judge of the district court, when requested in the application, to issue instanter and ex parte an attachment to the sheriff, any constable of the county, or the sergeant at arms or assistant sergeant at arms of either house, commanding him to arrest and bring such person before said committee at the time and place set out in said application. If the attachment is not for immediately bringing the witness before the committee, the court may fix a sum in which such person may give an undertaking with surety, for his appearance at the time and place specified in said attachment; such sum shall be endorsed on the back of the attachment. If no sum is fixed and endorsed, it shall be One Hundred Dollars (\$100.00). If the said undertaking is not given, the person shall be held in the county jail until taken by the sheriff or other authorized person to the place at said time. Laws 1959, p. 489, § 3; Laws 1981, c. 272, § 32, eff. July 1, 1981.

§74-774. Fees and mileage.

Witnesses shall be paid the same fees and mileage as are paid in civil cases in district and superior courts.  
Added by Laws 1959, p. 489, § 4, emerg. eff. June 8, 1959.

§74-775. Powers denied by rules or resolutions.

To the extent that the powers granted hereby may be expressly denied to any legislative committee or committees by the rules or resolutions of the house of the Legislature of which same is a committee, or by joint resolution as to joint committees, Sections 2, 3, and 4 hereof shall not be applicable to said committees.  
Laws 1959, p. 489, § 5.

§74-805.2. Renumbered as § 840-2.18 of this title by Laws 1994, c. 242, § 54.

§74-805.3. Nurse practitioners and nurse-midwives - Classification.

For the purpose of classification under the Merit System of Personnel Administration, certified nurse practitioner and certified nurse-midwife as defined and certified by the Oklahoma Board of Nurse Registration and Nursing Education shall each be recognized as separate and distinct categories of nursing distinguishable from current classifications.  
Added by Laws 1982, c. 330, § 5, emerg. eff. June 1, 1982.

§74-823.1. Repealed by Laws 1994, c. 333, § 3, emerg. eff. June 8, 1994.

§74-840.1. Renumbered as § 840-1.1 of this title by Laws 1994, c. 242, § 54.

§74-840-1.1. Short title - Content of act.

A. Sections 840-1.1 through 840-6.9 of this title shall be known and may be cited as the "Oklahoma Personnel Act".

B. All statutes hereinafter enacted and codified within Sections 840-1.1 through 840-6.9 of this title shall be part of the Oklahoma Personnel Act.

Added by Laws 1982, c. 338, § 1, eff. July 1, 1982. Amended by Laws 1990, c. 204, § 6, emerg. eff. May 10, 1990. Renumbered from § 840.1 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1997, c. 287, § 1, eff. July 1, 1997.

§74-840-1.2. Purpose.

It is the purpose of this act to protect the public from improper use of authority, to protect public officials and employees from unwarranted assaults on their integrity and to enforce the protections for classified employees and citizens under the Merit System of Personnel Administration. It is further the general purpose of this act to establish for the state a system to recruit, select, develop and maintain an effective and responsive work force; to provide for administrative flexibility and adequate and reasonable protection and security for those who have entered and will enter into the service of the state; to provide for the preservation and protection of the Merit System; and to provide policies and procedures for the selection, hiring, retention, advancement, career development, job classification, salary administration, discipline, discharge and other related activities, all in accordance with principles of merit and fitness and equal employment opportunity, and to maintain a high level of morale, motivation and productivity among state employees.

Added by Laws 1982, c. 338, § 2, eff. July 1, 1982. Renumbered from § 840.2 of this title by Laws 1994, c. 242, § 54.

§74-840-1.3. Definitions.

As used in the Oklahoma Personnel Act, unless otherwise provided in Sections 840-1.1 through 840-6.9 of this title:

1. "Agency" means any office, department, board, commission or institution of the executive branch of state government;

2. "Employee" or "state employee" means an elected or appointed officer or employee of an agency unless otherwise indicated;

3. "Appointing authority" means the chief administrative officer of an agency;

4. "Classification" means:
  - a. the process of placing an employee into an appropriate job family and level within the job family, consistent with the allocation of the position to which the employee is assigned, or
  - b. an employee's job family and the level at which work is assigned;
5. "Classification plan" means the orderly arrangement of positions within an agency into separate and distinct job families so that each job family will contain those positions which involve similar or comparable skills, duties and responsibilities;
6. "Classified service" means state employees and positions under the jurisdiction of the Oklahoma Merit System of Personnel Administration;
7. "Copy" means the duplication of an original document or recording. The copy may be provided in an electronic format generated from technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;
8. "Entrance examination" means any employment test used by the Office of Management and Enterprise Services to rank the names of applicants who possess the minimum requirements of education, experience, or licensure for a job or group of similar jobs on a register of eligibles established by the Office of Management and Enterprise Services;
9. "Job" means a position or job family level in a job family;
10. "Job family" means:
  - a. jobs which require similar core skills and involve similar work, and
  - b. a logical progression of roles in a specific type of occupation in which the differences between roles are related to the depth and breadth of experience at various levels within the job family and which are sufficiently similar in duties and requirements of the work to warrant similar treatment as to title, typical functions, knowledge, skills and abilities required, and education and experience requirements;
11. "Job family level" means a role in a job family having distinguishable characteristics such as knowledge, skills, abilities, education, and experience;
12. "Job family descriptor" means a written document that:
  - a. describes a job family, including, but not limited to, the basic purpose, typical functions performed, various levels within the job family, and the knowledge, skills, abilities, education, and experience required for each level, and
  - b. identifies the pay band assigned for each level;

13. "Promotional examination" means any employment test designated by the Office of Management and Enterprise Services to determine further the qualifications of a permanent classified employee of a state agency for employment in a different job for which the employee possesses the minimum qualifications of education, experience, or licensure within that agency;

14. "Interagency transfer" means an action in which an employee leaves employment with one agency and enters employment with another agency while continuously employed with the state;

15. "Intra-agency transfer" means moving an employee from one position to another position with the same agency either with or without reclassification;

16. "Job-related organization" means a membership association which collects annual dues, conducts annual meetings and provides job-related education for its members and which includes state employees, including any association for which payroll deductions for membership dues are authorized pursuant to paragraph 5 of subsection B of Section 7.10 of Title 62 of the Oklahoma Statutes;

17. "Lateral transfer" means the reassignment of an employee to another state job with the same pay band assignment as the job family level in which the employee was classified prior to the lateral transfer;

18. "Merit Rules" or "Merit Rules for Employment" or "Merit System of Personnel Administration Rules" means rules adopted by the Director of the Office of Management and Enterprise Services or the Oklahoma Merit Protection Commission pursuant to the Oklahoma Personnel Act;

19. "Noncompetitive appointment" means the appointment of a person to a noncompetitive job level within a job family;

20. "Noncompetitive job" means an unskilled or semiskilled job designated by the Office of Management and Enterprise Services as noncompetitive. Noncompetitive jobs do not require written examinations for placement on registers of eligibles;

21. "Permanent classified employee" means a classified service employee who has acquired permanent status in accordance with the Oklahoma Personnel Act, and rules adopted pursuant thereto, and who has the right to appeal involuntary demotion, suspension without pay, and discharge to the Commission;

22. "Presiding official" means a person serving the Oklahoma Merit Protection Commission in the capacity of administrative hearing officer, mediator, or other alternative dispute resolution arbitrator or facilitator;

23. "Progressive discipline" means a system designed to ensure the consistency, impartiality and predictability of discipline and the flexibility to vary penalties if justified by aggravating or mitigating conditions;

24. "Reclassification" means the process of changing a classified employee from one job family to another job family or from one job family level to another job family level in the same job family, resulting in a change in the employee's assigned job code;

25. "Regular and consistent" means, in connection with the work assignments of an employee, the usual and normal work assignments of the employee, excluding incidental, casual, or occasional tasks and activities the employee assumes without direction to do so. Temporary work assignments of less than sixty (60) days in any twelve (12) consecutive months period shall not be considered regular and consistent;

26. "Regular unclassified service employee" means an unclassified service employee who is not on a temporary or other time-limited appointment;

27. "Supervisor" means a classified or unclassified officer or employee who has been assigned authority and responsibility for evaluating the performance of subordinates;

28. "Unclassified service" or "exempt service" means employees and positions excluded from coverage of the Oklahoma Merit System of Personnel Administration;

29. "Merit System" means the Oklahoma Merit System of Personnel Administration;

30. "Director" means the appointing authority of the Office of Management and Enterprise Services;

31. "Executive Director" means the appointing authority of the Oklahoma Merit Protection Commission;

32. "Office" means the Office of Management and Enterprise Services;

33. "Commission" means the Oklahoma Merit Protection Commission;

34. "Veteran" means a person who has been honorably discharged from the Armed Forces of the United States and has been a resident of Oklahoma for at least one (1) year prior to the date of the examination; and

35. "Voluntary out" means the voluntary separation of employees from the state service in exchange for benefits offered by an agency in order to reduce or eliminate the adverse impact of an imminent reduction-in-force.

Added by Laws 1982, c. 338, § 3, eff. July 1, 1982. Amended by Laws 1986, c. 158, § 6, operative July 1, 1986; Laws 1986, c. 252, § 3, eff. Nov. 1, 1986; Laws 1994, c. 242, § 1. Renumbered from § 840.3 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1995, c. 310, § 1, emerg. eff. June 5, 1995; Laws 1996, c. 320, § 1, emerg. eff. June 12, 1996; Laws 1997, c. 287, § 2, eff. July 1, 1997; Laws 1998, c. 256, § 1, eff. July 1, 1998; Laws 1999, c. 410, § 2, eff. Nov. 1, 1999; Laws 2001, c. 381, § 1, eff. July 1, 2001; Laws 2002,

c. 347, § 3, eff. Nov. 1, 2002; Laws 2010, c. 286, § 1, eff. Nov. 1, 2010; Laws 2012, c. 304, § 868.

§74-840-1.4. Repealed by Laws 2011, c. 302, § 12.

§74-840-1.5. Repealed by Laws 2012, c. 303, § 21, eff. Nov. 1, 2012.

§74-840-1.6. Office of Management and Enterprise Services - Organization.

A. The internal administrative organization of the Office of Management and Enterprise Services shall be determined by the Director of the Office of Management and Enterprise Services in such a manner as to promote the efficient and effective enforcement of the Oklahoma Personnel Act.

B. The Director of the Office of Management and Enterprise Services may employ attorneys, accountants and other personnel as the Director deems necessary to carry out the duties imposed upon the Office.

C. Employees of the Office shall be subject to the Merit System of Personnel Administration, unless otherwise exempted by Section 840-5.5 of this title.

Added by Laws 1982, c. 338, § 6, eff. July 1, 1982. Renumbered from § 840.6 of this title by Laws 1994, c. 242, § 54. Amended by Laws 2005, c. 453, § 1, eff. July 1, 2005; Laws 2012, c. 303, § 5, eff. Nov. 1, 2012.

§74-840-1.6A. Office of Management and Enterprise Services - Personnel administration.

The Office of Personnel Management Division of the Office of State Finance is hereby consolidated into and renamed the Office of Management and Enterprise Services. Where the term "Office of Personnel Management" is used within the Oklahoma Statutes, it shall mean the Office of Management and Enterprise Services. The chief administrative officer shall be the Director of the Office of Management and Enterprise Services. In addition to the other duties imposed by law, the Director shall:

1. Be responsible for the development of an efficient and effective system of personnel administration that meets the management needs of the various agencies;

2. Organize the Office to provide both service and regulatory functions that are effective and efficient in meeting the management needs of various state agencies. The Director is directed to establish an agency service function to assist agencies with human resource needs based upon the administrative capacity and resources of the various agencies;



3. Prepare, maintain, and revise a classified system of employment designed to ensure the impartial consideration of applicants for employment and to protect state employees from arbitrary dismissal or unfair treatment;

4. Develop and maintain a classification and compensation system for all classified positions in the executive branch of state government including those established by the Oklahoma Constitution;

5. Conduct an analysis of the rates of pay prevailing in the state in the public and private sectors for comparable jobs and report the findings to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives no later than December 1 of each year. Such analysis shall include all forms of compensation including fringe benefits. Information solicited by the Office of Management and Enterprise Services from public and private sector employers for such analysis, including but not limited to salaries, benefits, and compensation policies and procedures, shall be confidential and shall not be subject to disclosure under the Oklahoma Open Records Act;

6. Develop a program for the recruitment of qualified persons, including the administration of valid job-related nondiscriminatory selection procedures providing for competitive examinations and other job-related assessments. As part of the recruitment program established by this section, the Director may identify positions or job family levels for expedited recruitment. Such expedited recruitment jobs may include only those jobs where education, experience or certification requirements substantially limit the pool of available applicants. Applicants who have been certified by the Office of Management and Enterprise Services as meeting the minimum qualifications for such jobs may be referred to agencies with vacancies in such jobs without examination or ranking, and may be eligible for appointment upon referral. However, a referral may not occur until the register for the job has been publicly announced for at least fourteen (14) calendar days. The Director may remove positions or job family levels from expedited recruitment at any time. The Director shall promulgate rules to implement expedited recruitment;

7. Develop and implement a reasonable and expeditious method for referral of capable candidates for vacancies, probationary periods of employment, and the employment of individuals on other types of appointments as necessary;

8. Assist state agencies in implementing their duties and obligations pursuant to the Oklahoma Personnel Act and provide standard forms to the agencies if necessary;

9. Develop, in cooperation with appointing authorities, employee training programs, management training programs, a certified public manager program, a recruiting program, and a system of performance appraisals, and assist appointing authorities in the

setting of productivity goals. The Director may establish and collect fees for participation in training programs. The Director is authorized to purchase awards for presentation to state employees as part of employee recognition activities sponsored by the Office of Management and Enterprise Services;

10. Establish rules for leave and pay including, but not limited to, rules for leave, furloughs, performance pay increases, rates for pay differentials, on-call pay, and other types of pay incentives and salary adjustments consistent with the Oklahoma Personnel Act;

11. Assist the Oklahoma Merit Protection Commission and the Executive Director in effectuating their duties, enforcement of the rules of the Merit System of Personnel Administration, and implementation of corrective action issued by the Commission;

12. Be responsible for the development and maintenance of a uniform occupation code system, grouped by job titles or duties, for all classified and unclassified state positions. The responsibility shall include the establishment of rules governing the identification, tracking, and reporting of all state positions as provided in Section 840-2.13 of this title;

13. Be responsible for advising state agencies on personnel policy and administration;

14. Establish standards for continuing training, including affirmative action, and certification of personnel professionals in the executive branch of state government, excluding institutions within The Oklahoma State System of Higher Education. Employees appointed to professional personnel positions shall complete an initial training program within one (1) year after assuming the professional personnel position. Thereafter, they shall complete annual training requirements. Each appointing authority shall ensure that all professional personnel employees are notified of, and scheduled to attend, required training programs and shall make time available for employees to complete the programs. The Director shall be authorized to bill agencies for the training of personnel professionals pursuant to this paragraph to recover reasonable costs associated with the training. Monies received for such training shall be deposited in the Human Capital Management Revolving Fund. Expenditure of such funds collected for the training shall be exempt from any expenditure limit on the Office of Management and Enterprise Services established by law;

15. Not less than once during each two-year period, conduct a study identifying the following, by job family descriptors:

- a. selected job family levels with a turnover rate in excess of ten percent (10%),
- b. selected job family levels identified by the Director of the Office of Management and Enterprise Services

- with salaries and benefits that are ten percent (10%) or more below the market for such positions, and
- c. selected job family levels identified by the Director in which recruitment efforts have yielded a low number of qualified applicants;

16. Issue orders directing agencies to:

- a. conform and comply with the provisions of the Oklahoma Personnel Act, the Merit Rules of Personnel Administration, and all memoranda or other written communications issued to agencies explaining the Oklahoma Personnel Act, the Rules, and any other matter relating to the Merit System of Personnel Administration or under the jurisdiction of the Director, and
- b. take action pursuant to Section 840-6.9 of this title for failure to implement those orders;

17. Establish a workforce planning function within the Office of Management and Enterprise Services to assist state agencies in analyzing the current workforce, determining future workforce needs, and implementing solutions so that agencies may accomplish their missions; and

18. Establish a quality management function within the Office of Management and Enterprise Services and assist state agencies in fully integrating quality management concepts and models into their business practices for the purpose of improving the overall efficiency and effectiveness of state government.

Added by Laws 1982, c. 338, § 5, eff. July 1, 1982. Amended by Laws 1983, c. 274, § 1, operative July 1, 1983; Laws 1985, c. 46, § 1, emerg. eff. April 23, 1985; Laws 1986, c. 84, § 1, eff. Nov. 1, 1986; Laws 1986, c. 158, § 8, operative July 1, 1986; Laws 1986, c. 244, § 1, emerg. eff. June 12, 1986; Laws 1994, c. 242, § 3.

Renumbered from § 840.5 of this title by Laws 1994, c. 242, § 54.

Renumbered from § 840-2.12 of this title by Laws 1995, c. 310, § 24, emerg. eff. June 5, 1995. Amended by Laws 1996, c. 320, § 2, emerg. eff. June 12, 1996; Laws 1999, c. 410, § 3, eff. Nov. 1, 1999; Laws 2000, c. 336, § 1, eff. July 1, 2000; Laws 2001, c. 213, § 1, eff. July 1, 2001; Laws 2001, c. 381, § 2, eff. July 1, 2001; Laws 2002, c. 22, § 30, emerg. eff. March 8, 2002; Laws 2002, c. 347, § 4, eff. Nov. 1, 2002; Laws 2003, c. 212, § 6, eff. July 1, 2003; Laws 2004, c. 312, § 1, eff. July 1, 2004; Laws 2011, c. 302, § 8; Laws 2012, c. 303, § 6, eff. Nov. 1, 2012; Laws 2016, c. 7, § 1, eff. Nov. 1, 2016.

NOTE: Laws 2001, c. 348, § 2 repealed by Laws 2002, c. 22, § 34, emerg. eff. March 8, 2002.

§74-840-1.6B. Reduction or realignment of state employee benefits.

State employee benefits will not be reduced or realigned by action or enactments of the Legislature until additional appropriations of Sixty Million Dollars (\$60,000,000.00) or more are approved for targeted pay raises based on the annual compensation report described in paragraph 5 of Section 840-1.6A of Title 74 of the Oklahoma Statutes. The provisions of this section shall not restrict modifications to an existing defined benefit plan or the implementation of a new retirement system or plan for state employees which is considered outside the scope of this section. Added by Laws 2014, c. 377, § 2, eff. Nov. 1, 2014.

§74-840-1.7. Oklahoma Merit Protection Commission - Creation - Membership - Terms - Expenses - Officers - Meetings.

A. There is hereby created the Oklahoma Merit Protection Commission. Whenever the terms "Ethics and Merit Commission" or "Special Counsel of the Ethics and Merit Commission" appear in the Oklahoma Statutes, they shall mean the Oklahoma Merit Protection Commission or the Executive Director of the Oklahoma Merit Protection Commission as may be appropriate to the context in which they appear. The Oklahoma Merit Protection Commission shall consist of nine (9) members who shall be appointed for a term of three (3) years. The members shall be removable only for cause, as provided by law for the removal of officers not subject to impeachment. Two members of the Commission shall be appointed by the President Pro Tempore of the Senate. Two members of the Commission shall be appointed by the Speaker of the House of Representatives. Five members of the Commission shall be appointed by the Governor. No more than four of the appointments made by the Governor shall be from the same political party. Of the initial appointments made to the Commission, one member appointed by the President Pro Tempore, one member appointed by the Speaker and one member appointed by the Governor shall be for a term of three (3) years; and one member appointed by the President Pro Tempore, one member appointed by the Speaker and one member appointed by the Governor shall be for a term of two (2) years. The remaining three initial appointments by the Governor shall be designated to serve a term of one (1) year. At the expiration of the initial term, each new appointee shall serve a three-year term. All initial appointments shall be made prior to July 1, 1982.

B. Members of the Commission shall be entitled to reimbursement for expenses incurred in the performance of their duties as provided in the State Travel Reimbursement Act.

C. The Commission shall elect a chairman, to serve a two-year term and such other officers as deemed necessary for the performance of their duties. The Commission shall hold regular meetings not less than once a month and such additional meetings as called by the chairman as may be required for the proper discharge of its duties.

Added by Laws 1982, c. 338, § 22, emerg. eff. June 2, 1982. Amended by Laws 1985, c. 178, § 72, operative July 1, 1985; Laws 1986, c. 158, § 10, operative July 1, 1986. Renumbered from § 841.1 of this title by Laws 1994, c. 242, § 54.

§74-840-1.8. Executive Director - Appointing authority - Status of employees.

The appointing authority of the Oklahoma Merit Protection Commission shall be the Executive Director. The Executive Director shall be appointed by the Commission to serve at its pleasure. The Executive Director, with the approval of the Commission, may employ and compensate an attorney and shall select, compensate and employ such administrative hearing officers and other personnel as deemed necessary for the proper administration of the duties and functions of the Commission. Effective September 1, 1994, employees of the Commission shall become classified employees, except those employees with less than six (6) months of service from their enter-on-duty date will remain in probationary status until obtaining permanent status in accordance with applicable rules of the Administrator of the Office of Personnel Management or as provided in Section 8 of this act.

Added by Laws 1982, c. 338, § 23, emerg. eff. June 2, 1982. Amended by Laws 1985, c. 17, § 1, emerg. eff. April 15, 1985; Laws 1986, c. 158, § 11, operative July 1, 1986; Laws 1994, c. 242, § 29. Renumbered from § 841.2 of this title by Laws 1994, c. 242, § 54.

§74-840-1.9. Powers and duties of Commission.

In addition to any other duties expressly set forth by law, the Oklahoma Merit Protection Commission shall:

1. Receive and act on complaints, counsel persons and groups on their rights and duties and take action designed to obtain voluntary compliance with the provisions of the Oklahoma Personnel Act;
2. Investigate allegations of violations of the provisions of the Oklahoma Personnel Act within its jurisdiction;
3. Investigate allegations of abuses in the employment practices of the Director of the Office of Management and Enterprise Services or of any state agency;
4. Investigate allegations of violations of the rules of the Merit System of Personnel Administration and prohibited activities in the classified service;
5. Establish and maintain a statewide Alternative Dispute Resolution Program to provide dispute resolution services for state agencies and employees. Actions agreed to through the Alternative Dispute Resolution Program provided by the Commission shall be consistent with applicable laws and rules and shall not alter, reduce, or modify any existing right or authority as provided by statute or rule;

6. Establish rules, pursuant to the Administrative Procedures Act as may be necessary to perform the duties and functions of the Commission including, but not limited to, rules to monitor state agency grievance processes to ensure full compliance with the law. The Commission may also recommend any changes it deems necessary to improve such grievance processes to the appropriate state agency;

7. Establish guidelines for the qualifications, duties, responsibilities, authority, power, and continued employment of the Executive Director, Administrative Hearing Officers, mediators, and other resolution arbitrators or facilitators;

8. Prepare and preserve an audio tape of all proceedings of all hearings conducted by the Commission and furnish transcripts of such tapes upon payment of the costs of such transcripts by the party requesting the transcripts;

9. Submit quarterly, fiscal year reports on workload statistics to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate containing the following information:

- a. the number of cases, complaints, and requests for hearing filed, disposed of and pending with the Commission for each month of the quarter,
- b. a numerical breakdown of the methods of disposition of such cases, complaints, and requests for hearing,
- c. a numerical breakdown of mediations, prehearing conferences, and appellate hearings, conducted, and
- d. the date of the oldest pending case, complaint, and request for hearing.

Quarterly reports shall be submitted within thirty (30) days following the last day of the month of the appropriate quarter; and

10. Make all records of the Commission, except those made confidential by law, available for public inspection, copying and mechanical reproduction, or either of them, in accordance with the Oklahoma Open Records Act and charge a fee not to exceed twenty-five cents (\$0.25) per page as the direct costs of document copying or mechanical reproduction. All fees collected pursuant to the provisions of this paragraph shall be deposited in the Oklahoma Merit Protection Commission Revolving Fund.

Added by Laws 1982, c. 338, § 24, eff. July 1, 1982. Amended by Laws 1983, c. 274, § 5, operative July 1, 1983; Laws 1984, c. 242, § 1, operative July 1, 1984; Laws 1986, c. 158, § 12, operative July 1, 1986; Laws 1988, c. 229, § 3, operative July 1, 1988; Laws 1992, c. 367, § 5, eff. July 1, 1992; Laws 1994, c. 242, § 30. Renumbered from § 841.3 of this title by Laws 1994, c. 242, § 54. Amended by Laws 2005, c. 389, § 1, eff. Nov. 1, 2005; Laws 2009, c. 12, § 2, eff. July 1, 2009; Laws 2012, c. 303, § 7, eff. Nov. 1, 2012.

§74-840-1.10. Oaths, subpoena and production of books and papers - Reimbursement of employees.

A. A member of the Oklahoma Merit Protection Commission and the Executive Director shall have power to subpoena witnesses and compel the production of books and papers pertinent to any investigation, dispute resolution or hearing authorized by this act. Members of the Oklahoma Merit Protection Commission, the Executive Director, and their designees shall have the power to administer oaths. Any person who fails to appear in response to a subpoena or to answer any question or produce any books or papers pertinent to any such investigation, dispute resolution or hearing or who shall knowingly give false testimony therein upon conviction shall be subject to penalties pursuant to Section 40 of this act.

B. Any state employee subpoenaed by the Executive Director or Commission to appear shall be reimbursed by the employing agency for expenses as provided in the State Travel Reimbursement Act and shall be paid his or her regular salary for each day that the employee is subpoenaed to appear. Said reimbursement and payment shall be in lieu of any witness fees to which the employee might otherwise be entitled by law and a request by a state employee for such fees shall not remove the obligation which the state employee has to honor the subpoena.

Added by Laws 1982, c. 338, § 39, eff. July 1, 1982. Amended by Laws 1986, c. 158, § 22, operative July 1, 1986; Laws 1994, c. 242, § 37. Renumbered from § 841.18 of this title by Laws 1994, c. 242, § 54.

§74-840-1.12. Summaries and recordings of appeal hearings.

The Oklahoma Merit Protection Commission is directed to publish summaries of Merit Protection Commission appeal hearings.

The Oklahoma Merit Protection Commission shall charge state agencies, associations and other interested parties for the cost of such summaries and recordings. All monies accruing from the sale of hearing summaries and recordings are to be deposited to the Oklahoma Merit Protection Commission Revolving Fund.

Added by Laws 1994, c. 242, § 31.

§74-840-1.13. Training and certification program.

The Oklahoma Merit Protection Commission shall establish a training and certification program for all hearing officers employed by the Oklahoma Merit Protection Commission and grievance managers appointed by state agencies. The Commission may also provide training for other agency personnel employees. The Executive Director shall be authorized to bill agencies for the training pursuant to this section to recover reasonable costs associated with the training. Monies received for such training shall be deposited in the Oklahoma Merit Protection Commission Revolving Fund.

Expenditure of such funds collected for the training shall be exempt from any expenditure limit on the Oklahoma Merit Protection Commission established by law.  
Added by Laws 1994, c. 242, § 32.

§74-840-1.14. Attorney General as legal counsel - Opinions to officers or employees - Representation of Commission - Conflict of interest - Appointment of alternate counsel.

When any officer or employee of the state is in doubt as to the application of the Oklahoma Personnel Act as to himself or to any employee under his supervision, he may submit to the Attorney General a full written statement of the facts and questions he may have. The Attorney General shall then render an opinion to such person and may publish these opinions, or abstracts thereof, with the use of the name of the person advised unless such person requests otherwise in writing. The Attorney General shall be the legal counsel for the Oklahoma Merit Protection Commission and represent it when its decisions are appealed to higher courts. The Office of the Attorney General shall be legal counsel for and represent the Merit Protection Commission notwithstanding its representation of any other state department, agency, board or commission in the same or related matters pending before the Merit Protection Commission or before any court. The Attorney General shall establish internal administrative procedures to ensure that both such agencies are provided independent legal representation, and such simultaneous representation shall not, of itself, be deemed to constitute a conflict of interest. In the event the Attorney General determines an irreconcilable conflict of interest exists, to the extent that he is unable to provide simultaneous representation to both the Merit Protection Commission and another state department, agency, board or commission the provision of Section 18c-2 of this title shall apply.

Added by Laws 1982, c. 338, § 32, eff. July 1, 1982. Amended by Laws 1986, c. 158, § 17, operative July 1, 1986; Laws 1990, c. 264, § 69, operative July 1, 1990. Renumbered from § 841.11 of this title by Laws 1994, c. 242, § 54.

§74-840-1.15. Delegation of personnel authority - Model human resource projects - Human Resource Management Plan and Self-Evaluation Report system.

A. The Director of the Office of Management and Enterprise Services shall establish standards and procedures for delegating to appointing authorities the authority to administer human resources functions normally conducted by the Office of Management and Enterprise Services. The Director shall have the authority to approve delegation applications which shall constitute authority for the agency to implement approved delegations of personnel authority.



B. The Director shall create a program to allow agencies to design model human resource projects to test and evaluate the effect of innovative policies, standards, and procedures.

The number and scope of model projects shall be limited only by the capacity of the agency to implement the model projects, the quality of model project applications, and the ability of the Office of Management and Enterprise Services to monitor the projects. The Director shall have the authority to approve model project applications which shall constitute authority for the agency to implement approved model projects.

C. The Director shall create a Human Resource Management Plan and Self-Evaluation Report system for agencies including but not limited to provisions related to affirmative action; staffing, recruitment, and promotion; classification and compensation; training and staff development expenditures; the reporting of internal agency grievances and discrimination complaints filed, discharges, suspensions without pay and demotions, and number of investigations directed by the Oklahoma Merit Protection Commission and the outcome of all such actions; and strategies for assuring employee participation in the development of agency personnel activities. The self-evaluation should include comparisons with the previous year or years' personnel actions.

Added by Laws 1994, c. 242, § 5. Amended by Laws 1995, c. 310, § 2, emerg. eff. June 5, 1995; Laws 1996, c. 320, § 3, emerg. eff. June 12, 1996; Laws 2003, c. 212, § 7, eff. July 1, 2003; Laws 2012, c. 303, § 8, eff. Nov. 1, 2012.

#### §74-840-1.16. Conflicts with federal requirements.

A. If any part of this act is found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to the state, the conflicting part of this act shall be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such findings shall not affect the operation of the remainder of this act in its application to the agencies concerned.

B. Notwithstanding any provisions in this act to the contrary, no regulation shall be adopted which would deprive the state of federal grants or other forms of financial assistance, and the rules and regulations promulgated hereunder shall include standards, provisions, terms and conditions for personnel engaged in the administration of federally aided programs, which shall, in all respects, comply with the necessary requirements for a qualified personnel system under the standards applicable to personnel engaged in the administration of federally aided programs.

Added by Laws 1982, c. 338, § 11, eff. July 1, 1982. Renumbered from § 840.11 of this title by Laws 1994, c. 242, § 54.

§74-840-1.17. Agreements with municipalities to furnish services and facilities.

The Office may enter into agreement with any municipality or political subdivision of the state to furnish services and facilities of the Office to the municipality or political subdivision in the administration of its personnel on merit principles. Any such agreement shall provide for the reimbursement to the state of the cost of the services and facilities furnished. All municipalities and political subdivisions of the state may enter into such agreements.

Added by Laws 1982, c. 338, § 12, eff. July 1, 1982. Renumbered from § 840.12 of this title by Laws 1994, c. 242, § 54.

§74-840-1.18. Payment of administrative costs and expenses.

A. The administrative expenses and costs of operating the Merit System shall be paid by the various divisions of the state government included within the Merit System, and each such agency shall be authorized to include in its budget estimates its pro rata share of such costs, and shall remit such shares quarterly from departmental or agency funds to the Office of Management and Enterprise Services who shall deposit such shares to the credit of the General Revenue Fund of the State Treasury.

B. The Director shall maintain accurate records reflecting the costs of administering its provisions, and at the close of each quarter-year period shall summarize said costs, and shall bill each department or agency included within the terms of the Oklahoma Personnel Act with a pro rata share of the administrative costs based on the relationship between the quarterly average number of employees in the classified service of such department or agency, and the quarterly average number of employees in the classified service of the state.

C. The Director shall separately categorize and estimate expenditures and budget needs for other services performed which are not appropriately charged to state agencies on a pro rata basis.

D. Any state agency for which the Director provides payroll services shall pay for such services at a rate established by the Director, which shall be based upon the cost to the Director of providing such services. Each agency shall remit payment for such services quarterly from departmental or agency funds to the Director who shall deposit such payments into the Office of Management and Enterprise Services Revolving Fund created in Section 840-1.20 of this title.

E. No state disbursing or auditing officer shall make or approve or take any part in making or approving any payment for personal service to any person holding a position in the state classified service, brought under the Oklahoma Personnel Act unless the payroll voucher or account of such pay bears the certification

of the appointing authority or designee, that the persons named therein have been appointed and employed in accordance with the provisions of the Oklahoma Personnel Act and the rules promulgated hereunder. The appointing authority or designee may for proper cause withhold certification from an entire payroll or from any specific item or items thereon.

Any citizen may maintain a suit to restrain a disbursing officer from making any payment in contravention of any provision of the Oklahoma Personnel Act or rules promulgated hereunder. Any sum paid contrary to any provision of the Oklahoma Personnel Act or any rule promulgated hereunder may be recovered in an action maintained by any citizen, from any officer who made, approved or authorized such payment or who signed or countersigned a voucher, payroll, check or warrant for such payment, or from the sureties on the official bond of any such officer. All monies recovered in any such action shall be paid into the State Treasury.

Any person appointed or employed in contravention of any provision of the Oklahoma Personnel Act or any rules or orders promulgated hereunder, whose employment is brought within the terms of the Oklahoma Personnel Act, who performs service for which he or she is not paid, may maintain an action against the officer or officers who purported to appoint or employ the person to recover the agreed pay for such services, or the reasonable value thereof if no pay was agreed upon. No officer shall be reimbursed by the state at any time for any sum paid to such person on account of such services.

If the appointing authority or designee wrongfully withholds certification of the payroll voucher or account of any employee, such employee may maintain an action or proceeding in the courts to compel the appointing authority or designee to certify such payroll voucher or account.

Added by Laws 1982, c. 338, § 14, eff. July 1, 1982. Amended by Laws 1983, c. 288, § 1, operative July 1, 1983. Renumbered from § 840.14 of this title by Laws 1994, c. 242, § 54. Amended by Laws 2003, c. 212, § 8, eff. July 1, 2003; Laws 2004, c. 312, § 2, eff. Nov. 1, 2004; Laws 2005, c. 176, § 1, eff. July 1, 2005; Laws 2012, c. 304, § 869.

#### §74-840-1.19. Merit System of Personnel Administration Rules - Distribution.

It shall be the responsibility of each appointing authority to distribute copies of the Merit System of Personnel Administration Rules promulgated and published by the Office of Management and Enterprise Services or the Merit Protection Commission, respectively, to all classified employees at the request of the Executive Director of the Commission or the Director of the Office.

Added by Laws 1982, c. 338, § 33, eff. July 1, 1982. Amended by Laws 1986, c. 158, § 18, operative July 1, 1986; Laws 1994, c. 242, § 35. Renumbered from § 841.12 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1995, c. 310, § 3, emerg. eff. June 5, 1995; Laws 2012, c. 303, § 9, eff. Nov. 1, 2012.

§74-840-1.20. Human Capital Management Revolving Fund - Petty cash.

A. There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services to be designated the "Human Capital Management Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of fees received by the Office of Management and Enterprise Services for providing training for a certified public managers program and all other monies received by the Office of Management and Enterprise Services, except for appropriated monies and monies received as payment for administrative expenses under Section 840-1.18 of this title. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Office of Management and Enterprise Services for defraying the costs incurred in performing the duties and functions of the Office. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. There is hereby created a petty cash fund not to exceed Two Hundred Fifty Dollars (\$250.00) for the Office of Management and Enterprise Services. The Director of the Office of Management and Enterprise Services shall prescribe the rules and procedures for the administration of the petty cash fund.

C. Any monies in or obligations against the Employee Benefits Revolving Fund and the Benefits Council Administration Revolving Fund shall be transferred to the Human Capital Management Revolving Fund. Funds previously designated for deposit into the Employee Benefits Revolving Fund and the Benefits Council Administration Revolving Fund shall be deposited into the Human Capital Management Revolving Fund.

D. The Office of Management and Enterprise Services is hereby directed to pay from the fund the costs of transcribing the record of any proceeding before the Office of Management and Enterprise Services, which record may be designated by an indigent respondent, if such respondent first establishes indigent condition through execution of an in forma pauperis affidavit upon a form approved by the Office of Management and Enterprise Services; provided, that if the indigent respondent has a financial recovery the fund shall be reimbursed from the proceeds.

Added by Laws 1988, c. 248, § 7, operative July 1, 1988. Amended by Laws 1994, c. 242, § 28. Renumbered from § 840.5b of this title by

Laws 1994, c. 242, § 54. Amended by Laws 2007, c. 342, § 1, eff. July 1, 2007; Laws 2012, c. 303, § 10, eff. Nov. 1, 2012.

§74-840-1.21. Oklahoma Merit Protection Commission Revolving Fund - Transcriptions for indigent respondents.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Merit Protection Commission, to be designated the "Oklahoma Merit Protection Commission Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies except appropriated monies received by the Oklahoma Merit Protection Commission. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Merit Protection Commission for the purpose of paying the costs incurred in performing the duties and functions imposed upon the Oklahoma Merit Protection Commission by law.

The Commission is hereby directed to pay from the Fund the costs of transcribing the record of any proceeding before the Commission, which record may be designated by an indigent respondent, if such respondent first establishes indigent condition through execution of an in forma pauperis affidavit upon a form approved by the Commission, provided that if the indigent respondent has a financial recovery, the fund shall be reimbursed from said proceeds.

Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. Added by Laws 1983, c. 274, § 7, operative July 1, 1983. Amended by Laws 1986, c. 158, § 4, operative July 1, 1986; Laws 1990, c. 160, § 1, emerg. eff. May 1, 1990. Renumbered from § 841.24 of this title by Laws 1994, c. 242, § 54.

§74-840.2. Renumbered as § 840-1.2 of this title by Laws 1994, c. 242, § 54.

§74-840-2.1. Repealed by Laws 2013, c. 84, § 1, eff. Nov. 1, 2013.

§74-840-2.2. Repealed by Laws 2013, c. 84, § 2, eff. Nov. 1, 2013.

§74-840-2.3. Repealed by Laws 2013, c. 84, § 3, eff. Nov. 1, 2013.

§74-840-2.4. Repealed by Laws 2013, c. 84, § 4, eff. Nov. 1, 2013.

§74-840-2.5. Whistleblower Act - Short title - Purpose - Disciplinary actions - Definitions.

A. This section shall be known and may be cited as the "Whistleblower Act". The purpose of the Whistleblower Act is to encourage and protect the reporting of wrongful governmental

activities and to deter retaliation against state employees for reporting those activities. No conviction of any person shall be required to afford protection for any employee under this section.

B. For purposes of this section, "agency" means any office, department, commission or institution of the state government. No officer or employee of any state agency shall prohibit or take disciplinary action against employees of such agency, whether subject to the provisions of the Merit System or in unclassified service, for:

1. Disclosing public information to correct what the employee reasonably believes evidences a violation of the Oklahoma Constitution or law or a rule promulgated pursuant to law;

2. Reporting a violation of the Oklahoma Constitution, state or federal law, rule or policy; mismanagement; a gross waste of public funds; an abuse of authority; or a substantial and specific danger to public health or safety;

3. Discussing the operations and functions of the agency, either specifically or generally, with the Governor, members of the Legislature, the print or electronic media or other persons in a position to investigate or initiate corrective action; or

4. Taking any of the above actions without giving prior notice to the employee's supervisor or anyone else in the employee's chain of command.

C. Any person who has authority to take, direct others to take, recommend or approve any personnel action shall not take or fail to take any personnel action with respect to any employee for filing an appeal or testifying on behalf of any person filing an appeal with the Oklahoma Merit Protection Commission. This section shall not be construed as prohibiting disciplinary action of an employee who discloses information which the employee:

1. Knows to be false;

2. Knowingly and willfully discloses with reckless disregard for its truth or falsity; or

3. Knows to be confidential pursuant to law.

D. Each state agency, department, institution, board and commission in all branches of state government, including all institutions in The Oklahoma State System of Higher Education, shall prominently post or publish a copy of this section of law in locations where it can reasonably be expected to come to the attention of all employees.

E. As used in this section:

1. "Disciplinary action" means any direct or indirect form of discipline, any dismissal, demotion, transfer, reassignment, suspension, reprimand, admonishment, warning of possible dismissal, reduction in force, reduction in rank, reduction in status, or withholding of work;

2. "Probation" means that period of time, after an officer or employee is found to have violated the provisions of this section and corrective action is ordered, during which time that officer's or employee's performance and conduct is being monitored by the employing agency for further violations of the Oklahoma Personnel Act; and

3. "Mismanagement" means fraudulent activity, criminal misuse of funds or abuse or violation of a well-established, articulated, clear and compelling public policy.

F. An appeal to the Oklahoma Merit Protection Commission must identify the person on whose behalf it is made. The person making the appeal must provide the Oklahoma Merit Protection Commission with the name, address, and telephone number of the person on whose behalf the appeal is made. The Oklahoma Merit Protection Commission personnel shall verify the authorization of such appeal by the person on whose behalf the appeal is made. The person claiming to be aggrieved has the responsibility to cooperate with the Commission in the investigation. The failure to cooperate in the investigation shall be grounds for dismissal of the appeal filed on behalf of the aggrieved party.

G. Any state employee or former state employee aggrieved pursuant to this section, or any authorized third-party state employee who has actual knowledge of the discipline or retaliatory act taken against the whistleblower, may file an appeal with the Oklahoma Merit Protection Commission within sixty (60) days of the alleged violation. The Oklahoma Merit Protection Commission shall promulgate rules to establish procedures for the conduct of investigations. If, after investigation, the Executive Director determines a violation of this section may have occurred, the Executive Director shall appoint an administrative law judge to hear the case as provided for in Section 840-6.6 of this title.

H. If, after the hearing, it is determined that a violation has occurred, the Commission or administrative law judge shall order corrective action pursuant to Section 840-6.6 of this title. Such corrective action shall include, but not be limited to, suspension without pay, demotion or discharge. Any employee found to have violated this section of law, in addition to being suspended or demoted, shall be placed on probation for six (6) months. Such probation shall commence on the date of the final decision filed by the Commission. Any employee who is determined to have violated the Oklahoma Personnel Act, Section 840-1.1 et seq. of this title, while serving said probation shall forfeit the position of the person for one (1) year. Any employee, supervisor or appointing authority of any state agency, whether subject to the provisions of the Merit System of Personnel Administration or in unclassified service, who knowingly and willfully violates the provisions of this section shall forfeit the position of the person and be ineligible for

appointment to or employment in a position in state service for a period of at least one (1) year and no more than five (5) years. The decision of the Commission in such cases may be appealed by any party pursuant to Article II of the Administrative Procedures Act. Added by Laws 1982, c. 338, § 28, eff. July 1, 1982. Amended by Laws 1986, c. 84, § 4, eff. Nov. 1, 1986; Laws 1986, c. 158, § 13, operative July 1, 1986; Laws 1992, c. 174, § 1, emerg. eff. May 6, 1992; Laws 1993, c. 84, § 1, emerg. eff. April 18, 1993. Renumbered from § 841.7 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1995, c. 310, § 4, emerg. eff. June 5, 1995; Laws 1997, c. 406, § 1, eff. July 1, 1997; Laws 2002, c. 355, § 1, eff. July 1, 2002; Laws 2003, c. 106, § 1, eff. July 1, 2003; Laws 2008, c. 146, § 1, eff. Nov. 1, 2008.

§74-840-2.6. Enforcement of employee rights.

The Oklahoma Merit Protection Commission shall be responsible for enforcing the provisions of Section 840-2.5 of this title and shall be responsible for promulgating rules for the enforcement of said section.

Added by Laws 1982, c. 338, § 29, eff. July 1, 1982. Amended by Laws 1986, c. 158, § 14, operative July 1, 1986. Renumbered from § 841.8 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1995, c. 310, § 5, emerg. eff. June 5, 1995.

§74-840-2.7. Central payroll system - State agencies required to utilize.

All state agencies, boards, commissions, departments and offices, excluding entities within The Oklahoma State System of Higher Education, shall utilize the central payroll system administered by the Office of Management and Enterprise Services. This provision shall not prohibit state institutions of higher education from utilizing the central payroll system at their discretion.

Added by Laws 1992, c. 367, § 2, eff. July 1, 1992. Renumbered from § 840.5d of this title by Laws 1994, c. 242, § 54. Amended by Laws 1999, c. 371, § 8, eff. July 1, 1999; Laws 2012, c. 304, § 872.

§74-840-2.8. State and county officers and employees - Support, etc. of Constitution and laws of state.

Every state and county officer and state and county employee:

1. Shall support, obey, and defend the Constitution and laws of the State of Oklahoma; and
2. Shall not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or nonperformance of any act or duty pertaining to his or her office, other than the compensation allowed by law.



Added by Laws 1992, H.J.R. No. 1077, § 33, eff. Jan. 1, 1993.  
Renumbered from § 840.32 of this title by Laws 1994, c. 242, § 54.

§74-840-2.9. Discrimination and other prohibited acts.

A. No person in the state service, whether subject to the provisions of the Merit System or in unclassified service, shall be appointed to or demoted or dismissed from any position in the state service, or in any way favored or discriminated against with respect to employment in the state service because of political or religious opinions or affiliations, race, creed, gender, color or national origin or by reason of any physical handicap so long as the physical handicap does not render the employee unable to do the work for which he is employed. The hiring of special disabled veterans pursuant to Sections 401 through 404 of Title 72 of the Oklahoma Statutes shall not constitute favoritism as herein prohibited.

B. No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person, or for any consideration. Letters of inquiry, recommendation and reference for public employees by public officials shall not be considered official authority or influence unless such letter contains a threat, intimidation, or irrelevant, derogatory or false information.

C. No person shall make any false statement, certificate, score, rating or report with regard to any test, certification or appointment made under any provision of the Oklahoma Personnel Act or in any manner commit any fraud preventing the implementation of the provisions of the Oklahoma Personnel Act and rules made pursuant thereto.

D. No employee, examiner or other person shall deny, deceive or obstruct any person in his or her right to examination, eligibility, certification or appointment or furnish to any person any special or secret information for the purpose of effecting the rights or prospects of any person with respect to employment in the classified service.

E. No person shall, directly or indirectly, give, render, pay, offer, solicit or accept any money, service or other valuable consideration for or as a result of any appointment, proposed appointment, promotion or proposed promotion to or any advantage in, a position in the classified or unclassified service.

F. Alleged violation of this section shall be reported to the Oklahoma Merit Protection Commission.

Added by Laws 1982, c. 338, § 31, eff. July 1, 1982. Amended by Laws 1983, c. 175, § 8, emerg. eff. June 7, 1983; Laws 1986, c. 158,

§ 16, operative July 1, 1986. Renumbered from § 841.10 of this title by Laws 1994, c. 242, § 54.

§74-840-2.10. State Employee Assistance Program.

A. There is hereby created a State Employee Assistance Program within the Department of Mental Health and Substance Abuse Services. All functions, powers, duties, funds and obligations of the Office of Management and Enterprise Services in administration of the State Employee Assistance Program shall be transferred to the Department. The program may provide assistance to state agencies in their management of employees whose personal problems may have a negative impact on job performance. The program may also provide for assessment, referral, consultation, and problem resolution assistance to state employees and their family members seeking corrective help with medical or mental health problems, including alcohol or drug abuse and emotional, marital, familial, financial or other personal problems. Participation in the State Employee Assistance Program shall be on a voluntary basis.

B. The Department may enter into contracts which are necessary and proper to carry out the purposes and functions of the State Employee Assistance Program and establish standards and criteria which shall be met by entities to be eligible to contract with the Department.

C. The Commissioner of the Department is hereby directed to:

1. Promulgate rules necessary for the administration of the State Employee Assistance Program and the maintenance and release of participant records; and

2. Establish evaluation methods to assess the effectiveness of the State Employee Assistance Program.

D. Nothing in this act is intended to nullify any agency's existing employee assistance program or to prohibit any state agency from establishing its own employee assistance program; provided, however, such programs established by state agencies shall be subject to compliance with rules promulgated by the Commissioner of the Department to ensure equitable treatment of employees.

E. Records that relate to participation by an individual in the State Employee Assistance Program or an employee assistance program established by a state agency shall be maintained separate and apart from regular personnel records and shall not become part of an employee's personnel file. Such records relating to an individual's participation in an employee assistance program shall be confidential and neither the records nor the testimony of an Employee Assistance Program professional shall be subject to subpoena unless a participant poses a threat to deliberately harm the participant or others. Such determination shall be made by an Employee Assistance Program professional. A participant in an

employee assistance program shall have a right of access to his or her own employee assistance program records.

F. No provision of this section or the rules promulgated pursuant to this section shall be construed to conflict with an appointing authority's responsibility and authority to maintain discipline or to take disciplinary measures against employees for misconduct or unacceptable performance. Further, participation or nonparticipation in any state employee assistance program shall not excuse an employee from discipline or otherwise affect the terms and conditions of such employee's employment status or opportunities for advancement with the state.

G. The Legislature and the judicial branch of state government may utilize the services of the State Employee Assistance Program at their discretion.

Added by Laws 1992, c. 171, § 1, emerg. eff. May 5, 1992. Amended by Laws 1994, c. 242, § 50. Renumbered from § 7101 of this title by Laws 1994, c. 242, § 54. Amended by Laws 2000, c. 336, § 2, eff. July 1, 2000; Laws 2003, c. 212, § 9, eff. July 1, 2003; Laws 2012, c. 304, § 873; Laws 2013, c. 237, § 3, eff. Nov. 1, 2013; Laws 2015, c. 14, § 1, eff. July 1, 2015; Laws 2017, c. 193, § 1, eff. July 1, 2017.

§74-840-2.10a. Violent or traumatic workplace events - Debriefing and counseling services.

A. State agencies shall provide or contract to provide, through the State Employee Assistance Program, debriefing and counseling services for state employees who are involved in, witness or are otherwise exposed to a violent or traumatic event in the workplace.

B. State employees who are affected by such events shall be encouraged to participate in debriefing or counseling services and paid administrative leave shall be provided. However, employees shall have the option to refuse services offered.

C. The Director of the Department of Mental Health and Substance Abuse Services shall promulgate rules to implement the provisions of this section which, at a minimum, shall specify the types of events which shall qualify state employees for debriefing and counseling services.

Added by Laws 2012, c. 185, § 1, eff. Nov. 1, 2012. Amended by Laws 2017, c. 186, § 1, eff. Nov. 1, 2017; Laws 2018, c. 78, § 1, eff. July 1, 2018.

§74-840-2.11. State employee personal information - Confidentiality.

The home addresses, home telephone numbers, social security numbers, and information related to personal electronic communication devices of current and former state employees shall not be open to public inspection or disclosure without written

permission from the current or former state employees or without an order from a court of competent jurisdiction.

Added by Laws 1992, c. 367, § 28, emerg. eff. June 9, 1992.

Renumbered from Title 74, § 841.6A by Laws 1994, c. 242, § 54; Laws 2002, c. 347, § 6, eff. Nov. 1, 2002; Laws 2003, c. 212, § 10, eff. July 1, 2003.

§74-840-2.12. Renumbered as § 840-1.6A of this title by Laws 1995, c. 310, § 24, emerg. eff. June 5, 1995.

§74-840-2.13. Personnel Management Information System.

A. The Director of the Office of Management and Enterprise Services shall establish a Personnel Management Information System to provide various management reports to facilitate decision making within agencies, and to promote the efficient utilization of personnel resources by providing a method for tracking, monitoring and reporting positions and employee transactions. The System shall include information on both the classified and unclassified services within the executive branch of government, but shall not require institutions within The Oklahoma State System of Higher Education to participate.

B. The Director of the Office of Management and Enterprise Services shall promulgate rules regarding the Personnel Management Information System as necessary to implement the provisions of this section. Such rules shall establish a schedule to ensure the orderly implementation of such Personnel Management Information System.

C. The Personnel Management Information System shall be implemented for all state agencies under the Merit System by July 1, 1993, and for all other executive branch state agencies by July 1, 1994.

D. State agencies shall assist the Office of Management and Enterprise Services as necessary to ensure the orderly completion of implementation as provided for in this section.

E. Appointing authorities in the legislative or judicial branches of state government may participate in the Personnel Management Information System at their option.

Added by Laws 1992, c. 367, § 1, eff. July 1, 1992. Amended by Laws 1994, c. 242, § 4. Renumbered from § 840.5c of this title by Laws 1994, c. 242, § 54. Amended by Laws 2012, c. 304, § 874.

§74-840-2.14. Management of costs of human resources.

A. The intent of the Legislature is to increase individual agency skill and accountability in managing the costs associated with personnel and in applying controls that will enhance the ability of the State of Oklahoma to manage the overall costs of

human resources as efficiently as possible, while continuing to maintain fairness to employees.

B. The Office of Management and Enterprise Services shall produce an electronic report on an annual basis of all reallocation decisions for career service positions.

C. The Office of Management and Enterprise Services shall produce an electronic report on an annual basis of all transactions in the career service and executive service involving the establishment of new positions.

D. As a further control on human resource costs, the Governor may declare a financial emergency or implement a freeze in hiring, by declaring this section to be in effect. CompSource Oklahoma shall not be subject to the provisions of this subsection. During such periods, no audits of classified positions or reallocation of unclassified positions shall be initiated or conducted at the request of an agency except at the direction of the Governor. The provisions of the Oklahoma Personnel Act relating to agency-requested audits may be suspended during such periods to the extent that they are in conflict with this section. Provided, an audit at the request of an employee who files a classification grievance shall be conducted during such periods in accordance with the provisions of Section 840-4.3 of this title.

E. The provisions of this section shall not be construed to suspend the responsibility of any agency to ensure that the duties and responsibilities assigned to an employee are consistent with the current classification of the employee.

Added by Laws 1986, c. 226, § 5, operative July 1, 1986. Amended by Laws 1992, c. 367, § 16, eff. July 1, 1992. Renumbered from § 840.22A of this title by Laws 1994, c. 242, § 54. Amended by Laws 1994, c. 283, § 14, eff. Sept. 1, 1994; Laws 1996, c. 363, § 17, eff. Nov. 1, 1996; Laws 1998, c. 364, § 30, emerg. eff. June 8, 1998; Laws 2004, c. 312, § 4, eff. July 1, 2004; Laws 2012, c. 304, § 875; Laws 2014, c. 267, § 1, eff. Nov. 1, 2014.

§74-840-2.15. Overtime, holiday and compensatory time.

A. The federal Fair Labor Standards Act, 29 U.S.C., Section 201, et seq., provides for minimum standards for overtime entitlement, and spells out administrative procedures by which covered work time must be compensated. This section is not a comprehensive listing of the provisions of the Fair Labor Standards Act and regulations promulgated thereunder, and is not intended to conflict with either the Act or the regulations. No agency, board, commission, department, institution, bureau, executive officer or other entity of the executive branch shall exceed the minimum overtime entitlement provisions of the Fair Labor Standards Act and regulations promulgated thereunder except as herein provided.

B. Nothing in this title or the federal Fair Labor Standards Act shall be construed to prohibit an employer from paying an employee who is required to work on a holiday, as defined in Section 82.1 of Title 25 of the Oklahoma Statutes, for such work at a rate of two times the employee's regular hourly rate, or from rescheduling the holiday at the discretion of the appointing authority; provided, however, any state employee who is required to work on a holiday, as defined in Section 82.1 of Title 25 of the Oklahoma Statutes, in the performance of fire suppression duties shall receive holiday pay at a rate of two times the employee's regular hourly rate.

C. Any employee receiving compensatory time consistent with the provisions of the federal Fair Labor Standards Act shall exhaust such compensatory time prior to the taking of annual leave, except where the employee is subject to losing such annual leave due to the application of the accumulation limits in Section 840-2.20 of this title.

D. An employee receiving compensatory time under the provisions of subsection A of this section shall be permitted to use accrued compensatory time within one hundred eighty (180) days following the day on which it was accrued, provided the taking of compensatory time does not unduly impact agency operations or the health, safety or welfare of the public, or endanger public property. Agencies shall not be allowed to extend this one-hundred-eighty-day time period for employees in an institutional setting. The balance of any unused compensatory time received but not taken during this time period shall be paid to the employee at the employee's current regular hourly rate.

E. As used in this section, "institutional setting" shall mean any agency or part of any agency where twenty-four-hour care, monitoring or supervision is required for patients, clients or inmates to protect public health, safety or property.

Added by Laws 1990, c. 204, § 7, emerg. eff. May 10, 1990.

Renumbered from Title 74, § 840.16d by Laws 1994, c. 242, § 54.

Amended by Laws 2005, c. 176, § 2, eff. July 1, 2005; Laws 2006, c. 212, § 1, eff. July 1, 2006; Laws 2010, c. 286, § 2, eff. Nov. 1, 2010.

#### §74-840-2.15A. State Employee Compensation Program.

There is hereby established the "State Employee Compensation Program" within the executive branch. The State Employee Compensation Program will attract, retain and reward quality employees with competitive total compensation based on relevant labor markets. The Office of Management and Enterprise Services will be responsible for coordinating the implementation of the compensation program. The compensation program will establish pay structures with a goal of compensating state employees at a level of

at least a ninety percent (90%) of compensation for comparable private sector positions. The compensation program will reinforce a productive work climate and culture of accountability and make the State of Oklahoma an employer of choice. Pay structures will be implemented with fairness and equity throughout the executive branch. Pay delivery mechanisms will be based on a combination of establishing and maintaining relativity to market, achievement of performance objectives, recognition of differences in job content, acquisition and application of further skill and education. The Legislature will be accountable for the funding of the pay structures established pursuant to the compensation program. Added Laws 2014, c. 390, § 2, eff. July 1, 2014.

§74-840-2.15B. State employee compensation program.

The state employee compensation program is designed to attract, retain and reward quality employees with competitive total compensation based on relevant labor markets. The compensation program will establish pay structures with a goal of working toward the recommendations of the 2013 State Employee Total Remuneration Study. The compensation program will reinforce a productive work climate and culture of accountability and make the State of Oklahoma an employer of choice. Pay structures will be implemented with fairness and equity. Pay delivery mechanisms will be based on a combination of the achievement of performance objectives, recognition of differences in job content, acquisition and application of further skill and education. The Legislature will be accountable for the funding of the pay structures established pursuant to the compensation program.

Added by Laws 2014, c. 377, § 1, eff. Nov. 1, 2014.

NOTE: This section was editorially renumbered from § 840-2.15A of this title to avoid a duplication in numbering.

§74-840-2.16. Minimum annualized salary.

Except as otherwise provided by law, any classified, unclassified or exempt employee of the state, excluding members of boards and commissions, institutions under the administrative authority of the Oklahoma State Regents for Higher Education, employees of public school districts and elected officials, on July 1 of each year, earning less than the amount established in the Federal Poverty Guidelines for a three-person household, issued each year in the Federal Register by the United States Department of Health and Human Services, shall receive the necessary grade or salary adjustment to provide for a minimum annualized salary equal to the amount established in the Federal Poverty Guidelines for a three-person household, issued each year in the Federal Register by the United States Department of Health and Human Services. Any classified, unclassified or exempt employee of the state, excluding

members of boards and commissions, institutions under the administrative authority of the Oklahoma State Regents for Higher Education, employees of public school districts and elected officials, employed after July 1, 2007, shall receive a minimum annualized salary equal to the amount established in the Federal Poverty Guidelines for a three-person household, issued each year in the Federal Register by the United States Department of Health and Human Services. This section shall not apply to those persons employed pursuant to paragraph 8 and paragraph 12 of subsection A of Section 840-5.5 and Section 2241 of this title or those persons employed pursuant to Section 1.6a of Title 53 of the Oklahoma Statutes.

Added by Laws 1990, c. 204, § 1, emerg. eff. May 10, 1990. Amended by Laws 1990, c. 266, § 94, operative July 1, 1990; Laws 1991, c. 239, § 2, eff. July 1, 1991; Laws 1992, c. 367, § 11, eff. July 1, 1992. Renumbered from Title 62, § 7.12 by Laws 1994, c. 242, § 54. Amended by Laws 1994, c. 274, § 1; Laws 1995, c. 310, § 6, emerg. eff. June 5, 1995; Laws 2007, c. 207, § 1, eff. July 1, 2007; Laws 2009, c. 273, § 4.

NOTE: Laws 1994, c. 242, § 46 repealed by Laws 1995, c. 310, § 23, emerg. eff. June 5, 1995.

#### §74-840-2.17. Raises - Salary adjustments.

A. Unless otherwise provided by the Oklahoma Constitution, statutory authority to set or fix compensation, pay or salary of state officers and employees shall not be construed to authorize any agency, board, commission, department, institution, bureau, executive officer or other entity of the executive branch of state government to award, grant, give, authorize, or promise any officer or employee of the State of Oklahoma a raise that is inconsistent with the compensation schedules established by the Office of Management and Enterprise Services for all state officers and employees in the executive branch pursuant to Section 840-4.6 of this title, including, but not limited to, a cost-of-living raise or any other type of raise that would be given to state employees on an across-the-board basis, except as herein provided. Such raises are prohibited unless authorized by the Legislature and by Career Service Rules for Employment promulgated by the Director. This prohibition applies to all career and executive service officers and employees in the executive branch of state government, excluding institutions under the administrative authority of the Oklahoma State Regents for Higher Education.

B. However, nothing in this section shall be construed to prohibit the following actions if the action is made in good faith and not for the purpose of circumventing subsection A of this section, and if the appointing authority certifies that the action can be implemented for the current fiscal year and the subsequent



fiscal year without the need for additional funding to increase the personal services budget of the agency, and if the Office of Management and Enterprise Services certifies that the action is consistent with the compensation schedules established pursuant to the provisions of Section 840-4.6 of this title:

1. Salary advancements on promotion or direct reclassification to a job family level or class with a higher salary band;

2. Salary adjustments resulting from a pay band change for a job family level or class adopted by the Office of Management and Enterprise Services;

3. Increases in longevity payments pursuant to Section 840-2.18 of this title;

4. Payment of overtime, special entrance rates, pay differentials;

5. Payment of wages, salaries, or rates of pay established and mandated by law;

6. Market adjustments for job family levels tied to market competitiveness;

7. Intra-agency lateral transfers, provided that the adjustment does not exceed five percent (5%) and the adjustment is based on the needs of the agency;

8. Skill-based adjustments. Such adjustments, which are implemented before November 1, 2006, other than lump-sum payments, shall become permanent after twenty-four (24) months from the date such salary adjustment is implemented and may not later be removed from an employee's base salary if a furlough or reduction-in-force is implemented by the appointing authority granting such salary adjustment. Skill-based pay adjustments, which are implemented on or after November 1, 2006, and which are paid to an employee, shall be paid as long as the employee remains employed in the position and performs the skills for which the differential is due, but shall not be included as a part of the employee's base salary;

9. Equity-based adjustments;

10. Performance-based adjustments for employees who received at least a "meets standards" rating on their most current performance rating;

11. Career progression increases as an employee advances through job family levels; or

12. Salary adjustments not to exceed five percent (5%) for probationary career employees achieving permanent status following the initial probationary period and permanent career employees successfully completing trial periods after intra-agency lateral transfer or promotion to a different job family level or following career progression to a different job family level.

C. Provided, however, any reclassification for one of the purposes provided in subsection B of this section that would require

additional funding by the Legislature shall not be implemented without approval of the Legislature.

D. The pay movement mechanisms described in paragraphs 6 through 11 in subsection B of this section shall be implemented pursuant to rules promulgated by the Director of the Office of Management and Enterprise Services for the career service.

E. Appointing authorities may implement the pay movement mechanisms in paragraphs 6 through 12 in subsection B of this section subject to the availability of funds within the agency's budget for the current fiscal year and subsequent fiscal year without the need for additional funding to increase the personal services budget of the agency. Failure by the appointing authority to follow the provisions of this subsection may cause the withdrawal of the use of the pay movement mechanisms provided in paragraphs 6, 7, 9, 10 and 11 of subsection B of this section within the agency during the next appropriations cycle.

F. The provisions in subsection B of this section shall not apply to chief executive officers of any agency, board, commission, department or program except for paragraphs 3 and 5 of subsection B of this section.

G. The Office of Management and Enterprise Services shall file a quarterly report with the Offices of the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives listing, by agency, all increases in wages, salaries or rates of pay and any changes to title or classification of each employee.

Added by Laws 1989, c. 370, § 18, operative July 1, 1989. Amended by Laws 1992, c. 367, § 15, eff. July 1, 1992. Renumbered from § 840.16b of this title by Laws 1994, c. 242, § 54. Amended by Laws 1994, c. 283, § 13, eff. Sept. 1, 1994; Laws 1996, c. 290, § 16, eff. July 1, 1996; Laws 1999, c. 410, § 4, eff. Nov. 1, 1999; Laws 2000, c. 336, § 3, eff. July 1, 2000; Laws 2001, c. 381, § 3, eff. July 1, 2001; Laws 2002, c. 347, § 7, eff. Nov. 1, 2002; Laws 2003, c. 453, § 1, eff. Nov. 1, 2003; Laws 2004, c. 312, § 5, eff. July 1, 2004; Laws 2006, c. 240, § 1, eff. Nov. 1, 2006; Laws 2007, c. 342, § 2, eff. July 1, 2007; Laws 2009, c. 12, § 3, eff. July 1, 2009; Laws 2010, c. 286, § 3, eff. Nov. 1, 2010; Laws 2012, c. 304, § 876; Laws 2014, c. 390, § 3, eff. July 1, 2014; Laws 2018, c. 96, § 1, eff. Nov. 1, 2018.

§74-840-2.18. Longevity pay plan.

A. A longevity pay plan is hereby adopted. This plan applies to all state classified, unclassified, and exempt employees, excluding members of boards and commissions, institutions under the administrative authority of the State Regents for Higher Education, employees of public school districts, and elected officials. The plan shall also apply to those employees of the Oklahoma School for the Blind and the Oklahoma School for the Deaf who qualify for

longevity pay in accordance with subsection G of Section 1419 of Title 10 of the Oklahoma Statutes.

B. The Oklahoma Conservation Commission is hereby authorized to establish a longevity pay program for employees of the conservation districts employed under Section 3-3-103 of Title 27A of the Oklahoma Statutes. Such longevity pay program shall be consistent with the longevity pay program for state employees authorized under this title and payments shall be made in a manner consistent with procedures for reimbursement to conservation districts.

C. To be eligible for longevity pay, employees must have been continuously employed in the classified or unclassified service of the state for a minimum of two (2) years in full-time status or in part-time status working more than one thousand (1,000) hours a year.

For purposes of this section, a break in service of thirty (30) calendar days or less shall not be considered an interruption of continuous service; a break in service of more than thirty (30) calendar days shall mark an end to continuous service. The legislative session employees who have worked for two (2) years or more in part-time status and are eligible for state retirement benefits, but do not receive other longevity payments, shall be eligible and shall be considered to have been continuously employed for purposes of calculating longevity payments, notwithstanding the provisions of subsection E of this section.

D. 1. Longevity pay for the first twenty (20) years of service shall be determined pursuant to the following schedule:

Years of Service	Annual Longevity Payment
At least 2 years but less than 4 years	\$250.00
At least 4 years but less than 6 years	\$426.00
At least 6 years but less than 8 years	\$626.00
At least 8 years but less than 10 years	\$850.00
At least 10 years but less than 12 years	\$1,062.00
At least 12 years but less than 14 years	\$1,250.00
At least 14 years but less than 16 years	\$1,500.00
At least 16 years but less than 18 years	\$1,688.00
At least 18 years but less than 20 years	\$1,900.00
At least 20 years	\$2,000.00

2. For each additional two (2) years of service after the first twenty (20) years an additional Two Hundred Dollars (\$200.00) shall be added to the amount stated above for twenty (20) years of service.

The total amount of the annual longevity payment made to an employee by any and all state agencies in any year shall not exceed the amount shown on the table corresponding to that employee's years of service with the state, except as otherwise provided by Sections 840-2.27D and 840-2.28 of this title. Further, no employee shall receive duplicating longevity payments for the same periods of service with any and all agencies, except as otherwise provided by Sections 840-2.27D and 840-2.28 of this title.

E. To determine years of service, cumulative periods of full-time employment or part-time employment working more than one hundred fifty (150) hours per month with the state excluding service as specified in subsection A of this section are applicable. Part-time employment, working one hundred fifty (150) hours per month or less for the state, excluding service as specified in subsection A of this section, shall be counted only if:

1. The period of employment was continuous for at least five (5) months; and

2. The person worked more than two-fifths (2/5) time.

Other employment shall not be counted as service for purposes of longevity payments. Further, no period of employment with the state, whether with one or more than one agency, shall be counted as more than full-time service.

F. Years of service under the administrative authority of the State Regents for Higher Education or the administrative authority of the Oklahoma Department of Career and Technology Education of any employee who is now employed in a job classification which is eligible for longevity pay shall be included in years of service for purposes of determining longevity pay.

G. Years of service shall be certified through the current employing agency by the appointing authority on a form approved by the Office of Management and Enterprise Services. The form shall be completed and posted as directed by the Director of the Office of Management and Enterprise Services by the current employing agency when the employee initially enters on duty with the agency and thereafter whenever the employee's anniversary date is changed.

H. Eligible employees, in full-time status or in part-time status working more than one hundred fifty (150) hours per month, shall receive one (1) lump-sum annual payment, in the amount provided on the preceding schedule, during the month following the anniversary date of the employee's most recent enter-on-duty day with the state. Upon implementation of the statewide information systems project, the lump-sum annual payment may be paid concurrent with the final payroll of the month of the employee's anniversary

date. Eligible part-time employees who work one hundred fifty (150) hours per month or less shall receive one (1) lump-sum annual payment, based on the formula in subsection L of this section, during the month following the anniversary date of the employee's most recent enter-on-duty day with the state. To receive longevity pay an employee must be in pay status on or after his or her anniversary date.

Eligible employees who would not otherwise receive annual longevity payments because their employment includes regular periods of leave without pay in excess of thirty (30) calendar days shall receive one (1) lump-sum annual payment, based on the formula in subsection L of this section, during:

1. The month of August if the employee is in pay status on July 1; or

2. During the month following the employee's first return to duty that fiscal year if the employee is not in pay status on July 1.

Except as otherwise provided by Sections 840-2.27D and 840-2.28 of this title, employees terminated as a result of a reduction-in-force or retiring from state employment shall receive upon said termination or retirement the proportionate share of any longevity payment which may have accrued as of the date of termination or retirement. Provided further that, the proportionate share of any longevity payment which may have accrued as of the date of death of an employee shall be made to the surviving spouse of the employee or if there is no surviving spouse to the estate of the employee.

- I. Periods of leave without pay taken in accordance with Section 840-2.21 of this title shall be counted as service. Other periods of nonpaid leave status in excess of thirty (30) calendar days shall not mark a break in service; however, they shall:

1. Not be used in calculating total months of service for longevity pay purposes; and

2. Extend the anniversary date for longevity pay by the total period of time on nonpaid leave status except as provided in subsection H of this section for employees whose conditions of employment include regular periods of leave without pay.

- J. Employees currently receiving longevity pay who work for the judicial branch of state government or who work for the Oklahoma Department of Career and Technology Education shall not be eligible for the longevity pay plan provided for in this section.

- K. A break in service with the state in excess of thirty (30) days but which does not exceed two (2) years which was caused by a reduction-in-force shall be treated as if it were a period of nonpaid leave status as provided for in subsection I of this section for the purpose of calculating total months of service for longevity pay. This subsection shall only apply to state employees laid off after June 30, 1982.

L. Eligible part-time employees working less than one hundred fifty (150) hours per month and other eligible employees with regular annual periods of leave without pay of more than thirty (30) calendar days will receive a prorated share of the "Annual Longevity Payment" authorized in subsection D of this section. The prorated amount of payment will be based on actual hours worked in the immediately preceding twelve (12) months.

M. An employee shall not be entitled to retroactive longevity payments as a result of amendments to this section unless specifically authorized by law.

N. The Director of the Office of Management and Enterprise Services is authorized to promulgate such Longevity Pay Plan Rules as he or she finds necessary to carry out the provisions of this section.

O. As of July 1, 1998, years of service with a city-county health department for employees who left a city-county health department for employment with the Department of Environmental Quality or the Oklahoma Department of Agriculture, Food, and Forestry, between July 1, 1993, and July 1, 1998, and who are now employed in a job classification that is eligible for longevity pay pursuant to this section, shall be included in years of service for purposes of determining longevity pay subsequent to July 1, 1998.

P. As of July 1, 2003, years of service with a local conservation district shall be included in years of service for purposes of determining longevity pay for local conservation district employees transferred to the Oklahoma Conservation Commission pursuant to the provisions of this section.

Added by Laws 1982, c. 147, § 4, emerg. eff. April 12, 1982.

Amended by Laws 1982, c. 340, § 21, emerg. eff. June 2, 1982; Laws 1983, c. 18, § 1, emerg. eff. March 25, 1983; Laws 1983, c. 180, § 1, emerg. eff. June 9, 1983; Laws 1985, c. 203, § 4, operative July 1, 1985; Laws 1985, c. 252, § 1, emerg. eff. July 15, 1985; Laws 1989, c. 298, § 1, eff. July 1, 1989; Laws 1989, c. 370, § 16, operative July 1, 1989; Laws 1990, c. 231, § 1, emerg. eff. May 17, 1990. Renumbered from § 805.2 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1994, c. 283, § 10, eff. Sept. 1, 1994; Laws 1995, c. 269, § 2, eff. July 1, 1995; Laws 1997, c. 287, § 3, eff. July 1, 1997; Laws 1998, c. 314, § 3, eff. July 1, 1998; Laws 2001, c. 33, § 174, eff. July 1, 2001; Laws 2003, c. 380, § 1, eff. July 1, 2003; Laws 2004, c. 312, § 6, eff. Nov. 1, 2004; Laws 2005, c. 176, § 3, eff. July 1, 2005; Laws 2012, c. 304, § 877.

§74-840-2.19. Payroll claims.

A. The Director of the Office of Management and Enterprise Services shall not approve any payroll claim for payment for any agency unless said claim contains or is accompanied by the certification by the administrative head of said agency or an

authorized employee of said agency that the persons named in said claim have been appointed and employed in accordance with the provisions of the Oklahoma Personnel Act and the rules and orders promulgated pursuant to the provisions of the Oklahoma Personnel Act. For purposes of this section, "payroll claim" shall also include longevity payments made pursuant to Section 840-2.18 of this title.

B. If, as a result of a payroll audit, the Office of Management and Enterprise Services finds that an agency has made payments of salaries or wages contrary to the provisions of the Oklahoma Personnel Act and the rules promulgated pursuant to the provisions of the Oklahoma Personnel Act:

1. Audit findings shall be promptly transmitted to the appointing authority of the agency certifying the payroll claim or claims involved;

2. An audit conference with said agency shall be scheduled within fifteen (15) days, at which time the audit exceptions will be resolved or become a determination of error unless the parties to the conference agree to a further review;

3. If underpayments or overpayments made by said agency are deemed to be the result of administrative error, the agency which certified the payroll claim or claims in error shall refund to the employee the balance of the actual amounts due and owing to the payee or shall seek repayment from the payee of any amount paid in excess of the actual amount due and owing the payee;

4. If an agency neglects or refuses to seek repayment after a determination that an error in payroll amount or amounts has been made, or to properly adjust a then current salary or wage, the Director of the Office of Management and Enterprise Services shall note an unresolved audit exception stating the agency involved and the person to whom said exception refers;

5. Upon receipt of notification that a procedure to initiate repayment has been instituted by the certifying agency or that a protest has been filed with the Oklahoma Merit Protection Commission, said notice shall be withdrawn or waived by the Director of the Office of Management and Enterprise Services. Implementation of procedures provided in this section shall not operate to deny or delay payment of proper salaries or wages to any employee of this state;

6. The provisions of this section regarding collections of any overpayment of salaries or wages by any agency to any state employee or officer shall not include any such overpayment made prior to July 1, 1983;

7. Recovery of overpayments from an employee shall include all overpayments occurring within one (1) year prior to the determination of error. Disbursement of underpayments to an

employee shall include all underpayments made within a period of two (2) years prior to the determination of error; and

8. If an agency discovers overpayment or underpayment errors through an internal audit, the agency shall recover overpayments from the employee or disburse underpayment amounts in accordance with this section. Prior to initiation of recovery of overpayments from an employee, the agency shall provide the employee with adequate notice and an opportunity to respond.

C. The Director of the Office of Management and Enterprise Services shall not approve any payroll claim for payment for any agency for which a notification of an unresolved audit exception pursuant to this section has been filed, unless the person named in the audit exception has been removed from the payroll by the certifying agency, the overpayment has been converted by the agency, or the exception has been withdrawn or waived in writing by the Office of Management and Enterprise Services.

D. Any sum on a payroll claim found to have been paid in excess of the actual amount due and owing may be recovered from the payee through the following procedures:

1. Upon the determination that an error in payroll amount has been made, the agency which certified the claim or claims shall notify the payee in writing within ten (10) days from said determination. The notice to the payee shall contain:

- a. the amounts paid in error,
- b. the dates of said payments,
- c. the options available for repayment, and
- d. the right of the payee to protest the findings.

Said notice shall also provide space for the payee to indicate an election of a repayment option or to protest the findings. Said election shall be required within thirty (30) days after the notification;

2. If the payee is, at the time of said notification, an officer or employee of the agency seeking repayment, options available for repayment shall be by:

- a. lump-sum cash repayment,
- b. reduction of the corrected current salary or miscellaneous payroll deduction in a lump sum or in installments over a term not to exceed the term in which the erroneous payments were made,
- c. reduction in accrued annual leave by an amount of time at the then current correct salary level equal in value to the total of the amount or amounts to be repaid, or
- d. any combination thereof;

3. If the payee is, at the time of said notification, an officer or employee of an agency of the state other than the agency seeking repayment, the options provided by paragraph 2 of this



subsection may be exercised by the payee with the approval of the then current employing agency. Payment of amounts deducted or charged against annual leave shall be paid to the agency seeking repayment by an appropriate miscellaneous claim for interagency payment. If a payroll deduction is elected pursuant to the provisions of this paragraph and employment is subsequently terminated, any balance remaining shall be deducted from any final payment otherwise due to the employee;

4. If a payee who is, at the time of said notification, a permanent classified officer or employee of any agency of this state protests the determination of the error or the amount of said determination, the agency seeking repayment shall present, within five (5) days of the return of said protest, the facts in writing, the notice, and the protest of the payee, to the Oklahoma Merit Protection Commission. The Oklahoma Merit Protection Commission shall treat any such protest as a complaint pursuant to Section 840-1.9 of this title. The Commission and Executive Director, after investigation and hearing, shall make a determination which shall be binding on the agency. The salary or wages of any payee exercising the right to the protest shall not be suspended or reduced until a determination has been issued by the Oklahoma Merit Protection Commission and Executive Director;

5. If the payee is no longer an employee of the state but agrees to repay the amount or amounts paid in error, repayment may be accepted:

- a. by lump-sum cash repayment, or
- b. in installments over a period not to exceed twelve (12) months;

6. If the payee is no longer an employee of the state, and does not respond or cannot be located within ten (10) days after mailing of the determination of error, or refuses repayment, the agency seeking repayment shall present the facts in writing to the Attorney General and shall send a copy to the Office of Management and Enterprise Services. The Attorney General shall determine what action may be taken to recover said amount; and

7. Repayments other than by reduction in present salary or reduction in accrued annual leave for a payee currently employed by the agency seeking repayment shall be deposited in the General Revenue Fund unless the fund to which the amount in error was originally charged can be identified and was other than a General Revenue Fund appropriation. Said deposits shall be treated as nonrevenue receipts.

Added by Laws 1983, c. 274, § 4, operative July 1, 1983. Amended by Laws 1986, c. 158, § 9, operative July 1, 1986; Laws 1989, c. 344, § 2. Renumbered from § 840.23 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1998, c. 364, § 31, emerg. eff. June 8, 1998;

Laws 2003, c. 212, § 11, eff. July 1, 2003; Laws 2012, c. 304, § 878.

§74-840-2.20. Leave benefits - Emergency and permanent rules.

A. The Director of the Office of Management and Enterprise Services shall promulgate such emergency and permanent rules regarding leave and holiday leave as are necessary to assist the state and its agencies.

The Director of the Office of Management and Enterprise Services, in adopting new rules, amending rules and repealing rules, shall ensure that the following provisions are incorporated:

1. Eligible employees who enter on duty or who are reinstated after a break in service shall receive leave benefits in accordance with the schedule outlined below. Leave shall be accrued based upon hours worked, paid leave, and holidays, but excluding overtime, not to exceed the total possible work hours for the pay period. Years of service shall be based on cumulative periods of employment calculated in the manner that cumulative service is determined for longevity purposes pursuant to Section 840-2.18 of this title. Employees may accumulate more than the maximum annual leave accumulation limits shown in the schedule below, provided that such excess is used during the same calendar year in which it accrues or within twelve (12) months of the date on which it accrues, at the discretion of the appointing authority. If an employee whose job duties include providing fire protection services, law enforcement services or services with the Department of Corrections is unable to use excess leave as provided for in this paragraph because the employee's request for leave is denied by the employee's appointing authority and the denial of leave is due to extraordinary circumstances such that taking leave could pose a threat to public safety, health or welfare, the employee shall receive compensation at the employee's regular rate of pay for the amount of excess leave the employee is unable to use. Such compensation shall be paid at the end of the time period during which the excess leave was required to have been used;

2. From November 1, 2001, the following accrual rates and accumulation limits apply to eligible employees as follows:

ACCRUAL RATES			ACCUMULATION LIMITS	
Cumulative Years of Service		Annual Leave	Sick Leave	Annual Leave
Persons employed	0-5 yrs	= 15 day/yr	15 days/yr	30 days
	5-10 yrs	= 18 day/yr	15 days/yr	60 days
	10-20 yrs	= 20 day/yr	15 days/yr	60 days
	over 20 yrs	= 25 day/yr	15 days/yr	60 days

3. Temporary employees and other limited term employees are ineligible to accrue, use, or be paid for sick leave and annual leave. Such employees shall be eligible for paid holiday leave at the discretion of the appointing authority;

4. Employees shall not be entitled to retroactive accumulation of leave as a result of amendments to this section;

5. The Director of the Office of Management and Enterprise Services and the Executive Director of the Oklahoma Merit Protection Commission shall cooperate to assist agencies in developing policies to prevent violence in state government workplaces without abridging the rights of state employees. Such policy shall include a paid administrative leave provision as a cooling-off period which the Director of the Office of Management and Enterprise Services is authorized to provide pursuant to the Administrative Procedures Act. Such leave shall not be charged to annual or sick leave accumulations;

6. State employees who terminated their employment in the state service on or after October 1, 1992, may be eligible to have sick leave accrued at the time of termination of employment restored if they return to state employment, provided that the state employees' enter-on-duty dates for reemployment occur on or before two (2) years after their termination of employment and they are eligible to accrue sick leave before the two (2) years expire;

7. Employees who are volunteer firefighters pursuant to the Oklahoma Volunteer Firefighters Act and who are called to fight a fire shall not have to use any accrued leave or need to make up any time due to the performance of their volunteer firefighter duties;

8. Employees who are reserve municipal police officers pursuant to Section 34-101 of Title 11 of the Oklahoma Statutes and who miss work in performing their duties in cases of emergency shall not have to use any accrued leave or need to make up any time due to the performance of their reserve municipal police officer duties; and

9. Employees who are reserve deputy sheriffs pursuant to Section 547 of Title 19 of the Oklahoma Statutes and who miss work in performing their duties in case of emergency shall not have to use any accrued leave or need to make up any time due to the performance of their reserve deputy sheriff duties.

B. Nothing in the Oklahoma Personnel Act is intended to prevent or discourage an appointing authority from disciplining or terminating an employee due to abuse of leave benefits or absenteeism. Appointing authorities are encouraged to consider attendance of employees in making decisions regarding promotions, pay increases, and discipline.

C. Upon the transfer of a function in state government to an entity outside state government, employees may, with the agreement of the outside entity, waive any payment for leave accumulations to

which the employee is entitled and authorize the transfer of the leave accumulations or a portion thereof to the outside entity. Added by Laws 1985, c. 203, § 113, operative July 1, 1985. Amended by Laws 1988, c. 85, § 1, eff. July 1, 1988; Laws 1992, c. 367, § 3, eff. July 1, 1992. Renumbered from § 840.7a of this title by Laws 1994, c. 242, § 54. Amended by Laws 1994, c. 283, § 11, eff. Sept. 1, 1994; Laws 1995, c. 358, § 11, emerg. eff. June 9, 1995; Laws 1996, c. 320, § 4, emerg. eff. June 12, 1996; Laws 1998, c. 235, § 2, eff. July 1, 1998; Laws 1998, c. 399, § 1; Laws 1999, c. 21, § 1, eff. July 1, 1999; Laws 2001, c. 348, § 3, eff. Nov. 1, 2001; Laws 2003, c. 145, § 1, eff. July 1, 2003; Laws 2004, c. 312, § 7, eff. July 1, 2004; Laws 2004, c. 401, § 1, eff. July 1, 2004; Laws 2005, c. 437, § 1, eff. July 1, 2005; Laws 2006, c. 230, § 2, eff. July 1, 2006; Laws 2009, c. 423, § 1, eff. July 1, 2009; Laws 2011, c. 37, § 1; Laws 2012, c. 304, § 879.

NOTE: Laws 1994, c. 242, § 6 repealed by Laws 1995, c. 358, § 12, emerg. eff. June 9, 1995.

§74-840-2.20A. Agency closings and reductions in services - Employee leave or relocation.

A. When an agency of the State of Oklahoma or part of such an agency is closed because of an imminent peril threatening the public health, safety, or welfare of state employees or the public, the appointing authority shall place employees who are scheduled to work in the closed area on paid administrative leave or shall assign them to work in another location. Employees who are on paid administrative leave shall be in standby or on-call status during their normal scheduled duty hours. The appointing authority may call such employees to return to their normal duties and work location or respond to the demands of the situation as necessary.

B. When the Governor or a designee of the Governor authorizes agencies or parts of agencies to maintain basic minimum services because hazardous weather conditions impede or delay the movement of employees to and from work, employees responsible for providing such basic minimum services shall report to work. Appointing authorities of agencies shall be responsible for determining essential agency functions and ensuring that employees who staff such functions are so informed. Leave alternatives for those employees not responsible for basic minimum services shall be established by the Director of the Office of Management and Enterprise Services.

C. Appointing authorities of affected agencies shall notify the Office of Management and Enterprise Services of agency closings and reductions in services pursuant to this section.

D. The provisions of this section are applicable to agencies and employees in the executive department of state government, including those on temporary and other limited term appointments. The provisions of this section shall not be applicable to employees

of institutions within The Oklahoma State System of Higher Education.

E. The Director of the Office of Management and Enterprise Services shall adopt rules necessary to implement the provisions of this section.

Added by Laws 1996, c. 320, § 5, emerg. eff. June 12, 1996. Amended by Laws 2012, c. 304, § 880.

§74-840-2.20B. Leaves of absence for state employees serving as donors.

A. Any employee of this state, its departments or agencies shall be granted a leave of absence, subject to approval of the scheduling of such leave by the employee's Appointing Authority, with medical necessity being the primary determinant for such approval, for the time specified for the following purposes:

1. Five (5) workdays to serve as a bone marrow donor if the employee provides the employer written verification that the employee is to serve as a bone marrow donor; and

2. Thirty (30) workdays to serve as a human organ donor if the employee provides the employer written verification that the employee is to serve as a human organ donor.

B. An employee who is granted a leave of absence pursuant to the provisions of this section shall receive the base state pay without interruption during the leave of absence. For purposes of determining seniority, pay or pay advancement, and performance awards, and for the receipt of any benefit that may be affected by a leave of absence, the service of the employee shall be considered uninterrupted by the leave of absence.

C. A state agency shall not penalize an employee for requesting or obtaining a leave of absence pursuant to the provisions of this section.

D. The leave authorized by this section may be requested by the employee only if the employee is the person who is serving as the donor.

Added by Laws 2002, c. 222, § 2, eff. July 1, 2002. Amended by Laws 2002, c. 451, § 1, eff. July 1, 2002. Renumbered from § 2220.11 of Title 63 by Laws 2002, c. 451, § 2, eff. July 1, 2002.

§74-840-2.20C. Written notice of furlough to state employees.

A. Each agency, as defined by Section 840-1.3 of this title, shall provide a written notice to any employee of such agency who will be furloughed by the agency at least thirty (30) days prior to the first date that the furlough period is scheduled to begin. The notice shall provide information about the anticipated first date of the furlough period and an estimate of the duration of the furlough or the day or days during which the furlough will be in effect.

B. The furlough notice shall be provided to the Director of the Office of Management and Enterprise Services and any state employee association representing state employees at such time.

C. Subsection A of this section shall not apply to disruptions in funding to state agencies caused by actions at the federal level. Added by Laws 2012, c. 140, § 1. Amended by Laws 2014, c. 158, § 1, eff. Nov. 1, 2014.

§74-840-2.21. Leave without pay.

A. If a state employee, whether in the classified or unclassified service, is absent because of an illness or injury arising out of and sustained in the course of his or her employment with the state, and for which workers' compensation benefits have been filed, the employing agency shall place the employee on leave without pay if the employee so requests; provided, leave without pay pursuant to this section shall not for any purpose be considered a break in service.

B. An employee who sustains an illness or injury arising out of and sustained in the course of employment with the State of Oklahoma shall not be required to use either accumulated sick or annual leave during such period prior to being placed on leave without pay pursuant to this section.

C. An employee placed on leave without pay pursuant to the provisions of this section shall continue receiving basic plan insurance coverage as defined in Section 1363 of this title and dependent insurance benefit allowance pursuant to paragraph 2 of subsection C of Section 1370 of this title paid by the agency during the leave without pay.

D. An employee on leave without pay pursuant to the provisions of this section shall have the right to be returned to his or her original position in accordance with rules promulgated by the Office of Management and Enterprise Services. If it is found necessary for the good of the state to fill the position during the period the employee is on leave without pay the employee filling the position shall vacate the position upon the return of the employee on leave without pay, subject to layoff, transfer or demotion rights earned under the Oklahoma Personnel Act and rules of the Office of Management and Enterprise Services. The right to return to the original position shall expire one (1) year from the date of the start of leave without pay. The employee may be separated in accordance with the Oklahoma Personnel Act and Office of Management and Enterprise Services Rules if the employee has not returned to the original position of the employee or some other position within the agency within one (1) year from the date of the start of leave without pay.

E. An employee on leave without pay pursuant to the provisions of this section shall provide a medical statement as to his or her

ability to perform the duties of the position to the appointing authority at least every three (3) months.

F. If the employee becomes medically able with reasonable accommodation to perform the duties of his or her original position, the employee shall be returned to such position. If the employee is unable to perform the duties of the original position with reasonable accommodation, but is medically able with reasonable accommodation to perform the duties of any other position within the agency for which the employee is qualified, and appointment to such other position does not constitute a promotion, the employee shall have first preference for any such position which becomes vacant within the agency, notwithstanding any other preference provisions of the Oklahoma Personnel Act or of other laws of the State of Oklahoma. An employee accepting another position pursuant to this subsection shall not forfeit his or her right to be returned to the original position within twelve (12) months after the start of leave without pay pursuant to the provisions of subsection D of this section.

G. An ill or injured employee shall be eligible to participate in the Disability Insurance Program established pursuant to the provisions of Section 1331 et seq. of this title in accordance with rules promulgated by the Office of Management and Enterprise Services.

H. All benefits, rights, and obligations contained in this section shall continue during the time the employee remains on leave without pay status, for a continuous period not to exceed twelve (12) months. However, if a workers' compensation claim based on such illness or injury is denied during the twelve-month period, all benefits, rights and obligations conferred upon an employee pursuant to this section shall cease and be discontinued immediately.

I. A classified employee who is separated pursuant to subsection D of this section shall be eligible for reinstatement to employment with any state agency for twelve (12) months after the date of separation whether in the classified or unclassified service in accordance with rules adopted by the Director of the Office of Management and Enterprise Services provided the employee is qualified for the position to which reinstated. An unclassified employee who is separated pursuant to subsection D of this section shall be eligible for reinstatement to unclassified employment with any state agency for twelve (12) months after the date of separation in accordance with rules promulgated by the Director of the Office of Management and Enterprise Services provided the employee is qualified for the position to which reinstated. Nothing in this subsection shall be construed to compel or require any agency of the state to reinstate a former employee who is separated pursuant to subsection D of this section. Further, nothing in this subsection shall be construed as limiting or reducing a former employee's

eligibility for reinstatement pursuant to other general reinstatement or reemployment provisions in rules promulgated by the Director.

Added by Laws 1988, c. 199, § 1, emerg. eff. June 9, 1988. Amended by Laws 1989, c. 89, § 1, operative July 1, 1989; Laws 1991, c. 151, § 1, eff. Sept. 1, 1991. Renumbered from § 840.7b of this title by Laws 1994, c. 242, § 54. Amended by Laws 1994, c. 283, § 12, eff. Sept. 1, 1994; Laws 1999, c. 172, § 1, emerg. eff. May 21, 1999; Laws 2002, c. 347, § 8, eff. Nov. 1, 2002; Laws 2004, c. 312, § 8, eff. July 1, 2004; Laws 2012, c. 304, § 881.

§74-840-2.21A. Renumbered as § 2-310.2 of Title 47 by Laws 2007, c. 62, § 29, emerg. eff. April 30, 2007.

§74-840-2.22. Family and medical leave.

The Director of the Office of Management and Enterprise Services shall promulgate emergency and permanent leave rules as necessary to implement the federal Family and Medical Leave Act of 1993 and rules thereto. Such leave rules shall permit an employee to select any one or a combination of the following types of leave to account for authorized absences covered by the Family and Medical Leave Act of 1993: leave without pay; annual and sick leave accumulated by the employee; and annual and sick leave donated by other state employees; and compensatory time.

Added by Laws 1989, c. 344, § 1. Amended by Laws 1992, c. 221, § 1, eff. July 1, 1992; Laws 1994, c. 242, § 7. Renumbered from § 840.7c of this title by Laws 1994, c. 242, § 54. Amended by Laws 1997, c. 286, § 3, eff. July 1, 1997; Laws 2001, c. 381, § 4, eff. July 1, 2001; Laws 2004, c. 312, § 9, eff. July 1, 2004; Laws 2012, c. 304, § 882.

§74-840-2.23. State leave-sharing program eligibility - Leave of Last Resort Bank.

A. There is hereby created the state leave sharing program. The purpose of the state leave sharing program is to permit state employees to donate annual or sick leave to a fellow state employee who has exhausted, or will exhaust, all types of paid leave and:

1. Who is eligible for and requires family leave pursuant to the provisions of the Family and Medical Leave Act of 1993, 29 U.S.C., 2601 et seq.; or

2. Who is suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused or is likely to cause the employee to take leave without pay or terminate employment;



3. Immediately after the death of a relative or household member, provided that the total leave received for this purpose shall not exceed five (5) days in any calendar year; or

4. Who is affected by a presidentially declared national disaster in Oklahoma after May 1, 1999, for a period of eighteen (18) months after the date of the presidentially declared national disaster if:

- a. the employee suffered a physical injury as a result of the disaster,
- b. the spouse, relative, or household member of the employee suffered a physical injury or died as a result of the disaster, or
- c. the domicile of the employee or the home of a relative of the employee was damaged or destroyed as a result of the disaster.

B. As used in this section:

1. "Relative of the employee" shall be limited to the spouse, child, stepchild, grandchild, grandparent, stepparent, or parent of the employee;

2. "Household members" means those persons who reside in the same home, who have reciprocal duties to and do provide financial support for one another. This term shall include foster children and legal wards even if they do not live in the household. The term does not include persons sharing the same general house, when the living style is primarily that of a dormitory or commune;

3. "Severe" or "extraordinary" means extreme or life-threatening;

4. "State employee" means a permanent classified employee or a regular unclassified employee with one (1) year or more continuous service with the state. The term "state employee" does not include classified employees in probationary status or unclassified employees on temporary or other limited term appointments, except that those employees are eligible to receive shared leave as provided in paragraph 4 of subsection A of this section and the leave with pay authorized by Section 840-2.23A of this title related to a presidentially declared national disaster; and

5. "Terminal" means likely to result in death within two (2) calendar years.

C. An employee may be eligible to receive shared leave pursuant to the following conditions:

1. The chief administrative officer of the employee determines that the employee meets the criteria described in this section; and

2. The employee has abided by state policies regarding the use of leave.

D. An employee may not donate annual or sick leave to an eligible employee without the permission of the chief administrative officer of the donating employee's agency.

E. An employee may donate annual or sick leave to another employee provided the donation does not cause the annual leave balance of the employee to fall below eighty (80) hours and provided the donation does not cause the sick leave balance of the employee to fall below eighty (80) hours.

F. Except as otherwise provided for in this subsection, the chief administrative officer of the employee shall determine the amount of donated leave an employee may receive and may authorize an employee to use up to a maximum of two hundred sixty-one (261) days of donated leave during total state employment. If the employee is suffering from an illness which has been certified in writing by a licensed physician or health care practitioner as being terminal and the employee who either has reached or shall reach in the near future the maximum amount as set out in this subsection, the chief administrative officer of the employee may approve additional donated leave upon written request of the employee.

G. The chief administrative officer of the employee shall require the employee to submit, prior to approval or disapproval of shared leave pursuant to paragraph 1 of subsection A of this section, a medical certificate from a licensed physician or health care practitioner verifying the need for the leave and expected duration of the illness, injury, impairment, or physical or mental condition for which the leave is donated.

H. Donated annual or sick leave shall be transferable between employees in different state entities. State entities shall allow employees to receive donated annual or sick leave from employees within their employing entity and different state entities; provided, that the employee shall first exhaust all available leave options within the state entity of the employee.

I. Donated annual or sick leave is transferable between employees on an hour-to-hour basis irrespective of the hourly wage of the donating or receiving employee.

J. Any donated leave may only be used by the recipient for the purposes specified in this section.

K. All forms of paid leave available for use by the recipient must be used prior to using donated leave.

L. Any donated leave not used by the recipient during each occurrence as determined by the chief administrative officer of the employee shall be returned to the donor. The donated leave remaining will be divided among the donors on a prorated basis based on the original donated value and returned at its original donor value and reinstated to the original leave balance of each donor.

M. All donated leave must be given voluntarily. No employee shall be coerced, threatened, intimidated, or financially induced into donating annual or sick leave for purposes of the leave sharing program.

N. Except as provided by subsection P of this section, employees may not donate annual or sick leave that the donor would not be able to otherwise take.

O. The Human Capital Management Division of the Office of Management and Enterprise Services shall designate an employee to serve as the shared leave liaison. If a qualifying employee is unable to obtain the necessary number of donated leave hours from his or her employing entity, he or she may contact the shared leave liaison. The shared leave liaison shall have the following responsibilities:

1. To inform all state agencies of the requirements of this section;

2. To inform all state employees of the rights afforded under this section;

3. To ensure an employee requesting shared leave from other state entities meets the criteria set forth in this section;

4. To coordinate outreach efforts within the employing agency and to other state entities to obtain all necessary hours of shared leave for the employee;

5. To ensure an employee has exhausted all sources of shared leave both within his or her employing entity and other state entities before requesting leave from the Leave of Last Resort Bank; and

6. To coordinate leave requested from the Leave of Last Resort Bank.

P. There is hereby created a Leave of Last Resort Bank. In the event a qualifying employee is unable to secure shared leave from employees within his or her employing entity or within a different entity, an employee may request leave from the Leave of Last Resort Bank. The Leave of Last Resort Bank shall be administered by the Human Capital Management Division of the Office of Management and Enterprise Services.

1. The Leave of Last Resort Bank shall be funded by voluntary donations of annual and sick leave from employees retiring from or leaving state service.

2. Upon retirement or the final day of state service, an employee shall elect, in writing, whether any of his or her annual or sick leave shall be deposited into the Leave of Last Resort Bank.

Q. The Office of Management and Enterprise Services shall promulgate rules and regulations as necessary to carry out the provisions of this section.

Added by Laws 1990, c. 140, § 1, operative July 1, 1990. Amended by Laws 1992, c. 221, § 2, eff. July 1, 1992. Renumbered from § 840.7d of this title by Laws 1994, c. 242, § 54. Amended by Laws 1995, c. 74, § 1, eff. Nov. 1, 1995; Laws 1996, c. 320, § 6, emerg. eff. June 12, 1996; Laws 1999, c. 306, § 7, eff. July 1, 1999; Laws 2000, c. 298, § 1, emerg. eff. June 5, 2000; Laws 2001, c. 1, § 1, emerg.

eff. Feb. 20, 2001; Laws 2001, c. 381, § 5, eff. July 1, 2001; Laws 2002, c. 22, § 31, emerg. eff. March 8, 2002; Laws 2002, c. 347, § 9, eff. Nov. 1, 2002; Laws 2004, c. 312, § 10, eff. July 1, 2004; Laws 2009, c. 12, § 4, eff. July 1, 2009; Laws 2018, c. 217, § 1, eff. Nov. 1, 2018.

NOTE: Laws 2001, c. 349, § 1 repealed by Laws 2002, c. 22, § 34, emerg. eff. March 8, 2002.

§74-840-2.23A. National disaster leave.

A. An appointing authority may grant leave with pay not to exceed fifteen (15) working days to a state employee who is affected by a presidentially declared national disaster in Oklahoma after May 1, 1999, if:

1. The employee suffered a physical injury as a result of the disaster;

2. A relative or household member of the employee, as defined by subsection B of Section 840-2.23 of Title 74 of the Oklahoma Statutes, suffered a physical injury or died as a result of the disaster; or

3. The domicile of the employee or the domicile of a relative of the employee, as defined by subsection B of Section 840-2.23 of Title 74 of the Oklahoma Statutes, was damaged or destroyed as a result of the disaster.

B. The authority to grant leave with pay pursuant to subsection A of this section shall extend for a period of not more than eighteen (18) months after the date of a presidentially declared national disaster.

C. Annual leave, sick leave, or compensatory time which was charged to a state employee as a result of the presidentially declared national disaster resulting from the May 3, 1999, tornadoes that would have otherwise been eligible for the leave provision in subsection A of this section, may be reinstated by the appointing authority. A state employee entitled to leave with pay pursuant to this section who was charged leave without pay shall be compensated at the base rate of pay of the employee.

Added by Laws 1999, c. 306, § 8, eff. July 1, 1999. Amended by Laws 2000, c. 298, § 2, emerg. eff. June 5, 2000.

§74-840-2.24. Participation in specialized disaster relief services - Leave with pay.

A. 1. As used in this subsection, "disaster" means disasters designated at level III and above in the American Red Cross Regulations and Procedures.

2. Any state employee in the executive branch of state government who is a certified disaster service volunteer of the American Red Cross or a member of the United States Air Force Auxiliary Civil Air Patrol, with the authorization of the chief

executive officer of the state agency, may be granted a leave with pay not to exceed fifteen (15) working days in any twelve-month period to participate in specialized disaster relief services within the State of Oklahoma for the American Red Cross or the United States Air Force Auxiliary Civil Air Patrol, upon the request of the American Red Cross or the United States Air Force Auxiliary Civil Air Patrol and with the approval of the office of the Governor of this state, without the loss of pay, annual leave, sick leave, accrued overtime wages or compensatory time. The agency shall compensate an employee granted leave time under this section at his or her regular rate of pay for those regular work hours during which the employee is absent from work.

3. Notwithstanding the provision of paragraph 2 of this subsection, state employees certified as disaster volunteers shall not exceed five hundred (500) participants at any one time. A list of such employees will be coordinated with the Department of Civil Emergency Management and the office of the Governor of this state. Within sixty (60) days of any request made by the American Red Cross or the United States Air Force Auxiliary Civil Air Patrol, a report shall be prepared by the American Red Cross or the United States Air Force Auxiliary Civil Air Patrol and submitted to the Governor's office stating the reasons and needs for any request made.

B. Any state officer or employee in the executive branch of state government authorized by the employing agency of the officer or employee to volunteer in a disaster relief activity during a presidentially declared national disaster in Oklahoma after May 1, 1999, for a period of not more than six (6) months after the date of the presidentially declared national disaster, shall not have to use accrued leave or need to make up any time due to the performance of their volunteer activities.

C. Private employers are encouraged to allow their employees to take leave in order to participate in volunteer disaster service programs.

D. School administrators are encouraged to allow students, sixteen (16) years of age or older to be out of school to participate in volunteer disaster service programs.

Added by Laws 1994, c. 136, § 1, emerg. eff. May 2, 1994.

Renumbered from Title 74, § 840.7e by Laws 1994, c. 242, § 54.

Amended by Laws 1999, c. 172, § 2, emerg. eff. May 21, 1999; Laws 2010, c. 92, § 1, eff. Nov. 1, 2010.

§74-840-2.25. Meetings of job-related professional organizations - Leave to attend - Activities excluded.

A. A permanent classified employee or a regular unclassified employee shall be entitled to take leave with pay for not to exceed three (3) days a year to attend meetings of job-related professional organizations of which the employee is a member upon receiving

permission from the appointing authority. The denial by an appointing authority or organizational leave shall be in writing and state the reasons for denying said leave.

B. The leave authorized by this section shall not be used for lobbying activities which include the lobbying of legislative or executive branch elected officials within state-owned or leased buildings.

Added by Laws 1982, c. 338, § 41, eff. July 1, 1982. Amended by Laws 1989, c. 344, § 3; Laws 1994, c. 242, § 38. Renumbered from § 841.20 of this title by Laws 1994, c. 242, § 54.

§74-840-2.26. Flextime attendance policies and alternative work schedules.

A. In order to provide increased services to the public, to assist state employees in meeting the needs of their families, improve employee morale and productivity, appointing authorities are encouraged to consider the adoption of flextime attendance policies and alternative work schedules.

B. For purposes of this section, "flextime" means a regular, eight-hour-day work schedule that permits the use of alternative starting and ending times within limits set by the appointing authority and that includes a common work period during which all employees are expected to be present.

C. The Director of the Office of Management and Enterprise Services shall provide technical assistance to agencies in developing flextime policies and alternative work schedules and shall promulgate rules pursuant to the Administrative Procedures Act as necessary for such policies.

Added by Laws 1994, c. 242, § 39. Amended by Laws 2005, c. 176, § 4, eff. July 1, 2005; Laws 2012, c. 304, § 883.

§74-840-2.27. Renumbered as § 840-2.27C of this title by Laws 1997, c. 287, § 20, eff. July 1, 1997.

§74-840-2.27A. Short title.

Sections 4 through 11 of this act shall be known and may be cited as the "State Government Reduction-in-Force and Severance Benefits Act".

Added by Laws 1997, c. 287, § 4, eff. July 1, 1997.

§74-840-2.27B. Definitions.

As used in Sections 840-2.27B through 840-2.27G of this title:

1. "Affected job family levels" means those containing affected positions;

2. "Affected employees" means classified employees in affected positions;

3. "Affected positions" means positions being abolished or positions which are subject to displacement action;

4. "Agency" means any office, department, board, commission, or institution of all branches of state government, except for institutions within The Oklahoma State System of Higher Education;

5. "Displacement" or "displace" means the process of an employee accepting an offer of employment to an occupied or funded vacant position;

6. "Displacement limit" means any area within an agency in which displacement may not occur. These areas may include, but are not limited to, job families, units, and geographic areas within an agency;

7. "Displacement opportunity" means the circumstances under which an occupied or funded vacant position is subject to displacement by an affected employee;

8. "Displacement privilege" means the privilege an affected employee has to utilize a displacement opportunity;

9. "Educational institution" means an institution within The Oklahoma State System of Higher Education, a facility under the management or control of the Oklahoma Department of Career and Technology Education, or a licensed private educational institution in the State of Oklahoma;

10. "Personnel transaction" means the record of the separation as a result of a reduction-in-force of a classified affected employee from an agency, or the record of the transfer or demotion of a classified affected employee;

11. "Reduction-in-force" means abolition of positions in an agency or part of an agency and the corresponding nondisciplinary removal of affected employees from such positions through separation from employment or through displacement to other positions. Reduction-in-force may also include reorganizations;

12. "Reorganization" means the planned elimination, addition or redistribution of functions or duties either wholly within an agency, any of its subdivisions, or between agencies;

13. "Severance benefits" means employee benefits provided by the State Government Reduction-in-Force and Severance Benefits Act to affected employees separated through a reduction-in-force; and

14. "Years of service" means current and prior service which is creditable for the Longevity Pay Plan. An affected employee shall not be required to have been continuously employed for two (2) years to be given credit for either current or prior service pursuant to the State Government Reduction-in-Force and Severance Benefits Act. Added by Laws 1997, c. 287, § 5, eff. July 1, 1997. Amended by Laws 1999, c. 410, § 5, eff. Nov. 1, 1999; Laws 2001, c. 33, § 175, eff. July 1, 2001; Laws 2003, c. 212, § 12, eff. July 1, 2003; Laws 2004, c. 5, § 92, emerg. eff. March 1, 2004.

NOTE: Laws 2003, c. 120, § 1 repealed by Laws 2004, c. 5, § 93, emerg. eff. March 1, 2004.

§74-840-2.27C. Reduction-in-force plan.

A. At least sixty (60) days before the scheduled beginning of reduction-in-force separations or as otherwise provided by law, the appointing authority shall post in each office of executive branch agencies affected by the proposed reduction-in-force notice that a reduction-in-force will be conducted in accordance with the Oklahoma Personnel Act and Merit rules. The reduction-in-force implementation plan shall be provided to the Director of the Office of Management and Enterprise Services and any state employee association representing state employees at such time. The notice shall not be posted unless approved by the cabinet secretary for the agency conducting the reduction-in-force. If there is no incumbent cabinet secretary for the agency, the cabinet-secretary-notice-approval requirement shall not be applicable. If the appointing authority is governed by an elected official, the cabinet-secretary-notice-approval requirement shall not be applicable. The approved notice shall be posted in each office affected by the proposed plan for five (5) days. The appointing authority shall provide a copy of the notice to the Administrator. A reduction-in-force shall not be used as a disciplinary action.

B. The reduction-in-force implementation plan and subsequent personnel transactions directly related to the reduction-in-force in executive branch agencies shall be in compliance with rules adopted by the Administrator. The reduction-in-force implementation plan, including the description of and reasons for displacement limits and protections from displacement actions, and severance benefits that will be offered pursuant to Section 840-2.27D of this title shall be posted in each office affected by the plan within five (5) business days after posting of the reduction-in-force notice. The reduction-in-force implementation plan shall:

1. Provide for the appointing authority to determine the specific position or positions to be abolished within specified units, divisions, facilities, agency-wide or any parts thereof;
2. Provide for retention of affected employees based on type of appointment;
3. Require the separation of probationary classified affected employees in affected job family levels, except those affected employees on probationary status after reinstatement from permanent classified status without a break in service, prior to the separation or displacement of any permanent classified affected employee in an affected job family level;
4. Provide for retention of permanent classified affected employees in affected job family levels and those affected employees on probationary status after reinstatement from permanent classified



status without a break in service based upon consideration of years of service;

5. Provide for exercise of displacement opportunities by permanent classified affected employees and those affected employees on probationary status after reinstatement from permanent classified status without a break in service if any displacement opportunities exist; and

6. Provide outplacement assistance and employment counseling from the Oklahoma Employment Security Commission and any other outplacement assistance and employment counseling made available by the agency to affected employees regarding the options available pursuant to the State Government Reduction-in-Force and Severance Benefits Act prior to the date that a reduction-in-force is implemented.

C. If an agency implements a reduction-in-force then it shall give a veteran's preference over affected nonveterans who have equal retention points to the affected veteran.

D. The Director of the Office of Management and Enterprise Services shall review the fiscal components of the reduction-in-force implementation plan and within five (5) business days of receipt reject any plan that does not:

1. Demonstrate that funds are available to cover projected costs;

2. Contain an estimate of the number of affected employees likely to participate in the education voucher program established in Section 840-2.27D of this title; and

3. Contain an estimate of the cost savings or reduced expenditures likely to be achieved by the agency.

If the reduction-in-force is conducted pursuant to a reorganization, the fiscal components of the reduction-in-force implementation plan shall contain reasons for the reorganization, which may include, but not be limited to, increased efficiency, improved service delivery, or enhanced quality of service.

E. The appointing authority may limit displacement of affected employees at the time of a reduction-in-force. Displacement limits shall not be subject to the approval of the Administrator. Any limitation shall be based upon reasonable, written, articulated criteria as certified by the appointing authority. If displacement is limited, the appointing authority shall take action to avoid or minimize any adverse impact on minorities or women.

1. The appointing authority may protect from displacement action up to twenty percent (20%) of projected post-reduction-in-force employees in affected positions within displacement limits; provided, that any fractional number resulting from the final mathematical calculation of the number of those positions shall be rounded to the next higher whole number. The appointing authority must explain why affected employees are being protected.

2. If the affected employee has not held within the last five (5) years a position in the job family level or predecessor class in which the affected employee is otherwise eligible for a displacement opportunity, the appointing authority may determine that the affected employee does not possess the recent relevant experience for the position and deny in writing the displacement opportunity.

3. An affected permanent classified employee may exercise a displacement privilege, if one exists, if the affected employee has received an overall rating of at least "meets standards", or its equivalent, on the most recent annual service rating. If an affected employee has not been rated in accordance with the time limits established in Section 840-4.17 of this title, the employee shall be deemed to have received an overall rating of at least "meets standards" or its equivalent on the most recent service rating.

4. An affected employee who exercises a displacement privilege pursuant to this section shall:

- a. be required, as a condition of continued employment by the agency, to sign an agreement, in a form to be prescribed by the Director of the Office of Management and Enterprise Services, acknowledging that the employee had an opportunity to receive severance benefits and affirmatively elected to exercise a displacement privilege and to forego such benefits. An affected employee who signs the agreement required by this subparagraph waives any privilege which might otherwise have been available to the affected employee pursuant to the agreement for the provision of severance benefits, and
- b. not have the right to exercise any subsequent right to receive severance benefits from the agency for which the affected employee performs services on the date that the employee exercises a displacement privilege. The provisions of this section shall not prohibit any person from exercising a displacement privilege in, or accepting severance benefits from, more than one agency during employment with the State of Oklahoma or from the agency which the affected employee exercised a displacement privilege in any future reduction-in-force.

F. An affected employee who does not agree pursuant to Section 840-2.27E of this title to accept severance benefits and who does not have a displacement opportunity or does not accept a displacement opportunity shall be separated by the reduction-in-force and shall not receive any severance benefits that would have otherwise been provided pursuant to Section 840-2.27D of this title.

G. Permanent classified affected employees and those affected employees on probationary status after reinstatement from permanent classified status without a break in service who were removed from a job family level by taking a position in another job family level through displacement or separated after foregoing severance benefits shall be recalled by the agency to the job family level from which they were removed in inverse order of removal before the agency may appoint other persons to the job family level, from the employment register, by internal action or from Priority Reemployment Consideration Rosters as provided by this section. Upon declination of an offer of reappointment to the job family level from which the employee was removed or eighteen (18) months after the date of removal from the job family level, whichever is first, this right to be recalled shall expire.

H. The names of permanent classified affected employees and those affected employees on probationary status after reinstatement from permanent classified status without a break in service who have been separated pursuant to the State Government Reduction-in-Force and Severance Benefits Act, who apply and meet all requirements for state jobs in the classified service shall be placed on Priority Reemployment Consideration Rosters for a maximum of eighteen (18) months after the date of separation. Before any vacant position is filled by any individual eligible for initial appointment from the employment register, individuals on the Priority Reemployment Consideration Rosters shall be given priority consideration for reemployment by any state agency within eighteen (18) months after the date of the reduction-in-force. Upon declination of an offer of reemployment to a job family level having the same or higher pay band than the job family level from which the employee was removed, or eighteen (18) months after the date of separation, whichever is first, this priority consideration for reemployment shall expire. If an agency has posted a reduction-in-force plan and implementation schedule, all affected employees in positions covered by the plan and any within the displacement limits established by the appointing authority of the agency who have been separated shall be eligible for priority reemployment consideration.

I. If an agency or any part thereof is scheduled to be closed or abolished as a result of legislation or a court order, the affected employees, who would be eligible for Priority Reemployment Consideration after their separation in accordance with subsection H of this section, may apply and, if qualified and eligible, shall be accorded Priority Reemployment Consideration not to exceed twelve (12) months before the scheduled date of separation. If an agency has posted a reduction-in-force plan and implementation schedule, all affected employees in positions covered by the plan and any within the displacement limits established by the appointing authority of the agency shall be eligible for Priority Reemployment

Consideration beginning with the date the schedule is posted, not to exceed twelve (12) months before the scheduled date of separation.

J. When the Legislature is not in session, the Contingency Review Board may, upon the request of the Governor, direct agencies, boards and commissions to reduce the number of employees working for the agency, board or commission whenever it is deemed necessary and proper. Such reduction shall be made pursuant to reduction-in-force plans as provided in this section.

K. 1. When the Legislature is not in session, the Contingency Review Board may, upon the request of the Governor, direct and require mandatory furloughs for all state employees whenever it is deemed necessary and proper. The Contingency Review Board shall specify the effective dates for furloughs and shall note any exceptions to state employees affected by same. All classified, unclassified, exempt or nonmerit employees, including those employees of agencies or offices established by statute or the Constitution, shall be affected by such actions.

2. Mandatory furlough means the involuntary temporary reduction of work hours or the placement of an employee on involuntary leave without pay. Rules governing leave, longevity pay and participation in the State Employees Group Health, Dental, Disability, and Life Insurance program shall not be affected by mandatory furloughs. Furlough, as provided for in this section or by rules adopted by the Director of the Office of Management and Enterprise Services, shall not be appealable under the provisions of the Oklahoma Personnel Act.

3. Notwithstanding existing laws or provisions to the contrary, members of state boards and commissions shall not receive per diem expenses during periods of mandatory furlough. The Contingency Review Board shall additionally call upon elected officials, members of the judiciary, and other public officers whose salary or emoluments cannot be altered during current terms of office, to voluntarily donate to the General Revenue Fund any portion of their salary which would otherwise have been affected by a mandatory furlough.

L. All agencies directed by the Contingency Review Board to terminate or furlough employees, shall report the cumulative cost savings achieved by the reductions-in-force or furloughs to the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives on a quarterly basis for one (1) year following the effective date of the action.

M. The appointing authority of an agency which has an approved reduction-in-force plan pursuant to the State Government Reduction-in-Force and Severance Benefits Act may request the Director of the Office of Management and Enterprise Services to appoint an interagency advisory task force for the purpose of assisting the agency and its employees with the implementation of the reduction-

in-force. The appointing authority of state agencies requested by the Administrator to participate on a task force shall assign appropriate administrative personnel necessary to facilitate the necessary assistance required for the efficient implementation of the approved reduction-in-force.

Added by Laws 1982, c. 338, § 35, eff. July 1, 1982. Amended by Laws 1983, c. 329, § 1, eff. July 1, 1983; Laws 1986, c. 84, § 7, eff. Nov. 1, 1986; Laws 1986, c. 244, § 7, emerg. eff. June 12, 1986; Laws 1991, c. 22, § 1, eff. Sept. 1, 1991. Renumbered from § 841.14 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1994, c. 283, § 15, eff. Sept. 1, 1994; Laws 1995, c. 263, § 8. Renumbered from § 840-4.18 of this title by Laws 1995, c. 263, § 10. Amended by Laws 1997, c. 287, § 6, eff. July 1, 1997. Renumbered from § 840-2.27 of this title by Laws 1997, c. 287, § 20, eff. July 1, 1997. Amended by Laws 1998, c. 256, § 2, eff. July 1, 1998; Laws 1999, c. 410, § 6, eff. Nov. 1, 1999; Laws 2001, c. 381, § 6, eff. July 1, 2001; Laws 2003, c. 212, § 13, eff. July 1, 2003; Laws 2003, c. 353, § 1, emerg. eff. June 3, 2003; Laws 2004, c. 312, § 11, eff. July 1, 2004; Laws 2005, c. 1, § 130, emerg. eff. March 15, 2005; Laws 2005, c. 453, § 2, eff. July 1, 2005; Laws 2007, c. 342, § 3, eff. July 1, 2007; Laws 2009, c. 38, § 1, eff. Nov. 1, 2009; Laws 2010, c. 2, § 101, emerg. eff. March 3, 2010; Laws 2012, c. 304, § 884.

NOTE: Laws 2004, c. 277, § 1 repealed by Laws 2005, c. 1, § 131, emerg. eff. March 15, 2005. Laws 2009, c. 12, § 5 repealed by Laws 2010, c. 2, § 102, emerg. eff. March 3, 2010.

#### §74-840-2.27D. Severance benefits.

A. Agencies shall provide severance benefits to affected employees who are separated from the state service as a result of a reduction-in-force due to a reorganization or any other action by an agency which results in affected positions being abolished and affected employees being severed from the state service. Severance benefits shall be given to the following categories of affected employees: permanent classified affected employees and affected employees on probationary status after reinstatement from permanent classified status without a break in service; provided, however, affected employees of the University Hospitals Authority must have been continuously employed in the state service since on or before January 1, 1995, to receive severance benefits. Pursuant to this section and Section 840-5.1A of this title, state agencies may provide severance benefits provided by this subsection to regular unclassified employees with one (1) year or more continuous state service who are separated from the state service for budgetary reasons; however, state agencies shall offer regular unclassified state employees with one (1) year or more continuous state service who are separated from the state service the same severance benefit

as the affected employees in a reduction-in-force if the unclassified employees' separation is as a result of the conditions causing the agency to implement a reduction-in-force. Affected employees who qualify for severance benefits pursuant to this section, in addition to the payment of any compensable accrued leave or other benefits an affected employee is eligible to receive upon separation from the state service, shall receive severance benefits consisting of the following elements:

1. All agency severance benefits shall provide the following:
  - a. payment equal to the affected employee's current health insurance premium for the affected employee only for eighteen (18) months based on the cost of the premium at the time of the reduction-in-force. The appointing authority of the agency can ask the Director of the Office of Management and Enterprise Services to waive the severance benefit provision in this subparagraph or to reduce the length of coverage or subsequent severance benefit payment upon demonstration of the agency's inability to fund the full benefit,
  - b. a longevity payment, as prescribed by Section 840-2.18 of this title, in the amount which would otherwise be paid to the affected employee on the affected employee's next anniversary date. For the purposes of this subparagraph, the University Hospitals Authority shall calculate longevity for affected employees who were members of the University Hospitals Authority Model Personnel System pursuant to Section 3211 of Title 63 of the Oklahoma Statutes for all state service as would otherwise be determined by Section 840-2.18 of this title, and
  - c. outplacement assistance and employment counseling prior to and after the reduction-in-force from the Oklahoma Employment Security Commission and other state or private entities that the entity may contract with to assist individuals who may be impacted by a reduction-in-force;

2. In addition to the severance benefits provided by paragraph 1 of this subsection, agencies may give affected employees, except as otherwise provided by paragraph 3 of this subsection, severance benefit packages based on any combination of the following options, provided that all affected employees who receive severance benefits in the reduction-in-force shall be accorded uniform treatment pursuant to the State Government Reduction-in-Force and Severance Benefits Act:

- a. up to one (1) week of pay, calculated by dividing the affected employee's current annual salary by the whole number fifty-two (52), for each year of service,
- b. a maximum lump-sum payment of Five Thousand Dollars (\$5,000.00), and
- c. payment for accumulated sick leave or extended illness benefits at up to one-half (1/2) of the affected employee's hourly rate not otherwise used pursuant to law for conversion to credited retirement credit; and

3. An affected employee may direct payment of all or a portion of the affected employee's severance benefits to the options authorized by this paragraph by exercising an option to receive education vouchers for use in connection with the Reduction-in-Force Education Voucher Action Fund subject to the following requirements and rules of the Director of the Office of Management and Enterprise Services, provided that the agency offers to match employee severance funds pursuant to this paragraph. In such case:

- a. the affected employee may purchase One Dollar (\$1.00) in voucher credit for each One Dollar (\$1.00) contributed by the affected employee to the fund subject to a maximum affected employee contribution of Three Thousand Dollars (\$3,000.00) which may be matched by a maximum agency contribution of Three Thousand Dollars (\$3,000.00); provided, that the agency contribution shall not exceed the contribution of the affected employee,
- b. the affected employee may pay the cost for the voucher program directly, subject to the requirements of subparagraph a of this paragraph, or the employing agency of the affected employee may pay the cost of the voucher from funds which would otherwise have been used to make payments to the displaced affected employee pursuant to an election by the affected employee to receive severance benefits,
- c. no voucher issued pursuant to the provisions of this paragraph shall:
  - (1) be redeemed by the affected employee for cash or anything of value other than the cost of tuition and fees at a public or private educational institution within the State of Oklahoma, or
  - (2) be valid longer than a period of four (4) years from the date upon which the voucher is issued to the affected employee,
- d. the Director of the Office of Management and Enterprise Services shall pay tuition and fees directly to the educational institution and shall receive any refunds for payment of tuition and fees

- from the educational institution which shall be credited to the affected employee's account, and
- e. the Director of the Office of Management and Enterprise Services shall distribute to the affected employee and the agency any monies remaining in the affected employee's account after the voucher credit has expired. The distribution shall be based on the proportional share of contributions made by the affected employee and the agency.

B. Each affected employee who is separated from state service as a result of a reduction-in-force after July 1, 1998, besides being eligible for the eighteen (18) months of continuation coverages provided by the Public Health Service Act, 42 U.S.C., Section 30066-1 et seq., i.e., health, dental, vision and healthcare reimbursement account options, under this severance benefit, shall also be eligible to elect additional continuation coverage for any life insurance, in twenty-thousand-dollar units, on self or five-thousand-dollar units, on dependents, and to continue participation in the dependent care reimbursement account provided that these additional coverages were in effect immediately prior to the effective date of the reduction-in-force, the date of which shall serve as the qualifying event date. Provided, that no coverage elected for continuation through the Public Health Service Act for the full eighteen-month period is allowed to lapse, then that affected employee may elect to continue those same coverages for an additional eighteen (18) months at whatever rate is then in effect. This additional eighteen-month continuation period of coverage shall be administered by the Oklahoma State Employees Benefits Council following the initial eighteen-month period of continuation which shall be administered by the COBRA office at the State and Education Employees Group Insurance Board.

C. Part-time affected employees shall receive benefits pursuant to this section on a prorated basis. Part-time employees shall have been compensated for at least one thousand (1,000) hours during the twelve (12) months immediately preceding the effective date of the reduction-in-force to be eligible for severance benefits pursuant to the State Government Reduction-in-Force and Severance Benefits Act.

D. No appointing authority shall grant affected employees in a reduction-in-force severance benefits except as provided in this section.

Added by Laws 1997, c. 287, § 7, eff. July 1, 1997. Amended by Laws 1998, c. 256, § 3, eff. July 1, 1998; Laws 2001, c. 381, § 7, eff. July 1, 2001; Laws 2003, c. 212, § 14, eff. July 1, 2003; Laws 2003, c. 353, § 2, eff. July 1, 2003; Laws 2004, c. 5, § 94, emerg. eff. March 1, 2004; Laws 2012, c. 304, § 885.

NOTE: Laws 2003, c. 120, § 2 repealed by Laws 2004, c. 5, § 95, emerg. eff. March 1, 2004.



§74-840-2.27E. Separation agreement.

Any affected employee who receives severance benefits pursuant to the State Government Reduction-in-Force and Severance Benefits Act shall execute a separation agreement with the employing agency, on forms to be prescribed by the Director of the Office of Management and Enterprise Services. The forms shall comply with applicable federal laws and may include but not be limited to the following elements:

1. Agreement by the affected employee that the receipt of the benefits is in lieu of continued employment with the agency or other severance benefits related to the current reduction-in-force;

2. Agreement by the affected employee that, to the extent allowed by federal or state law, respectively, the affected employee releases the State of Oklahoma and the agency from all claims, liabilities, demands and causes of action known or unknown, fixed or contingent, equitable, legal or administrative, except unemployment insurance;

3. Agreement by the affected employee that, to the extent allowed by federal or state law, respectively, the affected employee releases the State of Oklahoma and the agency from any claim or cause of action which might arise under federal or state laws governing the employment relationship; and

4. Agreement by the affected employee that the affected employee knows and understands that the receipt of severance benefits is in exchange, to the extent allowed by federal or state law, for any rights the affected employee may have had to:

- a. continued employment with any agency, and
- b. future employment with the agency from which separated for a period of one (1) year from the date of the agreement, provided that nothing in this subparagraph shall prohibit an appointing authority of any agency from employing an affected employee who has received a severance benefit. If an affected employee is reemployed by the agency from which separated as a result of a reduction-in-force within one (1) year of separation, the affected employee shall repay all severance benefits received pursuant to the State Government Reduction-in-Force and Severance Benefits Act on a proportional basis. The repayment amount of the severance benefits received by or paid on behalf of the affected employee shall be reduced one-three-hundred-sixty-fifths ( $1/365$ ) for each day after the separation of the affected employee, provided that any education voucher credit benefits shall not include agency contributions.

The provisions of this section shall not prohibit any affected employee from accepting severance benefits from more than one agency during employment with the State of Oklahoma.

Added by Laws 1997, c. 287, § 8, eff. July 1, 1997. Amended by Laws 2002, c. 347, § 10, eff. Nov. 1, 2002; Laws 2003, c. 212, § 15, eff. July 1, 2003; Laws 2012, c. 304, § 886.

§74-840-2.27F. Reduction-in-Force Education Voucher Action Fund.

A. There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services to be designated the "Reduction-in-Force Education Voucher Action Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Director of the Office of Management and Enterprise Services for the purposes authorized by subsection B of this section. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. The fund shall be used for the purpose of providing education vouchers to affected employees exercising rights to severance benefits pursuant to Sections 840-2.27D and 840-2.28 of this title in order to make payment to eligible educational institutions.

C. The Office of Management and Enterprise Services shall establish accounts within the fund for each affected employee who elects to participate in the education voucher opportunity pursuant to Sections 840-2.27D and 840-2.28 of this title, in which shall be placed the affected employee and agency contributions.

Added by Laws 1997, c. 287, § 9, eff. July 1, 1997. Amended by Laws 2012, c. 304, § 887.

§74-840-2.27G. Reduction-in-Force Emergency Cost Fund.

A. There is hereby created in the State Treasury a fund for the Office of Management and Enterprise Services to be designated as the "Reduction-in-Force Emergency Cost Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of appropriations made by the Legislature. All monies accruing to the fund are hereby appropriated and may be budgeted and expended by the Director of the Office of Management and Enterprise Services for the purpose of aiding state agencies to pay severance benefits pursuant to the State Government Reduction-in-Force Severance Benefits Act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. Monies appropriated to the fund may be transferred to an agency upon application to the Director of the Office of Management and Enterprise Services by the appointing authority proposing to conduct a reduction-in-force and who, because of insufficient resources, is unable to provide severance benefits pursuant to the State Government Reduction-in-Force Severance Benefits Act to eligible affected employees. The appointing authority shall have met the reduction-in-force plan submission and approval requirements of Section 840-2.27C of this title. The Director may either:

1. Approve the request; or
2. Deny or reduce the request of an appointing authority if the Director determines that the agency has funds available to pay the severance benefits or if anticipated requests from agencies for funding in a fiscal year will exceed the monies in the fund.

C. The Director shall notify the Contingency Review Board regarding any decision to authorize disbursements from the fund. Any member of the Board may call a meeting to consider the Director's decision within five (5) business days of the notification to the Contingency Review Board. If the Contingency Review Board does not disapprove or otherwise amend the Director's decision within ten (10) business days of notification to the Contingency Review Board, the Director's decision shall be final. If the Director or the Contingency Review Board has authorized the use of the fund, the Director shall transfer the funds to the agency.

D. Agencies must use any monies transferred from the fund solely for the purposes of the State Government Reduction-in-Force and Severance Benefits Act. Any monies not used as a result of the reduction-in-force for which the money was transferred shall be returned to the fund by state agencies, except as provided by Section 840-2.27H of this title.

E. Any monies transferred to agencies from the fund shall not be subject to any budgetary limits of an agency.

Added by Laws 1997, c. 287, § 10, eff. July 1, 1997. Amended by Laws 2012, c. 304, § 888.

§74-840-2.27H. Repealed by Laws 1998, c. 256, § 11, eff. July 1, 1998.

§74-840-2.27I. Election to reinstate health insurance coverage.

- A. An affected former state employee who:
1. Had a vested or retirement benefit pursuant to the provisions of any of the state public retirement systems;
  2. Was separated from state service as a result of a reduction-in-force since July 1, 1997; and
  3. Was offered severance benefits pursuant to the State Government Reduction-in-Force and Severance Benefits Act,

may reinstate health insurance coverage any time within two (2) years following the date of the reduction-in-force from the state, and be eligible for the purchase of all other benefits available to former employees with a vested benefit of the state public retirement system of which the employee is a member.

B. Former employees who elect to reinstate health insurance coverage pursuant to this section shall provide satisfactory evidence of insurability after a break in coverage of one hundred eighty (180) days or more.

C. The provisions of subsection A of this section shall apply to an affected former state employee who may have elected non-state-sponsored health insurance coverage or who initially may have elected one of the available state-sponsored health insurance plans but later cancels either of those elected coverages.

D. A former employee who reinstates health insurance coverage pursuant to this section shall pay the full cost of the insurance premium at the then available rate and pursuant to the rules and enrollment procedures established by the State and Education Employees Group Insurance Board. The former employee will be subject to the same rate changes as those made available to all other state vested or retired employees. The former employee may elect coverage for the employee's current dependents if the election is made within thirty (30) days of reinstatement of health insurance.

Added by Laws 1998, c. 256, § 4, eff. July 1, 1998.

§74-840-2.28. Authorization - Benefit package options - Plan for reduction-in-force - Part-time employees - Ineligibility for future benefits.

A. Agencies shall be authorized to provide voluntary out benefits to permanent classified employees and regular unclassified employees with one (1) year or more of continuous state service who are voluntarily separated from the state service in order to reduce or eliminate the adverse impact of an imminent reduction-in-force. For purposes of this section, "agency" or "agencies" shall include agencies, boards, commissions, or departments of all three branches of state government. Voluntary out benefit payments made pursuant to this section, in addition to the payment of any compensable accrued leave and other benefits an employee who voluntarily separates is eligible to receive upon separation from the state service, shall consist of the following elements:

1. All agency voluntary out benefits shall provide the following:

- a. payment equal to the employee's current health insurance premium for the employee only for eighteen (18) months based on the cost of the premium at the time of the voluntary separation, and

- b. a longevity payment, as prescribed by Section 840-2.18 of this title in the amount which would otherwise be paid to the employee on the employee's next anniversary date. For the purposes of this subparagraph, the University Hospitals Authority shall calculate longevity for employees who were members of the University Hospitals Authority Model Personnel System pursuant to Section 3211 of Title 63 of the Oklahoma Statutes for all state service as would otherwise be determined by Section 840-2.18 of this title;

2. In addition to the voluntary out benefits provided by paragraph 1 of this subsection, agencies may give employees, except as otherwise provided by paragraph 3 of this subsection, voluntary out benefit packages based on any combination of the following options, provided that all employees who are separated as a result of the agency offer of a voluntary out benefit pursuant to this section in anticipation of the imminent reduction-in-force are accorded uniform treatment pursuant to this section:

- a. up to one (1) week of pay, calculated by dividing the employee's current annual salary by the whole number fifty-two (52), for each year of service,
- b. a maximum lump-sum payment of Five Thousand Dollars (\$5,000.00),
- c. payment for accumulated sick leave or extended illness benefits at up to one-half of the employee's hourly rate not otherwise used pursuant to law for conversion to credited retirement credit, and
- d. payment of health benefit premiums as provided by the Public Health Service Act, 42 U.S.C., Section 300bb-1 et seq., for a period not to exceed eighteen (18) months. The agency shall not be authorized to make a cash payment to the employee in lieu of the payment by the agency of the cost of continued health care coverage for the employee; and

3. An employee may direct payment of all or a portion of the employee's voluntary out benefits to the options authorized by this paragraph by exercising an option to receive education vouchers for use in connection with the Reduction-in-Force Education Voucher Action Fund subject to the following requirements and rules of the Director of the Office of Management and Enterprise Services, provided that the agency offers to match employee voluntary out funds pursuant to this paragraph. In such case:

- a. the employee may purchase One Dollar (\$1.00) in voucher credit for each One Dollar (\$1.00) contributed by the employee to the fund subject to a maximum employee contribution of Three Thousand Dollars

(\$3,000.00) which may be matched by a maximum agency contribution of Three Thousand Dollars (\$3,000.00); provided, that the agency contribution shall not exceed the contribution of the employee,

- b. the employee may pay the cost for the voucher program directly, subject to the requirements of subparagraph a of this paragraph, or the employing agency of the employee may pay the cost of the voucher from funds which would otherwise have been used to make payments to the displaced employee pursuant to an election by the employee to receive voluntary out benefits,
- c. no voucher issued pursuant to the provisions of this paragraph shall:
  - (1) be redeemed by the employee for cash or anything of value other than the cost of tuition and fees at a public or private educational institution within the State of Oklahoma, or
  - (2) be valid longer than a period of four (4) years from the date upon which the voucher is issued to the employee,
- d. the Director of the Office of Management and Enterprise Services shall pay tuition and fees directly to the educational institution and shall receive any refunds for payment of tuition and fees from the educational institution which shall be credited to the employee's account, and
- e. the Director of the Office of Management and Enterprise Services shall distribute to the affected employee and the agency any monies remaining in the employee's account after the voucher credit has expired. The distribution shall be based on the proportional share of contributions made by the employee and the agency.

B. Appointing authorities in agencies of the executive branch shall submit to the Director of the Office of Management and Enterprise Services and any state employee association representing state employees at such time, prior to offering voluntary out benefits pursuant to this section, a plan with details on why the agency has determined a reduction-in-force is imminent, the anticipated impact of the imminent reduction-in-force on the agency or part of the agency, the voluntary out benefits the agency intends to offer pursuant to this section and their cost, and how the agency intends to execute the offer of the voluntary out benefits. The Director shall review the fiscal components of the plan and have ten (10) business days to disapprove it.

C. Part-time employees who are eligible to receive voluntary out benefits shall receive benefits pursuant to this section on a

prorated basis. Part-time employees shall have been compensated for at least one thousand (1,000) hours during the twelve (12) months immediately preceding the separation of the employee due to the employee's acceptance of a voluntary out benefit.

D. An employee who accepts voluntary out benefits pursuant to this section shall not be eligible to accept any future voluntary out benefits pursuant to this section.

Added by Laws 1997, c. 287, § 12, eff. July 1, 1997. Amended by Laws 1998, c. 256, § 5, eff. July 1, 1998; Laws 2001, c. 381, § 8, eff. July 1, 2001; Laws 2012, c. 304, § 889; Laws 2014, c. 158, § 2, eff. Nov. 1, 2014.

§74-840-2.28A. Reimbursement for voluntary buyout expenditures - Procedures.

A. As used in this section:

1. "Agency" means any state governmental entity, excluding institutions within The Oklahoma State System of Higher Education, making payments to a person accepting a voluntary buyout pursuant to the provisions of Section 840-2.28 of this title;

2. "Eligible employee" means a person who, as of the date the voluntary buyout payment is made by an agency, is eligible for a normal retirement, without any reduction in retirement benefits based on an early retirement, from the public retirement system in which the employee is a participant as of the last day of employment with the agency;

3. "Eligible voluntary buyout expenditures" means with respect to any voluntary buyout agreement entered into on or after the effective date of this act for which the agency is able to seek reimbursement from the Voluntary Buyout Agency Reimbursement Revolving Fund:

- a. the cost of health care insurance premium amounts pursuant to subparagraph a of paragraph 1 of subsection A of Section 840-2.28 of this title,
- b. the cost of the longevity pay amount pursuant to subparagraph b of paragraph 1 of subsection A of Section 840-2.28 of this title, and
- c. a maximum of Five Thousand Dollars (\$5,000.00) for payments made pursuant to subparagraph b of paragraph 2 of subsection A of Section 840-2.28 of this title; and

4. "Normal retirement" means the date upon which an employee may retire with an unreduced benefit from a public retirement system based upon the age of the employee or a combination of the age of the employee and the number of years of service accrued by the employee in the applicable retirement system.

B. For eligible voluntary buyout expenditures paid by agencies not later than June 30, 2012, pursuant to a voluntary buyout

agreement authorized by paragraph 1 of subsection A of Section 840-2.28 of this title and entered into on or after the effective date of this act, but not later than June 30, 2012, the paying agency shall be eligible to be reimbursed the amount of the eligible voluntary buyout expenditures from the Voluntary Buyout Agency Reimbursement Revolving Fund created pursuant to Section 840-2.28B of this title.

C. An agency seeking reimbursement pursuant to the provisions of this section shall make application to the Office of Management and Enterprise Services on such form as may be prescribed by the Office of Management and Enterprise Services for that purpose.

D. Before an agency makes a request for reimbursement pursuant to the provisions of this section, the agency shall enter into a contingent agreement with the employee to whom the voluntary buyout payments will be paid. The agreement shall contain the following language which shall be placed at the beginning of the terms of the agreement following any recitations which are not in the nature of a contractual promise to be printed in a font at least as large as the other terms of the agreement and not less than 14-point type regardless of the font size used in other parts of the agreement:

"PAYMENT OF FUNDS PURSUANT TO THIS AGREEMENT IS CONTINGENT UPON CONFIRMATION BY THE OFFICE OF MANAGEMENT AND ENTERPRISE SERVICES THAT FUNDS TO REIMBURSE THE AGENCY ENTERING INTO THIS AGREEMENT ARE AVAILABLE. IF THE AGENCY DOES NOT OBTAIN THE REQUIRED CONFIRMATION OR IF THE OFFICE OF MANAGEMENT AND ENTERPRISE SERVICES COMMUNICATES TO THE AGENCY THAT THE FUNDS TO REIMBURSE THE AGENCY ARE NOT AVAILABLE, THIS AGREEMENT SHALL NOT BE ENFORCEABLE AGAINST THE EMPLOYEE BY THE AGENCY OR BY ANY OTHER ENTITY AND SHALL NOT BE ENFORCEABLE BY THE EMPLOYEE OR ANY PERSON OR ENTITY REPRESENTING THE INTEREST OF THE EMPLOYEE AGAINST THE AGENCY."

E. If an agency receives the confirmation from the Office of Management and Enterprise Services that the funds for reimbursement are available, the terms of the voluntary buyout agreement executed pursuant to the provisions of this section shall become final and the agreement may be enforced according to its terms.

F. An agency which has entered into a contingent agreement as provided by subsection D of this section to make payment to an employee for which the agency is eligible to obtain reimbursement from the Voluntary Buyout Agency Reimbursement Revolving Fund shall notify the Office of Management and Enterprise Services by the fastest method available to the agency, whether by telephone, electronic mail or other form of communication, of the exact amount of funds for which the agency will seek reimbursement based upon payment of eligible voluntary buyout expenses. The Office of Management and Enterprise Services shall develop a system for the receipt of the communications required by this subsection and shall provide a confirmation to the agency of the sufficiency of funds for



reimbursement to the agency based upon the total amount of available funds using the fastest method available to the Office of Management and Enterprise Services, whether by telephone, electronic mail or other form of communication. Responses to agency requests shall be made by the Office of Management and Enterprise Services in the order in which the requests were received.

G. Applications for reimbursement shall be processed by the Office of Management and Enterprise Services according to the order in which confirmations were provided to agencies and any reimbursement from the Voluntary Buyout Agency Reimbursement Revolving Fund shall be subject to the available balance of the fund. Reimbursement shall be made in the full amount requested, subject to verification of eligibility for the expended amount, unless the balance of the fund is insufficient to make full reimbursement. No payments from the fund shall be made on a pro rata basis and if an agency application for reimbursement cannot be made in the full amount requested based upon the unavailability of funds, the application shall be denied.

H. Only payments of eligible voluntary buyout expenditures made to an eligible employee, as defined by paragraph 3 of subsection A of this section, shall be eligible for reimbursement. Any payment of eligible voluntary buyout expenditures made to a person who is not an eligible employee as defined by paragraph 2 of subsection A of this section shall not be eligible for reimbursement.

I. As a condition of receiving reimbursement from the Voluntary Buyout Agency Reimbursement Revolving Fund for one or more particular positions, the agency shall agree that its number of full-time-equivalent employees shall be reduced by the number of such positions for a period of not less than thirty-six (36) months. The agency shall report such information to the Office of Management and Enterprise Services as may be necessary for the Office of Management and Enterprise Services to ensure that the provisions of this subsection are enforced. If the Office of Management and Enterprise Services determines that the agency is not substantially in compliance with the provisions of this subsection, the agency shall repay the amount of reimbursement received.

J. Notwithstanding the loss of specific employees resulting from a voluntary buyout pursuant to this section, an agency shall preserve such full-time-equivalent positions as may be required in order to perform the duties imposed upon the agency by law and may, subject to the applicable provisions of the Oklahoma Personnel Act, provide for the performance of the duties formerly performed by an employee accepting a voluntary buyout.

K. The provisions of this section shall not preclude an agency from entering into a voluntary buyout agreement pursuant to Section 840-2.28 of this title which does not provide for any reimbursement of funds.

L. Any employee who accepts a voluntary buyout pursuant to the provisions of this section shall be prohibited from being employed by the entity of state government making payment to the employee pursuant to this section for a period of three (3) years from the date as of which the employee is last employed by the state governmental entity making payment to the employee pursuant to the provisions of this section. After the expiration of the three-year period prescribed by this subsection, the former employee may be hired by the state governmental entity which made payment to the employee pursuant to this section. The provisions of this subsection shall also be applicable to a contract for the performance of services by a former employee of the state governmental entity which made payment pursuant to this section for a period of three (3) years from the date as of which the employee is last employed by the state governmental entity making payment to the employee pursuant to the provisions of this section.

Added by Laws 2010, c. 179, § 2, emerg. eff. April 28, 2010.

Amended by Laws 2011, c. 309, § 1, eff. July 1, 2011; Laws 2012, c. 304, § 890.

§74-840-2.28B. Voluntary Buyout Agency Reimbursement Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services to be designated the "Voluntary Buyout Agency Reimbursement Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Office of Management and Enterprise Services from such sources as may be designated by law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Office of Management and Enterprise Services for the purpose of making reimbursement payments to agencies as provided by Section 840-2.28A of this title for eligible voluntary buyout expenditures. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2010, c. 179, § 3, emerg. eff. April 28, 2010.

Amended by Laws 2012, c. 304, § 891.

§74-840-2.29. On-call classified employees - Minimum compensation for hours worked.

A classified employee who is on-call shall be compensated for a minimum of two (2) hours of work if the employee reports to a work location while in an on-call status. This provision shall apply anytime the employee reports and works less than two (2) hours.

Added by Laws 2001, c. 348, § 4, eff. Nov. 1, 2001. Amended by Laws 2002, c. 292, § 1, eff. July 1, 2002; Laws 2003, c. 119, § 1, eff. July 1, 2003.

§74-840-2.30. Payment for time not worked - Public accountability - Department of Public Safety employee exemption and requirements.

A. It is the policy of the State of Oklahoma to be accountable to state taxpayers for the expenditure of public funds. To this end, all state employees shall be paid according to a pay system established pursuant to the principles of public accountability that prohibits payment to any state employee for time not worked unless the time not worked is covered by available paid leave. Violation of this provision may result in disciplinary action and criminal prosecution under Oklahoma law.

B. 1. The Department of Public Safety shall be exempt from the provisions of subsection A of this section as it relates to holiday leave for employees of the Department of Public Safety appointed by the Commissioner of Public Safety pursuant to subsection A of Section 2-105 of Title 47 of the Oklahoma Statutes.

2. Notwithstanding the dates to be observed as holidays in 2009, as specified and approved by the Governor pursuant to Section 82.1 of Title 25 of the Oklahoma Statutes, on the effective date of this act the Department of Public Safety shall schedule and grant holiday leave for employees prescribed in paragraph 1 of this subsection as is necessary to appropriately perform the functions of the Oklahoma Highway Patrol Division of the Department, regardless of whether the holiday leave is granted on, before, or after the actual date of the holiday specified and approved by the Governor.

3. For the calendar year beginning January 1, 2010, and for each calendar year thereafter, all leave hours for the number of holidays to be observed in the calendar year, as specified and approved by the Governor pursuant to Section 82.1 of Title 25 of the Oklahoma Statutes, shall accrue in total on January 1 of the calendar year for each employee prescribed in paragraph 1 of this subsection. Notwithstanding the dates to be observed as holidays in the calendar year, the Department of Public Safety shall schedule and grant holiday leave for the calendar year for employees prescribed in paragraph 1 of this subsection as is deemed necessary to appropriately perform the functions of the Oklahoma Highway Patrol Division of the Department, regardless of whether the holiday leave is granted on, before, or after the actual date of the holiday specified and approved by the Governor.

4. The Department shall schedule and grant for each employee specified in paragraph 1 of this subsection and the employee shall use holiday leave, as specified in this subsection, in eight-hour increments or multiples of eight-hour increments; provided:

- a. the Department shall not schedule and grant for any employee and the employee shall not use more holiday leave in any calendar year than is specified and approved by the Governor for that calendar year, pursuant to Section 82.1 of Title 25 of the Oklahoma Statutes, and
- b. the Department shall schedule and grant for each employee and the employee shall use all holiday leave during the calendar year in which it is specified and approved by the Governor. Holiday leave shall not carry over from one (1) calendar year to the next calendar year.

5. If an employee prescribed in paragraph 1 of this subsection leaves the service of the state, and the Department has scheduled and granted the employee and the employee has used holiday leave which is in excess of the number of holidays left in the calendar year during which the employee leaves the service of the state, the Department shall deduct the number of excess hours of holiday leave used by the employee from the accrued annual leave of the employee. Added by Laws 2005, c. 176, § 5, eff. July 1, 2005. Amended by Laws 2009, c. 310, § 4, eff. July 1, 2009.

§74-840.3. Renumbered as § 840-1.3 of this title by Laws 1994, c. 242, § 54.

§74-840-3.1. Training programs for supervisory personnel.

A. Each supervisor employed as of January 1, 1993, by a state agency, board or commission in the executive branch of state government, excluding those within The Oklahoma State System of Higher Education, shall attend, prior to December 31, 1993, a training program for supervisory personnel. The training program shall be established pursuant to subsection C of this section.

B. Employees appointed to supervisory positions after January 1, 1993, shall complete twenty-four (24) hours of training pursuant to subsection C of this section within twelve (12) months of assuming such supervisory position. Thereafter, supervisors are required to complete twelve (12) hours of training pursuant to subsection C of this section each year. The appointing authority of each agency shall ensure each supervisory employee is notified and scheduled to attend such required training and shall make time available for each such employee to complete the training.

C. 1. The Director of the Office of Management and Enterprise Services shall promulgate any rules necessary to develop and implement training programs for supervisory personnel which shall include courses related to the effective performance of an agency manager or supervisor. Rules authorized by this subsection shall

require supervisors to attend such training within a reasonable period of time determined by the Director.

2. Training programs for supervisors under this section may be approved by the Office of Management and Enterprise Services; provided, however, such programs shall be subject to standards developed by the Office of Management and Enterprise Services. All state agencies, boards and commissions may participate in any such government employee training program established by an institution that is a member of The Oklahoma State System of Higher Education and approved by the Office of Management and Enterprise Services as provided for in this paragraph.

Added by Laws 1992, c. 387, § 1, eff. Sept. 1, 1992. Renumbered from § 840.35 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1997, c. 406, § 2, eff. July 1, 1997; Laws 1998, c. 235, § 3, eff. July 1, 1998; Laws 1999, c. 410, § 7, eff. Nov. 1, 1999; Laws 2001, c. 381, § 9, eff. July 1, 2001; Laws 2012, c. 304, § 892.

§74-840-3.1A. Authorization for agencies to establish education and training programs.

A. For the purpose of this section, "agency" is any agency or department of the executive branch.

B. Beginning November 1, 2016, agencies are authorized to establish education and training programs for positions critical to the mission of the agency. The agency may contract with accredited institutions located in Oklahoma necessary to provide this education and training. Funds of the agency or its institutions may be used to pay salaries or tuition and subsistence for employees in these training programs, pursuant to subsection D of this section. Employees may be in work status while engaging in training and education programs provided for in this section.

C. An employee of an agency, who has achieved a "meets" or "exceeds" standards on his or her performance evaluation and meets the standards as established in rules promulgated pursuant to this section, shall be eligible for additional education and training provided by the state.

D. An employee of the agency who participates in the education and training program outlined in this act shall execute a promissory note for expenses payable to the agency whereby the employee promises to repay the note by remaining in employment with the agency. The duration of the loan repayment will correspond with the program in which the employee participated as set forth in rules promulgated for the implementation of this act.

E. The amount due pursuant to this act shall be reduced at a rate of Thirteen Dollars (\$13.00) per calendar day beginning the first day after graduation from the education or training program. If for any reason the employee leaves the employment of the agency, the obligation will be considered due.

F. Violation of the provisions of the terms of the promissory note for training expenses entered into pursuant to this section shall give rise to a cause of action and suit may be commenced by the agency for and on behalf of the State of Oklahoma for restitution of any and all sums plus interest at the statutory rate, costs, and reasonable attorney fees. The provisions of this section shall not apply to persons who volunteer or are drafted into active military service subsequent to receiving training at state expense.

G. The agency of the executive branch may pay fees for employees to maintain licenses and certification required to provide services essential to the mission of the agency. The agency may require repayment of such fees pursuant to subsection D of this section.

H. The Office of Management and Enterprise Services shall promulgate rules pursuant to the implementation of this act.  
Added by Laws 2016, c. 206, § 1, eff. Nov. 1, 2016.

#### §74-840-3.2. Creation - Purpose - Administration.

There is hereby established within the Office of Management and Enterprise Services, the Carl Albert Public Internship Program. The purposes of the program shall be to assist students at institutions of higher education in gaining experience and knowledge in state government and to encourage recruitment of such students to pursue careers in state government service. In administering the program, the Director of the Office of Management and Enterprise Services shall:

1. Consult with the chief administrative officers of the legislative, executive, and judicial branches of government in encouraging the establishment and development of intern positions within their agencies;

2. Coordinate with the State Regents for Higher Education and the appropriate public and private institutions of higher education in Oklahoma in the development of a statewide internship program, soliciting qualified applicants, and selecting participants;

3. Develop and coordinate a selection process for placing individuals in intern positions. This selection process shall provide for equal employment opportunities in accordance with state and federal law;

4. Develop and coordinate a training plan for the internship program which balances the need for training and exposure to new ideas with the intern's and agency's need for on-the-job work experience;

5. Develop guidelines for a compensation plan for interns participating in this program; and

6. Provide for recruitment in the regular state service of persons who have successfully completed the Executive Fellows Program provided for in Section 840-3.4 of this title.

Added by Laws 1988, c. 218, § 1, eff. Oct. 1, 1988. Renumbered from § 840.40 of this title by Laws 1994, c. 242, § 54. Amended by Laws 2012, c. 304, § 893.

§74-840-3.3. Repealed by Laws 1998, c. 235, § 10, eff. July 1, 1998.

§74-840-3.4. Undergraduate and Senior Undergraduate Internship Program - Executive Fellows Program.

A. The Carl Albert Public Internship Program shall consist of three individual internship programs:

1. An Undergraduate Internship Program consisting of a temporary position for students enrolled in an institution of higher education and working toward an undergraduate degree, which shall include associate's degrees or certifications by the Oklahoma Department of Career and Technology Education;

2. A Senior Undergraduate Internship Program consisting of a job placement of up to twenty-four (24) months for students enrolled in an institution of higher education with ninety (90) semester hours or more of completed coursework towards a bachelor's degree. To remain in the Senior Internship a student must continue to be working toward an undergraduate degree at an institution of higher education with at least a two point five (2.5) grade point average calculated on a four point zero (4.0) scale in all undergraduate coursework; and

3. An Executive Fellows Program consisting of six-month to two-year placements in professional or managerial level positions for students who have:

- a. successfully completed a baccalaureate degree and at least six (6) semester hours of approved graduate level work with at least a three point zero (3.0) grade point average calculated on a four point zero (4.0) scale in all graduate coursework,
- b. demonstrated a substantial interest in public sector management,
- c. been recommended by the institution of higher education at which they are enrolled, and
- d. such additional requirements as determined by the Office of Management and Enterprise Services.

B. Employing agencies shall rate the performance of participants in the Executive Fellows Program in accordance with Section 840-4.17 of this title.

C. State employees, who otherwise meet the qualifications of the program, shall be eligible to participate in the Carl Albert Public Internship Program upon the written recommendation of the chief administrative officer of the applicant's agency.

Added by Laws 1988, c. 218, § 3, eff. Oct. 1, 1988. Amended by Laws 1990, c. 106, § 1, operative July 1, 1990. Renumbered from § 840.42 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1998, c. 235, § 4, eff. July 1, 1998; Laws 2002, c. 347, § 11, eff. Nov. 1, 2002; Laws 2009, c. 12, § 6, eff. July 1, 2009; Laws 2012, c. 304, § 894; Laws 2013, c. 237, § 4, eff. Nov. 1, 2013.

§74-840-3.5. Rules and regulations.

The Office of Management and Enterprise Services shall promulgate rules to provide that:

1. Upon successful completion of an internship in the Undergraduate or Senior Undergraduate Internship Program or Executive Fellows Program, a participant who has met all requirements of education and experience shall be eligible for appointment to a position in the classified or unclassified service of the state and shall be deemed as meeting all other statutory requirements;

2. Persons leaving classified or unclassified positions in state government in order to take an internship shall:

- a. have the right to return to the previous position at any time during the internship or upon completion of the internship, and
- b. continue to receive all fringe benefits they would have received in their previous classified or unclassified positions;

3. Participants in the Undergraduate Internship Program who were not public employees prior to accepting a position in the program shall be employed in accordance with paragraph 8 of subsection A of Section 840-5.5 of this title;

4. Participants in the Senior Undergraduate Internship Program who were not public employees prior to accepting a position in the program shall be employed in accordance with paragraph 10 of subsection A of Section 840-5.5 of this title, except that they shall be granted leave benefits commensurate with regular state employees;

5. Participants in the Executive Fellows Program who were not public employees prior to accepting a position in the program shall be appointed in accordance with paragraph 10 of subsection A of Section 840-5.5 of this title, except that they shall be granted leave benefits commensurate with regular state employees;

6. Selection of interns shall be coordinated by the Office of Management and Enterprise Services, but shall permit appropriate involvement by institutions of higher education and state agencies in order to ensure the integrity of the program, permit the appropriate match between interns and agency assignments, and to benefit the employing agency;



7. The Director of the Office of Management and Enterprise Services may waive the completion of six (6) semester hours of approved graduate level work required by Section 840-3.4 of this title for participation in the Executive Fellows Program for an undergraduate intern enrolled in six (6) semester hours of approved graduate level work and currently employed by a state agency;

8. Establish compensation plans for interns; and

9. Empower the Office of Management and Enterprise Services to intercede in an internship when the Office determines, at the request of the intern, the agency, or the institution of higher education at which the intern is enrolled, that an internship is not functioning in accordance with guidelines established for the program and that are necessary for the efficiency and integrity of the program.

Added by Laws 1988, c. 218, § 4, eff. Oct. 1, 1988. Renumbered from § 840.43 of this title by Laws 1994, c. 242, § 54. Amended by Laws 2000, c. 336, § 4, eff. July 1, 2000; Laws 2002, c. 347, § 12, eff. Nov. 1, 2002; Laws 2009, c. 12, § 7, eff. July 1, 2009; Laws 2012, c. 304, § 895; Laws 2013, c. 237, § 5, eff. Nov. 1, 2013.

§74-840-3.6. Exception to employment limitations.

Intern positions established pursuant to the provisions of this act shall not be included within any limitation on full-time-equivalent employee positions for any agency.

Added by Laws 1988, c. 218, § 5, eff. Oct. 1, 1988. Renumbered from § 840.44 of this title by Laws 1994, c. 242, § 54.

§74-840-3.7. Certain construction of act prohibited.

Provided that nothing in this act creating the Carl Albert Public Internship Program shall be construed to limit the authority of state agencies and institutions of higher education to continue or establish other internship programs or positions.

Added by Laws 1988, c. 218, § 6, eff. Oct. 1, 1988. Renumbered from § 840.45 of this title by Laws 1994, c. 242, § 54.

§74-840-3.8. Repealed by Laws 2007, c. 93, § 13, eff. Nov. 1, 2007.

§74-840-3.9. Short title.

Sections 840-3.9 through 840-3.14 of this title shall be known and may be cited as the "State Personnel Interchange Program".

Added by Laws 1985, c. 185, § 1, eff. Nov. 1, 1985. Renumbered from § 840.26 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1995, c. 310, § 7, emerg. eff. June 5, 1995.

§74-840-3.10. Public policy.

A. It is the policy of this state that:

1. State agencies in all branches of state government shall provide, whenever possible, such services as shall be required by other entities of state government; and

2. All entities of state government shall provide required services without charge or, when it is not possible to provide such services without charge, on a contractual basis.

B. "Agency" or "agencies" shall include agencies, boards or commissions in all branches of state government and "employee" or "employees" shall include persons employed in all branches of state government when used in Sections 840-3.10 through 840-3.14 of this title.

Added by Laws 1985, c. 185, § 2, eff. Nov. 1, 1985. Renumbered from § 840.27 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1995, c. 310, § 8, emerg. eff. June 5, 1995.

§74-840-3.11. Establishment of interchange programs - Rules and regulations.

The Director of the Office of Management and Enterprise Services is hereby directed to establish programs to facilitate the interchange of employees among state governmental entities, to evaluate the efficient utilization and deployment of state personnel, and to adopt rules necessary to carry out the provisions of the State Personnel Interchange Program. The State Personnel Interchange Program and rules promulgated hereunder shall apply to both unclassified and classified employee services.

Added by Laws 1985, c. 185, § 3, eff. Nov. 1, 1985. Renumbered from § 840.28 of this title by Laws 1994, c. 242, § 54. Amended by Laws 2012, c. 304, § 896.

§74-840-3.12. Eligible employees.

All employees in the classified and unclassified service are eligible for interchange.

Added by Laws 1985, c. 185, § 4, eff. Nov. 1, 1985. Renumbered from § 840.29 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1995, c. 310, § 9, emerg. eff. June 5, 1995.

§74-840-3.13. Procedures, requirements and restrictions for personnel interchange assignments.

A. All personnel interchange assignments are intended to be temporary in nature. An individual's period of assignment to any receiving agency shall not exceed twelve (12) months in any thirty-six-month period; except that the period of assignment for mentor executives participating in the mentor program established by Section 840-3.8 of this title shall not exceed twenty-four (24) months in any thirty-six-month period.

B. An individual shall be assigned as a participating employee only upon the individual's freely given written consent, without any

form of coercion or duress. Personnel interchanges shall be executed by mutual consent agreement by the appointing authority of the sending agency, the appointing authority of the receiving agency, and the participating individual.

C. A participating employee shall be considered an employee of the sending agency for all purposes other than supervision. The receiving agency shall be responsible for all costs and liabilities arising from the performance of work assigned to the participating employee by the receiving agency which is found to be contrary to law and public policy by a court of competent jurisdiction.

D. A participating classified or unclassified employee may be assigned to a classified or unclassified position for the duration of the assignment without regard to the status of the employee in the sending agency.

E. Work assigned to a participating employee by a receiving agency shall be exempt from the classification and compensation provisions of the Oklahoma Personnel Act. Further, although all agencies are encouraged to resolve employee complaints at the lowest possible level, nothing in this section shall be construed to require a receiving agency to establish or adopt a grievance procedure pursuant to Section 840-6.2 of this title, to hear formal grievances, or to designate a grievance manager. Whenever an interchange agreement is terminated in accordance with the Oklahoma Personnel Act and rules promulgated by the Director of the Office of Management and Enterprise Services, the participating employee shall be entitled to return to the previous class or job family level of the employee or its successor class or job family level, if one exists in the sending agency. Otherwise, the reduction-in-force provision of Section 840-2.27 of this title shall apply.

F. Except as provided in subsection E of this section, a participating employee who is assigned to a receiving agency shall neither lose, or suffer diminution of, any right, power, privilege, or benefit to which the employee would otherwise be entitled, including but not limited to salary, seniority, promotion, reinstatement, insurance, retirement, classified or unclassified status, progressive discipline, and use of grievance and appeals procedures. An employee's class or job family level shall not be adversely affected by another employee's participation in an interchange.

G. Any participating employee who suffers injury, occupational disease, or death, arising out of and in the course of an assignment to a receiving agency or sustained in the discharge of duties in connection with said assignment shall be considered an employee of the sending agency, and shall not be deprived by virtue of participating in said program of any right or expectancy that would otherwise accrue pursuant to the laws of this state governing labor and workers' compensation.

H. Except as provided in this section, a participating employee shall neither receive nor accept any compensation from the receiving agency to which the employee is assigned. Any receiving agency shall, in accordance with any applicable laws and policies, reimburse the per diem and travel expenses of any participating employee assigned thereto.

I. Nothing in the State Personnel Interchange Program is intended to preclude the adoption of rules governing the interchange of employees of state governmental entities via other interchange provisions, such as leaves of absence without pay and career executive appointments.

Added by Laws 1985, c. 185, § 5, eff. Nov. 1, 1985. Renumbered from § 840.30 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1995, c. 310, § 10, emerg. eff. June 5, 1995; Laws 1996, c. 320, § 7, emerg. eff. June 12, 1996; Laws 1999, c. 410, § 8, eff. Nov. 1, 1999; Laws 2012, c. 304, § 897.

#### §74-840-3.14. Conflict of interest.

Nothing in the State Personnel Interchange Program is intended to authorize any participating agency or employee to engage in any activity which is a conflict of interest or which would be in conflict with any provision of law, except as specifically provided herein.

Added by Laws 1985, c. 185, § 6, eff. Nov. 1, 1985. Renumbered from § 840.31 of this title by Laws 1994, c. 242, § 54.

#### §74-840-3.15. Certified Public Manager Program.

A. There is hereby created the Certified Public Manager Program within the Office of Management and Enterprise Services. The Program shall be administered by the Director of the Office of Management and Enterprise Services. The purpose of the Program shall be to develop the management skills of those employees and persons who enter into the Program and to assist state agencies and other employers in the identification and development of future managers and leaders. The Program, when space is available, may be available to political subdivisions and not-for-profit employers.

B. The Director of the Office of Management and Enterprise Services shall adopt rules necessary to implement the Certified Public Manager Program. These shall include:

1. Admission and curriculum requirements for the Program; and
2. Fees sufficient for the operation of the Program. Fees charged to state agencies for their employees who participate in the Program may be less than fees charged to other employers for persons employed by them. The Director shall also require a nominal fee to be charged individuals who participate in the Program.

Added by Laws 1995, c. 310, § 11, emerg. eff. June 5, 1995. Amended by Laws 2012, c. 304, § 898.

§74-840-3.16. Executive Development Program for State Officials.

A. There is hereby created the Executive Development Program for State Officials within the Office of Management and Enterprise Services. The Program shall be administered by the Director of the Office of Management and Enterprise Services. The purpose of the Executive Development Program for State Officials is to enhance the leadership skills of program participants. This program is designed for cabinet secretaries, agency directors, and senior-level executives within Oklahoma state agencies.

B. The Director of the Office of Management and Enterprise Services may adopt rules necessary to implement the Executive Development Program for State Officials. The Director may establish and collect fees for participation in the Program.

Added by Laws 2009, c. 12, § 8, eff. July 1, 2009. Amended by Laws 2012, c. 304, § 899.

§74-840-3.17. Counting of employees sharing position identification numbers.

Employees who share position identification numbers for a time period of one hundred eighty (180) days or more shall count in the cumulative total against the statutory limitation of full-time-equivalent employee positions for any agency.

Added by Laws 2013, c. 237, § 6, eff. Nov. 1, 2013.

§74-840.4. Renumbered as § 840-1.4 of this title by Laws 1994, c. 242, § 54.

§74-840-4.1. Placement of agency under Merit System of Personnel Administration.

A. The Governor of the State of Oklahoma is hereby empowered and authorized by an Executive Order to place any agency, and the employees thereof, except positions exempted from the classified service as stipulated by said Order, under the Merit System of Personnel Administration prescribed by the Oklahoma Personnel Act and the rules promulgated thereunder. Further, the Governor may issue an Executive Order to place any position exempted from the Merit System by Executive Order and its incumbent under the Merit System. This section shall not authorize the removal of any agency, position, or employee placed under the Merit System of Personnel Administration.

B. The provisions of the Merit System of Personnel Administration shall not be extended to any agency except by Executive Order as provided in this section or by legislation.

C. The placement of an agency under the Merit System of Personnel Administration covers functions, positions, and employees in an agency on the effective date of the legislation or the

Executive Order and functions, positions, and employees subsequently added to the agency, unless otherwise provided by law.

D. Upon placement of an agency under the Merit System of Personnel Administration by Executive Order or legislation, subsequent changes in the name of the agency, its organization or structure, or repeal of statutory language placing the agency under the Merit System shall not alone be construed to remove the agency from the Merit System. An agency shall be removed from the Merit System by enacting legislation which affirmatively declares the agency is removed from the Merit System of Personnel Administration.

E. Upon placement of an agency under the Merit System of Personnel Administration by Executive Order or legislation, the agency shall abide by the provisions of the Merit System of Personnel Administration Rules and the Oklahoma Personnel Act. Statutory provisions not included in the Oklahoma Personnel Act that authorize agencies to effect personnel transactions, including but not limited to preparing personnel schedules, employing and appointing personnel, defining their duties and fixing their salaries or compensation shall be interpreted as authorizing agencies to effect personnel transactions within the provisions of the Oklahoma Personnel Act and the rules promulgated thereunder unless the Legislature expresses a contrary intent.

Added by Laws 1994, c. 242, § 2. Amended by Laws 1995, c. 310, § 12, emerg. eff. June 5, 1995; Laws 1998, c. 285, § 1, emerg. eff. May 27, 1998.

#### §74-840-4.2. Status of employees.

A. Except as otherwise provided by law, effective on the date an unclassified employee is made subject to the Merit System of Personnel Administration by virtue of an Executive Order issued pursuant to Section 840-4.1 of this title or legislation, the employee shall be given status in the job family level to which the position occupied by the employee is initially allocated by the Office of Management and Enterprise Services. The employee shall not be required to take any examination or qualify for the job family level, and the salary of the employee shall not be reduced as a result of such initial allocation. The status of the employee shall be determined as follows:

1. An employee who has been continuously employed by the agency for a minimum of twelve (12) months immediately preceding the date on which the employee is made subject to the provisions of the Merit System shall be given permanent status in the classified service.

2. An employee who has been continuously employed by the agency for less than twelve (12) months on the date the employee is made subject to the provisions of the Merit System shall be given probationary status in the classified service. Such employee may obtain permanent status in the classified service twelve (12) months

after the employee's entry-on-duty date with the agency pursuant to the provisions of the Merit System.

B. Persons appointed to the classified service of any agency under the Merit System shall achieve classified status only in accordance with the Oklahoma Merit System of Personnel Administration Rules promulgated pursuant to the Oklahoma Personnel Act.

C. Any classified employee who is serving in a position on the effective date of the removal of the position from the classified service and placement into the unclassified service shall have the option of retaining the employee's classified status. Any such employee who elects to change from classified to unclassified status shall so indicate in writing. If the employee chooses to remain in the classified service, the position occupied by the employee shall remain in the classified service until the employee either vacates the position or elects unclassified status. All future appointees to such positions shall be in the unclassified service.

Added by Laws 1982, c. 338, § 13, eff. July 1, 1982. Amended by Laws 1994, c. 242, § 21. Renumbered from § 840.13 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1999, c. 410, § 9, eff. Nov. 1, 1999; Laws 2002, c. 347, § 14, eff. Nov. 1, 2002; Laws 2012, c. 304, § 900.

#### §74-840-4.3. Audit of classified service positions.

A. The Office of Management and Enterprise Services shall conduct audits of positions in the classified service to determine the proper job family to which a position is allocated, and may delegate the auditing function to an agency pursuant to subsection E of Section 840-1.15 of this title. Appointing authorities have control of positions within their agency and have the authority to organize their agencies, to create positions, to abolish positions and to prescribe or change the duties and responsibilities assigned to any position or employee at any time and shall determine the level within a job family at which duties and responsibilities are assigned. The Director of the Office of Management and Enterprise Services shall adopt rules establishing policies and procedures for appointing authorities to follow when determining the job family level at which duties and responsibilities are assigned within their agencies. Such rules shall include a process for review by the Office of Management and Enterprise Services of internal classification grievances of job family level assignments which cannot be resolved at the agency level. Individual audits of positions shall be conducted at the request of the appointing authority based on information provided by the agency. An incumbent employee will be given an opportunity to respond; however, the Office of Management and Enterprise Services will rely on the

appointing authority for an official listing of the duties and responsibilities of the position.

B. The appointing authority has the responsibility to ensure that employees are properly classified and that the work performed conforms to the appropriate job family descriptor describing the position. Employees shall be classified in accordance with the work they are assigned on a regular and consistent basis as an integral part of their normal work assignment and job family descriptor. An employee has the right and responsibility to file a classification grievance, as provided by law and rule, when duties performed on a regular and consistent basis do not conform to the job family descriptor. An employee is entitled to the compensation assigned to the job family level for which duties were performed on a regular and consistent basis. This provision does not entitle the employee to a higher job family level. Agency classification and reclassification decisions shall not be subject to appeal to the Oklahoma Merit Protection Commission. However, the involuntary removal of a permanent employee in permanent status in a job family level to a lower level in the same job family or to another job family level assigned a lower pay band shall be considered a demotion. Such action may be appealed by the employee to the Oklahoma Merit Protection Commission. The Director of the Office of Management and Enterprise Services shall adopt rules pursuant to subsection A of this section which shall include a process for review by the Office of Management and Enterprise Services of internal classification grievances of job family level assignments which cannot be resolved at the agency level.

C. Job family descriptors shall be used for the purpose of distinguishing one job family from another as clearly and definitively as possible in order that positions may be properly allocated and employees may be properly classified in accordance with this section. Job family descriptors shall be applied in accordance with the following:

1. The position description questionnaire and job family descriptors shall be interpreted and applied as a composite picture of the job requirements. An employee is not required to perform all of the work operations described in a job family descriptor in order to be eligible for classification thereunder. An employee is not eligible or entitled to classification by reason of performing isolated or singular duties incidental to the job but which are described in another job family descriptor. Employees are entitled to the job family level they are currently assigned.

2. An employee normally performs some of the work of higher-rated jobs and some of the work of lower-rated jobs when required. The normal duties of an employee may include assistance to others.

3. An employee is required to perform the work operations and duties described or appraised as being covered by a job family



descriptor pursuant to that degree or amount of guidance or instruction which is considered regular and consistent in order to qualify for the classification.

Added by Laws 1982, c. 147, § 9, emerg. eff. April 12, 1982.

Renumbered from § 7.9 of Title 62 by Laws 1982, c. 338, § 60, eff. July 1, 1982. Amended by Laws 1983, c. 274, § 3, operative July 1, 1983; Laws 1986, c. 84, § 3, eff. Nov. 1, 1986; Laws 1994, c. 242, § 24. Renumbered from § 840.22 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1995, c. 310, § 13, emerg. eff. June 5, 1995; Laws 1997, c. 406, § 3, eff. July 1, 1997; Laws 1999, c. 410, § 10, eff. Nov. 1, 1999; Laws 2000, c. 336, § 6, eff. July 1, 2000; Laws 2012, c. 304, § 901.

§74-840-4.4. Job specifications - Incorporation of requirements related to the deaf and hard-of-hearing.

When the appointing authority determines that certain knowledge and sign language skills are required in any position in order to effectively work with deaf or hard-of-hearing persons, such requirements shall be incorporated into the specifications of the appropriate job family descriptors. Such requirements shall not be construed as placing additional requirements on persons who are incumbents in such positions at the time such a determination is made.

Added by Laws 1988, c. 51, § 1, emerg. eff. March 21, 1988.

Renumbered from § 840.19a of this title by Laws 1994, c. 242, § 54. Amended by Laws 1998, c. 246, § 39, eff. Nov. 1, 1998; Laws 1999, c. 410, § 11, eff. Nov. 1, 1999.

§74-840-4.5. Repealed by Laws 1999, c. 410, § 22, emerg. eff. June 10, 1999.

§74-840-4.6. Pay structure.

A. The State of Oklahoma, to recruit, retain and motivate a quality workforce for the purpose of providing quality services to the citizens of Oklahoma, shall provide a compensation structure based on internal equity and external competitiveness balanced by the state's fiscal conditions. The state's goal shall be to provide a flexible and adaptable state employee compensation system based on the market data found in relevant public and private sector markets.

B. The Director of the Office of Management and Enterprise Services shall develop a compensation schedule for all career and executive service positions within the executive branch pursuant to the recommendations of the 2013 State Employee Total Remuneration Study, excluding institutions under the administrative authority of the Oklahoma State Regents for Higher Education. The Office may develop market-based occupational compensation structures. The compensation structures established pursuant to this section for all

career and executive service positions shall be initially established and published by January 1, 2015, and shall thereafter be reviewed for revision annually. The provisions of this section are not subject to the provisions of Article I of the Administrative Procedures Act.

Added by Laws 1982, c. 338, § 16, eff. July 1, 1982. Amended by Laws 1994, c. 242, § 22. Renumbered from § 840.16 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1999, c. 410, § 12, eff. Nov. 1, 1999; Laws 2012, c. 304, § 902; Laws 2014, c. 390, § 4, eff. July 1, 2014.

§74-840-4.7. Repealed by Laws 2014, c. 390, § 7, eff. July 1, 2014.

§74-840-4.8. Chaplains - Percentage of salary designated as housing allowance for federal tax purposes.

A. In order to allow state-employed chaplains to take advantage of federal tax provisions, the chief administrative officer of any state entity that employs chaplains may designate not to exceed forty percent (40%) of the salary of the chaplain as a housing allowance.

B. The Director of the Office of Management and Enterprise Services shall promulgate rules for the implementation of this section.

Added by Laws 1990, c. 68, § 1, eff. Jan. 1, 1991. Renumbered from § 840.16c of this title by Laws 1994, c. 242, § 54. Amended by Laws 2012, c. 304, § 904.

§74-840-4.9. Teachers' rights, privileges and benefits.

Certified teachers employed to serve as administrators, counselors, librarians or to teach by the state, under the Merit System of Personnel Administration, shall be entitled to all benefits granted other state employees of the agency, board, commission, department or institution by which they are employed. Such teachers shall also be entitled to all benefits and privileges of their profession, including the right to participate in the Public Employees' Retirement System, or the Oklahoma Teachers' Retirement System at the option of the teacher and the right of membership and participation in the Oklahoma Education Association and all other professional associations and organizations of their choice.

Added by Laws 1982, c. 338, § 17, eff. July 1, 1982. Renumbered from § 840.17 of this title by Laws 1994, c. 242, § 54.

§74-840-4.10. Enforcement of teachers' rights, privileges and benefits.

A. The Superintendent of Public Instruction and the Director of the Office of Management and Enterprise Services shall enforce and carry out the provisions of Section 840-4.9 of this title.

B. The Director of the Office of Management and Enterprise Services shall act upon recommendation made by the Superintendent or his designee.

Added by Laws 1982, c. 338, § 18, eff. July 1, 1982. Renumbered from § 840.18 of this title by Laws 1994, c. 242, § 54. Amended by Laws 2012, c. 304, § 905.

§74-840-4.11. Noncompetitive appointments.

The Director may promulgate rules to provide for the establishment of noncompetitive appointments including, but not limited to, the positions of unskilled labor, attendants, aides, food service helpers, or custodial or similar types of employment when the character of the work makes it impracticable to supply the needs of the service effectively by competitive examination. All such persons appointed shall serve a probationary period in accordance with the rules adopted by the Office of Management and Enterprise Services and the provisions of the laws of the State of Oklahoma and shall acquire permanent status and be subject to the same rules as other classified employees.

Added by Laws 1982, c. 338, § 21, eff. July 1, 1982. Amended by Laws 1983, c. 274, § 2, operative July 1, 1983. Renumbered from § 840.21 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1999, c. 410, § 14, eff. Nov. 1, 1999; Laws 2000, c. 336, § 5, eff. July 1, 2000; Laws 2012, c. 304, § 906.

§74-840-4.12. Promotional and entrance examinations - Persons with severe disabilities - Special disabled veterans - Optional hiring procedure for affirmative action goals.

A. The Director of the Office of Management and Enterprise Services shall be responsible for conducting promotional examinations and entrance examinations as required under the Oklahoma Personnel Act. Such examinations shall be of such character as to determine the qualifications, fitness and ability of the persons tested to perform the duties of the job family or job family level for which such tests or examinations are given. Provided, however, tests and examinations of persons with severe disabilities who have satisfactorily completed vocational and technical education courses in vocational training units or divisions approved by the State Department of Rehabilitation Services shall be limited in scope so as to relate to the skill and physical capability required for a particular position. Adequate public notice shall be given of all examinations except for promotion within a department or agency. Notwithstanding any other provision of law, the Director may keep confidential all promotional

examinations, entrance examinations, and any other testing materials, but the Director shall be required to disclose them pursuant to a valid order from a court of competent jurisdiction and establishment of a protective order prohibiting public disclosure of the examinations and materials.

B. No person shall be required to take an entrance examination for an appointment to a job family level requiring licensing by a state agency if that person has been previously tested and is currently licensed by the State of Oklahoma.

C. Promotional examinations for promotion within an agency, unless requested by the agency, shall not be required; provided that the promotion is in accordance with a plan adopted by the Director and is in accordance with a plan adopted by the promoting agency. Every employee promoted within an agency or following an intra-agency lateral transfer shall serve a six-month trial period in the job level to which the employee is promoted or transferred, unless the trial period is waived, in writing, by the appointing authority. However, when a Department of Human Services employee transfers from any job classification to become a Child Welfare Specialist I, II, III or IV, the trial period shall be for one (1) year. At any time during a trial period, the appointing authority may return the employee to the level from which the employee was promoted upon written notification by the appointing authority to the employee as to such action and the reason therefor, and the employee shall not have the right to appeal.

D. The Director shall accept Certificates of Proficiency issued by accredited private or public schools, colleges or the Oklahoma Employment Security Commission in lieu of typing and shorthand tests.

E. The Office of Management and Enterprise Services shall certify that a candidate meets the necessary job qualifications for a job family level in the classified service for the purpose of allowing that candidate to be appointed to a job. The Director of the Office of Management and Enterprise Services may delegate the certification function provided by this section to an agency pursuant to subsection A of Section 840-1.15 of this title. Any statute which creates any position or qualifications for any position in the classified service shall not be construed to limit the power of the Director to interpret or add to those qualifications in a reasonable manner consistent with the intent of the Legislature and the duties of that position. Any statute which empowers any agency head or other employer to hire or nominate persons for employment within the classified service shall not be construed to empower that agency head or other employer to waive or modify any qualification or rule for employment established by the Director. The Director shall not be construed to have the authority to limit or reduce any qualification established by statute for any

position. The constructions established herein shall apply to any statutes or positions heretofore or hereafter created unless that statute clearly and specifically states that such constructions do not apply.

F. Subsections A through E of this section shall not apply to special disabled veterans who are considered for employment under the provisions of Sections 401 through 404 of Title 72 of the Oklahoma Statutes. Provided, said veterans may elect instead to be considered for employment according to the procedures set out in subsections A through E of this section.

G. Subsections A through E of this section shall not apply to persons with severe disabilities who are considered for employment under the provisions of this subsection. Provided, said persons may elect instead to be considered for employment according to the procedures set out in subsections A through E of this section.

1. As used in this subsection "persons with severe disabilities" means persons certified as having disabilities according to standards and procedures established by the Director. Said standards and procedures shall be developed by the Director of the Office of Management and Enterprise Services with the assistance of the Office of Handicapped Concerns, and the State Department of Rehabilitation Services.

2. Agencies of this state may employ persons with severe disabilities who are legal residents of the state in competitive and noncompetitive jobs. Except for the requirement of minimum qualifications specified in applicable job specifications, such persons with disabilities shall be exempt from entrance examinations and hiring procedures administered by the Office of Management and Enterprise Services pursuant to this section and Section 840-4.13 of this title.

3. Persons with severe disabilities hired pursuant to this subsection shall be appointed for a probationary period pursuant to Section 840-4.13 of this title.

4. Persons with severe disabilities hired pursuant to this subsection shall be subject to the rules of the Director of the Office of Management and Enterprise Services.

5. The Office of Management and Enterprise Services shall maintain records regarding the employment of persons with severe disabilities by state agencies and shall report the number of persons so employed in its annual report for the Office of Management and Enterprise Services required by Section 840-1.6A of this title.

H. 1. This subsection shall be known and may be cited as the "Fair Employment Practices Act".

2. Agencies of this state may use the optional hiring procedure provided in this subsection to employ females, blacks, Hispanics, Asian/Pacific Islanders and American Indians/Alaskan natives, as

defined by the Equal Employment Opportunity Commission, who are legal residents of the state in competitive and noncompetitive jobs. Individuals must meet the minimum qualifications and pass any required examinations established by the Office of Management and Enterprise Services or by statute. Except for any required examinations and minimum qualifications specified in applicable job specifications, such persons shall be exempt from the hiring procedures administered by the Office of Management and Enterprise Services. Persons may only be employed under this subsection in a job family level, group or category which has been identified as underutilized and in which an appropriate hiring goal has been set in the state agency's affirmative action plan approved by the Office of Management and Enterprise Services. In addition, the appointing authority of the employing agency must determine that a manifest imbalance exists which justifies remedial action pursuant to this subsection in order to reach the affirmative action hiring goal. Provided further, that eligible war veterans, as defined by Section 67.13a of Title 72 of the Oklahoma Statutes, who are members of the group for which a hiring goal has been set shall be considered by the employing agency before a nonveteran is appointed pursuant to this subsection.

3. To be eligible for appointment, the persons who are members of the group for which a hiring goal has been set must score within the top ten scores of other available members of said group based on any examination or rating of education and experience.

4. Persons hired pursuant to this subsection shall be appointed for a probationary period pursuant to Section 840-4.13 of this title.

5. Upon acquiring permanent status, the employee shall be subject to the rules and regulations of the Office of Management and Enterprise Services and to full rights and entitlements of state employees in the classified service.

6. The authority for an agency to make appointments pursuant to this subsection shall be temporary and shall cease when the appointing authority of an agency can no longer justify remedial action pursuant to this subsection.

7. The Office of Management and Enterprise Services shall maintain records regarding the employment of persons by state agencies pursuant to this subsection and shall report the number of persons so employed in its annual report for the Office of Management and Enterprise Services required by Section 840-1.6A of this title.

Added by Laws 1982, c. 338, § 19, eff. July 1, 1982. Amended by Laws 1983, c. 175, § 6, emerg. eff. June 7, 1983; Laws 1987, c. 191, § 1, operative July 1, 1987; Laws 1988, c. 213, § 1, eff. Nov. 1, 1988. Renumbered from § 840.19 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1995, c. 73, § 1, emerg. eff. April 12, 1995;

Laws 1995, c. 310, § 14, emerg. eff. June 5, 1995; Laws 1996, c. 320, § 8, emerg. eff. June 12, 1996; Laws 1998, c. 364, § 32, emerg. eff. June 8, 1998; Laws 1999, c. 1, § 35, emerg. eff. Feb. 24, 1999; Laws 1999, c. 410, § 15, eff. Nov. 1, 1999; Laws 2000, c. 336, § 7, eff. July 1, 2000; Laws 2001, c. 381, § 10, eff. July 1, 2001; Laws 2002, c. 347, § 15, eff. Nov. 1, 2002; Laws 2012, c. 304, § 907; Laws 2014, c. 80, § 1, eff. Nov. 1, 2014.  
NOTE: Laws 1998, c. 235, § 6 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999.

§74-840-4.13. Certification to appointing authority - Statewide and local registers - Professional practice licensure and hard-to-fill positions - Probationary period - Minimum qualifications.

A. Based upon the results of competitive entrance examinations and registers, as provided by the Oklahoma Personnel Act, the Director of the Office of Management and Enterprise Services shall certify to the appointing authority the names of the ten persons receiving the highest grade or score in said examinations plus all eligible applicants whose grade or score is tied with the lowest ranking of those so eligible.

B. In addition to establishing statewide registers pursuant to subsection A of this section, the Director is hereby authorized to promulgate rules creating a local register to fill a vacancy in a local office of an agency by providing a certificate of available names of eligible persons who are residents of the county where the local office is located or said county and adjacent counties or a group of contiguous counties comprising a service area of an agency. Available eligible residents shall be certified ahead of other available eligible persons who reside outside the area of the local register. In filling vacant positions, the appointing authority shall select any one of the persons whose names have been so certified and may give preference in all cases to persons who have resided in this state for at least one (1) year prior to the date of the examination. Provided, however, that any appointing authority authorized to employ persons who are not citizens of the United States, pursuant to Section 255 of this title, may request the Office to certify only the names of persons who are citizens of the United States in carrying out the provisions of this section; and such appointing authority may select any person so certified to the Director to fill such vacant positions even though a noncitizen may have received a higher grade on the examination. Provided, further, that any appointing authority may select special disabled veterans considered for employment pursuant to Sections 401 through 404 of Title 72 of the Oklahoma Statutes. The Department of Public Safety, in filling vacancies for Highway Patrol Cadets, may disqualify any eligible whose name has been certified for Highway Patrol Cadet pursuant to subsection A of this section, if the Department of

Public Safety considers the eligible in connection with the hiring of three other eligibles pursuant to subsection A of this section from that certificate. The name of such disqualified eligible shall be omitted from further certification to, and consideration by, the Department of Public Safety for appointment as a Highway Patrol Cadet to the Highway Patrol Academy for which vacancies are being filled. Such disqualification shall neither deprive any person of any preference pursuant to paragraph 3 of subsection A of Section 840-4.14 of this title nor deprive any person from certification to, and consideration by, the Department of Public Safety for appointment as a Highway Patrol Cadet to a subsequent Highway Patrol Academy. The Department of Public Safety shall provide written notice of the disqualification to the Office of Management and Enterprise Services. The Department of Corrections, in filling vacancies for Correctional Officer Cadets and Probation and Parole Officers, may disqualify any eligible whose name has been certified for Correctional Officer Cadet or Probation and Parole Officer, pursuant to subsection A of this section, if the Department of Corrections considers the eligible in connection with the hiring of three other eligibles pursuant to subsection A of this section from that or any other certificate. The name of such disqualified eligible shall be omitted from future certification to, and consideration by, the Department of Corrections for appointment as a Correctional Officer Cadet or Probation and Parole Officer for a period of six (6) months, at which time the eligible may request restoration to the register by the Office of Management and Enterprise Services. Such disqualification shall not deprive any person of any preference pursuant to paragraph 3 of subsection A of Section 840-4.14 of this title. The Department of Corrections shall provide written notice of the disqualification to the Office of Management and Enterprise Services.

C. Agencies may fill positions requiring professional practice licensure and hard-to-fill positions pursuant to authorization by the Director without regard to subsections A and B of this section. The Director shall promulgate rules to authorize agencies to fill positions directly, pursuant to this subsection. Such rules shall include criteria for identifying professional practice licensure positions and hard-to-fill positions which shall not require establishment of an employment list of eligible persons or the application of veterans preference. The Director shall monitor appointments made by agencies pursuant to this subsection and shall establish recordkeeping and reporting procedures and the conditions under which the Director may withdraw authorization for agencies to directly hire persons into hard-to-fill positions. Nothing in this subsection shall be construed to waive any requirement for any job or position established by statute or the Director.



D. Every person, except as provided in subsection E of this section, upon initial appointment under the classified service, shall be appointed for a probationary period of one (1) year, except that the appointing authority may waive in writing the remainder of the probationary period at any time after a probationary employee has served six (6) months; provided, however, that the employee and the Director of the Office of Management and Enterprise Services shall be notified in writing as to such action and the reason therefor. The probationary appointment of any person may be terminated at any time during the probationary period without the right of appeal. At the close of the probationary period, as herein provided, said person shall acquire a permanent status under the conditions prescribed in the Oklahoma Personnel Act.

E. Every person initially appointed under the classified service as an agent of the Alcoholic Beverage Laws Enforcement Commission shall be appointed for a probationary period of one (1) year.

F. In working with appointing authorities in determining minimum qualifications for a position, the Director of the Office of Management and Enterprise Services shall require an appointing authority to justify in writing any reasons for excluding from consideration relevant public or private sector experience applicable to the position.

Added by Laws 1982, c. 338, § 20, eff. July 1, 1982. Amended by Laws 1983, c. 175, § 7, emerg. eff. June 7, 1983; Laws 1985, c. 46, § 7, emerg. eff. April 23, 1985; Laws 1986, c. 244, § 6, emerg. eff. June 12, 1986; Laws 1993, c. 83, § 2, emerg. eff. April 18, 1993. Amended by Laws 1994, c. 242, § 23. Renumbered from § 840.20 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1995, c. 310, § 15, emerg. eff. June 5, 1995; Laws 1996, c. 3, § 21, emerg. eff. March 6, 1996; Laws 1996, c. 320, § 9, emerg. eff. June 12, 1996; Laws 1997, c. 286, § 5, eff. July 1, 1997; Laws 1998, c. 245, § 9, eff. July 1, 1998; Laws 1999, c. 1, § 36, emerg. eff. Feb. 24, 1999; Laws 1999, c. 410, § 16, eff. Nov. 1, 1999; Laws 2003, c. 453, § 2, eff. Nov. 1, 2003; Laws 2006, c. 6, § 1, emerg. eff. March 7, 2006; Laws 2012, c. 304, § 908.

NOTE: Laws 1985, c. 283, § 6 repealed by Laws 1986, c. 244, § 9, emerg. eff. June 12, 1986. Laws 1995, c. 309, § 1 repealed by Laws 1996, c. 3, § 25, emerg. eff. March 6, 1996. Laws 1998, c. 235, § 7 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999.

#### §74-840-4.14. Preferences.

A. In establishing employment lists of eligible persons for competitive and noncompetitive appointment, certain preferences shall be allowed for honorably discharged veterans as defined by Section 67.13a and Section 67.13b of Title 72 of the Oklahoma Statutes. In determination of the register rank:

1. Five points shall be added to the final grade of any person who has passed the examination and has submitted proof of having status as a veteran or unremarried surviving spouse of a veteran;

2. Five points shall be added to the final grade of any person who has passed the examination and has submitted proof of having status as a spouse of a veteran who is unemployable due to a service-connected disability as certified by the Department of Veterans Affairs or agency of the Defense Department within six (6) months of date of application; and

3. Ten points shall be added to the final grade of any veteran who has passed the examination and has submitted proof of having a service-connected disability as certified by the Department of Veterans Affairs or agency of the Defense Department within six (6) months of date of application. Such veterans' names shall be placed at the top of the register in accordance with their numerical rating if in receipt of benefits payable at the rate of thirty percent (30%) or more and such veterans shall not be denied employment and passed over for other veterans or nonveterans, without showing cause. Acceptable cause shall include a reasonable expectation of the inability of the preferenced applicant to satisfactorily perform at the required level of the position and shall be reviewed in each instance by the Director of the Office of Management and Enterprise Services. If the Director finds that acceptable cause for the denial of employment to the preferenced applicant does not exist, the appointing authority shall be required to hire the preferenced applicant. The position shall not be permanently filled until the Director has issued his findings.

B. War veterans, as defined by Section 67.13a of Title 72 of the Oklahoma Statutes, who have been awarded the Purple Heart or have a service-incurred disability rated by the Department of Veterans Affairs or a branch of the Armed Forces of the United States and who have been a resident of Oklahoma for at least one (1) year prior to the date of the examination, shall be authorized to open any closed register established by the Merit System of Personnel Administration.

C. Subsection A of this section shall not apply to special disabled veterans who are considered for employment under the provisions of Sections 401 through 404 of Title 72 of the Oklahoma Statutes. Provided, said veterans may elect instead to be considered for employment according to the procedures set out in this section.

D. In addition to the points added to the final grade of any eligible veteran pursuant to subsection A of this section, any veteran who meets the basic qualifications for a position shall be interviewed in person in order to allow the veteran to demonstrate any transferable skills acquired in military service.

Added by Laws 1982, c. 338, § 15, eff. July 1, 1982. Amended by Laws 1983, c. 175, § 5, emerg. eff. June 7, 1983; Laws 1986, c. 115, § 1, eff. Nov. 1, 1986; Laws 1986, c. 252, § 4, eff. Nov. 1, 1986; Laws 1987, c. 207, § 25. Renumbered from § 840.15 of this title by Laws 1994, c. 242, § 54. Amended by Laws 2004, c. 81, § 1, eff. Nov. 1, 2004; Laws 2012, c. 285, § 1, eff. Nov. 1, 2012; Laws 2013, c. 15, § 109, emerg. eff. April 8, 2013.  
NOTE: Laws 2012, c. 304, § 909 repealed by Laws 2013, c. 15, § 110, emerg. eff. April 8, 2013.

§74-840-4.15. Posting vacancies and promotional opportunities.

A. The appointing authority shall post announcements of a vacancy or vacancies in accordance with a promotional plan filed by the agency with the Office of Management and Enterprise Services. In order to give qualified employees an opportunity to apply for and be considered for possible promotions, the vacancy notices shall be posted at least five (5) working days prior to the closing date for the receipt of applications by the appointing authority. Promotional posting shall be required for initial entry into a job family at any level. Promotional posting shall also be required for entry into any supervisory position or level. Each agency's promotional posting plan shall describe the method by which all agency employees will be notified of vacancy announcements. The posting shall include:

1. Identification of the job family level of the vacancy or vacancies;
2. A listing of job title, major work duties and minimum qualifications;
3. The pay band and range;
4. The anticipated number of vacancies;
5. The specific location of work;
6. The time limits and procedure for filing an application with the appointing authority; and
7. Any additional factors which the appointing authority will consider in filling the vacancy.

B. The appointing authority may elect to post general promotional opportunities in accordance with the provisions of this section in cases where there are usually continuous multiple vacant positions within a given job family; provided the appointing authority maintains a promotional applicant list for each job family which is posted on the basis of general promotional opportunities. In such cases, the posting must include the length of time and conditions under which the promotional application of the candidate will remain available for active consideration by the appointing authority.

C. If an employee still feels that the employee has not been treated fairly with regard to a promotional action pursuant to this

section after such complaint has been reviewed in a formal grievance procedure conducted in accordance with the provisions of Section 840-6.2 of this title, the employee may seek a remedy through the procedures established in the Oklahoma Personnel Act. If a violation of Section 840-2.9 of this title has been committed, the Oklahoma Merit Protection Commission may declare a position open.

D. Prior to re-posting a notice of vacancy for a position that was not filled after the first notice was posted, the appointing authority must receive approval from the Director of the Office of Management and Enterprise Services prior to making any qualification changes to the position to be filled.

Added by Laws 1982, c. 338, § 40, eff. July 1, 1982. Amended by Laws 1985, c. 46, § 6, emerg. eff. April 23, 1985; Laws 1986, c. 84, § 10, eff. Nov. 1, 1986; Laws 1986, c. 158, § 23, operative July 1, 1986. Renumbered from § 841.19 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1999, c. 410, § 17, eff. Nov. 1, 1999; Laws 2000, c. 336, § 8, eff. July 1, 2000; Laws 2003, c. 453, § 3, eff. Nov. 1, 2003; Laws 2004, c. 5, § 96, emerg. eff. March 1, 2004; Laws 2007, c. 342, § 4, eff. July 1, 2007; Laws 2012, c. 304, § 910.

NOTE: Laws 2003, c. 212, § 17 repealed by Laws 2004, c. 5, § 97, emerg. eff. March 1, 2004.

#### §74-840-4.16. Promotional preferences - Intent of Legislature.

It is the intent of the Legislature that any guidelines pertaining to promotion adopted by the Administrator give preference to:

1. a promote-from-within policy when the merit, ability and capacity of incumbent employee applicants is relatively equal to that of outside applicants; and

2. seniority as a factor in promotional plans when merit, ability and capacity are relatively equal among applicants.

Laws 1986, c. 84, § 11, eff. Nov. 1, 1986. Renumbered from § 841.19a of this title by Laws 1994, c. 242, § 54.

#### §74-840-4.17. Employee performance and pay evaluation system.

A. The Office of Management and Enterprise Services shall study and establish a performance evaluation system that shall be used by all executive branch agencies for completing employee performance evaluations and making salary and performance-based pay decisions. The purpose of the system is to effectively link pay and performance while taking into consideration both the relativity of the position to market and the performance of the employee. The Office of Management and Enterprise Services may promulgate rules to implement the provisions of this section.

B. The agency shall retain a copy of the performance evaluation for each employee of the agency. A copy of the performance evaluation shall be retained in the employee's personnel file.

Added by Laws 1982, c. 338, § 37, eff. July 1, 1982. Amended by Laws 1985, c. 46, § 4, emerg. eff. April 23, 1985; Laws 1986, c. 84, § 9, eff. Nov. 1, 1986; Laws 1986, c. 244, § 8, emerg. eff. June 12, 1986; Laws 1992, c. 367, § 18, eff. July 1, 1992. Renumbered from § 841.16 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1998, c. 235, § 8, eff. July 1, 1998; Laws 1999, c. 1, § 37, emerg. eff. Feb. 24, 1999; Laws 1999, c. 410, § 18, eff. Nov. 1, 1999; Laws 2001, c. 381, § 11, eff. July 1, 2001; Laws 2003, c. 212, § 18, eff. July 1, 2003; Laws 2004, c. 312, § 12, eff. July 1, 2004; Laws 2005, c. 389, § 2, eff. Nov. 1, 2005; Laws 2012, c. 304, § 911; Laws 2014, c. 390, § 5, eff. July 1, 2014.

NOTE: Laws 1998, c. 98, § 1 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999.

§74-840-4.18. Renumbered as § 840-2.27 of this title by Laws 1995, c. 263, § 10.

§74-840-4.19. Authority to designate place of employment - Appeals to Merit Board Protection Commission.

A state agency shall have sole and final authority to designate the place or places where its employees shall perform their duties. The Oklahoma Merit Protection Commission shall not have jurisdiction to accept an appeal of an employee resulting from the employing agency transfer of an employee from one county or locality to another, changing the assigned duties of an employee, or relieving the employee from performance of duty at a particular place and reassigning to an employee duties to be performed at another place, unless an employee asserts that:

1. The action resulted in a change in job classification or reduction of the base salary of the employee;
2. A violation of the provisions of Section 840-2.5 or 840-2.9 of this title may have occurred; or
3. The action was taken clearly for disciplinary reasons and to deny the employee the right of appeal.

Added by Laws 1995, c. 310, § 16, emerg. eff. June 5, 1995.

§74-840.5. Renumbered as § 840-2.12 of this title by Laws 1994, c. 242, § 54.

§74-840-5.1. Unclassified service exempt from act except leave regulations.

Unless otherwise provided, offices and positions in the unclassified service are in no way subject to any of the provisions of this act or of the rules and regulations promulgated hereunder except leave regulations. Provided, offices and positions of the State Senate and House of Representatives shall not be subject to regulations of the Office of Management and Enterprise Services on

involuntary leave without pay or furlough but shall be subject to any involuntary leave without pay or furlough plan adopted by the President Pro Tempore of the Senate or the Speaker of the House of Representatives. No person chosen by election or appointment to fill an elective office shall be subject to any leave plan or regulation or shall such person be eligible for accrual of any leave benefits.

Added by Laws 1982, c. 338, § 7, eff. July 1, 1982. Amended by Laws 1986, c. 244, § 2, emerg. eff. June 12, 1986. Renumbered from § 840.7 of this title by Laws 1994, c. 242, § 54. Amended by Laws 2012, c. 304, § 912.

§74-840-5.1A. Unclassified service - Service at pleasure of appointing authority - Severance benefits.

A. Within state government, persons appointed to a position in the unclassified service after June 30, 1996, shall serve at the pleasure of the appointing authority. Appointing authorities shall not convey any right or expectation of continued employment to such unclassified employees. The appointing authority may separate such unclassified employees at any time with or without cause. No provision of the Oklahoma Personnel Act shall be construed as granting any property interest in employment to any unclassified service employee.

B. Nothing in this section is intended to change the status of any unclassified employee appointed to a position on or before June 30, 1996.

C. This section shall not apply to persons in positions in institutions under the jurisdiction of the Oklahoma State Regents for Higher Education or subject to the University Hospitals Authority Model Personnel System created pursuant to Section 3211 of Title 63 of the Oklahoma Statutes.

D. Agencies may provide severance benefits pursuant to Section 840-2.27D of this title to regular unclassified employees with one (1) year or more continuous state service who are separated from the state service for budgetary reasons. A plan providing for such benefits shall be submitted to the Director of the Office of Management and Enterprise Services who shall reject any plan that does not:

1. Demonstrate that funds are available to cover projected costs;
2. Contain an estimate of the number of affected employees likely to participate in the education voucher program established in Section 840-2.27D of this title; and
3. Contain an estimate of the cost savings or reduced expenditures likely to be achieved by the agency.

Added by Laws 1996, c. 320, § 10, emerg. eff. June 12, 1996.  
Amended by Laws 2003, c. 212, § 19, eff. July 1, 2003; Laws 2012, c. 304, § 913.

§74-840-5.1B. Repealed by Laws 2005, c. 453, § 5, eff. July 1, 2005.

NOTE: Prior to repeal this section was amended by Laws 2005, c. 176, § 6 to read as follows:

A. There is hereby created the State Classification Task Force for the purpose of reviewing unclassified positions in the executive branch of state government, excluding The Oklahoma State System of Higher Education, and making recommendations to the Legislature concerning the current unclassified service and the feasibility of proposals to add positions to or remove positions from the unclassified service.

B. The Task Force shall consist of ten (10) members of the Oklahoma Legislature, five members of the House of Representatives appointed by the Speaker of the House of Representatives and five members of the Senate appointed by the President Pro Tempore of the Senate. Members shall serve at the pleasure of their appointing authority.

C. For the Forty-ninth Oklahoma Legislature, the Speaker of the House of Representatives shall select the chair of the Task Force and the President Pro Tempore of the Senate shall select the vice chair of the Task Force. Thereafter, the chair and vice chair shall rotate between the House of Representatives and Senate with the President Pro Tempore of the Senate and the Speaker of the House of Representatives making the respective appointments.

D. Staffing for the Task Force shall be provided by the legislative staff of the House of Representatives and the Senate, and the Administrator of the Office of Personnel Management.

E. Members of the Task Force shall receive no compensation for serving on the Task Force but shall receive travel reimbursement for their necessary travel expenses incurred in the performance of their duties in accordance with Section 456 of Title 74 of the Oklahoma Statutes from the legislative body in which they serve.

F. 1. State agencies subject to the provisions of the Merit System of Personnel Administration shall submit requests for authorizations for unclassified positions and employees to the Administrator of the Office of Personnel Management who shall forward such requests to the Task Force. The Administrator shall review, analyze, and provide recommendations to the Task Force regarding such requests.

2. The Task Force shall meet in November of each year and shall review any agency proposals to add unclassified positions to the state service. A representative from each appointing authority of a state agency that desires to add unclassified

positions shall attend the meeting and present the proposal of the agency.

3. The Task Force shall also review positions currently in the unclassified service. The Administrator of the Office of Personnel Management shall review and analyze such positions and provide recommendations to the Task Force. The Task Force may request the presence of state agency representatives to provide information concerning such positions.

4. On or before February 1 of each year, the Task Force shall present any recommendations to the Speaker of the House of Representatives and the President Pro Tempore of the Senate concerning current positions in the unclassified service and agency proposals to add unclassified positions.

5. The Task Force may also meet during the regular session of the Legislature to consider any additional requests to add unclassified positions to the state service submitted pursuant to this subsection.

#### §74-840-5.2. Option to retain classified status.

Any classified employee who is serving in an agency head position which is subject to the Merit System of Personnel Administration on the effective date of this act shall have the option of retaining such classified status. An incumbent who chooses to remain in the classified service shall be subject to all provisions and conditions of the Merit System of Personnel Administration. An incumbent who chooses to change status from classified to unclassified shall so indicate in writing. All future appointees to such positions shall be in the unclassified service. Added by Laws 1985, c. 46, § 3, emerg. eff. April 23, 1985. Renumbered from § 840.8a of this title by Laws 1994, c. 242, § 54.

#### §74-840-5.2A. Ethics Commission - Status of employees to be as shown on employment records.

All persons employed by the Ethics Commission prior to March 18, 1998, shall be in and shall have been in such status in the classified or unclassified service as shown on their individual records on file in the Office of Management and Enterprise Services. The employment records of such persons on file in the Office of Management and Enterprise Services shall be controlling as to the status of such persons and the positions they occupy or occupied. Added by Laws 1998, c. 285, § 5, emerg. eff. May 27, 1998. Amended by Laws 2012, c. 304, § 914.

#### §74-840-5.2B. State and Education Employees Group Insurance Board - Status of employees to be as shown on employment records.

All persons employed by the State and Education Employees Group Insurance Board prior to March 27, 1998, shall be in and shall have been in such status in the classified or unclassified service as shown on their individual records on file in the Office of



Management and Enterprise Services. The employment records of such persons on file in the Office of Management and Enterprise Services shall be controlling as to the status of such persons and the positions they occupy or occupied.

Added by Laws 1998, c. 285, § 6, emerg. eff. May 27, 1998. Amended by Laws 2012, c. 304, § 915.

§74-840-5.3. Certain persons not considered state employees.

A. The following offices, positions and personnel shall not be considered state employees except as otherwise provided by law:

1. Patient and inmate help in the state charitable, mental and correctional institutions;

2. Persons engaged in public work for the state, but employed by contractors when the performance of such contract is authorized by the Legislature or other competent authority;

3. All employees of all public school districts; and

4. Officers and members of the Oklahoma National Guard, as such.

B. 1. Instructional and administrative personnel, except for superintendents, of the State Department of Rehabilitation Services at the Oklahoma School for the Blind and the Oklahoma School for the Deaf pursuant to Section 1419 of Title 10 of the Oklahoma Statutes shall be considered state employees, except they shall not be considered state employees for the purposes of the Oklahoma Personnel Act, unless otherwise provided by law. However, the Office of Management and Enterprise Services may categorize such employees as unclassified solely for the purpose of entering and maintaining employment data in the state Personnel Management Information System established pursuant to Section 840-2.13 of this title.

2. The superintendents at the Oklahoma School for the Blind and the Oklahoma School for the Deaf shall be state employees in the unclassified service, subject to the Oklahoma Personnel Act.

Added by Laws 1982, c. 338, § 9, eff. July 1, 1982. Amended by Laws 1986, c. 244, § 5, emerg. eff. June 12, 1986. Renumbered from § 840.9 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1995, c. 269, § 3, eff. July 1, 1995; Laws 2001, c. 381, § 12, eff. July 1, 2001; Laws 2003, c. 93, § 4, eff. July 1, 2003; Laws 2012, c. 304, § 916.

§74-840-5.4. Placement of agencies under Merit System of Personnel Administration.

Nothing in this act is intended to automatically place any agency under the provisions of the Merit System of Personnel Administration; however, any agency may be placed under the provisions of the Merit System in accordance with Section 840.3 of

Title 74 of the Oklahoma Statutes unless otherwise prohibited by law.

Added by Laws 1986, c. 244, § 4, emerg. eff. June 12, 1986.

Renumbered from § 840.8c of this title by Laws 1994, c. 242, § 54.

§74-840-5.5. Unclassified service - Offices, positions and personnel.

A. The following offices, positions, and personnel shall be in the unclassified service and shall not be placed under the classified service:

1. Persons chosen by popular vote or appointment to fill an elective office, and their employees, except the employees of the Corporation Commission, the State Department of Education and the Department of Labor;

2. Members of boards and commissions, and heads of agencies; also one principal assistant or deputy and one executive secretary for each state agency;

3. All judges, elected or appointed, and their employees;

4. Persons employed with one-time, limited duration, federal or other grant funding that is not continuing or indefinitely renewable. The length of the unclassified employment shall not exceed the period of time for which that specific federal funding is provided;

5. All officers and employees of The Oklahoma State System of Higher Education, State Board of Education and Oklahoma Department of Career and Technology Education;

6. Persons employed in a professional or scientific capacity to make or conduct a temporary and special inquiry, investigation, or examination on behalf of the Legislature or a committee thereof or by authority of the Governor. These appointments and authorizations shall terminate on the first day of the regular legislative session immediately following the appointment, if not terminated earlier. However, nothing in this paragraph shall prevent the reauthorization and reappointment of any such person. Any such appointment shall be funded from the budget of the appointing authority;

7. Election officials and employees;

8. Temporary employees employed to work less than one thousand (1,000) hours in any twelve-month period, and seasonal employees employed by the Oklahoma Tourism and Recreation Department pursuant to Section 2241 of this title who work less than one thousand six hundred (1,600) hours in any twelve-month period;

9. Department of Public Safety employees occupying the following offices or positions:

- a. administrative aides to the Commissioner,
- b. executive secretaries to the Commissioner,
- c. the Governor's representative of the Oklahoma Highway Safety Office who shall be appointed by the Governor,

- d. Highway Patrol Colonel,
- e. Highway Patrol Lieutenant Colonel,
- f. Director of Finance,
- g. noncommissioned pilots,
- h. Information Systems Administrator,
- i. Law Enforcement Telecommunications System Specialist,
- j. Director of Driver Compliance,
- k. Director of Transportation Division,
- l. Director of the Oklahoma Highway Safety Office,
- m. Civil Rights Administrator,
- n. Budget Analyst,
- o. Comptroller,
- p. Chaplain,
- q. Helicopter Mechanic,
- r. Director of Safety Compliance,
- s. Human Resources Director,
- t. Administrator of Department Services, and
- u. a maximum of seven positions for the purpose of administering programs in the Oklahoma Highway Safety Office, within full-time employee limitations of the Department, employed with federal funding that is continuing or indefinitely renewable. The authorization for such positions shall be terminated if the federal funding for positions is discontinued;

provided, any person appointed to a position prescribed in subparagraph d or e of this paragraph shall have a right of return to the classified commissioned position without any loss of rights, privileges or benefits immediately upon completion of the duties in the unclassified commissioned position;

10. Professional trainees only during the prescribed length of their course of training or extension study;

11. Students who are employed on a part-time basis, which shall be seventy-five percent (75%) of a normal forty-hour work week or thirty (30) hours per week, or less, or on a full-time basis if the employment is pursuant to a cooperative education program such as that provided for under Title I IV-D of the Higher Education Act of 1965 (20 U.S.C. 1087a-1087c), as amended, and who are regularly enrolled in:

- a. an institution of higher learning within The Oklahoma State System of Higher Education,
- b. an institution of higher learning qualified to become coordinated with The Oklahoma State System of Higher Education. For purposes of this section, a student shall be considered a regularly enrolled student if the student is enrolled in a minimum of five (5) hours of accredited graduate courses or a minimum of ten (10) hours of accredited undergraduate courses;

provided, however, the student shall only be required to be enrolled in a minimum of six (6) hours of accredited undergraduate courses during the summer, or

- c. high school students regularly enrolled in a high school in Oklahoma and regularly attending classes during such time of enrollment;

12. The spouses of personnel who are employed on a part-time basis to assist or work as a relief for their spouses in the Oklahoma Tourism and Recreation Department;

13. Service substitute attendants who are needed to replace museum and site attendants who are unavoidably absent. Service substitutes may work as part-time or full-time relief for absentees for a period of not more than four (4) weeks per year in the Oklahoma Historical Society sites and museums; such substitutes will not count towards the agency's full-time-equivalent (FTE) employee limit;

14. Employees of the Oklahoma House of Representatives, the State Senate, or the Legislative Service Bureau;

15. Corporation Commission personnel occupying the following offices and positions:

- a. Administrative aides, and executive secretaries to the Commissioners,
- b. Directors of all the divisions, personnel managers and comptrollers,
- c. General Counsel,
- d. Public Utility Division Chief Engineer,
- e. Public Utility Division Chief Accountant,
- f. Public Utility Division Chief Economist,
- g. Public Utility Division Deputy Director,
- h. Secretary of the Commission,
- i. Deputy Conservation Director,
- j. Manager of Pollution Abatement,
- k. Manager of Field Operations,
- l. Manager of Technical Services,
- m. Public Utility Division Chief of Telecommunications,
- n. Director of Information Services,
- o. All Data Processing employees hired on or after September 1, 2005,
- p. All Public Utilities employees hired on or after September 1, 2007,
- q. All Regulatory Program Managers hired on or after September 1, 2007, and
- r. All Pipeline Safety Department employees hired on or after September 1, 2008;

16. At the option of the employing agency, the Supervisor, Director, or Educational Coordinator in any other state agency

having a primary responsibility to coordinate educational programs operated for children in state institutions;

17. Department of Mental Health and Substance Abuse Services personnel occupying the following offices and positions at each facility:

- a. Director of Facility,
- b. Deputy Director for Administration,
- c. Clinical Services Director,
- d. Executive Secretary to Director, and
- e. Directors or Heads of Departments or Services;

18. Office of Management and Enterprise Services personnel occupying the following offices and positions:

- a. State Comptroller,
- b. Administrative Officers,
- c. Alternator Claims Auditor,
- d. Employees hired to fulfill state compliance agency requirements under Model Tribal Gaming Compacts,
- e. Employees of the Budget Division,
- f. Employees of the Fiscal and Research Division,
- g. Employees hired to work on the CORE Systems Project, and
- h. The following employees of the Information Services Division:
  - (1) Information Services Division Manager,
  - (2) Network Manager,
  - (3) Network Technicians,
  - (4) Security Manager,
  - (5) Contracts/Purchasing Manager,
  - (6) Operating and Applications Manager,
  - (7) Project Manager,
  - (8) Help Desk Manager,
  - (9) Help Desk Technicians,
  - (10) Quality Assurance Manager,
  - (11) ISD Analysts,
  - (12) CORE Manager,
  - (13) Enterprise System/Database Software Manager,
  - (14) Data Center Operations and Production Manager,
  - (15) Voice Communications Manager,
  - (16) Applications Development Manager,
  - (17) Projects Manager,
  - (18) PC's Manager,
  - (19) Servers Manager,
  - (20) Portal Manager,
  - (21) Procurement Specialists,
  - (22) Security Technicians,
  - (23) Enterprise Communications and Network Administrator,

- (24) Server Support Specialists,
- (25) Senior Server Support Specialists,
- (26) Systems Support Specialists,
- (27) Senior Systems Support Specialists,
- (28) Chief Technology Officer,
- (29) Facility Manager,
- (30) Application Development Specialists,
- (31) Senior Application Development Specialists,
- (32) Workstation Specialists,
- (33) Senior Workstation Specialists,
- (34) Cabling Infrastructure Administration,
- (35) Planning Specialists,
- (36) Senior Planning Specialists,
- (37) Network Specialists,
- (38) Senior Network Specialists,
- (39) Voice Communication Specialists, and
- (40) Senior Voice Communication Specialists;

19. Employees of the Oklahoma Industrial Finance Authority;

20. Those positions so specified in the annual business plan of the Oklahoma Department of Commerce;

21. Those positions so specified in the annual business plan of the Oklahoma Center for the Advancement of Science and Technology;

22. The following positions and employees of the Oklahoma School of Science and Mathematics:

- a. positions for which the annual salary is Twenty-four Thousand One Hundred Ninety-three Dollars (\$24,193.00) or more, as determined by the Office of Management and Enterprise Services; provided, no position shall become unclassified because of any change in salary or grade while it is occupied by a classified employee,
- b. positions requiring certification by the State Department of Education, and
- c. positions and employees authorized to be in the unclassified service of the state elsewhere in this section or in subsection B of this section;

23. Office of Management and Enterprise Services employees occupying the following positions:

- a. the Carl Albert Internship Program Coordinator,
- b. one Administrative Assistant,
- c. one Workforce Planning Manager,
- d. Assistant Administrators,
- e. one Associate Administrator, and
- f. Division Directors;

24. Department of Labor personnel occupying the following offices and positions:

- a. two Deputy Commissioners,
- b. two Executive Secretaries to the Commissioner,

- c. Chief of Staff,
  - d. two Administrative Assistants,
  - e. Information Systems Administrator,
  - f. three Safety and Health Directors,
  - g. Research Director,
  - h. Employment Standards Director,
  - i. Asbestos Director,
  - j. General Counsel,
  - k. one Legal Secretary,
  - l. one Docket Clerk,
  - m. two Information Systems Application Specialists,
  - n. one Administrative Programs Officer,
  - o. one Industrial Hygienist Supervisor, and
  - p. one Public Information Officer;
25. The State Bond Advisor and his or her employees;
26. The Oklahoma Employment Security Commission employees occupying the following positions:
- a. Associate Director,
  - b. Secretary to the Associate Director, and
  - c. Assistant to the Executive Director;
27. Officers and employees of the State Banking Department;
28. Officers and employees of the University Hospitals Authority except personnel in the state classified service pursuant to Section 3211 of Title 63 of the Oklahoma Statutes and members of the University Hospitals Authority Model Personnel System created pursuant to subsection E of Section 3211 of Title 63 of the Oklahoma Statutes or as otherwise provided for in Section 3213.2 of Title 63 of the Oklahoma Statutes;
29. Alcoholic Beverage Laws Enforcement Commission employees occupying the following positions:
- a. three Administrative Service Assistant positions, however, employees in such positions who are in the unclassified service on June 4, 2003, may make an election to be in the classified service without a loss in salary by September 1, 2003, and
  - b. the Deputy Director position in addition to the one authorized by paragraph 2 of this subsection;
30. The Oklahoma State Bureau of Investigation employees occupying the following positions:
- a. five assistant directors,
  - b. six special investigators,
  - c. one information representative,
  - d. one federally funded physical evidence technician,
  - e. four federally funded laboratory analysts,
  - f. a maximum of fourteen positions employed for the purpose of managing the automated information systems of the agency,

- g. one executive secretary in addition to the one executive secretary authorized pursuant to paragraph 2 of this subsection,
- h. Child Abuse Response Team (CART) investigator,
- i. Child Abuse Response Team (CART) forensic interviewer, and
- j. nine administration and research positions and five data processing and information technology positions transferred from the Criminal Justice Resource Center pursuant to Section 150.17a of this title;

31. The Department of Transportation, the following positions:

- a. Director of the Oklahoma Aeronautics Commission,
- b. five Department of Transportation Assistant Director positions,
- c. eight field division engineer positions,
- d. one pilot position,
- e. five Project Manager positions, and
- f. five Transportation Coordinators;

32. Commissioners of the Land Office employees occupying the following positions:

- a. Chief Financial Officer,
- b. two Assistant Directors of Financial Services,
- c. two Archivists,
- d. one Audit Tech position,
- e. two Auditor positions,
- f. two Accounting Tech I positions,
- g. two Administrative Assistant positions,
- h. one Imaging Specialist position,
- i. one Information Systems Specialist position,
- j. Director of Communications,
- k. Director of Royalty Compliance,
- l. Director of Mineral Management,
- m. Accountant or Certified Public Accountant,
- n. Commercial Property Manager,
- o. Assistant Secretary,
- p. Director of Real Estate Management,
- q. one executive assistant,
- r. one legal secretary,
- s. one secretary,
- t. one Assistant Commercial Property Manager,
- u. one Oil and Gas Production Advisor or Geologist,
- v. one Soil Conservationist,
- w. one Administrative Programs Officer,
- x. one Geographic Information Systems Specialist,
- y. Director of Oil and Gas Division, and
- z. Financial Manager/Comptroller;



33. Within the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission, the following positions:

- a. six Narcotics Agent positions and three Typist Clerk/Spanish transcriptionists, including a Typist Clerk Supervisor/Spanish transcriptionist; provided, authorization for such positions shall be terminated if the federal funding for the positions is discontinued,
- b. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection,
- c. one fiscal officer,
- d. one full-time Programmer, and
- e. one full-time Network Engineer;

34. The Military Department of the State of Oklahoma is authorized such unclassified employees within full-time employee limitations to work in any of the Department of Defense directed youth programs, the State of Oklahoma Juvenile Justice youth programs, those persons reimbursed from Armory Board or Billeting Fund accounts, and skilled trade positions;

35. Within the Oklahoma Commission on Children and Youth the following unclassified positions:

- a. one Oversight Specialist and one Community Development Planner,
- b. one State Plan Grant Coordinator; provided, authorization for the position shall be terminated when federal support for the position by the United States Department of Education Early Intervention Program is discontinued,
- c. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection, and
- d. one Programs Manager;

36. The following positions and employees of the Office of Management and Enterprise Services:

- a. one Executive Secretary in addition to the Executive Secretary authorized by paragraph 2 of this subsection,
- b. the Director of Central Purchasing,
- c. one Alternate Fuels Administrator,
- d. one Director of Special Projects,
- e. three postauditors,
- f. four high-technology contracting officers,
- g. one Executive Assistant to the Purchasing Director,
- h. four Contracts Managers,
- i. one Associate Director,
- j. one specialized HiTech/Food Contracting Officer,
- k. one State Use Contracting Officer,

- l. one Property Distribution Administrator,
- m. three licensed architects assigned to the Construction and Properties Division,
- n. three licensed engineers assigned to the Construction and Properties Division,
- o. eight construction consultants assigned to the Construction and Properties Division,
- p. one attorney assigned to the Construction and Properties Division,
- q. three positions assigned to the Information Services Division, which shall include one Information Technology Manager, one Applications Specialist and one Data Planning Specialist,
- r. four positions assigned to Fleet Management, which shall include one Deputy Fleet Manager and three Management Analysts,
- s. one Chief Auditor,
- t. one Assistant Director of Central Purchasing Division,
- u. one Professional Errors and Omissions Liability Adjuster,
- v. three Strategic Sourcing Managers,
- w. three Strategic Sourcing Assistant Managers, and
- x. two Printing Services Brokers;

37. Oklahoma Water Resources Board personnel occupying the following offices and positions:

- a. four Water Quality Assistant Division Chiefs,
- b. four Water Resources Division Chiefs, and
- c. Director of Water Planning;

38. J.D. McCarty Center for Children with Developmental Disabilities personnel occupying the following offices and positions:

- a. Physical Therapists,
- b. Physical Therapist Assistants,
- c. Occupational Therapists,
- d. Certified Occupational Therapist Aides, and
- e. Speech Pathologists;

39. Oklahoma Historical Society personnel occupying the following offices and positions:

- a. the Development Officer,
- b. the Director of the State Museum of History,
- c. the Cherokee Strip Regional Heritage Center Director,
- d. the Director of Museums and Historic Sites,
- e. the Director of Research,
- f. the Deputy State Historic Preservation Officer, and
- g. the Director of the Oklahoma Museum of Popular Culture;

40. Oklahoma Department of Agriculture, Food, and Forestry personnel occupying the following positions:

- a. one Executive Secretary in addition to the Executive Secretary authorized by paragraph 2 of this subsection and one Executive Assistant,
- b. nineteen Agricultural Marketing Coordinator III positions,
- c. temporary fire suppression personnel, regardless of the number of hours worked, who are employed by the Oklahoma Department of Agriculture, Food, and Forestry; provided, however, notwithstanding the provisions of any other section of law, the hours worked by such employees shall not entitle such employees to any benefits received by full-time employees,
- d. one Information Technology Specialist,
- e. one Director of Administrative Services,
- f. one Professional Engineer,
- g. one hydrologist position,
- h. Pet Breeder Inspectors,
- i. one Information Technology Technician,
- j. Legal Services Director,
- k. Animal Industry Services Director,
- l. Agricultural Environmental Management Services Director,
- m. Forestry Services Director,
- n. Plant Industry and Consumer Services Director,
- o. one Grants Administrator position,
- p. Director of Laboratory Services,
- q. Chief of Communications,
- r. Public Information Manager,
- s. Inventory/Supply Officer,
- t. five Agriculture Field Inspector positions assigned the responsibility for conducting inspections and audits of agricultural grain storage warehouses. All other Agriculture Field Inspector positions and employees of the Oklahoma Department of Agriculture, Food, and Forestry shall be classified and subject to the provisions of the Merit System of Personnel Administration. On November 1, 2002, all other unclassified Agriculture Field Inspectors shall be given status in the classified service as provided in Section 840-4.2 of this title,
- u. Rural Fire Coordinator,
- v. one Agricultural Marketing Coordinator I,
- w. Food Safety Division Director,
- x. two Environmental Program Specialists,

- y. two Scale Technicians,
- z. two Plant Protection Specialists,
- aa. Chief Agent,
- bb. Professional Foresters,
- cc. Forestry Education Coordinator,
- dd. Forest Data Analyst,
- ee. Executive Secretary to Chief Agent, and
- ff. Executive Secretary of State Forester;

41. The Contracts Administrator within the Oklahoma State Employees Benefits Council;

42. The Development Officer within the Oklahoma Department of Libraries;

43. Oklahoma Real Estate Commission personnel occupying the following offices and positions:

- a. Educational Program Director, and
- b. Data Processing Manager;

44. A Chief Consumer Credit Examiner for the Department of Consumer Credit;

45. All officers and employees of the Oklahoma Capitol Complex and Centennial Commemoration Commission;

46. All officers and employees of the Oklahoma Motor Vehicle Commission;

47. One Museum Archivist of The Will Rogers Memorial Commission;

48. One Fire Protection Consultant of the Office of the State Fire Marshal;

49. Acting incumbents employed pursuant to Section 209 of Title 44 or Section 48 of Title 72 of the Oklahoma Statutes who shall not be included in any limitation on full-time equivalency imposed by law on an agency. Permanent classified employees may request a leave of absence from classified status and accept an unclassified appointment and compensation as an acting incumbent with the same agency; provided, the leave shall expire no later than two (2) years from the date of the acting incumbent appointment. An appointing authority may establish unclassified positions and appoint unclassified employees to perform the duties of a permanent classified employee who is on leave of absence from a classified position to serve as an acting incumbent. All unclassified appointments created pursuant to this paragraph shall expire no later than two (2) years from the date of appointment. Classified employees accepting unclassified appointments and compensation pursuant to this paragraph shall be entitled to participate without interruption in any benefit programs available to classified employees, including retirement and insurance programs. Immediately upon termination of an unclassified appointment pursuant to this paragraph, an employee on assignment from the classified service shall have a right to be restored to the classified service and

reinstated to the former job family level and compensation plus any adjustments and increases in salary or benefits which the employee would have received but for the leave of absence;

50. The Oklahoma Homeland Security Director and all other positions assigned the responsibilities of working in the Oklahoma Office of Homeland Security;

51. The following eighteen positions in the State Department of Health:

- a. one surveillance supervisor,
- b. one surveillance project monitor,
- c. two bilingual interviewers,
- d. eight senior interviewers, and
- e. six interviewers;

52. State Board of Licensure for Professional Engineers and Land Surveyors personnel occupying the following offices and positions:

- a. one Director of Enforcement, and
- b. two Board Investigators;

53. One Information Systems Data Management Analyst of the State and Education Employees Group Insurance Board;

54. Office of Juvenile Affairs personnel occupying the following offices and positions:

- a. two Management Information Systems positions, and
- b. employees hired for service at the Southwest Oklahoma Juvenile Center in Manitou after June 1, 2020, as provided in subsection C of Section 2-7-202 of Title 10A of the Oklahoma Statutes; and

55. Heads of agencies, principal assistants or deputies and executive secretaries of an agency that is consolidated into another agency.

B. If an agency has the authority to employ personnel in the following offices and positions, the appointing authority shall have the discretion to appoint personnel to the unclassified service:

- 1. Licensed medical doctors, osteopathic physicians, dentists, psychologists, and nurses;
- 2. Certified public accountants;
- 3. Licensed attorneys;
- 4. Licensed veterinarians; and
- 5. Licensed pharmacists.

C. Effective July 1, 1996, authorization for unclassified offices, positions, or personnel contained in a bill or joint resolution shall terminate June 30 of the ensuing fiscal year after the authorization unless the authorization is codified in the Oklahoma Statutes or the termination is otherwise provided in the legislation.

D. The appointing authority of agencies participating in the statewide information systems project may establish unclassified

positions and appoint unclassified employees to the project as needed. Additional unclassified positions may be established, if required, to appoint an unclassified employee to perform the duties of a permanent classified employee who is temporarily absent from a classified position as a result of assignment to this project. All unclassified appointments under this authority shall expire no later than December 31, 2007, and all unclassified positions established to support the project shall be abolished. Both the positions and appointments resulting from this authority shall be exempt from any agency FTE limitations and any limits imposed on the number of unclassified positions authorized. Permanent classified employees may request a leave of absence from classified status and accept an unclassified appointment and compensation with the same agency under the provisions of this subsection; provided, the leave shall expire no later than December 31, 2007. Employees accepting the appointment and compensation shall be entitled to participate without interruption in any benefit programs available to classified employees, including retirement and insurance programs. Immediately upon termination of an unclassified appointment pursuant to this subsection, an employee on assignment from the classified service shall have a right to be restored to the classified service and reinstated to the former job family level and compensation plus any adjustments and increases in salary or benefits which the employee would have received but for the leave of absence.

Added by Laws 1982, c. 338, § 8, eff. July 1, 1982. Amended by Laws 1982, c. 358, § 21, emerg. eff. June 2, 1982; Laws 1983, c. 263, § 15, operative July 1, 1983; Laws 1984, c. 284, § 19, operative July 1, 1984; Laws 1985, c. 46, § 2, emerg. eff. April 23, 1985; Laws 1985, c. 325, § 15, emerg. eff. July 29, 1985; Laws 1986, c. 19, § 6, emerg. eff. March 17, 1986; Laws 1986, c. 244, § 3, emerg. eff. June 12, 1986; Laws 1986, c. 277, § 13, emerg. eff. June 24, 1986; Laws 1987, c. 222, § 120, operative July 1, 1987; Laws 1989, c. 291, § 5, eff. July 1, 1989; Laws 1989, c. 370, § 15, operative July 1, 1989; Laws 1990, c. 23, § 9, operative July 1, 1990; Laws 1990, c. 260, § 50, operative July 1, 1990; Laws 1990, c. 264, § 87, operative July 1, 1990; Laws 1991, c. 308, § 3, eff. July 1, 1991; Laws 1992, c. 373, § 21, eff. July 1, 1992; Laws 1993, c. 10, § 14, emerg. eff. March 21, 1993; Laws 1993, c. 183, § 72, eff. July 1, 1993; Laws 1993, c. 333, § 2, eff. July 1, 1993; Laws 1994, c. 2, § 30, emerg. eff. March 2, 1994. Renumbered from § 840.8 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1994, c. 315, § 5, eff. July 1, 1994; Laws 1995, c. 64, § 1, emerg. eff. April 11, 1995; Laws 1995, c. 328, § 13, eff. July 1, 1995; Laws 1996, c. 3, § 22, emerg. eff. March 6, 1996; Laws 1996, c. 327, § 1, eff. Nov. 1, 1996; Laws 1997, c. 2, § 20, emerg. eff. Feb. 26, 1997; Laws 1998, c. 165, § 1, eff. July 1, 1998; Laws 1998, c. 412, § 5, eff. July 1, 1998; Laws 1999, c. 1, § 38, emerg. eff. Feb. 24, 1999; Laws 1999,

c. 375, § 1, eff. July 1, 1999; Laws 2000, c. 6, § 25, emerg. eff. March 20, 2000; Laws 2000, c. 336, § 9, eff. July 1, 2000; Laws 2001, c. 167, § 13, emerg. eff. May 2, 2001; Laws 2001, c. 414, § 10, emerg. eff. June 4, 2001; Laws 2002, c. 22, § 32, emerg. eff. March 8, 2002; Laws 2002, c. 435, § 1, emerg. eff. June 5, 2002; Laws 2003, c. 3, § 89, emerg. eff. March 19, 2003; Laws 2003, c. 382, § 1; Laws 2004, c. 5, § 98, emerg. eff. March 1, 2004; Laws 2004, c. 157, § 7, emerg. eff. April 26, 2004; Laws 2004, c. 462, § 1, eff. July 1, 2004; Laws 2005, c. 1, § 132, emerg. eff. March 15, 2005; Laws 2005, c. 190, § 19, eff. Sept. 1, 2005; Laws 2005, c. 409, § 2, eff. Sept. 1, 2005; Laws 2006, c. 189, § 1, eff. July 1, 2006; Laws 2006, 2nd Ex. Sess., c. 47, § 3, eff. July 1, 2006; Laws 2007, c. 208, § 3, eff. July 1, 2007; Laws 2008, c. 3, § 49, emerg. eff. Feb. 28, 2008; Laws 2008, c. 300, § 1, eff. July 1, 2008; Laws 2010, c. 41, § 51, emerg. eff. April 2, 2010; Laws 2010, c. 392, § 1, emerg. eff. June 7, 2010; Laws 2011, c. 95, § 2, eff. Nov. 1, 2011; Laws 2011, c. 302, § 10; Laws 2012, c. 304, § 917; Laws 2013, c. 214, § 30, emerg. eff. May 7, 2013; Laws 2014, c. 117, § 6, eff. July 1, 2014; Laws 2016, c. 385, § 1, eff. July 1, 2016; Laws 2017, c. 42, § 35; Laws 2017, c. 177, § 1, eff. Nov. 1, 2017; Laws 2018, c. 222, § 2, eff. Nov. 1, 2018.

NOTE: Laws 1985, c. 281, § 6 repealed by Laws 1986, c. 19, § 7, emerg. eff. March 17, 1986. Laws 1987, c. 203, § 113 and Laws 1987, c. 204, § 121 repealed by Laws 1989, c. 291, § 11, eff. July 1, 1989 and by Laws 1989, c. 353, § 14, emerg. eff. June 3, 1989. Laws 1991, c. 291, § 18 repealed by Laws 1992, c. 367, § 29, eff. July 1, 1992 and by Laws 1992, c. 373, § 22, eff. July 1, 1992. Laws 1992, c. 367, § 4 repealed by Laws 1993, c. 10, § 16, emerg. eff. March 21, 1993. Laws 1993, c. 330, § 29 repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994. Laws 1994, c. 242, § 8 repealed by Laws 1995, c. 64, § 2, emerg. eff. April 11, 1995. Laws 1995, c. 212, § 5 and Laws 1995, c. 181, § 12, as amended by Laws 1995, c. 309, § 2 repealed by Laws 1996, c. 3, § 25, emerg. eff. March 6, 1996. Laws 1996, c. 321, § 8 repealed by Laws 1997, c. 2, § 26, emerg. eff. Feb. 26, 1997. Laws 1998, c. 6, § 1 repealed by Laws 1998, c. 388, § 11, eff. July 1, 1998 and by Laws 1998, c. 412, § 6, eff. July 1, 1998. Laws 1998, c. 180, § 5 repealed by Laws 1998, c. 388, § 11, eff. July 1, 1998 and by Laws 1998, c. 412, § 6, eff. July 1, 1998. Laws 1998, c. 388, § 3 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999. Laws 1999, c. 372, § 6 repealed by Laws 2000, c. 6, § 33, emerg. eff. March 20, 2000. Laws 2000, c. 299, § 1 repealed by Laws 2001, c. 5, § 54, emerg. eff. March 21, 2001. Laws 2001, c. 5, § 53 repealed by Laws 2001, c. 414, § 13, emerg. eff. June 4, 2001. Laws 2001, c. 33, § 176, Laws 2001, c. 211, § 3, Laws 2001, c. 304, § 1, Laws 2001, c. 327, § 1 and Laws 2001, c. 381, § 13 repealed by Laws 2002, c. 22, § 34, emerg. eff. March 8, 2002. Laws 2002, c. 347, § 16 repealed by Laws 2003, c. 3,

§ 90, emerg. eff. March 19, 2003. Laws 2002, c. 396, § 4 repealed by Laws 2003, c. 3, § 91, emerg. eff. March 19, 2003. Laws 2002, c. 397, § 34 repealed by Laws 2003, c. 3, § 92, emerg. eff. March 19, 2003. Laws 2003, c. 279, § 11 repealed by Laws 2004, c. 5, § 99, emerg. eff. March 1, 2004. Laws 2003, c. 353, § 3 repealed by Laws 2004, c. 5, § 100, emerg. eff. March 1, 2004. Laws 2004, c. 130, § 12 repealed by Laws 2004, c. 462, § 3, eff. July 1, 2004. Laws 2004, c. 418, § 28 repealed by Laws 2005, c. 1, § 133, emerg. eff. March 15, 2005. Laws 2005, c. 176, § 7 repealed by Laws 2006, c. 16, § 84, emerg. eff. March 29, 2006. Laws 2006, c. 222, § 1 repealed by laws 2006, 2nd Ex. Sess., c. 47, § 4, eff. July 1, 2006. Laws 2007, c. 326, § 21 repealed by Laws 2008, c. 3, § 50, emerg. eff. Feb. 28, 2008. Laws 2016, c. 330, § 1 repealed by Laws 2017, c. 42, § 36. Laws 2016, c. 331, § 1 repealed by Laws 2017, c. 42, § 37. Laws 2016, c. 339, § 1 repealed by Laws 2017, c. 42, § 38.

§74-840-5.6. Corporation Commission employees - Inclusion in unclassified service.

The unclassified service of the state shall include personnel employed by the Corporation Commission in positions which do not require registration with the Board of Professional Engineers and Land Surveyors but which have been employed in accordance with subparagraph 8 of paragraph 22 of Section 840.8 of Title 74 of the Oklahoma Statutes, which provides for engineer positions and employees of the Corporation Commission to be unclassified. From and after the effective date of this act, the titles of such positions and employees shall be changed to reflect the specialized nature of the positions and the intent of the Legislature that such positions be part of the unclassified service.

This provision is not intended to change the current status, whether classified or unclassified, of any employee or position of the Corporation Commission. Furthermore, it is not intended to authorize any increase in classified or unclassified full-time-equivalent employee positions or funding limitations.

Added by Laws 1985, c. 325, § 16, emerg. eff. July 29, 1985.

Renumbered from § 840.8b of this title by Laws 1994, c. 242, § 54.

§74-840-5.7. Grand River Dam Authority

A. The Grand River Dam Authority shall be under the Merit System. Except as otherwise provided in subsections B and C of this section, all offices, positions and personnel shall be classified and subject to the provisions of the Merit System of Personnel Administration and rules promulgated hereunder. This section shall supersede and repeal any and all executive orders issued pursuant to this act to place the agency or its predecessors under the Merit System.



B. In addition to offices, positions and personnel that are unclassified pursuant to Section 840-5.5 of this title, the Grand River Dam Authority may employ unclassified personnel as deemed necessary by the board of directors.

C. Unclassified employees hired prior to May 1, 1989, who hold engineering job titles but who are not registered engineers, shall be in the unclassified service, provided said persons are reassigned non-engineering job titles. At such time as the positions occupied by said unclassified employees are vacated, the positions shall revert to the classified service.

Added by Laws 1994, c. 242, § 9. Amended by Laws 2016, c. 140, § 1, emerg. eff. April 21, 2016.

#### §74-840-5.8. Oklahoma Tax Commission.

A. The Oklahoma Tax Commission shall be under the Merit System. Except as otherwise provided in subsection B of this section, all offices, positions and personnel shall be classified and subject to the provisions of the Merit System of Personnel Administration and rules promulgated hereunder. This section shall supersede and repeal any and all executive orders issued pursuant to the Oklahoma Personnel Act to place the agency or its predecessors under the Merit System.

B. In addition to offices, positions and personnel that are unclassified pursuant to Section 840-5.5 of this title, the following offices, positions and personnel shall be in the unclassified service:

1. One private secretary for each Tax Commissioner; all revenue administrators, the budget officer and the comptroller of the Tax Commission;
2. All revenue unit managers;
3. All Computer Programming Systems Specialist positions;
4. All Data Processing Programmer Analyst Supervisor and Data Processing Programmer Analyst III positions;
5. All Public Affairs Officer and Assistant Public Affairs Officer positions;
6. The Public Information Officer; and
7. All Tax Economist and Tax Policy Analyst positions.

Added by Laws 1994, c. 242, § 10. Amended by Laws 1995, c. 309, § 3, eff. July 1, 1995; Laws 1998, c. 388, § 4, eff. July 1, 1998.

#### §74-840-5.9. State Department of Education.

A. The State Department of Education shall be under the Merit System. Except as otherwise provided in subsection B of this section, all offices, positions and personnel shall be classified and subject to the provisions of the Merit System of Personnel Administration and rules promulgated hereunder. This section shall supersede and repeal any and all executive orders issued pursuant to

this act to place the agency or its predecessors under the Merit System.

B. In addition to offices, positions and personnel that are unclassified pursuant to Section 8 of this act, the following offices, positions and personnel shall be in the unclassified service:

1. Administrative Assistants;
2. Informational Representatives III;
3. Driver Educational Electronics Technician;
4. Media Technical Assistants;
5. Executive Secretaries;
6. Accounting Supervisor;
7. Supervisor of Records;
8. Supervisor of Printing Services;
9. Migrant Records Transfer System Representative;
10. Financial Managers; and

11. In addition to the State Department of Education offices and positions listed in this paragraph, any and all offices and positions within the State Department of Education for which the annual salary is Twenty-one Thousand Nine Hundred Forty-three Dollars (\$21,943.00) or more shall also be in the unclassified service of this state.

Nothing in this paragraph is intended to change the status, whether classified or unclassified service, of any person employed by the Department of Education prior to May 1, 1989. No position shall be made part of the selective service while it is occupied by an unclassified service employee because of any change in salary or grade. Hereafter, any position paid an annual salary of Twenty-one Thousand Nine Hundred Forty-three Dollars (\$21,943.00) or more shall be made part of the unclassified service upon being vacated.

Added by Laws 1994, c. 242, § 11.

§74-840-5.10. Repealed by Laws 2013, c. 254, § 50.

§74-840-5.11. Department of Corrections - Merit system - Service status.

A. The Department of Corrections shall be under the Merit System. Except as otherwise provided in subsection B of this section, all offices, positions and personnel shall be classified and subject to the provisions of the Merit System of Personnel Administration and rules promulgated hereunder. This section shall supersede and repeal any and all executive orders issued pursuant to this act to place the agency or its predecessors under the Merit System.

B. In addition to offices, positions and personnel that are unclassified pursuant to Section 840-5.5 of this title, the Director of the Department of Corrections may establish positions in the

unclassified service and place employees in those positions provided the total number of unclassified positions does not exceed six percent (6%) of the total full-time-equivalent employee limit established for the Department of Corrections. Any unclassified positions established for the Oklahoma State Industries shall be funded from the Department of Corrections Industries' Revolving Fund only. In addition to the regular salary, any unclassified employee of the Oklahoma State Industries of the Department of Corrections who is responsible for obtaining a contract for products manufactured or services provided by prison industries may, at the discretion of the Director of the Department of Corrections, be awarded additional compensation of not more than five percent (5%) of the total amount of said contracts but not more than Ten Thousand Dollars (\$10,000.00) per year. This compensation may be in addition to the salary of the employee and may be paid in one lump sum from any funds available to the Department of Corrections. No such compensation shall be made unless funds are available. Funds for payment of any compensation awards shall be encumbered to the extent of the awards.

Incumbents who were classified under the Merit System of Personnel Administration on the effective date the position they occupy became part of the unclassified service shall have the option of remaining in their classified service status. Incumbents who choose to accept unclassified service appointments shall so signify in writing. All future appointees to these positions shall be in the unclassified service. Incumbents who choose to remain in the classified service shall be subject to all rules and procedures of the Merit System.

Added by Laws 1994, c. 242, § 13. Amended by Laws 1995, c. 309, § 4, eff. July 1, 1995; Laws 1996, c. 327, § 2, eff. Nov. 1, 1996; Laws 1998, c. 388, § 5, eff. July 1, 1998; Laws 2001, c. 381, § 14, eff. July 1, 2001.

§74-840-5.12. State Department of Rehabilitation Services - Merit system - Unclassified positions.

A. The State Department of Rehabilitation Services shall be under the Merit System. Except as otherwise provided in this section, all offices, positions and personnel shall be classified and subject to the provisions of the Merit System of Personnel Administration and rules promulgated hereunder. This section shall supersede and repeal any and all executive orders issued pursuant to Section 840-1.1 et seq. of this title to place the agency or its predecessors under the Merit System.

B. In addition to offices, positions and personnel that are unclassified pursuant to Section 840-5.5 of this title, the Director of the State Department of Rehabilitation Services may establish positions in the unclassified service and place employees in the

positions provided the total number of unclassified positions does not exceed fifty-two. This limit does not include State Department of Rehabilitation Services employees subject to Section 840-5.3 of this title.

C. The limit on unclassified positions provided for in subsection B of this section shall not apply to the instructional and administrative personnel at the Oklahoma School for the Blind and the Oklahoma School for the Deaf as listed in Section 1419 of Title 10 of the Oklahoma Statutes.

D. The limit on unclassified positions provided for in subsection B of this section shall not apply to the employees of the Disability Determination Division of the State Department of Rehabilitation Services. The Director of the State Department of Rehabilitation Services may establish positions in the unclassified service in the Disability Determination Division and may place employees in those positions provided the total number of those unclassified positions does not exceed twenty-one.

E. Instructional and administrative personnel of the State Department of Rehabilitation Services at the Oklahoma School for the Blind and the Oklahoma School for the Deaf pursuant to Section 1419 of Title 10 of the Oklahoma Statutes shall be considered unclassified state employees solely for the purpose of entering and maintaining employment data in the state Personnel Management Information System established pursuant to Section 840-2.13 of this title, unless otherwise provided by law.

Added by Laws 1994, c. 242, § 14. Amended by Laws 1995, c. 106, § 1, eff. July 1, 1995; Laws 1995, c. 269, § 4, eff. July 1, 1995; Laws 1996, c. 327, § 3, eff. Nov. 1, 1996; Laws 1998, c. 388, § 6, eff. July 1, 1998; Laws 2001, c. 381, § 15, eff. July 1, 2001; Laws 2003, c. 93, § 5, eff. July 1, 2003; Laws 2008, c. 300, § 2, eff. July 1, 2008; Laws 2015, c. 64, § 1, eff. Nov. 1, 2015.

§74-840-5.13. Department of Environmental Quality.

A. The Department of Environmental Quality shall be under the Merit System. Except as otherwise provided in subsection B of this section, all offices, positions and personnel shall be classified and subject to the provisions of the Merit System of Personnel Administration and rules promulgated hereunder. This section shall supersede and repeal any and all executive orders issued pursuant to this act to place the agency or its predecessors under the Merit System.

B. In addition to offices, positions and personnel that are unclassified pursuant to Section 840-5.5 of this title, the following offices, positions and personnel shall be in the unclassified service:

1. Division Directors;
2. General Counsel;

3. Attorneys;
4. Director of Public Information and Education;
5. Customer Service Specialists;
6. Senior Coordinator of Rural Solid Waste Systems Development;
7. Director of Support Services; and
8. Director of the Office of Waste Planning and Systems

Development.

Added by Laws 1994, c. 242, § 15. Amended by Laws 1996, c. 327, § 4, eff. Nov. 1, 1996.

§74-840-5.13A. Temporary employees of the Department of Environmental Quality.

With the exception of temporary employees hired through temporary personnel services agencies and temporary employees hired into positions or to perform functions that require a professional or occupational license or registration, temporary employees of the Department of Environmental Quality shall not apply against any full-time-equivalency (FTE) employee limitation imposed by law on the Department. The equivalency figure for these non-FTE temporary employees and students in the unclassified service shall not exceed eight percent (8%) of the total full-time-equivalent employee limit established for the Department.

Added by Laws 2006, c. 259, § 1, eff. July 1, 2006.

§74-840-5.14. Repealed by Laws 1996, c. 327, § 5, eff. Nov. 1, 1996.

§74-840-5.15. Office of Juvenile Affairs.

A. The Office of Juvenile Affairs shall be under the Merit System. Except as otherwise provided in subsection B of this section, all offices, positions and personnel shall be classified and subject to the provisions of the Merit System of Personnel Administration and rules promulgated pursuant thereto. This section shall supersede and repeal any and all executive orders issued pursuant to the Oklahoma Personnel Act to place the agency or its predecessors under the Merit System.

B. In addition to offices, positions and personnel that are unclassified pursuant to Section 840-5.5 of this title, the Office of Juvenile Affairs may place a maximum of forty-one (41) employees in the unclassified service.

Added by Laws 1995, c. 352, § 196, eff. July 1, 1995. Amended by Laws 2005, c. 409, § 3, eff. Sept. 1, 2005; Laws 2008, c. 300, § 3, eff. July 1, 2008.

§74-840-5.16. State Work Incentive Program.

A. There is hereby created the State Work Incentive Program aimed at employing participants in the Temporary Assistance for

Needy Families Program in Oklahoma and vocational rehabilitation clients of the State Department of Rehabilitation Services in the state service. The program shall focus on placement of persons in entry-level positions. The Department of Human Services and the State Department of Rehabilitation Services shall notify agencies in all branches of state government of this program and shall certify to appointing authorities and the Director of the Office of Management and Enterprise Services that a person is a participant in the Temporary Assistance for Needy Families Program or is a vocational rehabilitation client of the State Department of Rehabilitation Services before the person is eligible to be employed under the State Work Incentive Program by a state agency. Agencies shall cooperate with the Department of Human Services and the State Department of Rehabilitation Services in seeking to provide employment opportunities to persons who are participants in the Temporary Assistance for Needy Families Program or who are vocational rehabilitation clients of the State Department of Rehabilitation Services. The Department of Human Services, the State Department of Rehabilitation Services and the Office of Management and Enterprise Services shall coordinate with agencies to facilitate the transition of participants in the Temporary Assistance for Needy Families Program and vocational rehabilitation clients of the State Department of Rehabilitation Services into the State Work Incentive Program.

B. Agencies employing eligible persons in the State Work Incentive Program shall employ them in unclassified status for up to two (2) years in full-time or part-time capacity. State Work Incentive Program positions shall not be included within any limitation on full-time-equivalent employee positions for any agency. The service of participants shall be rated pursuant to Section 840-4.17 of this title.

C. Employees hired under the State Work Incentive Program are eligible for leave benefits and other benefits available to state employees, subject to other eligibility requirements, and may be reassigned or promoted while they are participating in the program.

D. Employees hired under the State Work Incentive Program shall be eligible for conversion to permanent classified status after two (2) years of continuous participation in the program. Such employee shall be exempt from probationary hiring procedures including, but not limited to, placement on hiring lists and certification from registers, provided the employee:

1. Has had satisfactory performance as evidenced by service ratings conducted pursuant to Section 840-4.17 of this title; and
2. Possesses the minimum requirements specified for an applicable job.

The Director of the Office of Management and Enterprise Services shall promulgate such rules as are necessary for the implementation of the State Work Incentive Program.

Added by Laws 1997, c. 286, § 6, eff. July 1, 1997. Amended by Laws 1999, c. 410, § 19, eff. Nov. 1, 1999; Laws 2000, c. 155, § 1, eff. Nov. 1, 2000; Laws 2007, c. 342, § 5, eff. July 1, 2007; Laws 2012, c. 304, § 918.

§74-840-5.18. Oklahoma Public Employees Retirement System.

Beginning on the effective date of this act, all offices, positions and personnel of the Oklahoma Public Employees Retirement System shall be in the unclassified service except as provided in Section 840-4.2 of this title. All future appointees to such offices and positions shall be in the unclassified service.

Added by Laws 1997, c. 412, § 1, eff. July 1, 1997. Amended by Laws 1998, c. 388, § 8, eff. July 1, 1998; Laws 2008, c. 300, § 4, eff. July 1, 2008; Laws 2010, c. 392, § 2, emerg. eff. June 7, 2010.

§74-840-5.19. Ethics Commission.

All positions and personnel of the Ethics Commission shall be in the unclassified service.

Added by Laws 1998, c. 285, § 2, emerg. eff. May 27, 1998. Amended by Laws 2015, c. 151, § 1, emerg. eff. April 21, 2015.

§74-840-5.20. State and Education Employees Group Insurance Board.

A. The State and Education Employees Group Insurance Board shall be under the Merit System. Except as provided in subsection B of this section, all positions and personnel shall be classified and subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act. This section shall supersede and repeal any and all executive orders issued pursuant to the Oklahoma Personnel Act to place the agency under the Merit System.

B. In addition to positions and personnel that are unclassified pursuant to Section 840-5.5 of Title 74 of the Oklahoma Statutes, the following offices, positions, and personnel of the State and Education Employees Group Insurance Board shall be in the unclassified service:

1. A director of internal audit;
2. Two deputy administrators;
3. Seven assistant administrators;
4. One executive secretarial position to the Board;
5. An administrative support officer; and
6. Three professional-level data processing positions.

Added by Laws 1998, c. 285, § 3, emerg. eff. May 27, 1998. Amended by Laws 1999, c. 375, § 2, eff. July 1, 1999; Laws 2001, c. 195, § 1, emerg. eff. May 7, 2001.

§74-840-5.21. Oklahoma Transportation Authority.

A. All offices, positions, and personnel of the Oklahoma Transportation Authority shall be classified and subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act. This section shall supersede and repeal any and all Executive Orders issued pursuant to the Oklahoma Personnel Act to place the Authority under the Merit System.

B. In addition to offices, positions, and personnel that are unclassified pursuant to Section 840-5.5 of this title, the following positions and personnel shall be in the unclassified service:

1. Information Technology Analysts;
2. Process Integration Specialists;
3. Project Managers;
4. System Integration Specialists; and
5. One Administrative Assistant.

Added by Laws 1998, c. 388, § 9, eff. July 1, 1998. Amended by Laws 2000, c. 336, § 10, eff. July 1, 2000.

§74-840-5.22. Repealed by Laws 2011, c. 305, § 5.

§74-840-5.23. Oklahoma Motor Vehicle Commission - Unclassified service.

All offices, positions, and personnel of the Oklahoma Motor Vehicle Commission shall be in the unclassified service. All future appointees to positions in the Oklahoma Motor Vehicle Commission shall be in the unclassified service.

Added by Laws 2001, c. 304, § 2, emerg. eff. May 31, 2001.

§74-840-5.24. State Election Board - Merit System exemption.

Notwithstanding any provision of law to the contrary, the State Election Board shall be exempt from the Merit System of Personnel Administration. This section shall supersede and repeal any and all executive orders issued pursuant to the Oklahoma Personnel Act to place the agency or its predecessors under the Merit System.

Added by Laws 2001, c. 381, § 16, eff. July 1, 2001. Amended by Laws 2010, c. 392, § 3, emerg. eff. June 7, 2010; Laws 2015, c. 393, § 1.

NOTE: Editorially renumbered from § 840-5.23 of this title to avoid duplication in numbering.

§74-840-5.25. Department of Transportation - Merit System - Seasonal Employees

A. The Oklahoma Department of Transportation shall be under the Merit System. Except as otherwise provided in subsections B through



D of this section, all offices, positions, and personnel shall be classified and subject to the provisions of the Merit System of Personnel Administration and rules promulgated pursuant thereto. This section shall supersede and repeal any and all executive orders issued pursuant to the Oklahoma Personnel Act to place the agency or its predecessors under the Merit System.

B. In addition to offices, positions, and personnel that are unclassified as specifically provided by law, the Oklahoma Department of Transportation may place any employee initially employed in the following positions on or after July 1, 2015, in the unclassified service:

1. Five (5) executive assistant positions, assigned to an assistant director;

2. Five (5) project manager positions;

3. Five (5) transportation coordinator positions;

4. Five (5) administration coordinator positions; and

5. Seasonal employees who work less than one thousand six hundred (1,600) hours in any twelve-month period.

C. The Department may employ seasonal employees throughout the calendar year. Such labor employed by the Department for a period of time necessary to address a seasonal need shall be in the unclassified service of the state as provided by the Oklahoma Personnel Act of the Oklahoma Statutes. Such employees shall not be entitled to paid leave, paid holidays, retirement, health, dental or life insurance, and shall be exempt from any laws, rules or practices providing for such benefits.

D. The Department, in its annual budget request, shall include a summary of the use of seasonal employees, which shall include the number of workers employed under the provisions of this section and the total wages paid to these employees.

Added by Laws 2015, c. 394, § 1, eff. July 1, 2015. Amended by Laws 2016, c. 254, § 1, eff. July 1, 2016.

§74-840-5.26. Board of Dentistry - Merit system.

A. The Oklahoma Board of Dentistry shall be under the Merit System. Except as otherwise provided in subsection B of this section, all offices, positions, and personnel shall be classified and subject to the provisions of the Merit System of Personnel Administration and rules promulgated pursuant thereto. This section shall supersede and repeal any and all executive orders issued pursuant to the Oklahoma Personnel Act to place the agency or its predecessors under the Merit System.

B. In addition to offices, positions, and personnel that are unclassified as specifically provided by law, the Oklahoma Board of Dentistry may place any investigator initially employed on or after July 1, 2015, in the unclassified service.

Added by Laws 2015, c. 392, § 1.

NOTE: Editorially renumbered from § 840-5.25 of this title to avoid duplication in numbering.

§74-840.5a. Renumbered as § 840-1.5 of this title by Laws 1994, c. 242, § 54.

§74-840.5b. Renumbered as § 840-1.20 of this title by Laws 1994, c. 242, § 54.

§74-840.5c. Renumbered as § 840-2.13 of this title by Laws 1994, c. 242, § 54.

§74-840.5d. Renumbered as § 840-2.7 of this title by Laws 1994, c. 242, § 54.

§74-840.6. Renumbered as § 840-1.6 of this title by Laws 1994, c. 242, § 54.

§74-840-6.1. Alternative Dispute Resolution Program.

A. The Oklahoma Merit Protection Commission shall establish and maintain a mandatory Alternative Dispute Resolution Program and shall adopt and promulgate such rules as may be necessary for the implementation and management of the program.

B. A purpose of the Alternative Dispute Resolution Program is to provide an economical means and access to effective alternative dispute resolution services to all state agencies and employees.

C. The Oklahoma Merit Protection Commission may require employees and agencies to utilize the Alternative Dispute Resolution Program to resolve disputes brought before the Commission pursuant to Sections 841.13 and 841.15 of Title 74 of the Oklahoma Statutes.

D. Alternative dispute resolution programs established and utilized by the Commission are not subject to Article II of the Administrative Procedures Act. The decision in such cases may be appealed by any party to the Oklahoma Merit Protection Commission and thereafter to district court.

Added by Laws 1992, c. 367, § 7, eff. July 1, 1992. Amended by Laws 1994, c. 242, § 36. Renumbered from § 841.13C of this title by Laws 1994, c. 242, § 54.

§74-840-6.2. Grievance procedure.

A. The Oklahoma Merit Protection Commission shall establish standard internal agency grievance resolution procedures for classified state employees. The procedures shall encourage prompt and equitable resolution of grievances at the lowest possible level within the employing agency. Each appointing authority shall either use the procedures established by the Commission or adopt other procedures which address the specific needs of their agencies. All

procedures shall contain the minimum requirements established pursuant to this section.

B. The appointing authority of each agency shall furnish to each classified employee a copy of the internal agency grievance resolution procedure utilized by the agency.

C. No employee shall be disciplined or otherwise prejudiced in his or her employment for exercising his or her rights under the internal agency grievance resolution procedure.

D. Internal agency grievances may include, but are not limited to, any direct or indirect form of discipline, reduction-in-force, work assignments, withholding of work, classification, reclassification, promotion, leave, performance appraisal, length of service, overtime, compensatory time, transfers, or any alleged violation of the Oklahoma Personnel Act or merit rules.

E. The internal agency grievance resolution procedures established by the Oklahoma Merit Protection Commission shall contain the following minimum requirements:

1. Procedures encouraging resolution of disputes within the agency quickly, informally and at the lowest possible level;

2. Procedures requiring prompt resolution of the internal agency grievance within established time periods; and

3. Procedures guaranteeing the employee the right to be represented by a person of his own choosing at each step of the procedure, except the initial informal discussion with his immediate supervisor.

F. The Oklahoma Merit Protection Commission shall promulgate rules as necessary to implement the provisions of subsections A through I of this section to establish internal agency grievance resolution procedures.

G. The appointing authority of each classified agency shall designate employees of the agency to receive and process internal agency grievances. Within six (6) months after designation to serve in this capacity, these employees shall complete the training programs established by the Commission. Upon successful completion, such employees shall be certified to perform the duties associated with receiving and processing internal agency grievances.

H. The appointing authority of each classified agency shall ensure that employees designated to receive and process internal agency grievances are scheduled to attend and notified of the required training and shall make time available for employees to complete the training.

I. Each agency shall maintain records of each grievance filed as well as summary information about the number, nature and outcome of all grievances filed. Agencies shall keep records of grievances separate and apart from other individual employee personnel files. Agencies shall annually report grievance information and related statistical data to the Oklahoma Merit Protection Commission

pursuant to rules adopted by the Commission. An employee or former employee shall have a right of access to the grievance record of grievances he or she filed after the grievance procedure has been completed.

J. Employees may only appeal a reduction-in-force action to the Oklahoma Merit Protection Commission on the basis of procedural errors in the application of the reduction-in-force plan of the employing agency, board, or commission.

Added by Laws 1982, c. 338, § 30, eff. July 1, 1982. Amended by Laws 1983, c. 274, § 6, operative July 1, 1983; Laws 1986, c. 158, § 15, operative July 1, 1986; Laws 1989, c. 353, § 10, emerg. eff. June 3, 1989; Laws 1992, c. 367, § 17, eff. July 1, 1992; Laws 1994, c. 242, § 33. Renumbered from § 841.9 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1998, c. 364, § 33, emerg. eff. June 8, 1998; Laws 2012, c. 304, § 919.

NOTE: Laws 1986, c. 84, § 5 repealed by Laws 1989, c. 353, § 14, emerg. eff. June 3, 1989.

#### §74-840-6.3. Progressive discipline.

A. Each appointing authority shall establish written policies and procedures for progressive discipline of employees according to the rules established by the Oklahoma Merit Protection Commission.

B. Progressive discipline is a system designed to ensure not only the consistency, impartiality and predictability of discipline, but also the flexibility to vary penalties if justified by aggravating or mitigating conditions. Typically, penalties range from verbal warning to discharge, with intermediate levels of a written warning, suspension or demotion. Absent mitigating circumstances, repetition of an offense is accompanied by a generally automatic progression to the next higher level of discipline.

C. Each supervisor shall be responsible for applying discipline when necessary that is progressive in nature, appropriate for the offense, and equitable. Each supervisor shall consider aggravating or mitigating circumstances when determining the proper disciplinary action. Each supervisor shall use prompt, positive action to avoid more serious disciplinary actions. The Oklahoma Merit Protection Commission shall promulgate rules to establish the requirements and guidelines for discipline.

D. The rules shall prohibit supervisors from considering incidents that occurred longer than four (4) years prior to an offense in order to move to a higher level of discipline. The prohibition shall not apply to incidents involving the following types of conduct:

1. Criminal activity;
2. Sexual misconduct and/or harassment;
3. Racially discriminatory behavior and/or harassment;

4. Threats or acts of violence against employees in the workplace; and

5. Drug and/or alcohol use or abuse on the job.

Added by Laws 1994, c. 242, § 34. Amended by Laws 2003, c. 7, § 1, emerg. eff. March 31, 2003.

§74-840-6.4. Pretermination hearing - Violation of procedures - Penalties.

A. A pretermination hearing shall be held before the appointing authority or its designee for any permanent classified state employee, as defined in Section 840.3 of this title, before such employee shall be terminated from state service unless the termination is part of a reduction-in-force as provided in Section 841.14 of this title.

B. The procedures for a pretermination hearing shall be:

1. Notice of a pretermination hearing shall be served by actual delivery or by certified or registered mail service at least seven (7) calendar days prior to the scheduled pretermination hearing;

2. Said notice of the pretermination hearing shall state all grounds for termination and shall include a general summary of evidence or physical evidence to support each of the stated grounds for termination;

3. The appointing authority shall file in the employee's official personnel file at least seventy-two (72) hours before each pretermination hearing, a certificate to be included in the record stating what disciplinary actions have been taken to comply with progressive disciplines prior to the pretermination hearing and proposed termination and further certifying that all mandatory progressive discipline actions as required by statute or rule have been taken before pretermination hearing; provided, said certificate shall not be required where grounds for proposed termination are for commission of a criminal offense and/or acts involving moral turpitude;

4. The employee shall be advised of his or her rights of representation by legal counsel or a representative of choice;

5. Any pretermination hearing shall be recorded in its entirety by an audible electronic tape recording, and a copy of the tape shall be provided to the employee at no cost if the employee appeals to the Oklahoma Merit Protection Commission;

6. The pretermination hearing need not be a full evidentiary hearing. Formal rules of evidence shall not apply. The hearing shall be conducted so as to provide the appointing authority with information from which it may determine whether reasonable grounds exist to believe that the charges against the employee are true, and whether the grounds support the proposed action.

7. Following the pretermination hearing, if recommendation for termination is made, recordings of the pretermination hearing and

all evidence in support thereof, shall be reviewed for legal sufficiency by the appointing agency director or his or her designee before termination is final;

8. Following review by said director the appointing authority shall notify the terminated employee of the final decision in the manner aforesaid within ten (10) working days after the pretermination hearing;

9. Such notice shall state all grounds for termination;

10. In any subsequent proceedings before the Oklahoma Merit Protection Commission or district court, no grounds for termination other than those stated in the aforementioned notices shall be considered.

C. Any individual who willfully and knowingly violates these provisions shall be guilty of a misdemeanor and will be subject to appropriate disciplinary action which may include termination from state service.

Added by Laws 1990, c. 279, § 1, emerg. eff. May 25, 1990.

Renumbered from § 841.13B of this title by Laws 1994, c. 242, § 54.

§74-840-6.5. Demotion, suspension or discharge of classified employee - Notice - Appeal - Hearing - Findings.

A. It is the purpose of this section to provide a system for the prompt, fair, and equitable disposition of appeals by permanent classified employees who have been demoted, suspended, or discharged. Further, it is the intent of this section that all decisions rendered as a result of this procedure shall be confined to the issues submitted for decision and consistent with the applicable laws and rules.

B. If an employee in the classified service is demoted as a result of a position audit or reclassification, the agency shall provide notice of such demotion to the Office of Management and Enterprise Services, which shall review the findings of the agency prior to such demotion occurring, to ensure compliance with the law. The Office of Management and Enterprise Services shall complete the review and respond within ten (10) business days of receipt of notice. The provisions of this subsection shall not apply to demotions that are a result of a position audit or reclassification performed by the Office of Management and Enterprise Services.

C. Any employee in the classified service may be discharged, suspended without pay for not to exceed sixty (60) calendar days, or demoted by the agency, department, institution, or officer by whom employed, for misconduct, insubordination, inefficiency, habitual drunkenness, inability to perform the duties of the position in which employed, willful violation of the Oklahoma Personnel Act, the Merit Rules for Employment or of the rules prescribed by the Oklahoma Merit Protection Commission, conduct unbecoming a public employee, conviction of a crime involving moral turpitude, or any

other just cause. Employees in the classified service, upon final conviction of, or pleading guilty or nolo contendere to, a felony shall be discharged if the felony is job-related pursuant to Section 24.1 of Title 51 of the Oklahoma Statutes. Before any such action is taken against a permanent classified employee, the employing agency, department, institution or officer shall provide the employee with a written statement of the specific acts or omissions that are causes or reasons for the proposed action, an explanation of the agency's evidence, and an opportunity to present reasons why the proposed action is improper.

Within ten (10) business days after such discharge, suspension, or demotion, the appointing authority shall notify the employee by certified mail or personal service of the action taken and the specific cause for which said appointing authority has so acted. Within twenty (20) calendar days after receiving the written notification provided for in this section, the employee may file a written request for appeal with the Oklahoma Merit Protection Commission. The Executive Director shall determine if the jurisdictional requirements provided for in this section have been met. If the jurisdictional requirements are not met, the Executive Director shall notify both the employee and the agency within five (5) calendar days after the receipt of a written appeal request. Such notice shall specifically describe the requirements that were not met. If said requirements have been met, the Executive Director shall refer the appeal request to an administrative hearing officer for a hearing on said discharge, suspension, or demotion, or refer the appeal request to the Alternative Dispute Resolution Program.

If the case is not referred to the Alternative Dispute Resolution Program, then within five (5) calendar days after receipt of said properly executed appeal request, the Executive Director shall provide said employee and the appointing authority with a written notice of (1) a prehearing conference to be held at least five (5) working days, but not more than ten (10) working days, before the date of the hearing; and (2) the appeal hearing date which shall be no later than thirty-five (35) calendar days after the receipt of the appeal request, unless continued for good cause. Any continuances shall not exceed a combined total of sixty (60) calendar days except for good cause shown. Both the prehearing conference and the hearing shall be conducted in accordance with the provisions of Section 840-6.7 of this title. The notice shall be in the following form:

Notice of Hearing

Oklahoma Merit Protection Commission to \_\_\_\_\_. You are hereby notified that pursuant to your request an appeal hearing on your (discharge), (suspension), (demotion), from the position of \_\_\_\_\_ has been set for the \_\_\_\_\_ day of \_\_\_\_\_ at

\_\_\_\_\_ M. at \_\_\_\_\_ in \_\_\_\_\_, a copy of said cause for your (discharge), (suspension), (demotion), being hereto attached.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ City of \_\_\_\_\_ By \_\_\_\_\_  
Special Counsel of the Oklahoma Merit Protection Commission.

In appeals from demotion, suspension, or discharge, the burden of proof shall rest with the appointing authority, and decisions shall be made based on the rule of preponderance of evidence. The employee shall be sustained or not sustained. If the employee is not sustained in the appeal, the employee shall be discharged, or suspended without pay for not to exceed sixty (60) calendar days, or demoted. If sustained in the appeal, in whole or in part, the presiding official may either adjudge a forfeiture of pay not in excess of sixty (60) calendar days without loss of other rights and benefits or order reinstatement of appellant to the class previously held with full rights and without loss of pay or other benefits; provided that the decision will not result in an employee working out of proper classification as determined by the Office of Management and Enterprise Services.

The findings of the presiding officials shall be final and conclusive upon all questions within their jurisdiction between the parties except as provided for in Sections 317 and 318 of Title 75 of the Oklahoma Statutes. Upon the timely filing of a petition to rehear, reopen, or reconsider, the Oklahoma Merit Protection Commission shall schedule the matter for consideration by the Commissioners on the earliest possible date. The Commission shall rule on petitions by a majority vote of a quorum of the Commissioners. Based on the Commission review of the petition, the Commission shall issue a Final Petition Decision within thirty (30) days after the petition is heard. The Final Petition Decision shall address the issues which are within the jurisdiction of the Commission raised in the petition, and the Decision shall be written in clear and concise language. Final Petition Decisions are subject to judicial review if appealed to the district court within thirty (30) calendar days. The State of Oklahoma or any agency of the state shall not be allowed to appeal to the district court unless the employee is continued on full pay in the same status of employment existing prior to suspension or discharge.

Added by Laws 1982, c. 338, § 34, eff. July 1, 1982. Amended by Laws 1983, c. 52, § 1, eff. Nov. 1, 1983; Laws 1984, c. 242, § 3, operative July 1, 1984; Laws 1986, c. 84, § 6, eff. Nov. 1, 1986; Laws 1986, c. 158, § 19, operative July 1, 1986; Laws 1992, c. 367, § 6, eff. July 1, 1992. Renumbered from § 841.13 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1995, c. 310, § 17, emerg. eff. June 5, 1995; Laws 1998, c. 235, § 9, eff. July 1, 1998; Laws 2003, c. 353, § 5, emerg. eff. June 3, 2003; Laws 2005, c. 453, § 3, eff. July 1, 2005; Laws 2012, c. 304, § 920.



§74-840-6.6. Violation of employee rights - Appeals - Investigations - Reports - Hearings - Alternative Dispute Resolution - Closing of record.

A. Any person who believes that his or her rights under the Oklahoma Personnel Act, Section 840-1.1 et seq. of this title, have been violated may appeal to the Oklahoma Merit Protection Commission for corrective action.

B. Excluding the procedures set forth in Section 840-6.5 of this title, the Executive Director shall conduct preliminary investigations of possible violations of the Oklahoma Personnel Act. The Executive Director shall prepare a report of each such investigation stating the issues and findings of fact. If it is the determination of the Executive Director that a violation of the Oklahoma Personnel Act or the Merit System of Personnel Administration Rules may have occurred, the Executive Director shall, within ten (10) calendar days after the date of the report, appoint an administrative hearing officer to hear the case or refer the case to the Alternative Dispute Resolution Program, as appropriate and provided for by law. If the appeal is to be heard by an administrative hearing officer, the Executive Director shall notify the appellant and the appointing authority of the date, time, and place of the hearing in accordance with the provisions of Section 840-6.7 of this title. Such hearing shall be conducted within thirty-five (35) calendar days of the date of the investigative report unless continued for good cause. Any continuances shall not exceed a combined total of sixty (60) calendar days except for good cause shown.

The prehearing conference and hearing shall be conducted in accordance with the provisions of Section 840-6.7 of this title. If it is determined a violation has occurred, the Commission or presiding official shall:

1. Direct the appointing authority to take the necessary corrective action; or
2. Report the finding to the appropriate authorities for further action.

Corrective action shall be confined to issues submitted for decision and shall be consistent with applicable laws and rules and limited to actions specifically granted to the Oklahoma Merit Protection Commission and presiding official in the Oklahoma Personnel Act and shall not alter, reduce, or modify any existing right or authority as provided by statute or rule.

C. The following procedures shall pertain to the closing of a hearing or Alternative Dispute Resolution Program proceeding record:

1. When a hearing or Alternative Dispute Resolution Program proceeding is convened, the record will close at the conclusion of the hearing or Alternative Dispute Resolution Program proceeding unless otherwise specified by the presiding official;

2. When a hearing or Alternative Dispute Resolution Program proceeding is not convened, the record will close on the date set by the presiding official as the final date for the receipt of submissions of the parties; and

3. Once the record is closed, no additional evidence or argument shall be considered except upon a showing that new and material evidence has become available which was not readily available prior to the closing of the record.

Added by Laws 1982, c. 338, § 36, eff. July 1, 1982. Amended by Laws 1984, c. 242, § 5, operative July 1, 1984; Laws 1986, c. 84, § 8, eff. Nov. 1, 1986; Laws 1986, c. 158, § 21, operative July 1, 1986; Laws 1990, c. 279, § 2, emerg. eff. May 25, 1990; Laws 1992, c. 367, § 8, eff. July 1, 1992. Renumbered from § 841.15 of this title by Laws 1994, c. 242, § 54. Amended by Laws 1995, c. 310, § 18, emerg. eff. June 5, 1995.

#### §74-840-6.7. Hearing procedure.

All hearings held pursuant to the Oklahoma Personnel Act shall be conducted in accordance with the following provisions:

A. Prehearing Conferences

1. A prehearing conference may be held on all appeals set for hearing.

2. The prehearing conference may be conducted by the assigned administrative hearing officer, who may take an active part in the conference. The conference shall be informal, and shall not be open to the public. Each party may be represented by a designated individual who has knowledge of the case.

3. All discovery shall be completed at the prehearing conference. Thereafter, discovery may be conducted only where authorized by the administrative hearing officer where good cause is shown.

4. Copies of all documents or exhibits submitted to the administrative hearing officer must be submitted to the adverse party.

5. At the prehearing conference, the parties shall be required to:

- a. identify which allegations are admitted and which are denied; and
- b. submit a joint statement of the facts which are agreed and the issues to be decided; and
- c. submit a list of their witnesses, exhibits, and documents to be offered into evidence; and
- d. confer in regard to settlement; and
- e. perform any other acts which will facilitate the prehearing conference or the hearing.

6. The administrative hearing officer shall:

- a. determine the facts to which the parties agree and the issues to be decided; and
- b. hear all pending motions; and
- c. consider any other matters which will aid in the fair and prompt disposition of the appeal, including the possibility of settlement; and
- d. prepare a prehearing conference order which shall record the actions taken, the agreements reached, and the issues to be decided. The order shall control the subsequent course of the hearing.

#### B. Hearings

All hearings shall be open to the public, and shall only be conducted by an administrative hearing officer appointed by the Executive Director. The hearing shall be conducted in accordance with the Administrative Procedures Act of the Oklahoma Statutes, except that if any party chooses to designate a representative, the representative shall not be required to be an attorney. All administrative hearing officers shall serve at the pleasure of the Executive Director for such compensation as may be provided.

Each party shall have the right to present witnesses in his behalf and evidence to support his position.

The appointing authority concerned, or a designee, shall appear in person and shall present the position of the agency in the personnel action. The administrative hearing officers shall rule upon the questions of admissibility of evidence, competency of witnesses, and any other question of law upon which they have jurisdiction as provided in the Oklahoma Personnel Act and the rules promulgated thereunder.

Within ten (10) calendar days after said hearing, the administrative hearing officer shall prepare findings of fact and conclusions of law. The Executive Director shall notify the appellant and the appointing authority of the decision of the administrative hearing officer by certified mail within five (5) calendar days of the receipt of the decision of the administrative hearing officer.

The findings of the administrative hearing officer shall be final regarding all questions of law within their jurisdiction except as provided in the Administrative Procedures Act. After exhausting all remedies under the Administrative Procedures Act, either party to an appeal of demotion, suspension, or discharge may appeal to district court within thirty (30) calendar days.

Added by Laws 1984, c. 242, § 4, operative July 1, 1984. Amended by Laws 1986, c. 158, § 20, operative July 1, 1986. Renumbered from § 841.13A of this title by Laws 1994, c. 242, § 54. Amended by Laws 1995, c. 310, § 19, emerg. eff. June 5, 1995.

§74-840-6.8. Attorney fees and costs - Motion - Supporting evidence - Review.

A. The presiding officer of any hearing or Alternative Dispute Resolution Program proceeding before the Oklahoma Merit Protection Commission may require payment of reasonable attorney fees and costs to the prevailing party if the position of the nonprevailing party was without reasonable basis or was frivolous.

B. Requests by prevailing parties for payment of attorney fees and costs shall be filed by motion with a copy served on other parties within ten (10) days of the date that the decision is issued. A responsive pleading may be filed within ten (10) days of the date the motion is filed with the Oklahoma Merit Protection Commission. The motion shall be filed at the office of the Oklahoma Merit Protection Commission to the attention of the presiding officer and the ruling on the motion shall be made in an addendum decision.

C. The motion for fees and costs shall state why the prevailing party believes he or she is entitled to an award under this statute and shall be supported by evidence substantiating the amount of the request. Such evidence shall include the following:

1. Accurate and current time records;
2. A copy of the terms of any fee agreement between the party and the attorney;
3. The attorney's customary billing rate for similar work, provided the attorney has a billing practice to report; and
4. Evidence of the prevailing community rate sufficient to establish a market value for the services rendered.

D. If the Oklahoma Merit Protection Commission determines that the appeal is frivolous, any party may be assessed attorney fees and costs of the action.

E. A petition for judicial review by the Oklahoma Merit Protection Commission of the addendum decision shall be filed in accordance with Article II of the Administrative Procedures Act, within ten (10) days of the issue date of said decision.

Added by Laws 1990, c. 279, § 3, emerg. eff. May 25, 1990.

Renumbered from § 841.15A of this title by Laws 1994, c. 242, § 54.

Amended by Laws 1995, c. 310, § 20, emerg. eff. June 5, 1995.

§74-840-6.9. Administrative fines - Forfeiture of position.

A. The Oklahoma Merit Protection Commission or Director of the Office of Management and Enterprise Services may levy an administrative fine not to exceed Five Thousand Dollars (\$5,000.00) against any person, whether subject to the provisions of the merit system or in unclassified service, who after proper notice fails or refuses, within a reasonable period of time, to implement a written order of the Oklahoma Merit Protection Commission or the Director of the Office. Such fine shall be assessed against the person who

violates the order and shall not be paid by any monies of the employing entity in which the person is employed or serves.

B. Any person against whom an administrative fine is levied who continues the violation for an unreasonable period of time, as determined by the Oklahoma Merit Protection Commission or Director of the Office of Management and Enterprise Services, shall forfeit his or her position and shall be ineligible for appointment to or employment in state government for a period of five (5) years.

C. Any fines collected pursuant to this section shall be deposited to the revolving fund of the respective entity which levies the fine.

Added by Laws 1982, c. 338, § 44, eff. July 1, 1982. Amended by Laws 1986, c. 84, § 12, eff. Nov. 1, 1986; Laws 1986, c. 158, § 24, operative July 1, 1986; Laws 1994, c. 242, § 40. Renumbered from § 841.23 of this title by Laws 1994, c. 242, § 54. Amended by Laws 2012, c. 304, § 921.

§74-840.7. Renumbered as § 840-5.1 of this title by Laws 1994, c. 242, § 54.

§74-840-7.1. Leasing of state employees by Indian tribe or nation.

A. A state agency may enter into a contract with any federally recognized tribe or Indian Nation for the purpose of leasing one or more of its employees as follows:

1. The Indian Tribe or Nation has purchased real property from the state; and

2. The employee or employees were employed by the agency at the site of the purchased real property.

B. The Indian Tribe or Nation shall pay to the agency in a manner specified in the contract an amount equal to the salary, employer retirement contributions and flexible benefit allowance attributed to such leased employee or employees and any other expenses as agreed by the parties in the contract.

C. Leased employees pursuant to this section shall not lose any rights or benefits of being a state employee and shall retain their classification status.

Added by Laws 2004, c. 133, § 1, emerg. eff. April 20, 2004.

§74-840.7a. Renumbered as § 840-2.20 of this title by Laws 1994, c. 242, § 54.

§74-840.7b. Renumbered as § 840-2.21 of this title by Laws 1994, c. 242, § 54.

§74-840.7c. Renumbered as § 840-2.22 of this title by Laws 1994, c. 242, § 54.

§74-840.7d. Renumbered as § 840-2.23 of this title by Laws 1994, c. 242, § 54.

§74-840.7e. Renumbered as § 840-2.24 of this title by Laws 1994, c. 242, § 54.

§74-840.8. Renumbered as § 840-5.5 of Title 74 by Laws 1994, c. 242, § 54.

§74-840.8a. Renumbered as § 840-5.2 of this title by Laws 1994, c. 242, § 54.

§74-840.8b. Renumbered as § 840-5.6 of this title by Laws 1994, c. 242, § 54.

§74-840.8c. Renumbered as § 840-5.4 of this title by Laws 1994, c. 242, § 54.

§74-840.9. Renumbered as § 840-5.3 of this title by Laws 1994, c. 242, § 54.

§74-840.10. Repealed by Laws 1994, c. 242, § 56.

§74-840.11. Renumbered as § 840-1.16 of this title by Laws 1994, c. 242, § 54.

§74-840.12. Renumbered as § 840-1.17 of this title by Laws 1994, c. 242, § 54.

§74-840.13. Renumbered as § 840-4.2 of this title by Laws 1994, c. 242, § 54.

§74-840.14. Renumbered as § 840-1.18 of this title by Laws 1994, c. 242, § 54.

§74-840.14a. Renumbered as § 500.16A of this title by Laws 1994, c. 242, § 53.

§74-840.15. Renumbered as § 840-4.14 of this title by Laws 1994, c. 242, § 54.

§74-840.16. Renumbered as § 840-4.6 of this title by Laws 1994, c. 242, § 54.

§74-840.16a. Renumbered as § 840-4.7 of this title by Laws 1994, c. 242, § 54.

§74-840.16b. Renumbered as § 840-2.17 of this title by Laws 1994, c. 242, § 54.

§74-840.16c. Renumbered as § 840-4.8 of this title by Laws 1994, c. 242, § 54.

§74-840.16d. Renumbered as § 840-2.15 of this title by Laws 1994, c. 242, § 54.

§74-840.17. Renumbered as § 840-4.9 of this title by Laws 1994, c. 242, § 54.

§74-840.18. Renumbered as § 840-4.10 of this title by Laws 1994, c. 242, § 54.

§74-840.19. Renumbered as § 840-4.12 of this title by Laws 1994, c. 242, § 54.

§74-840.19a. Renumbered as § 840-4.4 of this title by Laws 1994, c. 242, § 54.

§74-840.20. Renumbered as § 840-4.13 of this title by Laws 1994, c. 242, § 54.

§74-840.21. Renumbered as § 840-4.11 of this title by Laws 1994, c. 242, § 54.

§74-840.22. Renumbered as § 840-4.3 of this title by Laws 1994, c. 242, § 54.

§74-840.22A. Renumbered as § 840-2.14 of this title by Laws 1994, c. 242, § 54.

§74-840.23. Renumbered as § 840-2.19 of this title by Laws 1994, c. 242, § 54.

§74-840.25. Renumbered as § 840-2.1 of this title by Laws 1994, c. 242, § 54.

§74-840.25a. Renumbered as § 840-2.2 of this title by Laws 1994, c. 242, § 54.

§74-840.25b. Renumbered as § 840-2.3 of this title by Laws 1994, c. 242, § 54.

§74-840.26. Renumbered as § 840-3.9 of this title by Laws 1994, c. 242, § 54.

§74-840.27. Renumbered as § 840-3.10 of this title by Laws 1994, c. 242, § 54.

§74-840.28. Renumbered as § 840-3.11 of this title by Laws 1994, c. 242, § 54.

§74-840.29. Renumbered as § 840-3.12 of this title by Laws 1994, c. 242, § 54.

§74-840.30. Renumbered as § 840-3.13 of this title by Laws 1994, c. 242, § 54.

§74-840.31. Renumbered as § 840-3.14 of this title by Laws 1994, c. 242, § 54.

§74-840.32. Renumbered as § 840-2.8 of this title by Laws 1994, c. 242, § 54.

§74-840.35. Renumbered as § 840-3.1 of this title by Laws 1994, c. 242, § 54.

§74-840.40. Renumbered as § 840-3.2 of this title by Laws 1994, c. 242, § 54.

§74-840.41. Renumbered as § 840-3.3 of this title by Laws 1994, c. 242, § 54.

§74-840.42. Renumbered as § 840-3.4 of this title by Laws 1994, c. 242, § 54.

§74-840.43. Renumbered as § 840-3.5 of this title by Laws 1994, c. 242, § 54.

§74-840.44. Renumbered as § 840-3.6 of this title by Laws 1994, c. 242, § 54.

§74-840.45. Renumbered as § 840-3.7 of this title by Laws 1994, c. 242, § 54.

§74-841.1. Renumbered as § 840-1.7 of this title by Laws 1994, c. 242, § 54.

§74-841.2. Renumbered as § 840-1.8 of this title by Laws 1994, c. 242, § 54.



§74-841.3. Renumbered as § 840-1.9 of this title by Laws 1994, c. 242, § 54.

§74-841.4. Renumbered as § 4241 of this title by Laws 1986, c. 255, § 34, emerg. eff. June 13, 1986.

§74-841.5. Renumbered as § 4243 of this title by Laws 1986, c. 255, § 34, emerg. eff. June 13, 1986.

§74-841.6. Repealed by Laws 1994, c. 242, § 56.

§74-841.6A. Renumbered as § 840-2.11 of this title by Laws 1994, c. 242, § 54.

§74-841.7. Renumbered as § 840-2.5 of this title by Laws 1994, c. 242, § 54.

§74-841.8. Renumbered as § 840-2.6 of this title by Laws 1994, c. 242, § 54.

§74-841.9. Renumbered as § 840-6.2 of this title by Laws 1994, c. 242, § 54.

§74-841.10. Renumbered as § 840-2.9 of this title by Laws 1994, c. 242, § 54.

§74-841.11. Renumbered as § 840-1.14 of this title by Laws 1994, c. 242, § 54.

§74-841.12. Renumbered as § 840-1.19 of this title by Laws 1994, c. 242, § 54.

§74-841.13. Renumbered as § 840-6.5 of this title by Laws 1994, c. 242, § 54.

§74-841.13A. Renumbered as § 840-6.7 of this title by Laws 1994, c. 242, § 54.

§74-841.13B. Renumbered as § 840-6.4 of this title by Laws 1994, c. 242, § 54.

§74-841.13C. Renumbered as § 840-6.1 of this title by Laws 1994, c. 242, § 54.

§74-841.14. Renumbered as § 840-4.18 of this title by Laws 1994, c. 242, § 54.

§74-841.15. Renumbered as § 840-6.6 of this title by Laws 1994, c. 242, § 54.

§74-841.15A. Renumbered as § 840-6.8 of this title by Laws 1994, c. 242, § 54.

§74-841.16. Renumbered as § 840-4.17 of this title by Laws 1994, c. 242, § 54.

§74-841.17. Renumbered as § 4242 by Laws 1986, c. 255, § 34, emerg. eff. June 13, 1986.

§74-841.18. Renumbered as § 840-1.10 of this title by Laws 1994, c. 242, § 54.

§74-841.19. Renumbered as § 840-4.15 of this title by Laws 1994, c. 242, § 54.

§74-841.19a. Renumbered as § 840-4.16 of this title by Laws 1994, c. 242, § 54.

§74-841.20. Renumbered as § 840-2.25 of this title by Laws 1994, c. 242, § 54.

§74-841.21. Repealed by Laws 1984, c. 242, § 7, operative July 1, 1984.

§74-841.22. Repealed by Laws 1991, c. 239, § 6, eff. July 1, 1991.

§74-841.23. Renumbered as § 840-6.9 of this title by Laws 1994, c. 242, § 54.

§74-841.24. Renumbered as § 840-1.21 of this title by Laws 1994, c. 242, § 54.

§74-841.30. Oklahoma Compensation and Unclassified Positions Review Board.

A. There is hereby created the Oklahoma Compensation and Unclassified Positions Review Board.

B. The Oklahoma Compensation and Unclassified Positions Review Board shall be composed of the following seven (7) members:

1. Two members of the Oklahoma Senate appointed by the President Pro Tempore of the Senate;

2. Two members of the Oklahoma House of Representatives appointed by the Speaker of the House of Representatives;

3. Two members appointed by the Governor, one to be from a state agency with five hundred (500) or more employees and the other to be from a state agency with fewer than five hundred (500) employees; and

4. The chief executive officer of the largest organization in the state that represents state employees, or a designee.

C. After the initial appointments, the members shall serve four-year terms, and the appointing authorities may fill any vacancies as they occur. The term of the members appointed by the President Pro Tempore of the Senate shall expire July 1, 2004. The term of the members appointed by the Speaker of the House of Representatives shall expire July 1, 2005. The term of the members appointed by the Governor shall expire July 1, 2006. The term of the members appointed by the largest organization in the state that represents state employees shall expire July 1, 2007.

D. The Board shall elect one of its members as chair.

E. The Board shall review the study of the Office of Management and Enterprise Services, as required by paragraph 19 of Section 840-1.6A of this title, and make recommendations which may include compensation adjustments, pay band adjustments, targeted salary increases, and other recommendations related to turnover, fringe benefits and other compensation issues concerning state employees, but excluding retirement issues. The recommendations shall be made to the President Pro Tempore of the Senate, Speaker of the House of Representatives, and Governor on or before February 1 of the year following each biennial meeting.

F. The Board shall meet in December 2005 and in December of every odd-numbered year thereafter to consider compensation recommendations. The Board shall meet every year to consider unclassified positions recommendations. Any additional meetings shall be at the call of the chair.

G. The Board shall review and make recommendations concerning the unclassified service as follows:

1. State agencies subject to the provisions of the Merit System of Personnel Administration shall submit requests to the Director of the Office of Management and Enterprise Services for authorizations for unclassified positions and employees that are in addition to unclassified positions already authorized by law. The Director shall forward the requests to the Board. The Director shall review, analyze, and provide recommendations to the Board regarding the requests. The Board shall meet in December of each year and shall review any agency proposals to add unclassified positions to the state service. A representative from each appointing authority of a state agency that desires to add unclassified positions shall attend the meeting and present the proposal of the agency. The Board shall also review positions currently in the unclassified service. The Director of the Office of Management and Enterprise Services shall

review and analyze such positions and provide recommendations to the Board. The Board may request the presence of state agency representatives to provide information concerning such positions.

2. On or before February 1 of each year, the Board shall present any recommendations to the President Pro Tempore of the State Senate and the Speaker of the Oklahoma House of Representatives concerning current positions in the unclassified service and agency proposals to add unclassified positions.

3. The Board may also meet during the regular session of the Legislature to consider any additional requests to add unclassified positions to the state service submitted pursuant to this subsection.

H. A majority of the members of the Board shall constitute a quorum for the transaction of business. Each Board member shall be entitled to one vote on the Board. Any official action of the Board must have a majority of the votes of the members present.

I. Each member of the Board shall serve without compensation except that each legislative member of the Board shall receive reimbursement for travel expenses in accordance with Section 456 of this title and each nonlegislative member of the Board shall receive reimbursement for travel expenses in accordance with the State Travel Reimbursement Act by the Office of Management and Enterprise Services.

J. Staffing for the Board shall be composed of the Office of Management and Enterprise Services, Oklahoma Senate staff, and Oklahoma House of Representatives staff as needed.

Added by Laws 2003, c. 453, § 4, eff. July 1, 2003. Amended by Laws 2004, c. 110, § 1, eff. Nov. 1, 2004; Laws 2005, c. 453, § 4, eff. July 1, 2005; Laws 2009, c. 12, § 9, eff. July 1, 2009; Laws 2012, c. 304, § 922.

§74-842. Access of product vendors to employees.

A. Effective July 1, 2003, state agencies shall allow product vendors that have an authorized payroll deduction for state employees pursuant to Section 7.10 of Title 62 of the Oklahoma Statutes reasonable access to state employees in order to provide information concerning their products. In cooperation with the individual state agencies, vendors shall be allowed, at a minimum, annual access to state employees for such purpose. This access shall only occur during scheduled breaks or during periods immediately before or after normal work hours and must not disrupt or interfere with the business of the agency. For those state government facilities that operate twenty-four (24) hours a day, vendors shall be allowed access for each shift. State funds shall not be utilized to accommodate this access.

B. The Director of the Office of Management and Enterprise Services may promulgate rules necessary to implement this section.

Added by Laws 2002, c. 347, § 17, emerg. eff. May 30, 2002. Amended by Laws 2003, c. 6, § 1, emerg. eff. March 31, 2003; Laws 2012, c. 304, § 923.

§74-843. Short title.

This act shall be known and may be cited as the "State Employee Advocacy Rights Act".

Added by Laws 2004, c. 344, § 1, eff. Nov. 1, 2004.

§74-844. Definition.

As used in the State Employee Advocacy Rights Act, "employee organization" means any organization which has payroll deduction privileges as defined in paragraph 5 of subsection B of Section 7.10 of Title 62 of the Oklahoma Statutes.

Added by Laws 2004, c. 344, § 2, eff. Nov. 1, 2004.

§74-845. Privileges - Rules governing distribution of employee organization materials - Ethics Commission rules.

A. State agencies shall allow employee organizations the following privileges:

1. Holding meetings on state property in a location that does not disrupt the operations of agency business. Employees may attend such meetings as long as meetings are conducted before or after working hours, or during employee lunch periods; and

2. Allowing employee organizations to provide information to state agencies to be included in new employee packets.

B. The Director of the Office of Management and Enterprise Services shall promulgate rules governing the annual distribution of employee organization materials by state agencies.

C. Nothing in the State Employee Advocacy Rights Act shall be construed to conflict with the rules of the Ethics Commission regarding the use of public facilities for political purposes.

Added by Laws 2004, c. 344, § 3, eff. Nov. 1, 2004. Amended by Laws 2012, c. 304, § 924.

§74-851. Citation.

This act shall be known and may be cited as the "Oklahoma Industrial Finance Authority Act."

Laws 1959, p. 500, § 1.

§74-852. Purpose.

It is hereby declared to be the purpose of this act to vitalize the constitutional amendment identified as House Joint Resolution No. 513 of the Twenty-seventh Oklahoma Legislature, if, as and when the same shall be approved by the people, to aid and assist with Oklahoma's industrial development and provide additional employment and payrolls within this state.

Added by Laws 1959, p. 500, § 2.

§74-853. Definitions.

The following terms whenever used or referred to in the Oklahoma Industrial Finance Authority Act shall have the following meanings, except in those instances where the context clearly indicates otherwise:

(a) The term "Authority" shall mean the public body corporate and politic, "The Oklahoma Industrial Finance Authority" created by this act.

(b) The term "Board" shall mean the governing body of the Authority.

(c) The term "government" shall mean the state and federal governments, or any political subdivision, agency or instrumentality, corporate or otherwise, or either of them.

(d) The term "industrial development agency" shall mean any Oklahoma incorporated organization, foundation, association or agency, regardless of the particular name, whether organized for profit or nonprofit, which shall have as its primary function the promotion, encouragement and development of industrial, recreational, agricultural processing and manufacturing enterprises, livestock processing and conditioning enterprises and enterprises which process mined resources in Oklahoma.

(e) The term "Industrial Development Loan Fund" shall mean the account created by Section 860 of this title.

(f) The term "industrial development project" shall mean any site, structure, facility or undertaking comprising or being connected with or being a part of any industrial, recreational, agricultural processing or manufacturing enterprise or enterprise which processes mined resources established or to be established by an industrial development agency in Oklahoma.

(g) The term "municipality" shall mean any city or town in Oklahoma.

(h) The term "machinery" shall mean moveable machinery as well as machinery which is permanently affixed.

(i) The term "purchase money security interest" shall have the same meaning it has under Section 1-9-103 of Title 12A of the Oklahoma Statutes.

(j) On and after May 30, 1990, the term "recreational enterprise" shall mean amusement, cultural, historical, nature, theme, water or zoological park or museum or aquarium.

(k) The term "responsible buyer" shall mean any person, partnership, firm, company or corporation whether organized for profit or not deemed by the Authority, after proper investigation, to be financially responsible to assume all obligations prescribed by the Authority in the acquisition of an industrial development

project from an industrial development agency, and in the operation of an industrial or manufacturing enterprise therein or thereon.

(l) The term "responsible tenant" shall mean any person, partnership, firm, company or corporation whether organized for profit or not deemed by the Authority, after proper investigation, to be financially responsible to assume all rental and all other obligations prescribed by the Authority in the leasing of an industrial development project and in the operation of an industrial or manufacturing enterprise therein or thereon or in the operation of tourism facilities in the form of amusement parks, entertainment parks, theme parks, or museums.

(m) The words "cost of establishing an industrial development project" shall embrace any or all of the following: The cost of construction, the cost of all lands, property, rights, easements and franchises acquired, which are deemed necessary for such construction; financing charges, interest prior to and during construction, cost of engineering and legal expense, plans, specifications, surveys, estimates of costs and other expenses necessary or incident to determining the feasibility or practicability of any industrial development project, cost of such machinery and equipment essential to placing the project in operation, not limited to such machinery and equipment of the type necessarily required to be permanently affixed to and, by agreement of the parties, become a part of the realty covered by the Authority's mortgage; provided, further, that the Authority shall make no loan secured by movable machinery and equipment separate and apart from the realty, unless such loan is secured by a security interest and a real estate mortgage on the industrial development project, together with such other expenses as may be necessary or incident to the financing and construction of the industrial development project and the placing of the same in operation. The cost of all machinery and equipment and its installation and maintenance, except as above provided, shall not be included in the "cost of establishing an industrial development project", but shall be provided by the responsible tenant or responsible buyer.

(n) The determination of the amount of bonds "outstanding at any one time" shall be calculated by totaling the face amount of all unretired bonds issued by the Authority less any sums irrevocably on deposit in the Bond Redemption Account.

(o) Nothing in this act shall be construed to impair or affect the right of any recreational enterprise, as was defined by the Rules and Regulations of the Oklahoma Industrial Finance Authority prior to May 30, 1990, and whose application is on file and pending approval by the Authority prior to May 30, 1990, to otherwise qualify for and receive any loan pursuant to the Oklahoma Industrial Finance Authority Act.

Added by Laws 1959, p. 500, § 3. Amended by Laws 1967, c. 91, § 1, emerg. eff. April 19, 1967; Laws 1980, c. 295, § 1, emerg. eff. June 13, 1980; Laws 1986, c. 133, § 1, emerg. eff. April 17, 1986; Laws 1986, c. 276, § 16, operative July 1, 1986; Laws 1987, c. 9, § 1, emerg. eff. March 31, 1987; Laws 1988, c. 88, § 1, emerg. eff. March 30, 1988; Laws 1989, c. 350, § 4, operative July 1, 1989; Laws 1990, c. 337, § 23; Laws 2000, c. 371, § 181, eff. July 1, 2001.

§74-854. Oklahoma Industrial Finance Authority - Membership - Public meetings - Executive sessions.

A. There is hereby created a body corporate and politic, constituting a public corporation and governmental instrumentality of this state, to be known and identified as "The Oklahoma Industrial Finance Authority". Said Authority shall be under the control of a Board of Directors, to be composed of seven (7) members appointed by the Governor for overlapping terms, with the advice and consent of the Senate, one of whom shall be the Director of the Oklahoma Department of Commerce, representing the state at large. One member shall be appointed from each congressional district as the districts were configured in 1960. At least five of the members, other than the Director of the Oklahoma Department of Commerce, shall have had at least fifteen (15) years' experience in banking, mortgage loans or financial management, and the remaining member shall have demonstrated outstanding ability in business or industry. Members initially appointed shall continue in office for terms of from one (1) to six (6) years, respectively, from the date of their appointment and until their respective successors shall be duly appointed and qualified, the term of each appointed member to be designated by the Governor at the time of appointment; but their successors shall each be appointed for a term of six (6) years, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any appointed member of the Authority shall be eligible for reappointment, and no member shall be removed from office except for good cause shown.

B. The chair and other officers of the Board shall be elected annually by the Board from its own membership. Members of the Authority shall be compensated for their travel expenses pursuant to the State Travel Reimbursement Act.

C. The State Treasurer shall be an ex officio, nonvoting member of said Board of Directors, and shall serve without compensation. All other Board members, excluding the Director of the Oklahoma Department of Commerce, shall receive a stipend of Three Hundred Dollars (\$300.00) for each Board meeting attended not to exceed Three Thousand Six Hundred Dollars (\$3,600.00) per annum. In addition, the actual expenses, documented by receipts, incurred by employees of the Authority for necessary travel and subsistence to attend Board meetings and to carry out the powers and duties of the



Authority under Section 851 et seq. of this title shall be reimbursed to such Board member or employee. All such stipends and expenses must be approved by the Board prior to reimbursement. No state appropriated monies shall be used for said reimbursement.

D. The meetings of the Board of Directors of the Authority shall be subject to the Oklahoma Open Meeting Act and the Oklahoma Open Records Act. Any information submitted to or compiled by the Authority with respect to the marketing plans, financial statements, trade secrets or any other commercially sensitive information of persons, firms, associations, partnerships, agencies, corporations or other entities shall be confidential, except to the extent that the person or entity which provided such information or which is the subject of such information consents to disclosure. Executive sessions may be held to discuss such materials if deemed necessary by the Board of Directors.

Added by Laws 1959, p. 500, § 4. Amended by Laws 1985, c. 178, § 73, operative July 1, 1985; Laws 1986, c. 207, § 67, operative July 1, 1986; Laws 1988, c. 88, § 2, emerg. eff. March 30, 1988; Laws 1989, c. 200, § 3, emerg. eff. May 8, 1989; Laws 2002, c. 375, § 22, eff. Nov. 5, 2002; Laws 2003, c. 229, § 8, emerg. eff. May 20, 2003.

§74-855. Powers.

The Oklahoma Industrial Finance Authority, as a public corporation and governmental instrumentality exercising public powers of the State of Oklahoma, is hereby granted and shall have and may exercise all powers necessary or appropriate to carry out and effectuate the purposes of this act, including the following powers, in addition to others herein granted:

(a) To cooperate with industrial development agencies in their efforts to promote the expansion of industrial and manufacturing activity in the state;

(b) To determine, upon proper application of industrial development agencies, whether the declared public purpose of this act has been or will be accomplished by the establishment of such industrial development projects by such industrial development agencies;

(c) To conduct examinations and investigations and to hear testimony and take proof, under oath or affirmation, at public or private hearings, on any matter material for its information and necessary to the establishment of industrial development projects hereunder or other determinations related to exercise of the Authority's lawful powers;

(d) To issue subpoenas requiring the attendance of witnesses and the production of books and papers pertinent to any hearing before such Authority, or before one or more members of the Authority appointed by it to conduct such hearing;

(e) To apply to any court having jurisdiction of the offense, to have punished for contempt any witness who refuses to obey a subpoena, or who refuses to be sworn or affirmed or to testify, or who is guilty of any contempt after summons to appear;

(f) To authorize any member or members of such Authority to conduct hearings and to administer oaths, take affidavits and subpoenas;

(g) To make, upon proper application of industrial development agencies, loans to such industrial development agencies of monies held in the Industrial Development Fund for industrial development projects in Oklahoma, and to provide for the repayment and redeposit of such allocations and loans in the manner hereinafter provided;

(h) To sue and be sued, implead and be impleaded, complain and defend in all courts;

(i) To adopt, use, and alter at will a corporate seal;

(j) To adopt bylaws for the management and regulation of its affairs; and to promulgate and issue rules and regulations governing its operations;

(k) To appoint officers, agents, and employees, and to prescribe their duties and to fix their compensation, within the limitations prescribed by laws;

(l) To make contracts of every name and nature and to execute all instruments necessary or convenient for the carrying on of its business;

(m) To contract with private legal counsel when its Board of Directors determines that special circumstances merit the services of such counsel and when approved by the Attorney General; provided, in all other circumstances, the Attorney General shall advise and represent the Authority on legal matters;

(n) Without limitation of the foregoing, to accept grants from and enter into contracts or other transactions with, any federal agency; and

(o) To take title by foreclosure to any industrial development project where such acquisition is necessary to protect any loan previously made by the Authority, and to sell, transfer and convey any such industrial development project to any responsible buyer; in the event such sale, transfer and conveyance cannot be effected with reasonable promptness, the Authority may, in order to minimize financial losses and sustain employment, lease such industrial development project to a responsible tenant or tenants; the Authority shall not lease industrial development projects except under the conditions and for the purposes cited in this section. Amended by Laws 1986, c. 276, § 17, operative July 1, 1986; Laws 1988, c. 88, § 3, emerg. eff. March 30, 1988; Laws 1991, c. 130, § 2, emerg. eff. April 29, 1991.

§74-856. Bonds.

(a) The Oklahoma Industrial Finance Authority shall be, and is hereby, authorized to issue and sell State Industrial Finance Bonds in such amounts as shall be needed from time to time for the purposes set forth in this act, provided, however, that the total volume of such bonds shall not exceed in the aggregate Ninety Million Dollars (\$90,000,000.00) outstanding at any one time. Such bonds may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding thirty (30) years from their date, may be in such denomination or denominations, may be in such form, either coupon or registered, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment at such place or places, may be subject to such terms of redemption with or without premium, and may bear such rate or rates of interest as may be provided by resolution or resolutions to be adopted by the Authority within such limits provided by law. Such bonds may be sold in such manner and at such price or prices, not less than par plus accrued interest to date of delivery, as may be considered by the Authority to be advisable. Such bonds shall have all the qualities and incidents of negotiable paper, and shall not be subject to taxation by the State of Oklahoma or by any county, municipality or political subdivision therein. All such bonds issued, or to be issued, by the Authority under the powers herein granted shall be backed by the full faith and credit of the State of Oklahoma, and there is hereby pledged to the payment of principal and interest of such bonds: (1) The net proceeds from repayment of loans and interest received thereon; (2) any monies available from other funds of the state not otherwise obligated; and (3) the proceeds of any tax, other than ad valorem, to be imposed for such purpose in the event funds available for use and pledge under (1) and (2) should be insufficient. All proceeds derived from the sale of such bonds shall be placed in an "Industrial Development Loan Fund" account in the State Treasury.

(b) The Authority may issue bonds hereunder for the purpose of refunding any obligations issued under the provisions of this act. Such bonds may either be sold or delivered in exchange for outstanding obligations. If sold, the proceeds may be either applied to the payment of the obligations refunded or deposited in escrow for the retirement thereof. Nothing herein contained shall be construed to authorize the refunding of any outstanding obligations which are not either maturing, callable for redemption under their terms, or voluntarily surrendered by their holders for cancellations, unless the Authority covenants that sufficient funds to pay all remaining interest and principal payments of outstanding obligations when due will be placed in escrow for such purpose in the State Treasury at the time of delivery of and payment for the new bonds issued hereunder. All bonds issued under this section shall in all respects be authorized, issued and secured in the

manner provided for other bonds issued under this act, and shall have all the attributes of such bonds. The Authority may provide that any such refunding bonds shall have the same priority of payment and be paid from the same revenues in the manner enjoyed by the obligations refunded thereby.

(c) The Authority is authorized in its discretion to file an application with the Supreme Court of Oklahoma for the approval of any series of bonds to be issued hereunder, and exclusive original jurisdiction is hereby conferred upon the Supreme Court to hear and determine each such application. It shall be the duty of the Court to give such applications precedence over the other business of the Court and to consider and pass upon such applications and any protests which may be filed thereto as speedily as possible. Notice of the hearing on each application shall be given by notice published in a newspaper of general circulation in the state that on a day named the Authority will ask the Court to hear its application and approve the bonds. Such notice shall inform all persons interested that they may file protests against the issuance of the bonds and be present at the hearing and contest the legality thereof. Such notice shall be published one time not less than ten (10) days prior to the date named for the hearing and the hearing may be adjourned from time to time in the discretion of the Court. If the Court shall be satisfied that the bonds have been properly authorized in accordance with this act and Section 33A, Article X of the Constitution of Oklahoma, and that when issued they will constitute valid obligations in accordance with their terms, the Court shall render its written opinion approving the bonds and shall fix the time within which a petition for rehearing may be filed. The decision of the Court shall be a judicial determination of the validity of the bonds, shall be conclusive as to the State of Oklahoma, its officers, agents and instrumentalities, and thereafter the bonds so approved and the revenues pledged to their payment shall be incontestable in any court in the State of Oklahoma.

(d) It shall be the duty of the Attorney General to examine into and pass upon the validity of all bonds issued by the Authority. When examined and approved by the Attorney General and declared by his certificate to be a lawful and valid obligation, the bonds so issued shall be incontestable in any court in the State of Oklahoma unless suit thereon shall be brought in a court having jurisdiction of the same within thirty (30) days from the date of the approval of the Attorney General.

(e) At the option of the Authority, and in lieu of submitting an issuance of bonds to the Attorney General which will be sold in their entirety at one time, the Authority may submit to the Attorney General a proposed issuance of bonds which it intends to sell in more than one subseries. If each subseries of the bond issuance has identical terms, conditions and attributes, other than the rate of

interest and final maturity date, the Authority may ask that the Attorney General review and approve the proposed issuance and make the certificate referred to in subsection (d) of this section. All proceedings of this issuance leading up to this submission to the Attorney General, shall be incontestable in any court in the State of Oklahoma unless suit thereon shall be brought in a court having jurisdiction of the same within thirty (30) days from the date of the approval of the Attorney General. The separate issuance of each subseries shall also be submitted to the Attorney General for his review and approval and when declared by his certificate to be valid and lawful obligations, shall be incontestable in any court in the State of Oklahoma unless suit thereon shall be brought in a court having jurisdiction of the same within five (5) days from the date of his approval.

Amended by Laws 1987, c. 9, § 2, emerg. eff. March 31, 1987; Laws 1989, c. 200, § 4, emerg. eff. May 8, 1989.

§74-857. Loans to industrial development agencies - Conditions.

(1) When it has been determined by the Authority, upon application of an industrial development agency and hearing thereon in the manner hereinafter provided, that the establishment of a particular industrial development project referred to in such application has accomplished or will accomplish the public purposes of this act, the Authority may contract to loan such industrial development agency an amount not in excess of sixty-six and two-thirds percent ( $66 \frac{2}{3}\%$ ) of the cost or the estimated cost of such industrial development project where the loan is secured by a first mortgage on the industrial development project, or not in excess of thirty-three and one-third percent ( $33 \frac{1}{3}\%$ ) of the cost or estimated cost of such industrial development project where the loan is secured by a second mortgage on the industrial development project, as established or to be established, subject however to the following conditions:

(A) In case of industrial development projects to be established:

1. the Authority shall first have determined that the industrial development agency holds funds which together with the commitment in paragraph 2 of this subsection constitute an amount equal to, or property of a value equal to, not less than thirty-three and one-third percent ( $33 \frac{1}{3}\%$ ) of the estimated cost of establishing the industrial development project where the Authority's loan will be secured by a first mortgage on the industrial development project, or not less than sixty-six and two-thirds percent ( $66 \frac{2}{3}\%$ ) of the estimated cost of establishing the industrial development project where the Authority's loan will be secured by a second mortgage on the industrial development project,

which funds or property are available for and shall be applied to the establishment of such project, and

2. the Authority shall also have determined that the industrial development agency has obtained from other independent and responsible sources, such as banks and insurance companies or otherwise, a firm commitment for all other funds, over and above the loan of the Authority and such funds or property as the industrial development agency may hold, necessary for payment of all the estimated cost of establishing the industrial development project, and that the sum of all these funds is adequate to insure completion and operation of the plant or facility, or that the sum of all these funds, together with the machinery and equipment to be provided by the responsible tenant or responsible buyer, is adequate to insure completion and operation of the plant or facility. Provided, however, that the participation required of the industrial development agency referred to in paragraph 1 of this subsection, may in the discretion of the Authority be reduced to the extent that funds from independent and responsible sources under firm commitment shall, together with the participation of the Authority, and the participation of the industrial development agency, if any, constitute one hundred percent (100%) of the cost of establishing an industrial development project, as defined herein.

(B) In the case of industrial development projects established without initial Authority loan participation:

1. the Authority shall first have determined that the industrial development agency has expended funds which, together with the commitment in paragraph 2 of this subsection, constitute an amount equal to, or has applied property which, together with the commitment in paragraph 2 of this subsection, constitutes a value equal to, not less than sixty-six and two-thirds percent ( $66 \frac{2}{3}\%$ ) of the cost of establishing the industrial development project where the Authority's loan will be secured by a first mortgage lien on the industrial development project, or not less than thirty-three and one-third percent ( $33 \frac{1}{3}\%$ ) where the Authority's loan will be secured by a second mortgage lien on the industrial development project, and

2. the Authority shall also have determined that the industrial development agency obtained from other independent and responsible sources, such as banks and insurance companies or otherwise, other funds necessary for payment of all the cost of establishing the industrial development project, and that the industrial development agency participation and these funds have been adequate to insure completion and operation of the plant or facility, or that these funds, together with the machinery and equipment provided by the responsible tenant or responsible buyer, have been adequate to insure completion and operation of the plant of facility. Provided, however, that the proceeds of any loan made by the Authority to the

industrial development agency pursuant to this subsection (B) shall be used only for the establishment of additional industrial development projects in furtherance of the public purposes of this act; and provided further, that the participation required of the industrial development agency referred to in paragraph 1 of this subsection, may in the discretion of the Authority be reduced to the extent that funds from independent and responsible sources under firm commitment together with the participation of the industrial development agency, constitute sufficient funds to establish the industrial development project, as defined herein.

3. Any such loan of the Authority shall be for such period of time and shall bear interest at such rate as shall be determined by the Authority and shall be secured by mortgage on the industrial development project for which such loan was made, such mortgage to be second and subordinate only to the mortgage securing the first lien obligation issued to secure the commitment of funds from the aforesaid independent and responsible sources and used in the financing of the industrial development project.

4. Monies so loaned by the Authority to industrial development agencies shall be withdrawn from the Industrial Development Fund and paid over to the industrial development agency in such manner as shall be provided and prescribed by the rules and regulations of the Authority.

5. All payments of interest on said loans and the principal thereof shall be deposited by the Authority without delay in the Industrial Development Fund.

6. Loans by the Authority to an industrial development agency for an industrial development project shall be made only in the manner and to the extent as in this section provided, except, however, in those instances wherein an agency of the federal government participates in the financing of an industrial development project by loan or grant, or otherwise, of federal funds. When any federal agency does so participate, the Authority may adjust the required ratios of financial participation by the industrial development agency, the source of independent funds, and the Authority; in such manner as to insure the maximum benefit available to the industrial development agency, the Authority, or both, by the participation of the federal agency; provided, however, that no such adjustment of such ratios shall cause the Authority to grant a loan to the industrial development agency in excess of sixty-six and two-thirds percent ( $66 \frac{2}{3}\%$ ) of the cost or estimated cost of the industrial development project where such loan is secured by a first mortgage on the industrial development project, or thirty-three and one-third percent ( $33 \frac{1}{3}\%$ ) of the cost or estimated cost of the industrial development project, where such loan is secured by a second mortgage on the industrial development project.

7. Where any federal agency participating in the financing of any industrial development project is not permitted to take as security for such participation a mortgage the lien of which is junior to the mortgage of the Authority, the Authority shall in such instances be hereby authorized to take as security for its loan to the industrial development agency a mortgage junior in lien to that of the federal agency.

Amended by Laws 1987, c. 9, § 3, emerg. eff. March 31, 1987.

§74-858. Loan applications - Contents.

Prior to the loaning of any funds to an industrial development agency for an industrial development project, the Authority shall receive from such industrial development agency a loan application in the form adopted by the Authority which shall contain, without being limited to, the following provisions:

(a) A general description of the industrial development project and a general description of the industrial or manufacturing enterprise for which the industrial development project has been or is to be established;

(b) A legal description of all real estate necessary for the industrial development project;

(c) Such plans and other documents as may be required to show the type, structure, and general character of the industrial development project;

(d) A general description of the type (types and categories of skills) and number of employees employed or to be employed in the operation of the industrial development project;

(e) Evidence that the Authority shall have a purchase money security interest in any moveable machinery financed by the Authority;

(f) Costs or estimates of cost of establishing the industrial development project;

(g) A general description and statement of value of any property, real or personal, of the industrial development agency applied or to be applied to the establishment of the industrial project;

(h) A statement of cash funds previously applied, or then held by the industrial development agency which are available for and are to be applied to the establishment of the industrial development project;

(i) Evidence of the arrangement made by the industrial development agency for the financing of all costs of the industrial development project over and above the participation of the industrial development agency;

(j) A general description of the responsible tenant to which the industrial development agency has leased or will lease the industrial development project or of the responsible buyer to which



the industrial development agency has sold or will sell the project;  
(k) A general description of the form of lease or sales agreement entered into or to be entered into by and between the industrial development agency and its responsible tenant or responsible buyer;

(l) Evidence that the establishment of the industrial development project will not cause the removal of an industrial or manufacturing plant or facility from one area of the state to another area of the state, or replace an existing industry;

(m) Any additional evidence which the Authority may deem pertinent to a determination of the probable successful operation of the industrial development project at the selected location, and indicating that a substantial increase in employment and payrolls will probably result from the granting of such loans.

Amended by Laws 1987, c. 9, § 4, emerg. eff. March 31, 1987.

#### §74-859. Hearings on loan applications - Granting of loan - Limitation.

The Board of Directors of the Oklahoma Industrial Finance Authority shall hold such hearings and examinations as to each loan application received as shall be necessary to determine whether the public purposes of the Oklahoma Industrial Finance Authority Act will be accomplished by the granting of loans requested within such applications. When the Board shall have determined facts to be favorable as to any loan application, it is hereby authorized and empowered, having due regard to the promotion of the public purposes herein declared, to grant a loan to an industrial development agency in the manner and to the extent as provided in the Oklahoma Industrial Finance Authority Act; provided, however, that no loan shall be made by the Authority to any industrial development agency for any single industrial development project in excess of the sum of Five Million Dollars (\$5,000,000.00) if the loan is secured by a first mortgage on real property and One Million Dollars (\$1,000,000.00) if the loan is secured by a second mortgage on real property.

Added by Laws 1959, p. 505, § 9. Amended by Laws 1969, c. 48, § 1, emerg. eff. March 4, 1969; Laws 1988, c. 88, § 4, emerg. eff. March 30, 1988; Laws 2001, c. 97, § 1, emerg. eff. April 16, 2001.

#### §74-859.1. Moveable machinery loans - Limitations.

The Oklahoma Industrial Finance Authority may loan money for the purchase of moveable machinery subject to the following limitations:

1. All procedures required in order for the Authority to loan money secured by a mortgage on real property shall be followed;

2. The Authority shall require the industrial development agency to furnish evidence that the Authority shall take a purchase money security interest;

3. Within twenty-four (24) hours after loaning the money to an industrial development agency to purchase any moveable machinery, the Authority shall perfect a security interest in such machinery pursuant to perfection procedures prescribed by Article 9 of Title 12A of the Oklahoma Statutes;

4. Any industrial development agency which receives money for the purchase of a moveable machine shall agree to such procedures as the Authority deems necessary to preserve its interest in such moveable machinery. These procedures may include notification to the Authority of the exact location of such moveable machinery and notification of any changes in location of such moveable machinery;

5. The loan must also be secured by a first or second mortgage on the real estate of the industrial development project.

Added by Laws 1987, c. 9, § 5, emerg. eff. March 31, 1987. Amended by Laws 1988, c. 88, § 5, emerg. eff. March 30, 1988; Laws 2000, c. 371, § 182, eff. July 1, 2001.

#### §74-860. Industrial Development Loan Fund.

A. There is hereby created a special account in the State Treasury to be known as the "Industrial Development Loan Fund", to which fund shall be credited all monies received as loan capital by the Authority from whatever source the same may be obtained. To this fund there shall also be deposited and credited all payments received on interest and principal of loans outstanding made, or to be made, by the Authority, all such deposits to be made in the State Treasury immediately upon receipt of same.

B. As often as may be necessary the Authority shall requisition from the Industrial Development Loan Fund, upon warrants duly drawn as required by law, such amounts as shall be allocated and appropriated by the Authority for loans to industrial development agencies upon approved industrial development projects. When and as the amounts so allocated and appropriated by the Authority as loans to industrial development agencies are repaid to the Authority pursuant to the terms of the mortgages and other agreements made and entered into by the Authority, the Authority shall immediately pay such amounts into said fund, it being the intent of this act that the Industrial Development Loan Fund shall operate as a revolving fund whereby all monies placed therein shall be applied and reapplied to the purposes of this act; provided, however, if the Authority deems it advisable, separate accounts may be set up within the Industrial Development Loan Fund in order to segregate the various monies loaned to or received from certain industrial agencies.

C. The Authority is hereby authorized to use up to one-half of the monies in the Industrial Development Loan Fund to purchase federally guaranteed Small Business Administration loans or loans of similar federal programs for investment purposes. Such investments

may be made at such times, in such manner and in such amounts as the Authority may determine to aid and assist with Oklahoma's industrial development and provide additional employment and payrolls within this state.

D. To guarantee payment of interest on bonds, as the same shall become due, the Authority shall pay into a special "Bond Interest Account" fund, out of the first earned interest received into the Industrial Development Loan Fund, an amount sufficient to cover all interest requirements at least thirty (30) days prior to the due date thereof.

E. To guarantee retirement of bonds at maturity, the Authority shall provide for a Bond Redemption Account, in addition to interest reserves, as above set out, and there shall be paid annually into such Bond Redemption Account, after all interest requirements have been met, beginning at a time to be determined by the Authority, a sum sufficient to retire all of the bonds issued at maturity.

F. The Authority is hereby further authorized to issue and sell its bonds, in the manner provided by law.  
Amended by Laws 1983, c. 110, § 1; Laws 1987, c. 9, § 6, emerg. eff. March 31, 1987; Laws 1988, c. 88, § 6, emerg. eff. March 30, 1988.

§74-861. Governing board - Officers - Quorum - Powers.

A. The powers of the Oklahoma Industrial Finance Authority shall be exercised by a governing body consisting of the members of the Authority acting as a Board. Within thirty (30) days after this act shall become effective the Board shall meet and organize, electing a chairman, vice-chairman, secretary and treasurer. Bonds running to the State of Oklahoma shall be required of the chairman, treasurer and any other officer or employee having funds of the Authority in his control or possession in an amount to be determined by the Board.

B. A majority of the members shall constitute a quorum of the Board for the purpose of organizing the Authority and conducting the business thereof and, except in the instance of passing upon loan applications, all action may be taken by a vote of a majority of the members present, unless in any case the bylaws shall require a larger number. Approval or rejection of loan applications shall be by a majority vote of the full membership of the Board, the vote of each member being duly recorded thereon.

C. The Board shall have full authority to manage the properties and business of the Authority and to renegotiate loans and approve leases with new tenants when, in the sound business judgment of the Board, the remedy of foreclosure is not in the best interest of the State of Oklahoma; to be represented by the Office of Attorney General in all legal matters other than with respect to issuance of state industrial finance bonds; and to prescribe, amend, and repeal bylaws, rules and regulations governing the manner in which the

business of the Authority shall be conducted. Out of any court awarded attorney fees in foreclosure actions successfully prosecuted by the Attorney General on behalf of the Authority, a sum equal to actual expenses incurred by that office shall be withheld and placed in the Attorney General's evidence fund; and a sum up to the full amount of attorney fees awarded by the court shall be placed in said evidence fund to the extent that proceeds of sale of the property being foreclosed upon shall exceed the unpaid balance on the Authority's loan, including delinquent interest thereon.

Laws 1959, p. 506, § 11; Laws 1974, c. 138, § 1, emerg. eff. May 3, 1974; Laws 1991, c. 130, § 3, emerg. eff. April 29, 1991.

§74-863. Interest in contracts or agreements.

No member of the Authority or officer or employee thereof or of the State Department of Commerce and Industry shall either directly or indirectly be a party to or be in any manner interested in any contract or agreement with the Authority for any matter, cause or thing whatsoever by reason whereof any liability or indebtedness shall in any way be created against such Authority, or the State Department of Commerce and Industry. If any contract or agreement shall be made in violation of the provisions of this Section, the same shall be null and void and no action shall be maintained thereon against such Authority or Department.

Laws 1959, p. 506, § 13.

§74-864. Cooperation with Federal agencies.

The State of Oklahoma does hereby pledge to and agree with the United States and any other federal agency that, in the event that any federal agency shall construct or loan or contribute any funds for the construction, extension, improvement or enlargement of any industrial development project, or any portion thereof, the state will not alter or limit the rights and powers of the Authority in any manner which would be inconsistent with the due performance of any agreements between the Authority and any such federal agency, and the Authority shall continue to have and may exercise all powers herein granted, so long as the same shall be necessary or desirable for the carrying out of the purposes of this act.

Laws 1959, p. 507, § 14.

§74-865. Audits.

The accounts and books of the Authority, including its receipts, disbursements, contracts, mortgages, investments and other matters relating to its finances, operations and affairs shall be examined and audited annually by the State Auditor and Inspector as provided by law. The audit shall be filed with the Director of the Office of Management and Enterprise Services in accordance with the

requirements for financial statement audits in Section 212A of this title.

Added by Laws 1959, p. 507, § 15. Amended by Laws 1979, c. 30, § 154, emerg. eff. April 6, 1979; Laws 1996, c. 290, § 17, eff. July 1, 1996; Laws 2012, c. 304, § 925.

§74-868. Payment of administrative expenses.

The Oklahoma Industrial Finance Authority is hereby authorized and directed to pay costs of administering the state's industrial loan program, as provided in House Bill No. 794, O.S.L. 1959, out of interest income received by said Authority from its loans, not otherwise required for payment of interest and principal on the Authority's outstanding bonds, such administrative costs to be paid from the Industrial Development Loan Fund, in the manner provided by law.

Amended by Laws 1986, c. 207, § 69, operative July 1, 1986; Laws 1988, c. 88, § 7, emerg. eff. March 30, 1988.

§74-869. Loans upon leasehold estates - Terms.

In addition to the lending powers and authority granted the Oklahoma Industrial Finance Authority under the provisions of the Oklahoma Industrial Finance Authority Act, 74 O.S.1961, Section 851 et seq., said authority is hereby further authorized and empowered to make loans, subject to all other terms and conditions contained in such act, upon leasehold estates and buildings and facilities located thereon; provided however, that as a condition thereof the authority must first find that the remaining term of such leasehold estate upon which such a loan is applied for shall have a term of years of at least one and one-half times as long as the term of the loan applied for.

Laws 1963, p. 751, H.J.R. No. 514, § 1, emerg. eff. March 11, 1963.

§74-870. Agreement not to evict.

And provided, further, that the fee owner of such leased land shall execute a written agreement with The Oklahoma Industrial Finance Authority to take no action to evict or otherwise disturb any tenant in possession of such leasehold estate for as long as The Oklahoma Industrial Finance Authority holds a mortgage lien thereon. Laws 1963, p. 751, H.J.R.No.514, § 2, emerg. eff. March 11, 1963.

§74-871. Purpose - Regulations governing lending.

The Legislature hereby declares that the purpose of this act, and of House Joint Resolution 514 of the Twenty-ninth Legislative Session, is to carry out the constitutional mandate in Section 34, Article X, wherein the Legislature is required to enact appropriate and needful legislation establishing safeguards and regulations governing the lending of funds for industrial development purposes

which it considers necessary to the vitalization of said constitutional amendment and helpful in assisting with the state's industrial development.

Laws 1963, c. 334, § 1, emerg. eff. June 22, 1963.

§74-872. Agency not holding title to real estate comprising industrial development project - Loans.

In those instances where in an industrial development agency not holding title to real estate comprising the industrial development project, but desiring the Oklahoma Industrial Finance Authority to participate in the financing of such project, joins a responsible industrial buyer in making application for a loan from said Authority for such purpose, the said industrial development agency itself contributing funds to the financing of such project, whether secured or not, the said Oklahoma Industrial Finance Authority is hereby authorized and empowered, subject to all other provisions of Sections 851 through 868 of this title, and in supplementation thereof, to participate in the financing of such industrial development project not to exceed sixty-six and two-thirds percent ( $66 \frac{2}{3}\%$ ) of the cost thereof, taking as security for its loan a first mortgage lien on such approved industrial development project or thirty-three and one-third percent ( $33 \frac{1}{3}\%$ ) of the cost thereof, taking as security a second mortgage lien on such approved industrial development project; provided, however, that in such case the mortgage lien securing funds loaned by the local industrial development agency shall be inferior to the lien of said Authority, and provided, further, that the local industrial development agency shall be jointly and severally liable upon the note or notes given the said Authority as one of the principal makers thereof.

Amended by Laws 1987, c. 9, § 7, emerg. eff. March 31, 1987.

§74-873. Power of Authority to purchase notes and mortgages.

The Oklahoma Industrial Finance Authority is hereby further authorized and empowered, if in its discretion the public purposes of the aforesaid constitutional and statutory provisions would thereby be subserved, to purchase with recourse from an approved industrial development agency, a promissory note or notes, and mortgage or participations therein upon an industrial development project securing said note or notes previously taken by said industrial development agency from a responsible buyer of such industrial development project, provided that the Oklahoma Industrial Finance Authority shall first have investigated and found that: (1) The note and mortgage or participations therein so purchased or offered for purchase shall constitute either a first or second mortgage lien upon the property, (2) That the amount thereof does not exceed sixty-six and two-thirds percent ( $66 \frac{2}{3}\%$ ) of the cost of such industrial development project where the note or

mortgage constitutes a first mortgage lien on the property, or thirty-three and one-third percent (33 1/3%) of the cost of such industrial development project where the note or mortgage constitutes a second mortgage lien on the property, and (3) That the industrial development agency assigning said note and mortgage will use the proceeds thereof in the furtherance of other industrial development projects.

Amended by Laws 1987, c. 9, § 8, emerg. eff. March 31, 1987.

§74-874. Loans deemed to have been made to local industrial development agency applying - Liberal construction.

When the financing of an industrial development project is accomplished with the participation and assistance of the Oklahoma Industrial Finance Authority in the manner set forth in Sections 872 and 873 of this title, all such loans shall be deemed and construed to have been made to the local industrial development agency applying therefor, and within the purview of the said Section 33A, Article X of the Oklahoma Constitution, and Sections 851 et seq. of Title 74 of the Oklahoma Statutes; and the provisions of this act, and of actions taken hereunder, shall be liberally construed to effect the purpose and object hereof.

Amended by Laws 1988, c. 88, § 8, emerg. eff. March 30, 1988.

§74-875. Public trusts qualified to borrow money from Authority.

Public trusts created under the laws of the State of Oklahoma for the purpose of financing industrial development projects involving and specifically limited to new manufacturing or industrial plant facilities, the relocation, refinancing or expansion of existing manufacturing or industrial plant facilities shall be qualified to borrow money from The Oklahoma Industrial Finance Authority as an "Industrial Development Agency" within the meaning of Article X, Section 33A of the Oklahoma State Constitution and of 74 O.S. 1981, Section 853(d), and said Oklahoma Industrial Finance Authority is authorized to accept applications for loans and consider the merits thereof on the same basis as applications of any other industrial development agency, subject to all other provisions of law governing the making of such loans.

Amended by Laws 1988, c. 88, § 9, emerg. eff. March 30, 1988.

§74-876. Issuance and sale of additional state industrial finance bonds.

Pursuant to the provisions of Section 33A, Article X of the Oklahoma Constitution, empowering the Oklahoma Legislature to take such action, the Oklahoma Industrial Finance Authority is hereby authorized and empowered to issue and sell state industrial finance bonds backed by the full faith and credit of the State of Oklahoma, at such times and in such amounts as it may deem best, not to exceed

an aggregate amount of Ninety Million Dollars (\$90,000,000.00) outstanding at any one time. The additional bonds authorized pursuant to State Question 600 shall only be sold as needed in increments not to exceed Ten Million Dollars (\$10,000,000.00). Amended by Laws 1987, c. 9, § 9, emerg. eff. March 31, 1987.

§74-878. Maximizing amount of capital available for industrial financing.

That in those instances in which the amount of capital available for industrial financing in the State of Oklahoma tends to be reduced by reason of reduction in the volume of tax-exempt industrial bonds issued or issuable by cities or counties in Oklahoma, or by reason of federal statutes or United States Treasury Department rulings limiting or adversely affecting this method of financing said industrial projects in this state, the Oklahoma Industrial Finance Authority is hereby authorized, within its sole discretion, to accept applications and make loans to industrial development agencies, as the same are defined by law. As security therefor the Authority shall take a mortgage upon the industrial facility from such industrial development agency holding legal title to the same, and shall take a promissory note or notes for the amount of such loan from an approved industrial tenant. The above financing arrangement shall be in addition to all other loan procedures heretofore authorized by law governing the lending operations of the Oklahoma Industrial Finance Authority, it being the intent and purpose of the Legislature to maximize the amount of loan capital available from all sources for industrial development purposes in Oklahoma.

Laws 1969, p. 625, S.J.R. No. 25, § 1, emerg. eff. April 30, 1969.

§74-901. Purpose - Establishment as qualified governmental retirement plan under federal law.

A. The purpose of this act is to provide an orderly means whereby employees of the participating employers who qualify by reason of age, or condition, and service, as herein set forth, may be transferred to inactive service without prejudice and without inflicting undue hardship upon the employees transferred, and to enable such employees to accumulate deferred income reserves for themselves and their dependents to provide for old age, death, and inactive service, and for the purpose of effecting economy and efficiency in the administration of governmental affairs.

B. The System is established as a qualified governmental retirement plan under Sections 401(a) and 414(d) of the federal Internal Revenue Code. The Board shall administer the System in order to comply with the applicable provisions of the federal Internal Revenue Code.



Added by Laws 1963, c. 50, § 1, emerg. eff. May 6, 1963. Amended by Laws 1999, c. 257, § 29, eff. July 1, 1999.

§74-902. Definitions

As used in Section 901 et seq. of this title:

(1) "System" means the Oklahoma Public Employees Retirement System as established by this act and as it may hereafter be amended;

(2) "Accumulated contributions" means the sum of all contributions by a member to the System which shall be credited to the member's account;

(3) "Act" means Sections 901 to 932, inclusive, of this title;

(4) "Actuarial equivalent" means a deferred income benefit of equal value to the accumulated deposits or benefits when computed upon the basis of the actuarial tables in use by the System;

(5) "Actuarial tables" means the actuarial tables approved and in use by the Board at any given time;

(6) "Actuary" means the actuary or firm of actuaries employed by the Board at any given time;

(7) "Beneficiary" means any person named by a member to receive any benefits as provided for by Section 901 et seq. of this title. If there is no beneficiary living at time of member employee's death, the member's estate shall be the beneficiary;

(8) "Board" means the Oklahoma Public Employees Retirement System Board of Trustees;

(9) "Compensation" means all salary and wages, as defined by the Board of Trustees, including amounts deferred under deferred compensation agreements entered into between a member and a participating employer, but exclusive of payment for overtime, payable to a member of the System for personal services performed for a participating employer but shall not include compensation or reimbursement for traveling, or moving expenses, or any compensation in excess of the maximum compensation level, provided:

- (a) For compensation for service prior to January 1, 1988, the maximum compensation level shall be Twenty-five Thousand Dollars (\$25,000.00) per annum.  
For compensation for service on or after January 1, 1988, through June 30, 1994, the maximum compensation level shall be Forty Thousand Dollars (\$40,000.00) per annum.  
For compensation for service on or after July 1, 1994, through June 30, 1995, the maximum compensation level shall be Fifty Thousand Dollars (\$50,000.00) per annum; for compensation for service on or after July 1, 1995, through June 30, 1996, the maximum compensation level shall be Sixty Thousand Dollars (\$60,000.00) per annum; for compensation for service

on or after July 1, 1996, through June 30, 1997, the maximum compensation level shall be Seventy Thousand Dollars (\$70,000.00) per annum; and for compensation for service on or after July 1, 1997, through June 30, 1998, the maximum compensation level shall be Eighty Thousand Dollars (\$80,000.00) per annum. For compensation for services on or after July 1, 1998, there shall be no maximum compensation level for retirement purposes.

- (b) Compensation for retirement purposes shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986 and any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986.
- (c) Notwithstanding any provision to the contrary, the compensation taken into account for any employee in determining the contribution or benefit accruals for any plan year is limited to the annual compensation limit under Section 401(a)(17) of the federal Internal Revenue Code.
- (d) Current appointed members of the Oklahoma Tax Commission whose salary is constitutionally limited and is less than the highest salary allowed by law for his or her position shall be allowed, within ninety (90) days from the effective date of this act, to make an election to use the highest salary allowed by law for the position to which the member was appointed for the purposes of making contributions and determination of retirement benefits. Such election shall be irrevocable and be in writing. Reappointment to the same office shall not permit a new election. Members appointed to the Oklahoma Tax Commission after the effective date of this act shall make such election, pursuant to this subparagraph, within ninety (90) days of taking office;

(10) "Credited service" means the sum of participating service, prior service and elected service;

(11) "Dependent" means a parent, child, or spouse of a member who is dependent upon the member for at least one-half (1/2) of the member's support;

(12) "Effective date" means the date upon which the System becomes effective by operation of law;

(13) "Eligible employer" means the state and any county, county hospital, city or town, conservation districts, circuit engineering districts and any public or private trust in which a county, city or town participates and is the primary beneficiary, is to be an eligible employer for the purpose of this act only, whose employees

are covered by Social Security and are not covered by or eligible for another retirement plan authorized under the laws of this state which is in operation on the initial entry date. Emergency medical service districts may join the System upon proper application to the Board. Provided affiliation by a county hospital shall be in the form of a resolution adopted by the board of control.

- (a) If a class or several classes of employees of any above-defined employers are covered by Social Security and are not covered by or eligible for and will not become eligible for another retirement plan authorized under the laws of this state, which is in operation on the effective date, such employer shall be deemed an eligible employer, but only with respect to that class or those classes of employees as defined in this section.
- (b) A class or several classes of employees who are covered by Social Security and are not covered by or eligible for and will not become eligible for another retirement plan authorized under the laws of this state, which is in operation on the effective date, and when the qualifications for employment in such class or classes are set by state law; and when such class or classes of employees are employed by a county or municipal government pursuant to such qualifications; and when the services provided by such employees are of such nature that they qualify for matching by or contributions from state or federal funds administered by an agency of state government which qualifies as a participating employer, then the agency of state government administering the state or federal funds shall be deemed an eligible employer, but only with respect to that class or those classes of employees as defined in this subsection; provided, that the required contributions to the retirement plan may be withheld from the contributions of state or federal funds administered by the state agency and transmitted to the System on the same basis as the employee and employer contributions are transmitted for the direct employees of the state agency. The retirement or eligibility for retirement under the provisions of law providing pensions for service as a volunteer firefighter shall not render any person ineligible for participation in the benefits provided for in Section 901 et seq. of this title. An employee of any public or private trust in which a county, city or town participates and is the primary beneficiary

shall be deemed to be an eligible employee for the purpose of this act only.

- (c) All employees of the George Nigh Rehabilitation Institute who elected to retain membership in the System, pursuant to Section 913.7 of this title, shall continue to be eligible employees for the purposes of this act. The George Nigh Rehabilitation Institute shall be considered a participating employer only for such employees.
- (d) All employees of CompSource Mutual Insurance Company who retain membership in the Oklahoma Public Employees Retirement System pursuant to Section 913.9 of this title shall continue to be eligible employees for the purposes of the Oklahoma Public Employees Retirement System. CompSource Mutual Insurance Company shall be considered a participating employer only for such employees.
- (e) All employees of a successor organization, as defined by Section 5-60.12 of Title 2 of the Oklahoma Statutes, who retain membership in the Oklahoma Public Employees Retirement System pursuant to Section 5-60.35 of Title 2 of the Oklahoma Statutes shall continue to be eligible employees for the purposes of the Oklahoma Public Employees Retirement System. A successor organization shall be considered a participating employer only for such employees.
- (f) A participating employer of the Teachers' Retirement System of Oklahoma, who has one or more employees who have made an election pursuant to enabling legislation to retain membership in the System as a result of change in administration, shall be considered a participating employer of the Oklahoma Public Employees Retirement System only for such employees;

(14) "Employee" means any officer or employee of a participating employer, whose employment is not seasonal or temporary and whose employment requires at least one thousand (1,000) hours of work per year and whose salary or wage is equal to the hourly rate of the monthly minimum wage for state employees. For those eligible employers outlined in Section 910 of this title, the rate shall be equal to the hourly rate of the monthly minimum wage for that employer. Each employer, whose minimum wage is less than the state's minimum wage, shall inform the System of the minimum wage for that employer. This notification shall be by resolution of the governing body.

- (a) Any employee of the county extension agents who is not currently participating in the Teachers' Retirement System of Oklahoma shall be a member of this System.

- (b) Eligibility shall not include any employee who is a contributing member of the United States Civil Service Retirement System.
- (c) It shall be mandatory for an officer, appointee or employee of the office of district attorney to become a member of this System if he or she is not currently participating in a county retirement system. Provided further, that if an officer, appointee or employee of the office of district attorney is currently participating in such county retirement system, he or she is ineligible for this System as long as he or she is eligible for such county retirement system. Any eligible officer, appointee or employee of the office of district attorney shall be given credit for prior service as defined in this section. The provisions outlined in Section 917 of this title shall apply to those employees who have previously withdrawn their contributions.
- (d) Eligibility shall also not include any officer or employee of the Oklahoma Employment Security Commission, except for those officers and employees of the Commission electing to transfer to this System pursuant to the provisions of Section 910.1 of this title or any other class of officers or employees specifically exempted by the laws of this state, unless there be a consolidation as provided by Section 912 of this title. Employees of the Oklahoma Employment Security Commission who are ineligible for enrollment in the Employment Security Commission Retirement Plan, that was in effect on January 1, 1964, shall become members of this System.
- (e) Any employee employed by the Legislative Service Bureau, State Senate or House of Representatives for the full duration of a regular legislative session shall be eligible for membership in the System regardless of classification as a temporary employee and may participate in the System during the regular legislative session at the option of the employee. For purposes of this subparagraph, the determination of whether an employee is employed for the full duration of a regular legislative session shall be made by the Legislative Service Bureau if such employee is employed by the Legislative Service Bureau, the State Senate if such employee is employed by the State Senate, or by the House of Representatives if such employee is employed by the House of Representatives. Each regular legislative

session during which the legislative employee or an employee of the Legislative Service Bureau participates full time shall be counted as six (6) months of full-time participating service.

- (i) Except as otherwise provided by this subparagraph, once a temporary session employee makes a choice to participate or not, the choice shall be binding for all future legislative sessions during which the employee is employed.
- (ii) Notwithstanding the provisions of division (i) of this subparagraph, any employee, who is eligible for membership in the System because of the provisions of this subparagraph and who was employed by the State Senate or House of Representatives after January 1, 1989, may file an election, in a manner specified by the Board, to participate as a member of the System prior to September 1, 1989.
- (iii) Notwithstanding the provisions of division (i) of this subparagraph, a temporary legislative session employee who elected to become a member of the System may withdraw from the System effective the day said employee elected to participate in the System upon written request to the Board. Any such request must be received by the Board prior to October 1, 1990. All employee contributions made by the temporary legislative session employee shall be returned to the employee without interest within four (4) months of receipt of the written request.
- (iv) A member of the System who did not initially elect to participate as a member of the System pursuant to this subparagraph shall be able to acquire service performed as a temporary legislative session employee for periods of service performed prior to the date upon which the person became a member of the System if:
  - a. the member files an election with the System not later than December 31, 2000, to purchase the prior service; and
  - b. the member makes payment to the System of the actuarial cost of the service credit pursuant to subsection A of Section 913.5 of this title. The provisions of Section 913.5 of this title shall be applicable to the purchase of the service credit, including the provisions for determining service

credit in the event of incomplete payment due to cessation of payments, death, termination of employment or retirement, but the payment may extend for a period not to exceed ninety-six (96) months;

(15) "Entry date" means the date on which an eligible employer joins the System. The first entry date pursuant to Section 901 et seq. of this title shall be January 1, 1964;

(16) "Executive Director" means the managing officer of the System employed by the Board under Section 901 et seq. of this title;

(17) "Federal Internal Revenue Code" means the federal Internal Revenue Code of 1954 or 1986, as amended and as applicable to a governmental plan as in effect on July 1, 1999;

(18) "Final average compensation" means the average annual compensation, including amounts deferred under deferred compensation agreements entered into between a member and a participating employer, up to, but not exceeding the maximum compensation levels as provided in paragraph (9) of this section received during the highest three (3) of the last ten (10) years of participating service immediately preceding retirement or termination of employment and with respect to members whose first participating service occurs on or after July 1, 2013, the compensation received during the highest five (5) of the last ten (10) years of participating service immediately preceding retirement or termination of employment. Provided, no member shall retire with a final average compensation unless the member has made the required contributions on such compensation, as defined by the Board of Trustees;

(19) "Fiscal year" means the period commencing July 1 of any year and ending June 30 of the next year. The fiscal year is the plan year for purposes of the federal Internal Revenue Code; however, the calendar year is the limitation year for purposes of Section 415 of the federal Internal Revenue Code;

(20) "Fund" means the Oklahoma Public Employees Retirement Fund as created by Section 901 et seq. of this title;

(21) "Leave of absence" means a period of absence from employment without pay, authorized and approved by the employer and acknowledged to the Board, and which after the effective date does not exceed two (2) years;

(22) "Member" means an eligible employee or elected official who is in the System and is making the required employee or elected official contributions, or any former employee or elected official who shall have made the required contributions to the System and shall have not received a refund or withdrawal;

(23) "Military service" means service in the Armed Forces of the United States by an honorably discharged person during the

following time periods, as reflected on such person's Defense Department Form 214, not to exceed five (5) years for combined participating and/or prior service, as follows:

- (a) during the following periods, including the beginning and ending dates, and only for the periods served, from:
  - (i) April 6, 1917, to November 11, 1918, commonly referred to as World War I,
  - (ii) September 16, 1940, to December 7, 1941, as a member of the 45th Division,
  - (iii) December 7, 1941, to December 31, 1946, commonly referred to as World War II,
  - (iv) June 27, 1950, to January 31, 1955, commonly referred to as the Korean Conflict or the Korean War,
  - (v) February 28, 1961, to May 7, 1975, commonly referred to as the Vietnam era, except that:
    - a. for the period from February 28, 1961, to August 4, 1964, military service shall only include service in the Republic of Vietnam during that period, and
    - b. for purposes of determining eligibility for education and training benefits, such period shall end on December 31, 1976, or
  - (vi) August 1, 1990, to December 31, 1991, commonly referred to as the Gulf War, the Persian Gulf War, or Operation Desert Storm, but excluding any person who served on active duty for training only, unless discharged from such active duty for a service-connected disability;
- (b) during a period of war or combat military operation other than a conflict, war or era listed in subparagraph (a) of this paragraph, beginning on the date of Congressional authorization, Congressional resolution, or Executive Order of the President of the United States, for the use of the Armed Forces of the United States in a war or combat military operation, if such war or combat military operation lasted for a period of ninety (90) days or more, for a person who served, and only for the period served, in the area of responsibility of the war or combat military operation, but excluding a person who served on active duty for training only, unless discharged from such active duty for a service-connected disability, and provided that the burden of proof of military service during this period shall be with the member, who must



present appropriate documentation establishing such service.

An eligible member under this paragraph shall include only those persons who shall have served during the times or in the areas prescribed in this paragraph, and only if such person provides appropriate documentation in such time and manner as required by the System to establish such military service prescribed in this paragraph, or for service pursuant to subdivision a of division (v) of subparagraph (a) of this paragraph those persons who were awarded service medals, as authorized by the United States Department of Defense as reflected in the veteran's Defense Department Form 214, related to the Vietnam Conflict for service prior to August 5, 1964;

(24) "Normal retirement date" means the date on which a member may retire with full retirement benefits as provided in Section 901 et seq. of this title, such date being whichever occurs first:

- (a) the first day of the month coinciding with or following a member's:
  - (1) sixty-second birthday with respect to members whose first participating service occurs prior to November 1, 2011, or
  - (2) sixty-fifth birthday with respect to members whose first participating service occurs on or after November 1, 2011, or with respect to members whose first participating service occurs on or after November 1, 2011, reaches a minimum age of sixty (60) years and who also reaches a normal retirement date pursuant to subparagraph c of this paragraph,
- (b) for any person who initially became a member prior to July 1, 1992, and who does not reach a normal retirement date pursuant to division (1) of subparagraph (a) of this paragraph, the first day of the month coinciding with or following the date at which the sum of a member's age and number of years of credited service total eighty (80); such a normal retirement date will also apply to any person who became a member of the sending system as defined in Section 901 et seq. of this title, prior to July 1, 1992, regardless of whether there were breaks in service after July 1, 1992,
- (c) for any person who became a member after June 30, 1992, but prior to November 1, 2011, and who does not reach a normal retirement date pursuant to division (1) of subparagraph (a) of this paragraph, the first day of the month coinciding with or following the date at which the sum of a member's age and number of years of credited service total ninety (90),

- (d) in addition to subparagraphs (a), (b) and (c) of this paragraph, the first day of the month coinciding with or following a member's completion of at least twenty (20) years of full-time-equivalent employment as:
  - (i) a correctional or probation and parole officer with the Department of Corrections and at the time of retirement, the member was a correctional or probation and parole officer with the Department of Corrections, or
  - (ii) a correctional officer, probation and parole officer or fugitive apprehension agent with the Department of Corrections who is in such position on June 30, 2004, or who is hired after June 30, 2004, and who receives a promotion or change in job classification after June 30, 2004, to another position in the Department of Corrections, so long as such officer or agent has at least five (5) years of service as a correctional officer, probation and parole officer or fugitive apprehension agent with the Department, has twenty (20) years of full-time-equivalent employment with the Department and was employed by the Department at the time of retirement, or
  - (iii) a firefighter with the Oklahoma Military Department either employed for the first time on or after July 1, 2002, or who was employed prior to July 1, 2002, in such position and who makes the election authorized by division (2) of subparagraph b of paragraph (9) of subsection A of Section 915 of this title and at the time of retirement, the member was a firefighter with the Oklahoma Military Department, and such member has at least twenty (20) years of credited service upon which the two and one-half percent (2 1/2%) multiplier will be used in calculating the retirement benefit, or
  - (iv) a public safety officer employed by the Grand River Dam Authority for the first time on or after the effective date of this act,
- (e) for those fugitive apprehension agents who retire on or after July 1, 2002, the first day of the month coinciding with or following a member's completion of at least twenty (20) years of full-time-equivalent employment as a fugitive apprehension agent with the Department of Corrections and at the time of

retirement, the member was a fugitive apprehension agent with the Department of Corrections, or

- (f) for any member who was continuously employed by an entity or institution within The Oklahoma State System of Higher Education and whose initial employment with such entity or institution was prior to July 1, 1992, and who without a break in service of more than thirty (30) days became employed by an employer participating in the Oklahoma Public Employees Retirement System, the first day of the month coinciding with or following the date at which the sum of the member's age and number of years of credited service total eighty (80);

(25) "Participating employer" means an eligible employer who has agreed to make contributions to the System on behalf of its employees;

(26) "Participating service" means the period of employment after the entry date for which credit is granted a member;

(27) "Prior service" means the period of employment of a member by an eligible employer prior to the member's entry date for which credit is granted a member under Section 901 et seq. of this title;

(28) "Retirant" or "retiree" means a member who has retired under the System;

(29) "Retirement benefit" means a monthly income with benefits accruing from the first day of the month coinciding with or following retirement and ending on the last day of the month in which death occurs or the actuarial equivalent thereof paid in such manner as specified by the member pursuant to Section 901 et seq. of this title or as otherwise allowed to be paid at the discretion of the Board;

(30) "Retirement coordinator" means the individual designated by each participating employer through whom System transactions and communication shall be directed;

(31) "Social Security" means the old-age survivors and disability section of the Federal Social Security Act;

(32) "Total disability" means a physical or mental disability accepted for disability benefits by the Federal Social Security System;

(33) "Service-connected disability benefits" means military service benefits which are for a service-connected disability rated at twenty percent (20%) or more by the Veterans Administration or the Armed Forces of the United States;

(34) "Elected official" means a person elected to a state office in the legislative or executive branch of state government or a person elected to a county office for a definite number of years and shall include an individual who is appointed to fill the unexpired term of an elected state official;

(35) "Elected service" means the period of service as an elected official;

(36) "Limitation year" means the year used in applying the limitations of Section 415 of the Internal Revenue Code of 1986, which year shall be the calendar year; and

(37) "Public safety officers of the Grand River Dam Authority" means those persons hired by the Grand River Dam Authority on or after the effective date of this act who are certified by the Council on Law Enforcement Education and Training or an equivalent certifying entity for law enforcement personnel training and who perform law enforcement functions as part of their regularly assigned duties and responsibilities on a full-time basis. With respect to any public safety officer hired by the Grand River Dam Authority on or after the effective date of this act, any earned benefits or credits toward retirement benefits from previous participation within the Oklahoma Public Employees Retirement System or the Oklahoma Law Enforcement Retirement System shall remain within that system.

Added by Laws 1963, c. 50, § 2, emerg. eff. May 6, 1963. Amended by Laws 1965, c. 432, §§ 1, 2, 9, emerg. eff. July 9, 1965; Laws 1968, c. 400, § 1, emerg. eff. May 17, 1968; Laws 1969, c. 349, § 1, emerg. eff. May 13, 1969; Laws 1970, c. 296, § 1, emerg. eff. April 28, 1970; Laws 1973, c. 279, § 1, emerg. eff. May 30, 1973; Laws 1975, c. 267, § 2, eff. July 1, 1976; Laws 1976, c. 207, § 1, emerg. eff. June 7, 1976; Laws 1979, c. 285, § 1, eff. July 1, 1979; Laws 1980, c. 317, § 1, eff. July 1, 1980; Laws 1982, c. 319, § 1, operative July 1, 1982; Laws 1984, c. 267, § 1, operative July 1, 1984; Laws 1985, c. 300, § 1, emerg. eff. July 24, 1985; Laws 1986, c. 81, § 1, emerg. eff. April 3, 1986; Laws 1986, c. 238, § 1, operative July 1, 1986; Laws 1987, c. 236, § 180, emerg. eff. July 20, 1987; Laws 1988, c. 267, § 28, operative July 1, 1988; Laws 1988, c. 284, § 7, operative July 1, 1988; Laws 1989, c. 327, § 3, eff. July 1, 1989; Laws 1990, c. 340, § 32, eff. July 1, 1990; Laws 1991, c. 335, § 32, emerg. eff. June 15, 1991; Laws 1992, c. 49, § 1, emerg. eff. April 8, 1992; Laws 1992, c. 376, § 12, eff. July 1, 1992; Laws 1993, c. 239, § 53, eff. July 1, 1993; Laws 1993, c. 360, § 15, eff. July 1, 1993; Laws 1994, c. 2, § 31, emerg. eff. March 2, 1994; Laws 1994, c. 383, § 8, eff. July 1, 1994; Laws 1995, c. 1, § 35, emerg. eff. March 2, 1995; Laws 1995, c. 302, § 1, eff. July 1, 1995; Laws 1998, c. 192, § 5, eff. July 1, 1998; Laws 1998, c. 419, § 10, eff. July 1, 1998; Laws 1999, c. 1, § 39, emerg. eff. Feb. 24, 1999; Laws 1999, c. 257, § 30, eff. July 1, 1999; Laws 2000, c. 379, § 1, eff. July 1, 2000; Laws 2001, c. 5, § 55, emerg. eff. March 21, 2001; Laws 2002, c. 438, § 5, eff. July 1, 2002; Laws 2003, c. 3, § 93, emerg. eff. March 19, 2003; Laws 2004, c. 302, § 5, emerg. eff. May 13, 2004; Laws 2004, c. 539, § 2, eff. July 1, 2004; Laws 2005, c. 1, § 134, emerg. eff. March 15, 2005; Laws 2010, c. 435, § 1,

eff. July 1, 2010; Laws 2011, c. 206, § 1, eff. Nov. 1, 2011; Laws 2013, c. 159, § 1, eff. July 1, 2013; Laws 2013, c. 254, § 33; Laws 2014, c. 1, § 28, eff. July 1, 2014; Laws 2016, c. 297, § 20, eff. July 1, 2016.

NOTE: Laws 1975, c. 253, § 1 repealed by Laws 1976, c. 207, § 9, emerg. eff. June 7, 1976. Laws 1990, c. 324, § 1 repealed by Laws 1991, c. 335, § 37, emerg. eff. June 15, 1991. Laws 1993, c. 200, § 1 repealed by Laws 1993, c. 360, § 18, eff. July 1, 1993, and by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994. Laws 1993, c. 356, § 1 repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994. Laws 1994, c. 370, § 3 and Laws 1994, c. 381, § 1 repealed by Laws 1995, c. 1, § 40, emerg. eff. March 2, 1995. Laws 1998, c. 317, § 10 and Laws 1998, c. 360, § 3 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999. Laws 2000, c. 220, § 1, Laws 2000, c. 313, § 1 and Laws 2000, c. 377, § 12 repealed by Laws 2001, c. 5, § 56, emerg. eff. March 21, 2001. Laws 2002, c. 354, § 2 repealed by Laws 2003, c. 3, § 94, emerg. eff. March 19, 2003. Laws 2002, c. 376, § 1 repealed by Laws 2003, c. 3, § 95, emerg. eff. March 19, 2003. Laws 2004, c. 325, § 1 repealed by Laws 2005, c. 1, § 135, emerg. eff. March 15, 2005.

§74-903. System created - Body corporate - Powers.

There is hereby created the Oklahoma Public Employees Retirement System which shall be a body corporate and an instrumentality of the State of Oklahoma. The system shall be vested with the powers and duties specified in this act and such other powers as may be necessary to enable it, its officers, employees, and agents to carry out fully and effectively the purposes and intent of this act. Laws 1963, c. 50, § 3, emerg. eff. May 6, 1963.

§74-904. Suits - Service of process - Persons aggrieved - Hearings.

A. The Oklahoma Public Employees Retirement System may sue and be sued in its official name, but its officers, employees, and agents shall not be personally liable for acts of the System. The service of all legal process and of all notices which may be required to be in writing, whether legal proceedings or otherwise, shall be had on the executive director at his or her office. All actions or proceedings directly or indirectly against the System shall be brought in Oklahoma County, including petitions for judicial review of individual proceedings under the Administrative Procedures Act despite any other provision to the contrary.

B. 1. Any member or participating employer, or in the case of a deceased member, a joint annuitant or beneficiary, aggrieved by any order or decision of the System made without a hearing may, within thirty (30) days after notice of the order or decision of the System, make written request to the Oklahoma Public Employees Retirement System Board of Trustees for a hearing thereon. The

Board may refer any such request to a hearing examiner to conduct the hearing and make recommended findings of fact and conclusions of law to the Board. The Board shall enter final orders in all such matters which shall be considered by the Board under the provisions of the Administrative Procedures Act.

2. Nothing contained in Section 901 et seq. of this title shall require the observance at any hearing of the Board or a hearing examiner designated by the Board of formal rules of pleading or evidence.

3. The Board shall have jurisdiction under the Administrative Procedures Act relating to any disputes arising from the administration of the retirement or savings plans administered by the Board, including disputes involving a member, joint annuitant, beneficiary or participating employer of the System.

4. Upon written request reasonably made by a person affected by the hearing at such person's expense, the Board shall cause a full stenographic record of the proceedings to be made by a competent court reporter. If transcribed, such record shall be a part of the Board's record of the hearing, and a copy of such stenographic record shall be furnished to any other party having a direct interest therein at the request and expense of such party.

Added by Laws 1963, c. 50, § 4, emerg. eff. May 6, 1963. Amended by Laws 1967, c. 25, § 1, emerg. eff. March 13, 1967; Laws 1969, c. 349, § 2, emerg. eff. May 13, 1969; Laws 1979, c. 285, § 2, eff. July 1, 1979; Laws 2011, c. 75, § 1.

§74-905. Board of Trustees.

(1) There shall be a Board of Trustees which shall consist of fourteen (14) members as follows and all appointees shall serve their terms at the pleasure of the appointing authority and may be removed or replaced without cause: a member of the Corporation Commission or the Commission's designee selected by the Corporation Commission, the Director of the Office of Management and Enterprise Services or the Director's designee, the State Insurance Commissioner or the Commissioner's designee, the Director of Human Capital Management of the Office of Management and Enterprise Services, a member of the Oklahoma Tax Commission selected by the Tax Commission, the State Treasurer or the Treasurer's designee, three members appointed by the Governor, one member appointed by the Supreme Court, two members appointed by the Speaker of the House of Representatives and two members appointed by the President Pro Tempore of the State Senate. One member appointed by the Governor shall be an active member of the System. One member appointed by the Speaker shall be an active member of the System. One member appointed by the President Pro Tempore shall be a retired member of the System.

(2) The member of the Board of Trustees on July 1, 1988, who was appointed by the Supreme Court shall complete the term of office for which the member was appointed. The members thereafter appointed by the Supreme Court shall serve terms of office of four (4) years.

(3) Members of the Board of Trustees on July 1, 1988, who were appointed by the Speaker of the House of Representatives or by the President Pro Tempore of the Senate shall complete their term of office for which they were appointed. The initial term of office of members appointed thereafter shall expire on January 8, 1991. The members thereafter appointed by the Speaker of the House of Representatives and by the President Pro Tempore of the Senate shall serve terms of office of four (4) years.

(4) The initial term of office of the members appointed by the Governor shall expire on January 14, 1991. The members thereafter appointed by the Governor shall serve a term of office of four (4) years which is coterminous with the term of office of the office of the appointing authority.

(5) One of the members appointed to the Board by the Speaker of the House of Representatives and by the President Pro Tempore of the Senate and two members appointed to the Board by the Governor shall:

- (a) have demonstrated professional experience in investment or funds management, public funds management, public or private pension fund management or retirement system management,
- (b) have demonstrated experience in the banking profession and have demonstrated professional experience in investment or funds management,
- (c) be licensed to practice law in this state and have demonstrated professional experience in commercial matters, or
- (d) be licensed by the Oklahoma Accountancy Board to practice in this state as a public accountant or a certified public accountant.

The appointing authorities, in making appointments that conform to the requirements of this subsection, shall give due consideration to balancing the appointments among the criteria specified in paragraphs (a) through (d) of this subsection.

(6) No member of the Board of Trustees shall be a lobbyist registered in this state as provided by law.

(7) Any vacancy that occurs on the Board of Trustees shall be filled for the unexpired term in the same manner as the office was previously filled.

(8) Notwithstanding any of the provisions of this section to the contrary, any person serving as an appointed member of the Board on July 1, 1988, shall be eligible for reappointment when the term of office of the member expires.

(9) The Board shall elect one of its members as Chairman of the Board at its annual meeting. He shall preside over meetings of the Board and perform such other duties as may be required by the Board.

(10) The Board shall also elect another member to serve as Vice Chairman, and the Vice Chairman shall perform duties of Chairman in the absence of the latter or upon his inability or refusal to act. Added by Laws 1963, c. 50, § 5, emerg. eff. May 6, 1963. Amended by Laws 1967, c. 213, § 1, emerg. eff. May 1, 1967; Laws 1969, c. 349, § 3, emerg. eff. May 13, 1969; Laws 1973, c. 279, § 2, emerg. eff. May 30, 1973; Laws 1975, c. 267, § 3, emerg. eff. June 5, 1975; Laws 1975, c. 317, § 5, emerg. eff. June 12, 1975; Laws 1976, c. 207, § 9, emerg. eff. June 7, 1976; Laws 1977, c. 147, § 4, eff. July 1, 1977; Laws 1979, c. 241, § 12, operative July 1, 1979; Laws 1985, c. 300, § 2, emerg. eff. July 24, 1985; Laws 1986, c. 238, § 2, operative July 1, 1986; Laws 1987, c. 236, § 181, emerg. eff. July 20, 1987; Laws 1988, c. 321, § 31, operative July 1, 1988; Laws 1992, c. 376, § 13, eff. July 1, 1992; Laws 2004, c. 536, § 21, eff. July 1, 2004; Laws 2012, c. 304, § 926; Laws 2013, c. 342, § 2, eff. Nov. 1, 2013; Laws 2017, c. 312, § 2.

#### §74-906. Board meetings - Quorum - Compensation.

(1) The Board shall hold regular meetings in Oklahoma City at least once each quarter, the dates, time, and place thereof to be fixed by the Board. The Board shall hold a regular meeting in July of each year which meeting shall be the annual meeting and at which meeting it shall elect its Chairman. Special meetings may be called upon written call of the Chairman or by agreement of any seven members of the Board. Notice of a special meeting shall be delivered to all trustees in person or by registered or certified United States mail not less than seven (7) days prior to the date fixed for the meeting; provided, however, that notice of such meeting may be waived by any member either before or after such meeting and attendance at such meeting shall constitute a waiver of notice of such meeting, unless a member participates therein solely to object to the transaction of any business because the meeting has not been legally called or convened.

(2) Eight (8) trustees shall constitute a quorum for the transaction of business, but any official action of the Board shall be based upon a favorable vote by at least eight (8) trustees at a regular or special meeting of the Board.

(3) The trustees shall serve the System without compensation but shall receive their actual and necessary expenses, subject to statutory limitations applying to other state employees, as are incurred in the performance of their duties, which shall be paid as an operating expense from the appropriate operating fund of the System.



Added by Laws 1963, c. 50, § 6, emerg. eff. May 6, 1963. Amended by Laws 1986, c. 238, § 3, operative July 1, 1986; Laws 1988, c. 321, § 32, operative July 1, 1988; Laws 2017, c. 312, § 3.

§74-907. Offices - Record of proceedings - Financial statement - Audits.

A. The principal office of the System shall be in quarters at Oklahoma City, Oklahoma. Offices shall be assigned to the System by the Office of Management and Enterprise Services. Upon the failure or inability of the Office of Management and Enterprise Services to provide adequate facilities, the Board is hereby authorized to contract for necessary office space in suitable quarters. If the Board acquires an office building for investment purposes, it may occupy suitable quarters in the building.

B. The Board shall keep a record of all of its proceedings, which shall be open at all reasonable hours to inspection. A statement covering the operation of the System for the past fiscal year, including income, disbursements, and the financial condition of the fund at the end of each fiscal year and showing the valuation of its assets, investments, and liabilities, shall be delivered to the Governor after the end of each fiscal year and prior to December 1 of the next fiscal year and made readily available to the members and participating employers.

C. The Office of the State Auditor and Inspector shall make an annual audit of the accounts of the System. The audit shall be filed in accordance with the requirements for financial statement audits in Section 212A of this title.

Added by Laws 1963, c. 50, § 7, emerg. eff. May 6, 1963. Amended by Laws 1979, c. 30, § 155, emerg. eff. April 6, 1979; Laws 1983, c. 304, § 143, eff. July 1, 1983; Laws 1994, c. 381, § 2, eff. July 1, 1994; Laws 1996, c. 290, § 18, eff. July 1, 1996; Laws 2004, c. 536, § 22, eff. July 1, 2004; Laws 2012, c. 304, § 927.

§74-907.1. Electronic data processing equipment.

The Oklahoma Public Employees Retirement System is authorized to maintain electronic data processing equipment for their operations. Added by Laws 1982, c. 319, § 8, operative July 1, 1982.

§74-908. Executive Director - Employees - Acceptance of gifts or gratuities - Actuary - Legal counsel - Membership status - Internal auditor.

(1) The Board of Trustees of the Oklahoma Public Employees Retirement System shall appoint an Executive Director and shall establish his compensation. Subject to the policy direction of the Board, he shall be the managing and administrative officer of the System and as such shall have charge of the office, records, and supervision and direction of the employees of the System.

(2) The Executive Director shall recommend to the Board the administrative organization, the number and qualifications of employees necessary to carry out the intent of this act, and the policy direction of the Board. Upon approval of the organizational plan by the Board, the Executive Director may employ such persons as are deemed necessary to administer this act.

(3) The members of the Board of Trustees, the Executive Director and the employees of the System shall not accept gifts or gratuities from an individual organization with a value in excess of Fifty Dollars (\$50.00) per year. The provisions of this section shall not be construed to prevent the members of the Board of Trustees, the Executive Director or the employees of the System from attending educational seminars, conferences, meetings or similar functions which are paid for, directly or indirectly, by more than one organization.

(4) The Board of Trustees shall select and retain a qualified actuary who shall serve at its pleasure as its technical advisor or consultant on matters regarding the operation of the System. The actuary shall:

(a) make an annual valuation of the liabilities and reserves of the System, and a determination of the contributions required by the System to discharge its liabilities and administrative costs under this act, and recommend to the Board rates of employer contributions required to establish and maintain the System on an adequate reserve basis.

(b) as soon after the effective date as practicable and once every three (3) years thereafter, make a general investigation of the actuarial experience under the System, including mortality, retirement, employment turnover, and interest, and recommend actuarial tables for use in valuations and in calculating actuarial equivalent values based on such investigation.

(c) perform such other duties as may be assigned by the Board.

(5) The Board may retain an attorney licensed to practice law in this state. The attorney shall serve at the pleasure of the Board for such compensation as specified by the Board. The attorney shall advise the Board and perform legal services for the Board with respect to any matters properly before the Board. In addition, the attorney shall advise and perform legal services for the State and Education Employees Group Insurance Board with respect to any matters properly before that Board as provided in Section 1301 et seq. of this title.

(6) The Board shall decide in each instance the membership status of member employees whose membership in the System becomes a matter of conjecture on account of mergers or consolidations of state agencies.

(7) The Board may retain an internal auditor to serve at the pleasure of the Board for such compensation as specified by the

Board. In addition to the duties assigned by the Board, the internal auditor is authorized to audit all records of any participating employer in order to ensure compliance with the provisions of Section 901 et seq. of this title.

Added by Laws 1963, c. 50, § 8, emerg. eff. May 6, 1963. Amended by Laws 1969, c. 349, § 4, emerg. eff. May 13, 1969; Laws 1979, c. 285, § 3, eff. July 1, 1979; Laws 1980, c. 159, § 36, eff. July 1, 1980; Laws 1980, c. 317, § 2, eff. July 1, 1980; Laws 1986, c. 150, § 25, emerg. eff. April 29, 1986; Laws 1988, c. 321, § 33, operative July 1, 1988; Laws 1994, c. 381, § 3, eff. July 1, 1994.

NOTE: Laws 1979, c. 241, § 13 repealed by Laws 1980, c. 159, § 40, eff. July 1, 1980; Laws 1988, c. 267, § 29 repealed by Laws 1992, c. 373, § 22, eff. July 1, 1992.

§74-909. Policies and rules for general administration.

(1) The Board of Trustees shall be responsible for the policies and rules for the general administration of the system, subject to the provisions of this act.

(2) The Board shall establish rules and regulations for the administration of the system and for the transaction of its business consistent with law, which rules and regulations shall be filed in the office of the Secretary of State.

(3) The Board shall be responsible for the installation or provision of a complete and adequate system of accounts and records.

(4) All meetings of the Board shall be open to the public. The Board shall keep a record of its proceedings.

(5) The Board shall prescribe rules for the determination of the value of maintenance, board, lodging, laundry, and other allowances to employees in lieu of money and shall determine which forms or types of compensation shall be included for retirement purposes.

(6) The Board may adopt all necessary actuarial tables to be used in the operation of the system as recommended by the actuary and may compile such additional data as may be necessary for required actuarial valuation calculations.

(7) The Board, as soon after the close of the fiscal year as practical, shall publish for distribution among members a financial statement showing the financial status of the system.

(8) All decisions of the Board as to questions of fact shall be final and conclusive on all persons except for the right of review as provided by law and except for fraud or such gross mistake of fact as to have effect equivalent to fraud.

Added by Laws 1963, c. 50, § 9, emerg. eff. May 6, 1963. Amended by Laws 1988, c. 321, § 34, operative July 1, 1988; Laws 2002, c. 354, § 3, eff. July 1, 2002 and Laws 2002, c. 438, § 6, eff. July 1, 2002.

§74-909.1. Duties of Board - Investments - Liability insurance - Investment managers - Custodial services - Reports.

A. The Oklahoma Public Employees Retirement System Board of Trustees shall discharge their duties with respect to the System solely in the interest of the participants and beneficiaries and:

1. For the exclusive purpose of:

- a. providing benefits to participants and their beneficiaries, and
- b. defraying reasonable expenses of administering the System;

2. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

3. By diversifying the investments of the System so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

4. In accordance with the laws, documents and instruments governing the System.

B. The Board of Trustees may procure insurance indemnifying the members of the Board of Trustees from personal loss or accountability from liability resulting from a member's action or inaction as a member of the Board of Trustees.

C. The Board of Trustees may establish an investment committee. The investment committee shall be composed of not more than five (5) members of the Board of Trustees appointed by the chairman of the Board of Trustees. The committee shall make recommendations to the full Board of Trustees on all matters related to the choice of custodians and managers of the assets of the System, on the establishment of investment and fund management guidelines, and in planning future investment policy. The committee shall have no authority to act on behalf of the Board of Trustees in any circumstances whatsoever. No recommendation of the committee shall have effect as an action of the Board of Trustees nor take effect without the approval of the Board of Trustees as provided by law.

D. The Board of Trustees shall retain qualified investment managers to provide for the investment of the monies of the System. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board of Trustees. Subject to the overall investment guidelines set by the Board of Trustees, the investment managers shall have full discretion in the management of those monies of the System allocated to the investment managers. The Board of Trustees shall manage those monies not specifically allocated to the investment managers. The monies of the System allocated to the investment managers shall be managed by the investment managers, which may include selling investments and realizing losses if such action is

considered advantageous to longer term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

E. Funds and revenues for investment by the investment managers or the Board of Trustees shall be placed with a custodian selected by the Board of Trustees. The custodian shall be a bank or trust company offering pension fund master trustee and master custodial services. The custodian shall be chosen by a solicitation of proposals on a competitive basis pursuant to standards set by the Board of Trustees. In compliance with the investment policy guidelines of the Board of Trustees, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of the System are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the investment managers of the System as to the investment of the monies of the System in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the Board of Trustees for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles.

F. By November 1, 1988, and prior to August 1 of each year thereafter, the Board of Trustees shall develop a written investment plan for the System.

G. The Board of Trustees shall compile a quarterly financial report of all the funds of the System on a fiscal year basis. The report shall be compiled pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall contain combined and individual rate of returns of the investment managers by category of investment, over periods of time. The Board of Trustees shall include in the quarterly reports all commissions, fees or payments for investment services performed on behalf of the Board. The report shall be distributed to the Governor, the Oklahoma State Pension Commission, the Legislative Service Bureau, the Speaker of the House of Representatives and the President Pro Tempore of the Senate. In lieu of compiling and distributing the quarterly report, the Board may provide the Pension Commission with direct access to the same data from the custodian bank for the System.

H. After July 1 and before December 1 of each year, the Board of Trustees shall publish widely an annual report presented in simple and easily understood language pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall be submitted to the

Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Oklahoma State Pension Commission and the members of the System. The annual report shall cover the operation of the System during the past fiscal year, including income, disbursements, and the financial condition of the System at the end of the fiscal year. The annual report shall also contain the information issued in the quarterly reports required pursuant to subsection G of this section as well as a summary of the results of the most recent actuarial valuation to include total assets, total liabilities, unfunded liability or over funded status, contributions and any other information deemed relevant by the Board of Trustees. The annual report shall be written in such a manner as to permit a readily understandable means for analyzing the financial condition and performance of the System for the fiscal year.

I. The Board shall distribute the corpus and income of the System to the members and their beneficiaries in accordance with the System's laws and rules and regulations. At no time prior to the satisfaction of all liabilities with respect to members and their beneficiaries shall any part of the corpus and income be used for, or diverted to, purposes other than the exclusive benefit of the members and their beneficiaries.

Added by Laws 1988, c. 321, § 35, operative July 1, 1988. Amended by Laws 1992, c. 354, § 5; Laws 1995, c. 81, § 7, eff. July 1, 1995; Laws 1999, c. 257, § 31, eff. July 1, 1999; Laws 2002, c. 391, § 8, eff. July 1, 2002; Laws 2003, c. 406, § 16, eff. July 1, 2003; Laws 2004, c. 536, § 23, eff. July 1, 2004; Laws 2008, c. 415, § 8, eff. July 1, 2008; Laws 2011, c. 379, § 7, eff. Sept. 1, 2011; Laws 2012, c. 109, § 1, eff. July 1, 2012.

#### §74-909.2. Duties of fiduciaries.

A. A fiduciary with respect to the Oklahoma Public Employees Retirement System shall not cause the System to engage in a transaction if the fiduciary knows or should know that such transaction constitutes a direct or indirect:

1. Sale or exchange, or leasing of any property from the System to a party in interest for less than adequate consideration or from a party in interest to the System for more than adequate consideration;

2. Lending of money or other extension of credit from the System to a party in interest without the receipt of adequate security and a reasonable rate of interest, or from a party in interest to the System with provision of excessive security or an unreasonably high rate of interest;

3. Furnishing of goods, services or facilities from the System to a party in interest for less than adequate consideration, or from a party in interest to the System for more than adequate consideration; or

4. Transfer to, or use by or for the benefit of, a party in interest of any assets of the System for less than adequate consideration.

B. A fiduciary with respect to the Oklahoma Public Employees Retirement System shall not:

1. Deal with the assets of the System in the fiduciary's own interest or for the fiduciary's own account;

2. In the fiduciary's individual or any other capacity act in any transaction involving the System on behalf of a party whose interests are adverse to the interests of the System or the interests of its participants or beneficiaries; or

3. Receive any consideration for the fiduciary's own personal account from any party dealing with the System in connection with a transaction involving the assets of the System.

C. A fiduciary with respect to the Oklahoma Public Employees Retirement System may:

1. Invest all or part of the assets of the System in deposits which bear a reasonable interest rate in a bank or similar financial institution supervised by the United States or a state, if such bank or other institution is a fiduciary of such plan; or

2. Provide any ancillary service by a bank or similar financial institution supervised by the United States or a state, if such bank or other institution is a fiduciary of such plan.

D. A person or a financial institution is a fiduciary with respect to the Oklahoma Public Employees Retirement System to the extent that the person or the financial institution:

1. Exercises any discretionary authority or discretionary control respecting management of the Oklahoma Public Employees Retirement System or exercises any authority or control respecting management or disposition of the assets of the System;

2. Renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or other property of the System, or has any authority or responsibility to do so; or

3. Has any discretionary authority or discretionary responsibility in the administration of the System.

E. In addition to any other prohibitions contained in this section, the Board may not engage in a transaction prohibited by Section 503(b) of the federal Internal Revenue Code.

Added by Laws 1988, c. 321, § 36, operative July 1, 1988. Amended by Laws 1999, c. 257, § 32, eff. July 1, 1999.

§74-910. Eligible employers - Procedure for joining System - Withdrawal.

(1) An eligible employer may join the System in January of any year. Application for affiliation shall be in the form of a resolution approved by the governing or legislative body of the eligible employer or by any other body or officer authorized by the

law or recognized by the Board to approve such resolution or action; provided, that no county hospital, city or town, circuit engineering district or any public or private trust in which a county, city or town participates and is the primary beneficiary shall become a participating employer except by the adoption of a resolution therefor, unless otherwise provided in this act. Upon the filing of a certified copy of such resolution with the Board, the employer shall become a participating employer on January 1 of the year immediately following the filing of such election with the Board. Such election shall be final and irrevocable and any employer now or hereafter participating in the System shall not be permitted to withdraw from the System under any circumstances, including a change in legal identity of such employer, where the purpose and functions of such employer remain essentially the same as at the time of filing of entry into the System. Provided, however, any hospital joining the System during the period commencing December 1, 1989, and ending January 31, 1990, or during the period commencing December 1, 1971, and ending January 31, 1972, shall be permitted to withdraw from the System by the adoption of resolution therefor by the hospital board of control. However, no member hospital of the System shall be allowed to withdraw from the System until such hospital has satisfied all current obligations to the System. Upon the filing of a certified copy of such resolution with the Board and upon the Board's determining that arrangements have been made for the payment of all financial obligations, if any, due the System by such withdrawing hospital, such hospital shall cease to be a participating employer on the first day of the month immediately following such determination and the filing of such resolution with the Board. The employees of any such hospital withdrawing from the System shall have such rights as are provided by Section 912.1 of this title. Any hospital that withdraws under the provisions of this act shall be responsible for the payment of any actuarial cost required as a result of such withdrawal. Provided, however, any county having a population of less than four hundred thousand (400,000), according to the latest Federal Decennial Census, shall become a participating employer on January 1, 1974, notwithstanding any other provision of statute.

(2) The State of Oklahoma, in its capacity as an eligible employer shall become a participating employer on the first entry date and thereafter on the entry date immediately following the creation of any state agency not now in existence.

(3) From and after the passage of this act no county hospital, or county or state governmental agency, shall institute a retirement system other than as provided for in this act, except as to any other supplemental retirement plans otherwise expressly provided for by law.



Added by Laws 1963, c. 50, § 10, emerg. eff. May 6, 1963. Amended by Laws 1967, c. 394, § 1, emerg. eff. May 23, 1967; Laws 1968, c. 219, § 1, emerg. eff. April 23, 1968; Laws 1968, c. 400, § 5, emerg. eff. May 17, 1968; Laws 1970, c. 296, § 2, emerg. eff. April 28, 1970; Laws 1973, c. 279, § 3, emerg. eff. May 30, 1973; Laws 1976, c. 207, § 2, emerg. eff. June 7, 1976; Laws 1979, c. 285, § 4, eff. July 1, 1979; Laws 1980, c. 317, § 3, eff. July 1, 1980; Laws 1982, c. 319, § 2, operative July 1, 1982; Laws 1985, c. 300, § 3, emerg. eff. July 24, 1985; Laws 1986, c. 238, § 4, operative July 1, 1986; Laws 1988, c. 284, § 8, operative July 1, 1988; Laws 1989, c. 199, § 1, eff. July 1, 1989; Laws 1990, c. 340, § 33, eff. July 1, 1990; Laws 1992, c. 376, § 14, eff. July 1, 1992; Laws 1996, c. 96, § 1, eff. July 1, 1996; Laws 1997, c. 315, § 1, eff. July 1, 1997; Laws 2004, c. 325, § 2, eff. July 1, 2004.

§74-910.1. Transfer from Employment Security Commission Retirement Plan to Public Employees Retirement System.

A. Members of the Oklahoma Employment Security Commission Retirement Plan may decide individually to transfer from the Oklahoma Employment Security Commission Retirement Plan to the Oklahoma Public Employees Retirement System. Any such decision shall be made prior to August 15, 1987. The decision shall be made upon forms obtained from the Oklahoma Public Employees Retirement System. Prior to September 1, 1988, the Oklahoma Employment Security Commission shall certify to the Oklahoma Public Employees Retirement System, the names and periods of credited service for those persons deciding to transfer. In addition the Oklahoma Employment Security Commission may purchase additional periods of credited service for any of its employees who are members of the Oklahoma Public Employees Retirement System.

B. Any person that makes the decision to transfer pursuant to the provisions of subsection A of this section, beginning November 1, 1987, shall cease being a member of the Oklahoma Employment Security Commission Retirement Plan and shall commence being a member of the Oklahoma Public Employees Retirement System. On November 1, 1987, the Oklahoma Employment Security Commission shall transfer to the Oklahoma Public Employees Retirement System for each person deciding to transfer and for each employee who is currently a member of the Oklahoma Public Employees Retirement System for whom extra credited service is to be purchased an amount equal to the employer and employee contributions which would have been paid for such credited service had the person been a member of the Oklahoma Public Employees Retirement System at the time of accrual of such credited service, plus five percent (5%) simple interest to date of transfer.

C. Upon the payment of the employee and employer contribution, service accrued by the person while a member of the Oklahoma

Employment Security Commission Retirement Plan shall be treated as credited service in the Oklahoma Public Employees Retirement System.

D. On January 1, 1988, the Oklahoma Employment Security Commission shall return to those persons transferring to the Oklahoma Public Employees Retirement System, any employee contributions made by the person which are not required to be transferred to the Oklahoma Public Employee Retirement System.

E. The Oklahoma Employment Security Commission is authorized to establish a plan of voluntary early retirement for its employees, utilizing any funds in its independent retirement system in excess of those amounts necessary to ensure its actuarial soundness. Such plan may require employees' contributions as determined by the Commission. Prior to January 1, 1991, the Commission may acquire additional credited service for its employees in the Oklahoma Public Employees Retirement System at full actuarial value; provided, however, effective January 1, 1991, to acquire additional credited service for its employees in the System, the employee shall pay the amount determined by the Board pursuant to Section 39 of this act. Added by Laws 1986, c. 81, § 2, emerg. eff. April 3, 1986. Amended by Laws 1987, c. 236, § 182, emerg. eff. July 20, 1987; Laws 1990, c. 340, § 34, eff. July 1, 1990.

§74-910.1a. Service credit for employment with Oklahoma Employment Security Commission.

Upon payment of a five percent (5%) contribution and interest of not to exceed five percent (5%) to the Oklahoma Public Employees Retirement System, a member of the Oklahoma Public Employees Retirement System shall receive service credit for any years of service the member had with the Oklahoma Employment Security Commission if the member is not receiving or eligible to receive service credit for the time in any other public retirement system; provided, however, effective January 1, 1990, the rate of contribution provided herein shall be ten percent (10%) and the rate of interest shall not exceed ten percent (10%), and effective January 1, 1991, to receive the service credit, the member shall pay the amount determined by the Board pursuant to Section 39 of this act.

Added by Laws 1987, c. 236, § 183, emerg. eff. July 20, 1987.  
Amended by Laws 1989, c. 327, § 4, eff. July 1, 1989; Laws 1990, c. 340, § 35, eff. July 1, 1990.

§74-910.2. Repealed by Laws 1999, c. 257, § 47, eff. July 1, 1999.

§74-910.3. Oklahoma Housing Finance Authority - Participating employer.

A. Effective July 1, 1997, the Oklahoma Housing Finance Agency shall be an eligible participating employer in the Oklahoma Public

Employees Retirement System. Employees hired after this date shall participate in the Oklahoma Public Employees Retirement System. Employees participating in the Oklahoma Housing Finance Agency benefits plan hired prior to July 1, 1997, may elect to continue the current benefits plan provided by the Oklahoma Housing Finance Agency and not to become a member of the Oklahoma Public Employees Retirement System or at any time while an active employee of the Oklahoma Housing Finance Agency may:

1. Elect to cease accruing benefits under the current benefits plan provided by the Oklahoma Housing Finance Agency and to purchase service credit in the Oklahoma Public Employees Retirement System in an amount equal to the time employed with the Oklahoma Housing Finance Agency prior to the time of election and at an actuarial rate pursuant to Section 913.5 of this title;

2. Elect to cease accruing benefits under the current benefits plan provided by the Oklahoma Housing Finance Agency and to purchase a prorated amount of service credit in the Oklahoma Public Employees Retirement System based on the amount received from the current benefits plan and pursuant to Section 913.5 of this title; or

3. Elect to cease accruing benefits under the current benefits plan provided by the Oklahoma Housing Finance Agency, not purchase any service credit in the Oklahoma Public Employees Retirement System, and to start a new retirement under the Oklahoma Public Employees Retirement System.

B. Such employees hired prior to July 1, 1997, who elect to participate in the Oklahoma Public Employees Retirement System shall commence accruing benefits in the Oklahoma Public Employees Retirement System after the date of election and as established by the Oklahoma Public Employees Retirement System Board of Trustees. The employees hired prior to July 1, 1997, electing to purchase service credit authorized by this section shall have all such service credit canceled which is not utilized in purchasing credit in the Oklahoma Public Employees Retirement System. The purchase of service credit as provided in this section shall only be available upon the election of the employee. The election shall be made in writing, filed with the Oklahoma Housing Finance Agency and the Oklahoma Public Employees Retirement System prior to receiving the credit purchased, and shall be irrevocable. The Oklahoma Housing Finance Agency shall transfer the amounts from its benefits plan to the Oklahoma Public Employees Retirement System for those employees who elect to purchase service credit in the Oklahoma Public Employees Retirement System.

C. Employees hired prior to July 1, 1997, and who either elected to purchase service credit in the Oklahoma Public Employees Retirement System or now desire to purchase service credit in the Oklahoma Public Employees Retirement System as provided in this section, shall be allowed up to eight (8) years from the date of

election to pay for such service credit. Payments may be made through payroll deductions if requested by an employee. The Oklahoma Housing Finance Agency shall provide to the Oklahoma Public Employees Retirement System all information and documents requested from the System concerning the status of the retirement plan offered by the Authority to its employees.

Added by Laws 1997, c. 315, § 2, eff. July 1, 1997. Amended by Laws 1998, c. 419, § 11, eff. July 1, 1998.

§74-910.4. Former employees of city-county health departments - Participation in Public Employees Retirement System.

A. Effective July 1, 1998, former employees of a city-county health department who become employees of the State Department of Agriculture or the Department of Environmental Quality who elect to participate in the Oklahoma Public Employees Retirement System shall make one of the following elections on or before January 1, 1999:

1. Elect to continue the current benefits plan provided by the applicable city-county health department and not to become a member of the Oklahoma Public Employees Retirement System;

2. Elect to cease accruing benefits under the current benefits plan provided by the applicable city-county health department and to purchase service credit in the Oklahoma Public Employees Retirement System in an amount equal to the time employed with the applicable city-county health department prior to the time of election and at an actuarial rate pursuant to Section 913.5 of Title 74 of the Oklahoma Statutes;

3. Elect to cease accruing benefits under the current benefits plan provided by the applicable city-county health department and to purchase a prorated amount of service credit in the Oklahoma Public Employees Retirement System based on the amount received from the current benefits plan and pursuant to Section 913.5 of Title 74 of the Oklahoma Statutes;

4. Elect to cease accruing benefits under the current benefits plan provided by the applicable city-county health department, not purchase any service credit in the Oklahoma Public Employees Retirement System, and to start a new retirement under the Oklahoma Public Employees Retirement System.

B. Such employees who elect to participate in the Oklahoma Public Employees Retirement System shall commence accruing benefits in the Oklahoma Public Employees Retirement System after the date of election and as established by the Oklahoma Public Employees Retirement System Board of Trustees. The employees electing to purchase service credit authorized by this section shall have all such service credit canceled which is not utilized in purchasing credit in the Oklahoma Public Employees Retirement System. The purchase of service credit as provided in this section shall only be available upon the election of the employee. The election shall be

made in writing, filed with the applicable city-county health department and the Oklahoma Public Employees Retirement System prior to receiving the credit purchased, and shall be irrevocable. The applicable city-county health department shall transfer the amounts from its benefits plan to the Oklahoma Public Employees Retirement System for those employees who elect to purchase service credit in the Oklahoma Public Employees Retirement System.  
Added by Laws 1998, c. 361, § 2, eff. July 1, 1998.

§74-910.5. Transfer of contributions.

A. Any active member, as of July 1, 1998, whose compensation for service exceeded Twenty-five Thousand Dollars (\$25,000.00) per annum prior to July 1, 1994, and who, prior to July 1, 1998, had voluntarily elected to increase the maximum compensation level pursuant to statutes in effect at that time, shall have transferred, pursuant to this subsection and the procedures established by the Board, the employee contributions made on compensation for service which is in excess of Twenty-five Thousand Dollars (\$25,000.00) per annum prior to July 1, 1994, with an amount which represents the actuarial assumed earnings of the System of seven and one-half percent (7.5%) compounded annually until the date of transfer. It is the intent of the Legislature that the excess contributions shall be transferred directly to an account established for the employee in the Oklahoma State Employees Deferred Savings Incentive Plan. The provisions for transfer contained in this subsection shall not take effect until the Board receives official written notice that this distribution satisfies the tax qualification requirements for governmental plans applicable to such transfers as specified in the Internal Revenue Code of 1986, as amended from time to time and as applicable to governmental plans and the relevant regulatory provisions and guidance related thereto.

B. Any member who is vested or eligible to vest and not participating or retired from the System, as of July 1, 1998, whose compensation for service exceeded Twenty-five Thousand Dollars (\$25,000.00) per annum prior to July 1, 1994, and who, prior to July 1, 1998, had voluntarily elected to increase the maximum compensation level pursuant to statutes in effect at that time, shall be granted, pursuant to this subsection and the procedures established by the Board, a limited retirement benefit in addition to their normal retirement benefit in an amount equivalent to the additional employee contributions paid by the employee and made on compensation for service which is in excess of Twenty-five Thousand Dollars (\$25,000.00) per annum prior to July 1, 1994. The limited benefit shall be payable in an amount equal to Two Hundred Dollars (\$200.00) per month or the amount of additional contributions actually paid, whichever is less, beginning with the first month the member retires and begins to receive monthly retirement benefits

until the amount of additional contributions has been paid. Upon the death of the member, the remaining unpaid amount of additional contributions, if any, shall be paid to the member's beneficiary in a lump sum or to the joint annuitant in the same manner as paid to the member if an election of a survivor option has been made pursuant to Section 918 of this title. Any provisions for cost of living or other retirement benefit adjustments shall not be applicable to this limited benefit. The provisions for the limited retirement benefit contained in this subsection shall not take effect until the Board receives official written notice that this distribution satisfies the tax qualification requirements for governmental plans applicable to such refunds or transfers as specified in the Internal Revenue Code of 1986, as amended from time to time and as applicable to governmental plans and the relevant regulatory provisions and guidance related thereto.

Added by Laws 1998, c. 419, § 12, eff. July 1, 1998. Amended by Laws 1999, c. 282, § 1, eff. July 1, 1999; Laws 2000, c. 6, § 26, emerg. eff. March 20, 2000.

NOTE: Editorially renumbered from § 910.4 of this title to avoid a duplication in numbering.

NOTE: Laws 1998, c. 363, § 2, which was an identical duplicate section, repealed by Laws 1999, c. 279, § 2, eff. July 1, 1999 and also repealed by Laws 1999, c. 282, § 2, eff. July 1, 1999. Laws 1999, c. 279, § 1 repealed by Laws 2000, c. 6, § 33, emerg. eff. March 20, 2000.

#### §74-911. Employee members.

(1) Any employee of a participating employer on the entry date of such employer shall be a member of the System on the entry date.

(2) Any employee other than a state elected official who is employed by a participating employer after the entry date of such employer shall be a member of the System on the first day of the month immediately following employment.

(3) Any employee who is in military service or on leave of absence on the entry date of his employer shall become a member of the System upon his return to active employment.

Amended by Laws 1982, c. 319, § 3, operative July 1, 1982.

#### §74-912. Consolidation of other systems.

(1) The State of Oklahoma, any county, city or town, or any instrumentality thereof whose employees or a class of whose employees are members of any other retirement or pension plan authorized by a statute of the State of Oklahoma may, by resolution adopted by the official board, body, or officer or officers authorized to apply for application, request the board to submit a proposal for consolidation of such other system with the Oklahoma Public Employees Retirement System, including an estimate of the

contribution rate necessary to comply with the actuarial standard of this system. Such proposal shall provide that: (a) the operation of such other pension system shall be discontinued; (b) the existing retirants or annuitants of such other system shall continue to be paid by the Oklahoma Public Employees Retirement System on the basis of the benefits schedule applicable in such other system at the date of proposed consolidation; (c) all cash and securities to the credit of such other system shall be transferred to the Oklahoma Public Employees Retirement System; (d) funds of such other system which represent accumulated contributions, if any, of members shall be credited to the employees accumulated contribution reserve of each employee. The balance of the funds so transferred to the Oklahoma Public Employees Retirement System shall be offset against the liability on account of existing retirants, annuitants, and active members; (e) the resulting liability so determined shall be the basis for a rate of contribution of such employer; (f) such consolidation shall take effect only on the anniversary of the entry date.

Laws 1963, c. 50, § 12; Laws 1970, c. 296, § 4, emerg. eff. April 28, 1970.

§74-912.1. Termination of Plan - Rights of participants -  
Distribution of assets.

(1) In the event the Plan of the Public Employees Retirement System is terminated or partially terminated the right of all participants or in the event of partial termination the rights of the affected participants, or in the event of complete discontinuance of contributions, whether retired or otherwise, shall become fully vested.

(2) In the event of termination of the Plan, the Board of Trustees shall distribute the net assets of the fund, allowing a period of not less than six (6) nor more than nine (9) months for dissolution of disability claims, as follows:

(a) First, accumulated contributions shall be allocated to each respective participant, former participant, retired member, joint annuitant or beneficiary then receiving payments. If these assets are insufficient for this purpose, they shall be allocated to each such person in the proportion which his accumulated contributions bear to the total of all such participants' accumulated contributions. For purposes of this section, contribution means payment into the System by an employer or employee for the benefit of an individual employee. (b) The balance of such assets, if any, remaining after making the allocations provided in subparagraph (a) of this section shall be disposed of by allocating to each person then having an interest in the fund the excess of his retirement income under the Plan less the retirement income which is equal to the actuarial equivalent of the

amount allocated to him under subparagraph (a) of this section. Such allocation shall be made with the full amount of the remaining assets to be allocated to the persons in each group in the following order of precedence:

- (i) those retired members, joint annuitants or beneficiaries receiving benefits,
- (ii) those members eligible to retire,
- (iii) those members eligible for early retirement,
- (iv) former participants electing to receive a vested benefit, and
- (v) all other members.

In the event the balance of the fund remaining after all allocations have been made with respect to all retirement income in a preceding group is insufficient to allocate the full actuarial equivalent of such retirement income to all persons in the group for which it is then being applied, such balance of the fund shall be allocated to each person in such group in the proportion which the actuarial equivalent of the retirement income allocable to him pursuant to such group bears to the total actuarial equivalent of the retirement income so allocable to all persons in such group.

Provided no discrimination in value results, the Board of Trustees shall distribute the amounts so allocated in one of the following manners as the Board of Trustees in their discretion may determine:

- (i) by continuing payment of benefits as they become due, or
- (ii) by paying, in cash, the amount allocated to any such person.

Laws 1978, c. 206, § 1; Laws 1979, c. 285, § 5, eff. July 1, 1979.

§74-913. Crediting of prior and participating service - Transfer of service credits from Teachers' Retirement System of Oklahoma.

A. Prior service shall be credited as follows:

1. A member shall receive full credit for employment with any participating employer prior to the entry date of his or her employer whether or not continuous and whether or not he or she was employed with a participating employer on such entry date, provided that any member who has retired before the passage of Section 901 et seq. of this title, shall not receive retirement benefits retroactively for such prior service. Provided, that at such time that an employer becomes a participating employer on or after January 1, 1965, and before January 1, 1975, each member and each retirant, upon making proper written application therefor, shall receive prior service credit for service with such employer in the same manner as if such participating employer had been a participating employer on the date first eligible to become a participating employer; and increased benefits attributable to such



increased prior service credit shall commence with the next monthly benefit payment due following receipt and approval of such application by the Board of Trustees. No prior service shall be granted, however, for periods of service in which the employee made contributions which he or she subsequently withdrew, unless he or she has complied with the provisions of subsection (5) of Section 917 of this title. The burden of proof regarding prior service shall be with the member and shall be documented in such manner as the Board may direct;

2. Any member who was employed in an institution of higher learning by a State Board of Regents or who was employed by an Oklahoma school district prior to July 1, 1943, may receive prior service credit under this act for the period of time they were so employed;

3. Any member who served in the Armed Forces of the United States, as defined in paragraph (23) of Section 902 of this title, prior to membership in the Oklahoma Public Employees Retirement System shall be granted prior service credit, not to exceed five (5) years, for those periods of active military service during which he or she was a war veteran. For a member of the System hired on or after July 1, 2003, if the military service credit authorized by this paragraph is used to compute the retirement benefit of the member and the member retires from the System, such military service credit shall not be used to compute the retirement benefit in any other retirement system created pursuant to the Oklahoma Statutes and the member may receive credit for such service only in the retirement system from which the member first retires;

4. An elective state, county, city or town official who is ineligible for membership as a result of any applicable state law or constitutional provision making him or her ineligible solely because of his or her being such an official at the time of his or her eligibility for membership at the time his or her employer becomes a participating employer shall nevertheless not forfeit the prior service credit to which he or she would be entitled except for such ineligibility, provided that he or she either:

- a. becomes an employee of a participating employer within four (4) calendar months of the expiration of his or her term of office current at the time of his or her eligibility except for his or her being an elective state or county official, or
- b. within a period of four (4) years after the expiration of his or her term of office current at the time of his or her eligibility except for his or her being an elective state or county official, is elected as a state or county official and thereupon becomes a member of the System, or

- c. has completed ten (10) years of credited service as of the date of his or her eligibility for membership except for his or her being an elective state or county official;

5. Beginning July 1, 1965, all employees of the Department of Human Services shall participate in the Oklahoma Public Employees Retirement System to the same extent as other employees of participating employers in such System. Provided, that any employee performing teaching services in the Oklahoma School for the Deaf or the Oklahoma School for the Blind may elect to participate in the Teachers' Retirement System of Oklahoma in lieu of the Oklahoma Public Employees Retirement System; and any other employee at each such institution or any other institution under the jurisdiction of the Department of Human Services, participating in the Teachers' Retirement System of Oklahoma, may elect to continue to participate in such System in lieu of the Oklahoma Public Employees Retirement System. All employees who shall have participated in the Teachers' Retirement System of Oklahoma and not continuing therein shall have the right to withdraw their membership from the Teachers' Retirement System of Oklahoma on the same terms as other members withdrawing from such System before retirement. Provided, all persons employed at the Oklahoma School for the Blind and Oklahoma School for the Deaf on June 30, 1965, who became subject to the Oklahoma Public Employees Retirement System, on July 1, 1965, shall receive credit for prior service and be eligible for participation, regardless of age;

6. A member employed as a temporary employee by the Legislative Service Bureau or its predecessors, the State Senate or the House of Representatives for the full duration of a regular legislative session prior to the member's eligibility for membership in the System shall receive six (6) months of prior service credit for each such full regular legislative session if the employee is employed by the Legislative Service Bureau or its predecessors, the State Senate or the House of Representatives as either a full-time or temporary employee for a minimum of six (6) full regular legislative sessions beginning January 1, 1983. For purposes of this subsection, the determination of whether an employee is employed for the full duration of a regular legislative session shall be made by the Legislative Service Bureau if such employee is employed by the Legislative Service Bureau, the State Senate if such employee is employed by the State Senate, or by the House of Representatives if such employee is employed by the House of Representatives;

7. A member of the System shall receive prior service credit for any years of service after January 1, 1975, the member had with a participating employer if the member is not receiving or eligible to receive such prior service credit for the same time in any other state or county retirement system authorized by law. To receive the

service credit, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title; and

8. Any member who is a state employee and receives temporary total disability benefits during the period of absence with a participating employer due to a work-related injury or illness incurred while engaged in a governmental function for said participating employer pursuant to the Workers' Compensation Act shall receive credit for participating service during said period of absence subject to the following requirements:

- a. the member was employed by the participating employer immediately prior to and during the period of absence,
- b. the member must notify the System in writing not later than four (4) months after the member's return to his or her job duties with the participating employer, or termination of employment with the participating employer, or termination of the temporary total disability benefits, whichever is earlier, of the member's desire to receive participating service credit for the period of absence,
- c. the participating employer must certify to the System in writing the dates during which temporary total disability benefits payments were paid to the member, and
- d. the member and the participating employer shall each pay their respective contributions required for the period of absence without interest within sixty (60) days of invoicing by the System, or with interest of seven and one-half percent (7 1/2%) compounded annually if paid after said sixty (60) days.

B. Participating service shall be credited as follows:

1. A member shall receive credit for participating service with a participating employer in accordance with the rules and regulations established by the Board; provided, however, that a member who is not a full-time employee shall receive prorated credit for actual hours worked;

2. Leaves of absence shall not count as a break in continuous employment provided the member leaves his or her accumulated contribution on deposit with the fund; however, the leaves of absence shall not be credited except that involuntary furloughs established by Office of Management and Enterprise Services rules, involuntary furloughs of employees of a district attorney conducted in substantial compliance with the rules of the Office of Management and Enterprise Services as certified by the District Attorneys Council, involuntary furloughs of employees pursuant to a furlough plan adopted by the President Pro Tempore of the Senate or the Speaker of the House of Representatives as authorized in Section

840-5.1 of this title and involuntary furloughs of employees authorized by the Oklahoma Supreme Court shall be credited;

3. Any member who has served in the Armed Forces of the United States, as defined in paragraph (23) of Section 902 of this title, shall be granted participating service for those periods of active military service during which he or she was a war veteran provided this service is immediately preceded by a period of employment with a participating employer and is followed by return to employment as an employee with the same or another participating employer within ninety (90) days immediately following discharge from such military service provided the member leaves his or her accumulated contributions on deposit with the fund;

4. A period of total disability under the System immediately followed by employment with a participating employer, shall not count as a break in continuous employment; provided, that such periods while not employed shall not be credited except that involuntary furloughs established by Office of Management and Enterprise Services Rule 6.13, shall be credited;

5. Termination of employment with a participating employer followed by employment with the same or another participating employer within four (4) calendar months shall not constitute a break in continuous employment; provided, that such period while not employed shall not be credited as participating service;

6. Provided, however, that all employee contributions required by this act made by employees prior to June 30, 1977, will entitle the employee to additional years of participating service in accordance with the following schedule.

Employee accumulated contributions:

More than \$1.00 up to \$500	= 1 year participating service
More than \$500 up to \$1,000	= 2 years participating service
More than \$1,000 up to \$1,500	= 3 years participating service
More than \$1,500 up to \$2,000	= 4 years participating service
More than \$2,000	= 5 years participating service

In no event shall the employee be entitled to more than five (5) additional years of participating service as provided hereunder.

Provided further, that upon termination of employment prior to retirement, the accumulated contributions will be credited as above indicated to establish a vested benefit if so elected by any such employee; and

7. a. The total participating service credit of a member who retires or terminates employment and elects a vested benefit shall include not to exceed one hundred thirty (130) days of unused sick leave accumulated subsequent to August 1, 1959, during the member's employment with any participating employer. Such credit shall be added in terms of whole months. Twenty (20) days of unused sick leave shall equal one (1) month for

purposes of participating service credit. If unused sick leave entitles a member to an additional year of service credit, the member's employer shall reimburse the System for the cost of funding the additional benefit. For members who join the System on or after November 1, 2012, if unused sick leave entitles a member to any additional service credit, the member's employer shall reimburse the System for the cost of funding the additional benefit. Each participating employer shall provide the System with adequate and timely information necessary to determine additional benefits and its cost under this paragraph. This subparagraph shall apply to members retiring or vesting on or after July 1, 1984.

- b. For members who join the System on or after November 1, 2012, unused sick leave as set forth in subparagraph a of this paragraph shall be credited at the same rate but not used to round up to another year. Instead, any additional months of unused sick leave credit shall be added to other service credit without rounding.

C. In determining the number of years of credited service, a fractional year of six (6) months or more shall be considered as one (1) year, and less than six (6) months shall be disregarded. For members who join the System on or after November 1, 2012, the number of years of credited service shall be based on actual years and full months of credited service without rounding up or down.

D. A member may receive credit for those years of credited service accumulated by the member while a member of the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System, or the Teachers' Retirement System of Oklahoma, if the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system. To receive the service credit, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title.

E. A member may receive credit for those years of service accumulated by the member as an elected official if the member is not receiving or eligible to receive retirement credit or benefits from said service in any public retirement system. Prior to January 1, 1991, to receive the service credit, the member shall pay to the Board for each year of service purchased pursuant to this subsection a sum equal to the employee and employer contribution rate that would have been applicable to the member as determined by the Board and interest of not to exceed five percent (5%), and effective January 1, 1991, to receive the service credit, the member shall pay

the amount determined by the Board pursuant to Section 913.5 of this title.

F. Effective December 12, 1994, and thereafter, a leave of absence on account of a period of qualified military service in the uniformed services of the United States within the meaning of Section 414(u)(5) of the federal Internal Revenue Code, followed by a return to employment with the participating employer within ninety (90) days after completion of the period of service may be eligible for credited service under this System. Notwithstanding any provision of this plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be allowed in accordance with Section 414(u) of the federal Internal Revenue Code.

G. 1. An active member of the Oklahoma Public Employees Retirement System may receive credit for those years of service accumulated by the member while a member of the Teachers' Retirement System of Oklahoma if:

- a. the member is an active member of the Oklahoma Public Employees Retirement System, and
- b. the member provides notice to the Teachers' Retirement System of Oklahoma and the Oklahoma Public Employees Retirement System of the member's election to transfer said retirement credit. The notice shall include a list of the years to be transferred, and
- c. the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system, notwithstanding the years of service sought to be transferred under this subsection.

Members electing to take advantage of the transfer authorized by this subsection who are receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system shall have all service credit with the Teachers' Retirement System of Oklahoma canceled which is not transferred to the Oklahoma Public Employees Retirement System or used as a cash offset in such a transfer pursuant to subparagraph d of paragraph 2 of this subsection. Service credit transferred to the Teachers' Retirement System of Oklahoma under this subsection shall also be canceled with the Oklahoma Public Employees Retirement System.

2. For purposes of this subsection, the "sending system" shall mean the Teachers' Retirement System of Oklahoma. The "receiving system" shall mean the Oklahoma Public Employees Retirement System.

- a. Within thirty (30) days notification of an intent to transfer is received by the sending system, the sending system shall, according to its own rules and regulations:

- (1) for members who have vested with the sending system, determine the present value of the member's earned benefits attributable to the years of service sought to be transferred, discounted according to the member's age at the time of transfer and computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation but shall not make any projections regarding future salary. For vested employees the sending system shall use the product of this calculation for purposes of determining the transfer fee to be paid by the employee under subparagraph c of this paragraph so long as it is greater than the product of the calculation in this division, and
  - (2) determine the sum of the employee and employer contributions applicable to the years of service sought to be transferred plus interest consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation. For all nonvested members, and for vested members if the product of this calculation is greater than the product of the calculation in division (1) of this subparagraph, the sending system shall use the product of this calculation for purposes of determining the amount to be transferred by the sending system under subparagraph c of this paragraph and any transfer fee to be paid by the members under subparagraph d of this paragraph.
- b. Within thirty (30) days after notification of an intent to transfer is received by the receiving system, the receiving system shall determine, according to the system's own rules and regulations, the present value of the member's incremental projected benefits discounted according to the member's age at the time of the transfer. Incremental projected benefits shall be the difference between the projected benefit said member would receive without transferring the service credit and the projected benefit after transfer of service credit computed as of the earliest age at which the member would be able

to retire. Said computation shall assume an unreduced benefit and be computed using interest, salary projections and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation.

- c. The sending system shall, within sixty (60) days from the date notification of an intent to transfer is received by the sending system, transfer to the receiving system the amount determined in subparagraph a of this paragraph. Except, if the cost under subparagraph a of this paragraph for the same years of service to the sending system is greater than the actuarial value of the incremental benefit in the receiving system, as established in subparagraph b of this paragraph, the sending system shall send the receiving system an amount equal to the actuarial value of the incremental projected benefit in the receiving system.
- d. In order to receive the credit provided for in paragraph 1 of this subsection, if the cost of the actuarial value of the incremental benefit to the receiving system is greater than the cost as calculated under subparagraph a of this paragraph for the same years of service to the sending system as established in subparagraphs a and b of this paragraph, the employee shall elect to:
  - (1) pay any difference to receive full credit for the years sought to be transferred, or
  - (2) receive prorated service credit for only the amount received from the Teachers' Retirement System of Oklahoma pursuant to this subsection.Such an election shall be made in writing, filed with the System prior to receiving the credit provided for in paragraph 1 of this subsection, and shall be irrevocable.

3. Within sixty (60) days of successfully completing all of the requirements for transfer under this subsection, the sending system shall pay the receiving system any amount due under this subsection. Within sixty (60) days of successfully completing all of the requirements for transfer under this subsection, the member shall pay the receiving system any amount due under this subsection. In the event that the member is unable to pay the transfer fee provided for in this subsection by the due date, the Board of Trustees of the receiving system shall permit the member to amortize the transfer fee over a period not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the Board of Trustees



permits an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings each year. Any member who ceases to make payment, terminates, retires or dies before completing the payments provided for in this section shall receive prorated service credit for only those payments made, unless the unpaid balance is paid by said member, his or her estate or successor in interest within six (6) months after said member's death, termination of employment or retirement, provided no retirement benefits shall be payable until the unpaid balance is paid, unless said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance.

4. Years of service transferred pursuant to this subsection shall be used both in determining the member's retirement benefit and in determining the years of service for retirement and/or vesting purposes. Years of service rendered as a member of the Teachers' Retirement System of Oklahoma prior to July 1, 1992, if any, shall be deemed to be years of service rendered as a member of the Oklahoma Public Employees Retirement System prior to July 1, 1992, and shall qualify such person as a member of the Oklahoma Public Employees Retirement System before July 1, 1992.

5. Notwithstanding the requirements of Section 17-104 of Title 70 of the Oklahoma Statutes, members electing to take advantage of the transfer authorized by this subsection who have withdrawn their contributions from the sending system shall remit to the sending system the amount of the accumulated contributions the member has withdrawn plus simple interest of ten percent (10%) per annum prior to making said election or the election shall be deemed invalid and the transfer shall be canceled. If such an election is deemed invalid and the transfer is canceled, the accumulated contribution remitted to the sending system by the member who originally withdrew their contributions shall be returned to the member. The member's rights and obligations regarding any service credit reestablished in the sending system due to a failure to satisfy the requirements of this subsection shall be determined by the sending system in accordance with Section 17-101 et seq. of Title 70 of the Oklahoma Statutes.

6. If any member fails for any reason to satisfy the requirements of this subsection, the election to transfer retirement credit shall be void and of no effect, and any retirement credited as a result of this transfer shall be canceled. If such retirement credit is canceled, the years of canceled retirement credit which were unsuccessfully transferred to the receiving system from the sending system shall be reestablished in the sending system. The member's rights and obligations regarding any retirement credit reestablished in the sending system due to a failure to satisfy the requirements of this subsection shall be determined by the sending

system in accordance with Section 17-101 et seq. of Title 70 of the Oklahoma Statutes.

7. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection.

H. 1. A member of the Teachers' Retirement System of Oklahoma whose last service with the Teachers' Retirement System of Oklahoma was with an entity or institution within The Oklahoma State System of Higher Education, State Board of Education, State Board of Career and Technology Education, Oklahoma Department of Career and Technology Education, Oklahoma School of Science and Mathematics, Oklahoma Center for the Advancement of Science and Technology, State Department of Rehabilitation Services, Oklahoma State Regents for Higher Education, Department of Corrections, State Department of Education, Oklahoma Board of Private Vocational Schools, Board of Regents of Oklahoma Colleges, Oklahoma Student Loan Authority, or the Teachers' Retirement System of Oklahoma, may elect to receive credit for those years of service accumulated by the member in the Teachers' Retirement System of Oklahoma, pursuant to this subsection. A member shall be eligible to elect to transfer credit for such years of service from the Teachers' Retirement System of Oklahoma to the Oklahoma Public Employees Retirement System if:

- a. the member is an active member of the Oklahoma Public Employees Retirement System,
- b. the member provides notice to the Teachers' Retirement System of Oklahoma and the Oklahoma Public Employees Retirement System of the member's election to transfer such retirement credit. The notice shall include a list of the years to be transferred, and
- c. the member is not receiving or eligible to receive retirement credit or benefits from such service in any other public retirement system, notwithstanding the years of service sought to be transferred under this subsection.

Members electing to take advantage of the transfer authorized by this subsection shall have all service credit with the Teachers' Retirement System of Oklahoma canceled which is transferred to the Oklahoma Public Employees Retirement System.

2. For purposes of this subsection, the "sending system" shall mean the Teachers' Retirement System of Oklahoma. The "receiving system" shall mean the Oklahoma Public Employees Retirement System. Within thirty (30) days after notification of an intent to transfer is received by the sending system, the sending system shall, according to its own rules, send to the receiving system all employer and employee contributions made on behalf of the member which were made to the sending system plus an additional amount of earnings based on the actuarial assumed rate of the sending system. Upon receipt of these contributions by the receiving system, the

receiving system shall give credit to the transferring member in an amount equal to the years of service accrued in the sending system.

3. If the transferring member's normal retirement date calculation is based upon the sum of the member's age and number of years of credited service totaling eighty (80) in the sending system, then the member shall retain such calculation in the receiving system.

4. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection.

I. A member of the System in the employment of the Governor, the State Senate or the House of Representatives, on or after July 1, 1999, may make an election prior to December 31, 2000, which shall be irrevocable and on a form prescribed for such purpose by the System, to continue participation in the System upon becoming employed by a participating employer of the Teachers' Retirement System of Oklahoma. The Board shall promulgate all rules necessary to implement the provisions of this subsection.

Added by Laws 1963, c. 50, § 13, emerg. eff. May 6, 1963. Amended by Laws 1965, c. 432, § 3, emerg. eff. July 9, 1965; Laws 1968, c. 400, § 2, emerg. eff. May 17, 1968; Laws 1969, c. 349, § 6, emerg. eff. May 13, 1969; Laws 1970, c. 296, § 5, emerg. eff. April 28, 1970; Laws 1973, c. 279, § 4, emerg. eff. May 30, 1973; Laws 1974, c. 239, § 1, operative July 1, 1974; Laws 1975, c. 267, § 4, emerg. eff. June 5, 1975; Laws 1976, c. 207, § 3, emerg. eff. June 7, 1976; Laws 1977, c. 147, § 5, eff. July 1, 1977; Laws 1979, c. 285, § 6, eff. July 1, 1979; Laws 1981, c. 316, § 1, eff. July 1, 1981; Laws 1982, c. 65, § 1, emerg. eff. March 30, 1982; Laws 1984, c. 267, § 2, operative July 1, 1984; Laws 1985, c. 300, § 4, emerg. eff. July 24, 1985; Laws 1987, c. 236, § 184, emerg. eff. July 20, 1987; Laws 1988, c. 267, § 30, operative July 1, 1988; Laws 1989, c. 327, § 5, eff. July 1, 1989; Laws 1990, c. 340, § 38, eff. July 1, 1990; Laws 1992, c. 376, § 15, eff. July 1, 1992; Laws 1993, c. 322, § 19, emerg. eff. June 7, 1993; Laws 1994, c. 370, § 4, eff. July 1, 1994; Laws 1995, c. 329, § 2, eff. July 1, 1995; Laws 1996, c. 3, § 23, emerg. eff. March 6, 1996; Laws 1997, c. 255, § 1, eff. July 1, 1997; Laws 1998, c. 419, § 13, eff. July 1, 1998; Laws 1999, c. 257, § 33, eff. July 1, 1999; Laws 2000, c. 377, § 13, eff. July 1, 2000; Laws 2001, c. 5, § 57, emerg. eff. March 21, 2001; Laws 2003, c. 406, § 17, eff. July 1, 2003; Laws 2004, c. 5, § 101, emerg. eff. March 1, 2004; Laws 2004, c. 359, § 1, emerg. eff. May 27, 2004; Laws 2005, c. 1, § 136, emerg. eff. March 15, 2005; Laws 2010, c. 392, § 4, emerg. eff. June 7, 2010; Laws 2012, c. 155, § 1, eff. Nov. 1, 2012; Laws 2013, c. 15, § 111, emerg. eff. April 8, 2013; Laws 2018, c. 21, § 1, eff. Nov. 1, 2018.

NOTE: Laws 1984, c. 166, § 10 repealed by Laws 1985, c. 300, § 11, emerg. eff. July 24, 1985. Laws 1995, c. 302, § 2 repealed by Laws 1996, c. 3, § 25, emerg. eff. March 6, 1996. Laws 2000, c. 311, § 3

repealed by Laws 2001, c. 5, § 58, emerg. eff. March 21, 2001. Laws 2003, c. 359, § 4 repealed by Laws 2004, c. 5, § 102, emerg. eff. March 1, 2004. Laws 2004, c. 275, § 16 repealed by Laws 2005, c. 1, § 137, emerg. eff. March 15, 2005. Laws 2012, c. 304, § 928 repealed by Laws 2013, c. 15, § 112, emerg. eff. April 8, 2013.

§74-913.1. District court reporters - Credit for prior service.

All court reporters of the district court shall be entitled to credit for all years of prior service as a court reporter in any court of record in the State of Oklahoma for purposes of participation in the Oklahoma Public Employees Retirement System, provided they are otherwise eligible for prior service under said System. No court reporter shall be entitled to participation in the Uniform Retirement System for Justices and Judges. Laws 1969, c. 328, § 6, emerg. eff. May 7, 1969; Laws 1973, c. 279, § 5, emerg. eff. May 30, 1973.

§74-913.1a. Nonclassified optional education personnel - Service credit.

A member may receive credit in the Oklahoma Public Employees Retirement System for those years of service accumulated by the member as nonclassified optional personnel as defined by paragraph 4 of Section 17-101 of Title 70 of the Oklahoma Statutes if the member is not receiving or eligible to receive retirement credit or benefits from said service in any public retirement system. To receive the service credit, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title. Added by Laws 1993, c. 134, § 1, emerg. eff. May 4, 1993.

§74-913.2. Rights of Justices or Judges not affected - Prohibition on becoming members.

The provisions of this act shall not operate either to enlarge or to diminish any rights any Justice or Judge of the Supreme Court, Court of Criminal Appeals, Court of Appeals, State Industrial Court or district court may now have under the provisions of the Oklahoma Public Employees Retirement System, and no Justice or Judge of the above named courts shall be eligible to become a member of the Oklahoma Public Employees Retirement System. Laws 1973, c. 279, § 8, emerg. eff. May 30, 1973.

§74-913.4. See the following versions:

OS 74-913.4v1 (HB 2516, Laws 2018, c. 21, § 2).

OS 74-913.4v2 (SB 527, Laws 2018, c. 44, § 4).

§74-913.4v1. Elected officials - Election to participate in plan - Computation factor - Benefits.

A. 1. Except as otherwise provided in this subsection, an elected official may elect to participate in the System and if he or she elects to do so shall have the option of participating at any one of the computation factors set forth in paragraph 3 or 4 of this subsection and will receive retirement benefits in accordance with the computation factor chosen. The election on participation in the System must be in writing, must specify the computation factor chosen, and must be filed with the System within ninety (90) days after the elected official takes office. The election to participate and the election of a computation factor shall be irrevocable. Reelection to the same office will not permit new elections. Failure of an elected official to file such election form within the ninety-day period shall be deemed an irrevocable election to participate in the System at the maximum computation factor.

2. Contributions and benefits will be based upon the elected official's annual compensation as defined in Section 902 of this title. Employer and elected official contributions shall be remitted at least monthly, or as the Board may otherwise provide, to the System for deposit in the Oklahoma Public Employees Retirement Fund. Effective July 1, 1994, and thereafter, the participating employer shall contribute as provided in Section 920 of this title.

3. Except as provided in paragraph 4 of this subsection, effective July 1, 1994, the computation factor selected and the corresponding elected official contribution rate shall be as follows:

Elected official Contribution Rate	Computation Factor	Alternate Formula
4.5%	1.9%	\$12.50
6%	2.5%	\$20.00
7.5%	3.0%	\$25.00
8.5%	3.4%	\$27.50
9%	3.6%	\$30.00
10%	4.0%	\$40.00

4. Elected officials who are first elected or appointed to an elected office on or after November 1, 2010, shall elect a computation factor of either 1.9% or 4%. The elected official contribution rate for the 1.9% computation factor is currently 4.5% and the contribution rate for the 4% computation factor is currently 10%. All other computation factors and contribution rates set forth in paragraph 3 of this subsection shall not be available to any person first elected or appointed to an elected office on or after November 1, 2010.

5. The contribution rate for elected officials who are first elected or appointed to an elected office on or after November 1, 2011, shall be in the amount specified in paragraph (a) of subsection (1) of Section 919.1 of this title. The amount of the

retirement benefit for elected officials who are first elected or appointed to an elected office on or after November 1, 2011, shall be based on the provisions of paragraph (1) of subsection A of Section 915 of this title.

6. The computation factors and corresponding elected official contribution rates provided for in paragraphs 3 and 4 of this subsection shall be based on the entire compensation as an elected official subject to the definition and maximum compensation levels as set forth in paragraph (9) of Section 902 of this title.

7. Elected officials who are first elected or appointed on or after November 1, 2011, shall also be eligible to make the election of an alternate multiplier and contribution rate pursuant to paragraph 2 of subsection A of Section 915 of this title.

8. A statewide elected official or legislator whose first service as an elected official occurs on or after November 1, 2015, shall become a participant in the defined contribution system created by Sections 935.1 through 935.11 of this title and such elected official shall not accrue any service credit in the defined benefit plan of the Oklahoma Public Employees Retirement System created pursuant to Section 901 et seq. of this title.

B. The normal retirement date for an elected official shall be the first day of the month coinciding with or following the official's sixtieth birthday or the first day of the month coinciding with or following the date at which the sum of the elected official's age and number of years of credited service total eighty (80). The normal retirement date for an elected official first elected or appointed to an elected office on or after November 1, 2011, shall be the first day of the month coinciding with or following the official's sixty-fifth birthday or the date upon which the elected or appointed official attains the age of sixty-two (62) and who has at least ten (10) years of elected or appointed service. Any elected official first elected or appointed to an elected office before November 1, 2011, who has a minimum of ten (10) years' participating service may retire under the early retirement provisions of this act, including those electing a vested benefit and shall receive an adjustment of annual benefits in accordance with the following percentage schedule:

Age	Percentage of Normal Retirement Benefits
60	100%
59	94%
58	88%
57	82%
56	76%
55	70%

Any elected official first elected or appointed to an elected office on or after November 1, 2011, who has a minimum of ten (10)

years' elected or appointed service may retire under the early retirement provisions of this act, including those electing a vested benefit and shall receive an adjustment of annual benefits in accordance with the following percentage schedule:

Age	Percentage of Normal Retirement Benefits
62	100%
61	93.33%
60	86.67%

C. 1. Any elected official shall receive annual benefits computed based upon the computation factor selected multiplied by the member's highest annual compensation received as an elected official prior to retirement or termination of employment multiplied by the number of years of credited service. No elected official shall retire using such highest annual compensation unless the elected official has made the required election and has paid the required contributions on such salary.

2. The retirement benefit may be computed pursuant to the provisions of paragraph (1) of subsection A of Section 915 of this title if the benefit would be higher. Elected officials who have a vested benefit prior to July 1, 1980, may elect to receive annual benefits based on the alternate formula provided above. Such annual benefits shall be paid in equal monthly installments.

3. Elected officials who become members of the Oklahoma Public Employees Retirement System on or after August 22, 2008, will receive retirement benefits in accordance with the computation factor selected pursuant to subsection A of this section multiplied by the member's highest annual compensation received as an elected official and only for those years of credited service the member served as an elected official. If such elected official has participating service as a nonelected member, then such nonelected service shall be computed separately pursuant to the provisions of paragraph (1) of subsection A of Section 915 of this title with the final benefit result added to the final benefit result for elected service. In no event shall the elected official be entitled to apply the computation factor selected pursuant to subsection A of this section or the compensation received as an elected official to the computation of nonelected service.

4. Elected officials who are first elected or appointed to an elected office on or after August 22, 2008, may not receive a maximum benefit greater than their single highest annual compensation received as a member of the Oklahoma Public Employees Retirement System.

D. Any elected official making an election to participate at a computation factor less than the maximum and later selecting a higher computation factor shall contribute to the System a sum equal to the amount which the elected official would have contributed if

the elected official had made such election at the time the elected official first became eligible, plus interest as determined by the Board, in order to receive the additional benefits for all service as an elected official; otherwise, the additional benefits shall be applicable only to service for which the elected official pays the appropriate percent of contributions to the System.

E. The surviving spouse of a deceased elected official who was first elected or appointed to an elected office before November 1, 2011, and who has at least six (6) years of participating service and the surviving spouse of a deceased elected official who was first elected or appointed to an elected office on or after November 1, 2011, and who has at least eight (8) years of participating service shall be entitled to receive survivor benefits in the amount herein prescribed, if married to the decedent continuously for a period of at least three (3) years immediately preceding the elected official's death. Provided the elected official had met the service requirements, survivor benefits shall be payable when the deceased member would have met the requirements for normal or early retirement. The amount of the benefits the surviving spouse may receive shall be fifty percent (50%) of the amount of benefits the deceased elected official was receiving or will be eligible to receive. Elected officials may elect a retirement option as provided in Section 918 of this title in lieu of the survivors benefit provided above.

F. Any elected official who served in the Armed Forces of the United States, as defined in paragraph (23) of Section 902 of this title, prior to membership in the Oklahoma Public Employees Retirement System shall be granted credited service of not to exceed five (5) years for those periods of active military service during which the elected official was a war veteran.

G. Anyone appointed or elected to an elected position after July 1, 1990, shall not be eligible to receive benefits as provided in this section until such person has participated as an elected official for six (6) years. Anyone appointed or elected to an elected position on or after November 1, 2011, shall not be eligible to receive benefits as provided in this section until such person has participated as an elected official for eight (8) years.

H. Elected officials who terminate participation in the System and who have a minimum of six (6) years of participating service shall be entitled to elect a vested benefit and shall be entitled to the retirement options as provided in Section 918 of this title in lieu of the survivors benefit provided in subsection E of this section. Elected officials, first elected or appointed to an elected office on or after November 1, 2011, who terminate participation in the System and who have a minimum of eight (8) years of participating service shall be entitled to elect a vested benefit and shall be entitled to retirement options as provided in



Section 918 of this title in lieu of the survivors benefits provided in subsection E of this section.

I. In determining the number of years of credited service, a fractional year of six (6) months or more shall be considered as one (1) year, and less than six (6) months or more shall be disregarded. For members who joined the System on or after November 1, 2011, the number of years of credited service shall be based on actual years and months of credited service without rounding up or down.

Added by Laws 1980, c. 317, § 4, eff. July 1, 1980. Amended by Laws 1982, c. 319, § 4, operative July 1, 1982; Laws 1986, c. 238, § 6, operative July 1, 1986; Laws 1987, c. 236, § 185, emerg. eff. July 20, 1987; Laws 1988, c. 267, § 31, operative July 1, 1988; Laws 1989, c. 251, § 1, eff. Sept. 1, 1989; Laws 1990, c. 57, § 1, eff. July 1, 1990; Laws 1994, c. 383, § 9, eff. July 1, 1994; Laws 1995, c. 1, § 36, emerg. eff. March 2, 1995; Laws 1995, c. 302, § 3, eff. July 1, 1995; Laws 1998, c. 317, § 11, eff. July 1, 1998; Laws 1999, c. 257, § 35, eff. July 1, 1999; Laws 2003, c. 486, § 5, eff. Jan. 1, 2004; Laws 2008, c. 105, § 1; Laws 2010, c. 435, § 2, eff. July 1, 2010; Laws 2011, c. 206, § 2, eff. Nov. 1, 2011; Laws 2012, c. 109, § 2, eff. July 1, 2012; Laws 2013, c. 15, § 113, emerg. eff. April 8, 2013; Laws 2014, c. 375, § 12, eff. Nov. 1, 2014; Laws 2017, c. 94, § 2, eff. Nov. 1, 2017; Laws 2018, c. 21, § 2, eff. Nov. 1, 2018.

NOTE: Laws 1987, c. 206, § 91 vetoed July 1, 1987.

NOTE: Laws 1994, c. 381, § 4 repealed by Laws 1995, c. 1, § 40, emerg. eff. March 2, 1995. Laws 2012, c. 155, § 2 repealed by Laws 2013, c. 15, § 114, emerg. eff. April 8, 2013.

§74-913.4v2. Elected officials - Election to participate in plan - Computation factor - Benefits.

A. 1. Except as otherwise provided in this subsection, an elected official may elect to participate in the System and if he or she elects to do so shall have the option of participating at any one of the computation factors set forth in paragraph 3 or 4 of this subsection and will receive retirement benefits in accordance with the computation factor chosen. The election on participation in the System must be in writing, must specify the computation factor chosen, and must be filed with the System within ninety (90) days after the elected official takes office. The election to participate and the election of a computation factor shall be irrevocable. Reelection to the same office will not permit new elections. Failure of an elected official to file such election form within the ninety-day period shall be deemed an irrevocable election to participate in the System at the maximum computation factor.

2. Contributions and benefits will be based upon the elected official's annual compensation as defined in Section 902 of this

title. Employer and elected official contributions shall be remitted at least monthly, or as the Board may otherwise provide, to the System for deposit in the Oklahoma Public Employees Retirement Fund. Effective July 1, 1994, and thereafter, the participating employer shall contribute as provided in Section 920 of this title.

3. Except as provided in paragraph 4 of this subsection, effective July 1, 1994, the computation factor selected and the corresponding elected official contribution rate shall be as follows:

Elected official Contribution Rate	Computation Factor	Alternate Formula
4.5%	1.9%	\$12.50
6%	2.5%	\$20.00
7.5%	3.0%	\$25.00
8.5%	3.4%	\$27.50
9%	3.6%	\$30.00
10%	4.0%	\$40.00

4. Elected officials who are first elected or appointed to an elected office on or after November 1, 2010, shall elect a computation factor of either 1.9% or 4%. The elected official contribution rate for the 1.9% computation factor is currently 4.5% and the contribution rate for the 4% computation factor is currently 10%. All other computation factors and contribution rates set forth in paragraph 3 of this subsection shall not be available to any person first elected or appointed to an elected office on or after November 1, 2010.

5. The contribution rate for elected officials who are first elected or appointed to an elected office on or after November 1, 2011, shall be in the amount specified in paragraph (a) of subsection (1) of Section 919.1 of this title. The amount of the retirement benefit for elected officials who are first elected or appointed to an elected office on or after November 1, 2011, shall be based on the provisions of paragraph (1) of subsection A of Section 915 of this title.

6. The computation factors and corresponding elected official contribution rates provided for in paragraphs 3 and 4 of this subsection shall be based on the entire compensation as an elected official subject to the definition and maximum compensation levels as set forth in paragraph (9) of Section 902 of this title.

7. Elected officials who are first elected or appointed on or after November 1, 2011, shall also be eligible to make the election of an alternate multiplier and contribution rate pursuant to paragraph 2 of subsection A of Section 915 of this title.

8. A statewide elected official or legislator whose first service as an elected official occurs on or after November 1, 2015, shall become a participant in the defined contribution system created by Sections 1 through 11 of this act and such elected

official shall not accrue any service credit in the defined benefit plan of the Oklahoma Public Employees Retirement System created pursuant to Section 901 et seq. of this title.

9. Notwithstanding the provisions of paragraph 8 of this subsection, a statewide elected official or legislator who is first elected or appointed on or after November 1, 2018, and who has participating service in the defined benefit plan prior to November 1, 2015, shall be a member of the defined benefit plan.

B. The normal retirement date for an elected official shall be the first day of the month coinciding with or following the official's sixtieth birthday or the first day of the month coinciding with or following the date at which the sum of the elected official's age and number of years of credited service total eighty (80). The normal retirement date for an elected official first elected or appointed to an elected office on or after November 1, 2011, shall be the first day of the month coinciding with or following the official's sixty-fifth birthday or the date upon which the elected or appointed official attains the age of sixty-two (62) and who has at least ten (10) years of elected or appointed service. Any elected official first elected or appointed to an elected office before November 1, 2011, who has a minimum of ten (10) years' participating service may retire under the early retirement provisions of this act, including those electing a vested benefit and shall receive an adjustment of annual benefits in accordance with the following percentage schedule:

Age	Percentage of Normal Retirement Benefits
60	100%
59	94%
58	88%
57	82%
56	76%
55	70%

Any elected official first elected or appointed to an elected office on or after November 1, 2011, who has a minimum of ten (10) years' participating service may retire under the early retirement provisions of this act, including those electing a vested benefit and shall receive an adjustment of annual benefits in accordance with the following percentage schedule:

Age	Percentage of Normal Retirement Benefits
62	100%
61	93.33%
60	86.67%

C. 1. Any elected official shall receive annual benefits computed based upon the computation factor selected multiplied by the member's highest annual compensation received as an elected

official prior to retirement or termination of employment multiplied by the number of years of credited service. No elected official shall retire using such highest annual compensation unless the elected official has made the required election and has paid the required contributions on such salary.

2. The retirement benefit may be computed pursuant to the provisions of paragraph (1) of subsection A of Section 915 of this title if the benefit would be higher. Elected officials who have a vested benefit prior to July 1, 1980, may elect to receive annual benefits based on the alternate formula provided above. Such annual benefits shall be paid in equal monthly installments.

3. Elected officials who become members of the Oklahoma Public Employees Retirement System on or after August 22, 2008, will receive retirement benefits in accordance with the computation factor selected pursuant to subsection A of this section multiplied by the member's highest annual compensation received as an elected official and only for those years of credited service the member served as an elected official. If such elected official has participating service as a nonelected member, then such nonelected service shall be computed separately pursuant to the provisions of paragraph (1) of subsection A of Section 915 of this title with the final benefit result added to the final benefit result for elected service. In no event shall the elected official be entitled to apply the computation factor selected pursuant to subsection A of this section or the compensation received as an elected official to the computation of nonelected service.

4. Elected officials who are first elected or appointed to an elected office on or after August 22, 2008, may not receive a maximum benefit greater than their single highest annual compensation received as a member of the Oklahoma Public Employees Retirement System.

D. Any elected official making an election to participate at a computation factor less than the maximum and later selecting a higher computation factor shall contribute to the System a sum equal to the amount which the elected official would have contributed if the elected official had made such election at the time the elected official first became eligible, plus interest as determined by the Board, in order to receive the additional benefits for all service as an elected official; otherwise, the additional benefits shall be applicable only to service for which the elected official pays the appropriate percent of contributions to the System.

E. The surviving spouse of a deceased elected official who was first elected or appointed to an elected office before November 1, 2011, and who has at least six (6) years of participating service and the surviving spouse of a deceased elected official who was first elected or appointed to an elected office on or after November 1, 2011, and who has at least eight (8) years of participating

service shall be entitled to receive survivor benefits in the amount herein prescribed, if married to the decedent continuously for a period of at least three (3) years immediately preceding the elected official's death. Provided the elected official had met the service requirements, survivor benefits shall be payable when the deceased member would have met the requirements for normal or early retirement. The amount of the benefits the surviving spouse may receive shall be fifty percent (50%) of the amount of benefits the deceased elected official was receiving or will be eligible to receive. Elected officials may elect a retirement option as provided in Section 918 of this title in lieu of the survivors benefit provided above.

F. Any elected official who served in the Armed Forces of the United States, as defined in paragraph (23) of Section 902 of this title, prior to membership in the Oklahoma Public Employees Retirement System shall be granted credited service of not to exceed five (5) years for those periods of active military service during which the elected official was a war veteran.

G. Anyone appointed or elected to an elected position after July 1, 1990, shall not be eligible to receive benefits as provided in this section until such person has participated as an elected official for six (6) years. Anyone appointed or elected to an elected position on or after November 1, 2011, shall not be eligible to receive benefits as provided in this section until such person has participated as an elected official for eight (8) years.

H. Elected officials who terminate participation in the System and who have a minimum of six (6) years of participating service shall be entitled to elect a vested benefit and shall be entitled to the retirement options as provided in Section 918 of this title in lieu of the survivors benefit provided in subsection E of this section. Elected officials, first elected or appointed to an elected office on or after November 1, 2011, who terminate participation in the System and who have a minimum of eight (8) years of participating service shall be entitled to elect a vested benefit and shall be entitled to retirement options as provided in Section 918 of this title in lieu of the survivors benefits provided in subsection E of this section.

I. In determining the number of years of credited service, a fractional year of six (6) months or more shall be considered as one (1) year, and less than six (6) months or more shall be disregarded. For members who joined the System on or after November 1, 2011, the number of years of credited service shall be based on actual years and months of credited service without rounding up or down.

Added by Laws 1980, c. 317, § 4, eff. July 1, 1980. Amended by Laws 1982, c. 319, § 4, operative July 1, 1982; Laws 1986, c. 238, § 6, operative July 1, 1986; Laws 1987, c. 236, § 185, emerg. eff. July 20, 1987; Laws 1988, c. 267, § 31, operative July 1, 1988; Laws

1989, c. 251, § 1, eff. Sept. 1, 1989; Laws 1990, c. 57, § 1, eff. July 1, 1990; Laws 1994, c. 383, § 9, eff. July 1, 1994; Laws 1995, c. 1, § 36, emerg. eff. March 2, 1995; Laws 1995, c. 302, § 3, eff. July 1, 1995; Laws 1998, c. 317, § 11, eff. July 1, 1998; Laws 1999, c. 257, § 35, eff. July 1, 1999; Laws 2003, c. 486, § 5, eff. Jan. 1, 2004; Laws 2008, c. 105, § 1; Laws 2010, c. 435, § 2, eff. July 1, 2010; Laws 2011, c. 206, § 2, eff. Nov. 1, 2011; Laws 2012, c. 109, § 2, eff. July 1, 2012; Laws 2013, c. 15, § 113, emerg. eff. April 8, 2013; Laws 2014, c. 375, § 12, eff. Nov. 1, 2014; Laws 2017, c. 94, § 2, eff. Nov. 1, 2017; Laws 2018, c. 44, § 4, eff. Nov. 1, 2018.

NOTE: Laws 1987, c. 206, § 91 vetoed July 1, 1987.

NOTE: Laws 1994, c. 381, § 4 repealed by Laws 1995, c. 1, § 40, emerg. eff. March 2, 1995. Laws 2012, c. 155, § 2 repealed by Laws 2013, c. 15, § 114, emerg. eff. April 8, 2013.

§74-913.5. Service credit - Computation of purchase price - Amortizing cost of returning withdrawn or unremitted contributions.

A. The Board of Trustees shall adopt rules for computation of the purchase price for service credit. These rules shall base the purchase price for each year purchased on the actuarial cost of the incremental projected benefits to be purchased. The purchase price shall represent the present value of the incremental projected benefits discounted according to the member's age at the time of purchase. Incremental projected benefits shall be the difference between the projected benefit said member would receive without purchasing the service credit and the projected benefit after purchase of the service credit computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation.

B. In the event that the member is unable to pay the purchase price provided for in this section by the due date, the Board of Trustees shall permit the members to amortize the purchase price over a period not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the State Board permits an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings each year. Any member who ceases to make payment, terminates, retires or dies before completing the payments provided for in this section shall receive prorated service credit for only those payments made, unless the unpaid balance is paid by said member, his or her estate or successor in interest within six (6) months after said member's death, termination of employment or retirement, provided no

retirement benefits shall be payable until the unpaid balance is paid, unless said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection.

C. Current contributing members who, as former members, withdrew their accumulated contributions, contributing elected members who at the time of initial eligibility to participate as a member of the System elected not to participate, and/or contributing elected members who at the time of eligibility to participate as a member of the System elected to participate but did not elect to participate at the maximum contribution rate may amortize the cost of returning the withdrawn contributions, unremitted contributions or required actuarial cost over a period of not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the Board of Trustees permits an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings each year. Any member who ceases to make payments, terminates, retires or dies before completing the payments provided in this subsection shall be refunded all related payments made, and all related credited service and other related benefits shall be canceled unless the unpaid balance is paid by said member, his or her estate or successor in interest within six (6) months after said member's death, termination of employment or retirement. No retirement benefits shall be payable until the unpaid balance is paid, unless said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection.

Added by Laws 1990, c. 340, § 39, eff. July 1, 1990. Amended by Laws 1993, c. 322, § 20, emerg. eff. June 7, 1993; Laws 1995, c. 302, § 4, eff. July 1, 1995; Laws 1999, c. 257, § 36, eff. July 1, 1999.

§74-913.6. Repealed by Laws 1999, c. 257, § 48, eff. July 1, 1999.

§74-913.7. Transferred employees of George Nigh Rehabilitation Institute - Election to continue membership in Oklahoma Public Employees Retirement System.

A. An employee transferred pursuant to the provisions of Section 3 of this act may elect to remain as a member of the Oklahoma Public Employees Retirement System and if the employee elects to do so, shall file an election on a form prescribed for that purpose with the Oklahoma Public Employees Retirement System not later than December 31, 1999, or the employee may elect to become a member of the Teachers' Retirement System of Oklahoma and

if the employee elects to do so shall file an election on a form prescribed for that purpose with the Teachers' Retirement System of Oklahoma not later than December 31, 1999.

B. If an employee files the election provided for in subsection A of this section to continue membership in the Oklahoma Public Employees Retirement System, the employer to which the employee is transferred shall pay the required employer contributions applicable to the participating employers in the Oklahoma Public Employees Retirement System pursuant to Section 920 of Title 74 of the Oklahoma Statutes and the employee shall continue to pay employee contributions as required by Section 919.1 of Title 74 of the Oklahoma Statutes.

C. Until an employee files an election pursuant to subsection A of this section, the employee shall continue to be a member of the Oklahoma Public Employees Retirement System and the employer to which the employee is transferred shall make required employer contributions pursuant to Section 920 of Title 74 of the Oklahoma Statutes.

D. If an employee transferred pursuant to Section 3 of this act elects a vested benefit to be paid from the Oklahoma Public Employees Retirement System, and if the employee has accumulated sick leave, on June 30, 1999, equal to or in excess of one hundred thirty (130) days then, notwithstanding the actual amount of accumulated sick leave the employee has accrued on the date as of which the vested benefit is elected, the provisions of Section 913 of Title 74 of the Oklahoma Statutes shall be applicable to the computation of participating service credit based upon accumulated sick leave for such employee.

Added by Laws 1999, c. 347, § 4, eff. July 1, 1999.

#### §74-913.8. Military service credit - payment.

A. Any active member of the Oklahoma Public Employees Retirement System whose initial membership in the System began on or after July 1, 2000, may receive up to five (5) years of prior or participating military service credit as otherwise provided in this act, only upon payment of the amount determined by the Board pursuant to Section 913.5 of this title.

B. For a member of the System hired on or after July 1, 2003, if the military service credit authorized by this section is used to compute the retirement benefit of the member and the member retires from the System, such military service credit shall not be used to compute the retirement benefit in any other retirement system created pursuant to the Oklahoma Statutes and the member may receive credit for such service only in the retirement system from which the member first retires.

Added by Laws 2000, c. 311, § 4, eff. July 1, 2000. Amended by Laws 2003, c. 406, § 18, eff. July 1, 2003.



§74-913.9. Retirement - Annual leave and sick leave.

A. All persons employed by CompSource Oklahoma prior to the effective date of this act shall remain members of the Oklahoma Public Employees Retirement System until retirement or termination.

B. Effective January 1, 2015, for all employees who remain members of the Oklahoma Public Employees Retirement System pursuant to subsection A of this section, CompSource Mutual Insurance Company shall pay the required employer contributions applicable to the participating employers in the Oklahoma Public Employees Retirement System pursuant to Section 920 of Title 74 of the Oklahoma Statutes and the employee shall continue to pay employee contributions as required by Section 919.1 of Title 74 of the Oklahoma Statutes.

C. All employees of CompSource Mutual Insurance Company who remain members of the Oklahoma Public Employees Retirement System pursuant to subsection A of this section shall continue to be eligible employees for purposes of Sections 901 through 932 of Title 74 of the Oklahoma Statutes. CompSource Mutual Insurance Company shall be considered a participating employer, as defined by paragraph (25) of Section 902 of Title 74 of the Oklahoma Statutes only for such employees.

D. No person initially employed by CompSource Mutual Insurance Company after the effective date of this act shall be allowed to participate in the Oklahoma Public Employees Retirement System during the term of their employment with the Company, regardless of whether that employee was previously employed by a participating employer in the Oklahoma Public Employees Retirement System including CompSource Oklahoma.

E. 1. All annual leave and sick leave accumulated prior to January 1, 2015, by an employee who remains a member of the Oklahoma Public Employees Retirement System pursuant to subsection A of this section will be recognized by the CompSource Mutual Insurance Company, subject to all accrual limitations in the Oklahoma Statutes.

2. Effective January 1, 2015, employees of CompSource Mutual Insurance Company shall not accrue annual leave and sick leave pursuant to Section 840-2.20 of Title 74 of the Oklahoma Statutes, but may accrue annual leave and sick leave according to a policy established by the Chief Executive Officer of CompSource Mutual Insurance Company at a rate not to exceed that of state employees under Title 74 of the Oklahoma Statutes.

3. The total participating service credit of a member who retires or terminates employment and elects a vested benefit shall include unused sick leave not to exceed the limitation imposed by paragraph 7 of subsection B of Section 913 of Title 74 of the Oklahoma Statutes. If unused sick leave entitles a member to an additional year of service credit, the CompSource Mutual Insurance

Company shall reimburse the System for the cost of funding the additional reserve. CompSource Mutual Insurance Company shall provide the System with adequate and timely information necessary to determine additional benefits and its cost under this paragraph. Added by Laws 2013, c. 254, § 14.

§74-913a. Employee denied membership in System or forced to discontinue participation for certain reasons - Service credit for years denied participation - Contributions.

Any employee who was denied membership in the Oklahoma Public Employees Retirement System or was forced to discontinue participation in the System as a result of receiving a retirement benefit from another retirement plan authorized under any other law of this state may receive credit for those years of service accumulated by the employee during the time the employee was denied participation. To receive this service credit, the member shall pay to the Board prior to January 1, 1991, for each year of service purchased pursuant to this subsection, a ten percent (10%) contribution and interest of ten percent (10%), provided however, effective January 1, 1991, to receive the service credit, the member shall pay the amount determined by the Board pursuant to Section 39 of this act. Any person purchasing service credit pursuant to this subsection shall not be eligible for prior or participating service credit if the member is receiving or eligible to receive service credit for such time in any other state retirement plan. Added by Laws 1990, c. 340, § 37, eff. July 1, 1990.

§74-913b. Purchase of incentive credit.

A. A member of the Oklahoma Public Employees Retirement System who is employed and participating with a participating employer may purchase not to exceed two (2) years of incentive credit if:

1. The member has reached his or her normal retirement date or is within two (2) years of reaching the member's normal retirement date as defined in Section 902 of Title 74 of the Oklahoma Statutes; or

2. The member is eligible for or is within two (2) years of being eligible for early retirement pursuant to Section 914 of Title 74 of the Oklahoma Statutes.

B. Purchased incentive credit may only be used as participation service and/or an addition to the member's age to qualify the member for normal or early retirement.

C. To receive the incentive credit, the member shall pay the amount determined by the Board pursuant to Section 913.5 of Title 74 of the Oklahoma Statutes.

Added by Laws 1993, c. 322, § 21, emerg. eff. June 7, 1993. Amended by Laws 2003, c. 486, § 4, eff. July 1, 2003.

§74-913c. Termination credit.

A. A member of the Oklahoma Public Employees Retirement System who has six (6) or more years of full-time-equivalent employment with a participating employer, and who is terminated by a state agency or other state governmental entity because the member's position is eliminated through a reduction-in-force after July 1, 1998, and:

1. Is within three (3) years of a normal retirement date as defined in subparagraph (a) of paragraph (24) of Section 902 of this title; or

2. Is within six (6) years of a normal retirement date as defined in subparagraph (b) of paragraph (24) of Section 902 of this title or in subparagraph (c) of paragraph (24) of Section 902 of this title,

may purchase termination credit of a period not to exceed the lesser of three (3) years or the number of years or months or both years and months required in order for the member to reach normal retirement date in the same period of time and with the same service credit which would have otherwise accrued if the termination had not occurred.

B. In order to receive the termination credit authorized by this section, the member shall be required to file an election with the System indicating an intent to purchase the credit. The member shall have a period of six (6) months from the date the member is terminated as described in subsection A of this section within which to file the election.

C. To purchase the termination credit, the member shall be required to make payment to the System of an amount equal to both the employer and employee contributions which would have been paid to the System based upon the compensation as defined in paragraph (9) of Section 902 of this title, which was received by the member in the last full month that the member was employed by the state agency or other state governmental entity multiplied by the number of months required in order for the combination of the participating service and member's age to equal the amount required for the member to reach normal retirement date with an unreduced benefit as if the member had not been terminated.

D. The member must make full payment to the System of all required contribution amounts within sixty (60) days of filing the election to purchase the credit. The member must vest his or her benefits with a declared future retirement date as of the first month the member is eligible for normal retirement. Failure to make the full payment to the System of the required contribution amounts, for any reason, within the time prescribed, shall result in cancellation of the election provided pursuant to this section, and return of the purchase amount tendered, without interest.

E. Purchased termination credit may only be used as service credit to qualify the member for normal retirement. Eligible members may purchase termination credit or the incentive credit authorized pursuant to Section 913b of this title, but may not purchase both termination credit and incentive credit. This purchase will not be used in the calculation for final average compensation.

F. If the member chooses to retire at any time prior to the member's normal retirement date or returns to employment with a participating employer of the System at any time prior to retirement, the purchase of termination credit pursuant to this section shall be void and the System will return the purchase amount tendered, without interest.

G. In the event of the death of the member prior to retirement, the member's spouse, if otherwise eligible for benefits pursuant to paragraph (5) of Section 918 of this title, may elect to receive benefits which include the termination credit on the member's declared future retirement date, or may elect to receive a return of the purchase amount tendered, without interest.

Added by Laws 1997, c. 285, § 1, emerg. eff. May 28, 1997. Amended by Laws 1998, c. 256, § 10, eff. July 1, 1998; Laws 1999, c. 257, § 34, eff. July 1, 1999.

§74-913d. Repealed by Laws 1998, c. 256, § 11, eff. July 1, 1998.

§74-913e. Purchase of service credit.

Notwithstanding any other provision of law to the contrary, the spouse of a person who initially became a member of the system in January 1999, and such member dies within one month of meeting the required six (6) years of full-time-equivalent employment with a participating employer for normal retirement purposes, shall be allowed to elect to purchase at the actuarial cost of up to one month of service to meet the six (6) years of full-time employment. The election pursuant to this section shall be made on or before September 1, 2005, and payment shall be made to the Oklahoma Public Employees Retirement System on or before December 31, 2005. Upon receipt of payment by the system, the electing spouse shall begin receiving benefits pursuant to Option B as provided in Section 918 of Title 74 of the Oklahoma Statutes.

Added by Laws 2005, c. 471, § 1, eff. July 1, 2005.

§74-914. Retirement.

A. The normal retirement date for a member of the Oklahoma Public Employees Retirement System shall be as defined in Section 902 of this title, provided members employed on or after January 1, 1983, shall have six (6) or more years of full-time-equivalent employment with a participating employer before receiving any

retirement benefits or if the member is a legislative session employee of the Legislature, shall have three (3) or more years of full-time-equivalent employment with a participating employer before receiving any retirement benefits. In no event shall a normal retirement date for a member be before six (6) months after the entry date of the participating employer by whom he or she is employed.

B. A member may be employed beyond the normal retirement date by the appointing authority of the participating employer. However, the member may not receive retirement pay so long as the member continues employment under this act. Any member who has terminated employment with a participating employer prior to the month immediately preceding said member's normal retirement date must elect a vested benefit pursuant to Section 917 of this title before receiving any retirement benefits.

C. Notice for retirement shall be filed through the retirement coordinator for the participating employer in such form and manner as the Board shall prescribe; provided, that such notice for retirement shall be filed with the office of the retirement system at least sixty (60) days prior to the date selected for the member's retirement; provided further, that the Executive Director may waive the sixty-day notice for good cause shown as defined by the Board.

1. The participating employer shall provide the System with the following information for a retiring member, no later than the fifteenth day of the month of retirement: last day physically on the job; last day on payroll; and final unused sick leave balance.

2. Failure to submit this information by the deadline, or errors in submitted information that result in a disqualification of retirement eligibility shall be the responsibility of the participating employer. In cases where the error results in disqualification of retirement eligibility, it is the participating employer's responsibility to reemploy the member, or retain the member on the payroll, for time period required to reach eligibility, not exceeding two (2) months.

D. No retirement benefits shall be payable to any member until the first day of the month following the termination of the member's employment with any participating employer. The type of retirement benefit selected by a member may not be changed on or after the effective date of the member's retirement. Receipt of workers' compensation benefits shall in no respect disqualify the retiree for benefits.

E. If a retiree should be elected or appointed to any position or office for which compensation for service is paid from levies or taxes imposed by the state or any political subdivision thereof, the retiree shall not receive any retirement benefit for any month for which the retiree serves in such position or office after the retiree has received compensation in a sum equal to the amount

allowable as wages or earnings by the Social Security Administration in any calendar year. This subsection shall not apply to service rendered by a retiree as a juror, as a witness in any legal proceeding or action, as an election board judge or clerk, or in any other office or position of a similar nature, or to an employer that is not a participating employer. Provided, further, that any participating employer who is employing such a retiree shall make proper written notification to the System informing it of the beginning date of such retiree's employment and the date such retiree reaches the maximum compensation allowed by this section in the calendar year. Any retiree returning to work for a participating employer shall make contributions to the System and the employer shall do likewise. All retirees who have returned to employment and participation in the System following retirement shall have post-retirement benefits calculated on one of the following methods:

1. All service accumulated from date of reemployment shall be computed based on the benefit formula applicable at that time and the additional benefits shall be added to the previous benefits. Such additional benefits shall be calculated each year based upon additional service accrued from July 1 to June 30 of the previous year and the additional benefit, if any, will be added to the retiree's monthly benefit beginning January 1, 2000, and each January 1 thereafter. However, the post-retirement service credit shall be cumulative, beginning with service credit accrued after the date of retirement, provided that the retiree has not received a distribution of the post-retirement contributions.

2. Any retiree who returns to employment with a participating employer may elect not to receive any retirement benefits while so reemployed. If such an election is made and reemployment is for a minimum period of thirty-six (36) consecutive months, all service accumulated from date of reemployment shall be participating service. For purposes of determining the retirement benefits of such a member upon the termination of such reemployment all creditable service of the member shall be computed based on the benefit formula applicable at the time of termination of such reemployment. Provided, a retiree who became reemployed prior to July 1, 1982, and who is reemployed for a minimum of thirty-six (36) consecutive months shall have all the creditable service of such retiree computed based on the benefit formula applicable at the time of termination of such reemployment if the retiree elects not to receive retirement benefits prior to such termination of reemployment. A retiree who has waived receipt of the monthly benefit, but is not reemployed for the full thirty-six (36) consecutive months, shall upon termination of such reemployment have only the additional amount added to his or her benefit as if they

had not waived the benefit as provided in paragraph 1 of this subsection.

3. All post-retirement additional benefits shall be calculated using actual hours worked as well as the actual compensation received and upon which contributions are paid. Post-retirement service is not subject to the partial year round-up provisions of subsection C of Section 913 of this title.

4. A retired member who returns to work for a participating employer pursuant to this section shall be bound by the election made pursuant to paragraph (2) of subsection A of Section 915 of this title if the member had made such election prior to retirement. If the member had not made such election prior to retirement, the member may do so during the member's reemployment with a participating employer pursuant to this section. A retired member may not be rehired by their former employer, nor may the retired member be permitted to enter into an employment contract of any kind with a former employer, for a period of one (1) year after the retired member ended his or her employment with the former employer unless the retired member waives his or her benefit under paragraph 2 of this subsection and returns as a bona fide employee.

F. Except as otherwise provided by subsection G of this section, any member may elect to retire before his or her normal retirement date on the first day of any month coinciding with or following the attainment of age fifty-five (55), provided such member has completed ten (10) years of participating service, but in no event before six (6) months after the entry date. Any member who shall retire before the normal retirement date shall receive an annual retirement benefit adjusted in accordance with the following percentage schedule:

Age	Percentage of Normal Retirement Benefit
62	100.00%
61	93.33%
60	86.67%
59	80.00%
58	73.33%
57	66.67%
56	63.33%
55	60.00%

G. Any member whose first participating service occurs on or after November 1, 2011, may elect to retire before his or her normal retirement date on the first day of any month coinciding with or following the attainment of age sixty (60), provided such member has completed ten (10) years of participating service, but in no event before six (6) months after the entry date. Any member who shall retire before the normal retirement date shall receive an annual

retirement benefit adjusted in accordance with the following percentage schedule:

Age	Percentage of Normal Retirement Benefit
65	100.00%
64	93.33%
63	86.67%
62	80.00%
61	73.33%
60	66.67%

Added by Laws 1963, c. 50, § 14, emerg. eff. May 6, 1963. Amended by Laws 1965, c. 432, § 4, emerg. eff. July 9, 1965; Laws 1968, c. 158, § 1, emerg. eff. April 11, 1968; Laws 1973, c. 279, § 6, emerg. eff. May 30, 1973; Laws 1974, c. 139, § 1, emerg. eff. May 3, 1974; Laws 1976, c. 207, § 4, emerg. eff. June 7, 1976; Laws 1979, c. 285, § 8, eff. July 1, 1979; Laws 1980, c. 6, § 1, emerg. eff. Feb. 25, 1980; Laws 1980, c. 317, § 5, eff. July 1, 1980; Laws 1982, c. 319, § 5, operative July 1, 1982; Laws 1989, c. 327, § 6, eff. July 1, 1989; Laws 1990, c. 341, § 4, eff. July 1, 1990; Laws 1993, c. 19, § 1, emerg. eff. March 26, 1993; Laws 1993, c. 322, § 23, emerg. eff. June 7, 1993; Laws 1994, c. 381, § 5, eff. July 1, 1994; Laws 1997, c. 255, § 2, eff. July 1, 1997; Laws 1999, c. 257, § 37, eff. July 1, 1999; Laws 2003, c. 486, § 6, eff. Jan. 1, 2004; Laws 2007, c. 367, § 1, eff. July 1, 2007; Laws 2008, c. 415, § 9, eff. July 1, 2008; Laws 2010, c. 435, § 3, eff. July 1, 2010; Laws 2011, c. 206, § 3, eff. Nov. 1, 2011; Laws 2013, c. 159, § 2, eff. July 1, 2013. NOTE: Laws 1974, c. 100, § 1 repealed by Laws 1976, c. 207, § 9, emerg. eff. June 7, 1976.

§74-915. Amount of retirement benefit.

A. (1) Except as otherwise provided in this subsection and as provided for elected officials in Section 913.4 of this title, any member who shall retire on or after the member's normal retirement date shall be entitled to receive an annual retirement benefit equal to two percent (2%) of the member's final average compensation as determined pursuant to paragraph (18) of Section 902 of this title, multiplied by the number of years of credited service that has been credited to the member in accordance with the provisions of Section 913 of this title other than years credited pursuant to paragraph (2) of this subsection.

(2) Effective January 1, 2004, except as otherwise provided for elected officials in Section 913.4 of this title and except for those members making contributions pursuant to paragraphs (c), (d) and (e) of subsection (1) of Section 919.1 of this title, any member who shall retire shall be entitled to receive an annual retirement benefit equal to two and one-half percent (2 1/2%) of the member's final average compensation as determined pursuant to paragraph (18)



of Section 902 of this title, multiplied by the number of full years of participating service after January 1, 2004, that have been credited to the member in accordance with the provisions of Section 913 of this title and only for those full years of participating service for which contributions have been made pursuant to paragraph (f) of subsection (1) of Section 919.1 of this title. The two and one-half percent (2 1/2%) multiplier shall not apply to purchased service, purchased or granted military service or transferred service. In order to receive the two and one-half percent (2 1/2%) multiplier in computing retirement benefits, an active member shall make an irrevocable written election to pay the contributions pursuant to paragraph (f) of subsection (1) of Section 919.1 of this title. The two and one-half percent (2 1/2%) multiplier pursuant to this paragraph shall not apply to additional years of service credit attributed to sick leave pursuant to paragraph 7 of subsection B of Section 913 of this title and fractional years pursuant to subsection C of Section 913 of this title and shall be attributable only to the participating service credited after the election of the member.

(3) The minimum final average compensation for any person who becomes a member of the System on or after July 1, 1995:

- a. and who had twenty (20) or more years of credited service within the System as of the member's retirement date shall be no less than Thirteen Thousand Eight Hundred Dollars (\$13,800.00) per annum,
- b. and who had at least fifteen (15) but not more than nineteen (19) years of credited service within the System as of the member's retirement date shall be no less than Six Thousand Nine Hundred Dollars (\$6,900.00) per annum,
- c. and who had less than fifteen (15) years of credited service within the System as of the member's retirement date shall not be eligible for any minimum amount of final average compensation and the member's final average compensation shall be the final average compensation as defined by paragraph (18) of Section 902 of this title.

(4) Provided, further, any member who has elected a vested benefit pursuant to Section 917 of this title shall be entitled to receive benefits as outlined in this section except the percent factor and the member's maximum compensation level in effect the date the member's employment was terminated with a participating employer shall be applicable.

(5) Any member who is a correctional officer or a probation and parole officer employed by the Department of Corrections at the time of retirement and who retires on or before June 30, 2000, shall be entitled to receive an annual retirement benefit equal to two and

one-half percent (2 1/2%) of the final average compensation of the member not to exceed Twenty-five Thousand Dollars (\$25,000.00) and two percent (2%) of the final average salary in excess of Twenty-five Thousand Dollars (\$25,000.00) but not exceeding the maximum compensation level as provided in paragraph (9) of Section 902 of this title, multiplied by the number of years of service as a correctional officer or a probation and parole officer, provided, any years accrued prior to July 1, 1990, as a correctional officer or a probation and parole officer by a member who is employed as a correctional officer or a probation and parole officer on July 1, 1990, shall be calculated for retirement purposes at two and one-quarter percent (2 1/4%) of the final average compensation of the member not to exceed Twenty-five Thousand Dollars (\$25,000.00) and two percent (2%) of the final average salary in excess of Twenty-five Thousand Dollars (\$25,000.00) but not exceeding the maximum compensation level as provided in paragraph (9) of Section 902 of this title, multiplied by the number of years of such service and any years in excess of twenty (20) years as such an officer or years credited to the member in accordance with the provisions of Section 913 of this title shall be calculated for retirement purposes at two percent (2%) of the final average compensation of the member multiplied by the number of years of such service. Any person who contributes to the System as a correctional officer or a probation and parole officer as provided in paragraph (c) of subsection (1) of Section 919.1 of this title, on or before June 30, 2000, but who does not make such contributions after June 30, 2000, and who does not qualify for normal retirement under subparagraph (c) of paragraph (24) of Section 902 of this title shall have retirement benefits for each year of full-time-equivalent participating service as a correctional or a probation and parole officer after July 1, 1990, computed on two and one-half percent (2 1/2%) of the final average compensation based upon those years as a correctional officer or a probation and parole officer. Provided, further, any fugitive apprehension agent shall be entitled to receive benefits as outlined in this act for service as a fugitive apprehension agent prior to July 1, 2002, only upon payment to the System of the employee contributions which would have been paid if such fugitive apprehension agent had been covered by this section prior to the effective date of this act, plus interest of not to exceed ten percent (10%) as determined by the Board. The Department of Corrections may make the employee contribution and interest payment on behalf of such member.

(6) Any member who is a correctional officer, a probation and parole officer or a fugitive apprehension agent employed by the Department of Corrections at the time of retirement and who retires on or after July 1, 2002, shall be entitled to receive an annual retirement benefit equal to two and one-half percent (2 1/2%) of the

final average compensation of the member, but not exceeding the maximum compensation level as provided in paragraph (18) of Section 902 of this title, multiplied by the number of years of service as a correctional officer, a probation and parole officer or a fugitive apprehension agent, and any years in excess of twenty (20) years as such an officer or agent, or years credited to the member in accordance with the provisions of Section 913 of this title, shall be calculated for retirement purposes at two percent (2%) of the final average compensation of the member multiplied by the number of years of such service. For purposes of this paragraph, "final average compensation" shall be determined by computing the average annual salary, in the manner prescribed by paragraph (18) of Section 902 of this title, for the highest three (3) years of the last ten (10) years of participating service immediately preceding retirement or termination of employment for all years of service performed by such member, both for years of service performed as a correctional officer, probation and parole officer or fugitive apprehension agent, not in excess of twenty (20) years, and for years of service performed in excess of twenty (20) years, whether as a correctional officer, probation and parole officer, fugitive apprehension agent or other position unless the computation of benefits would result in a lower retirement benefit amount than if final average compensation were to be computed as otherwise provided by this paragraph. "Final average compensation" shall be determined by computing the average annual salary for the highest five (5) of the last ten (10) years of participating service immediately preceding retirement or termination of employment, with respect to members whose first participating service occurs on or after July 1, 2013.

(7) Any member who is a correctional officer, a probation and parole officer or a fugitive apprehension agent who has at least five (5) years of service as a correctional officer, a probation and parole officer or a fugitive apprehension agent who is in such position on June 30, 2004, or who is hired after June 30, 2004, in such position, and who receives a promotion or change in job classification after June 30, 2004, to another position in the Department of Corrections, and who is employed by the Department of Corrections at the time of retirement and who retires on or after July 1, 2004, shall be entitled to receive an annual retirement benefit equal to two and one-half percent (2 1/2%) of the final average compensation of the member, but not exceeding the maximum compensation level as provided in paragraph (18) of Section 902 of this title, multiplied by the number of years of service with the Department of Corrections and any years in excess of twenty (20) years with the Department or years credited to the member in accordance with the provisions of Section 913 of this title, shall be calculated for retirement purposes at two percent (2%) of the final average compensation of the member multiplied by the number of

years of such service. For purposes of this paragraph, "final average compensation" shall be determined by computing the average annual salary, in the manner prescribed by paragraph (18) of Section 902 of this title, for the highest three (3) years of the last ten (10) years of participating service immediately preceding retirement or termination of employment for all years of service performed by such member with the Department. "Final average compensation" shall be determined by computing the average annual salary for the highest five (5) of the last ten (10) years of participating service immediately preceding retirement or termination of employment, with respect to members whose first participating service occurs on or after July 1, 2013.

(8) Any person who contributed to the System as a correctional officer, a probation and parole officer or a fugitive apprehension agent as provided in paragraphs (b) or (c) of subsection (1) of Section 919.1 of this title, and who retires under normal retirement or early retirement on or after January 1, 2004, under paragraph (24) of Section 902 of this title, and any public safety officer described by paragraph (37) of Section 902 of this title hired on or after the effective date of this act by the Grand River Dam Authority and who retires on or after the effective date of this act, shall have retirement benefits for each year of full-time-equivalent participating service as a correctional officer, a probation and parole officer or a fugitive apprehension agent, or Grand River Dam public safety officer computed on two and one-half percent (2 1/2%) of the final average compensation based upon those years as a correctional officer, a probation and parole officer, a fugitive apprehension agent or a Grand River Dam public safety officer. For purposes of this paragraph, "final average compensation" shall be determined by computing the average annual salary, in the manner prescribed by paragraph (18) of Section 902 of this title, for the highest three (3) years of the last ten (10) years of participating service immediately preceding retirement or termination of employment for all years of service performed by such member, both for years of service performed as a correctional officer, probation and parole officer or fugitive apprehension agent, or years of service performed as a Grand River Dam public safety officer, not in excess of twenty (20) years, and for years of service performed in excess of twenty (20) years, whether as a correctional officer, probation and parole officer, fugitive apprehension agent, Grand River Dam public safety officer, or other position unless the computation of benefits would result in a lower retirement benefit amount than if final average compensation were to be computed as otherwise provided by this paragraph. "Final average compensation" shall be determined by computing the average annual salary for the highest five (5) of the last ten (10) years of participating service immediately preceding retirement or

termination of employment, with respect to members whose first participating service occurs on or after July 1, 2013, or with respect to Grand River Dam public safety officers whose first participating service occurs on or after the effective date of this act.

(9) Any member who is:

- a. initially on or after July 1, 2002, employed as a firefighter for the Oklahoma Military Department and who retires on or after the member's normal retirement date shall be entitled to receive an annual retirement benefit equal to two and one-half percent (2 1/2%) of the final average compensation of the member multiplied by the number of years of service in such service,
- b.
  - (1) a firefighter who performs firefighting services for the Oklahoma Military Department prior to July 1, 2002, and who makes an election in writing on a form prescribed for this purpose by the System not later than December 31, 2002, shall be entitled to receive a retirement benefit based upon two and one-half percent (2 1/2%) of the final average compensation of the member multiplied by the number of years of service as a firefighter with the Oklahoma Military Department on or after July 1, 2002. The election authorized by this subdivision shall be irrevocable once the election is filed with the System,
  - (2) a firefighter who performs firefighting services for the Oklahoma Military Department prior to July 1, 2002, and who makes the election in division (1) of this subparagraph may also make an election in writing on a form prescribed for this purpose by the System not later than December 31, 2002, to receive a retirement benefit based upon two and one-half percent (2 1/2%) of the final average compensation of the member multiplied by the number of years of service as a firefighter with the Oklahoma Military Department prior to July 1, 2002. The election authorized by this subdivision shall be irrevocable once the election is filed with the System. Retirement benefits shall be calculated based upon the two and one-half percent (2 1/2%) multiplier upon payment being made pursuant to Section 913.5 of this title.

(10) Upon death of a retirant, there shall be paid to his beneficiary an amount equal to the excess, if any, of his accumulated contributions over the sum of all retirement benefit payments made.

(11) Such annual retirement benefits shall be paid in equal monthly installments, except that the Board may provide for the payment of retirement benefits which total less than Two Hundred Forty Dollars (\$240.00) a year on other than a monthly basis.

(12) Pursuant to the rules established by the Board, a retiree receiving monthly benefits from the System may authorize warrant deductions for any products currently offered to active state employees through the Employees Benefits Council, provided that product is offered to state retirees as a group and has a minimum participation of five hundred state retirees. The System has no responsibility for the marketing, enrolling or administration of such products, but shall retain a processing fee of two percent (2%) of the gross deductions for the products. Retirement benefit deductions shall be made for membership dues for any statewide association for which payroll deductions are authorized pursuant to subsection B of Section 34.70 of Title 62 of the Oklahoma Statutes for retired members of any state-supported retirement system, upon proper authorization given by the member to the board from which the member or beneficiary is currently receiving retirement benefits.

B. A member shall be considered disabled if such member qualifies for the payment of Social Security disability benefits, or the payment of benefits pursuant to the Railroad Retirement Act of 1974, Section 231 et seq. of Title 45 of the United States Code, and shall be eligible for benefits hereunder upon proof of such disability, provided such member is an active regularly scheduled employee with a participating employer at the time of injury or inception of illness or disease resulting in subsequent certification of eligibility for Social Security disability benefits by reason of such injury, illness or disease, providing such disability is certified by the Social Security Administration within one (1) year after the last date physically on the job and after completion of at least eight (8) years of participating service or combined prior and participating service or resulting in subsequent certification of eligibility of disability by the Railroad Retirement Board providing such certification is made by the Railroad Retirement Board within one (1) year after the last date physically on the job and after completion of at least eight (8) years of participating service or combined prior and participating service. The member shall submit to the Retirement System the Social Security Award Notice or the Railroad Retirement Award Notice certifying the date of entitlement for disability benefits, as issued by the Social Security Administration, Department of Health and Human Services or the Railroad Retirement Board. Disability

benefits shall become effective on the date of entitlement as established by the Social Security Administration or the Railroad Retirement Board, but not before the first day of the month following removal from the payroll, whichever is later, and final approval by the Retirement System. Benefits shall be based upon length of service and compensation as of the date of disability, without actuarial reduction because of commencement prior to the normal retirement date. The only optional form of benefit payment available for disability benefits is Option A as provided for in Section 918 of this title. Option A must be elected in accordance with the provisions of Section 918 of this title. Benefit payments shall cease upon the member's recovery from disability prior to the normal retirement date. Future benefits, if any, shall be paid based upon length of service and compensation as of the date of disability. In the event that disability ceases and the member returns to employment within the System credited service to the date of disability shall be restored, and future benefits shall be determined accordingly.

C. A member who incurred a disability pursuant to subsection B of this section on or after July 1, 1999, and who has retired from the System with an early retirement benefit pending certification from the Social Security Administration or the Railroad Retirement Board shall receive a retirement benefit not less than the disability retirement benefit provided by subsection B of this section once the System receives a Social Security Award Notice or a Railroad Retirement Award Notice pursuant to subsection B of this section and a completed Application for Disability Benefits. In addition, such member shall receive the difference, if any, between the early retirement benefit and the disability benefit from the date the Social Security Administration or the Railroad Retirement Board establishes disability entitlement.

D. Any actively participating member of the System on or after July 1, 1998, except for those employees provided in subparagraph (e) of paragraph (14) of Section 902 of this title, whose employment is less than full-time, shall have his or her final average compensation calculated on an annualized basis using his or her hourly wage subject to the maximum compensation limits; provided, however, any such member who has at least three (3) years of full-time employment during the last ten (10) years immediately preceding termination or retirement shall not be eligible for the annualization provisions contained herein. The Board of Trustees shall promulgate such administrative rules as are necessary to implement the provisions of this subsection.

Added by Laws 1963, c. 50, § 15, emerg. eff. May 6, 1963. Amended by Laws 1965, c. 432, § 5, emerg. eff. July 9, 1965; Laws 1968, c. 400, § 3, emerg. eff. May 17, 1968; Laws 1970, c. 296, § 6, emerg. eff. April 28, 1970; Laws 1973, c. 279, § 7, emerg. eff. May 30,

1973; Laws 1975, c. 267, § 5, operative July 1, 1975; Laws 1976, c. 207, § 5, emerg. eff. June 7, 1976; Laws 1979, c. 285, § 9, eff. July 1, 1979; Laws 1981, c. 316, § 2, eff. July 1, 1981; Laws 1985, c. 300, § 5, emerg. eff. July 24, 1985; Laws 1986, c. 238, § 7, operative July 1, 1986; Laws 1989, c. 84, § 1, operative July 1, 1989; Laws 1990, c. 324, § 2, operative July 1, 1990; Laws 1993, c. 322, § 24, emerg. eff. June 7, 1993; Laws 1994, c. 242, § 48; Laws 1994, c. 383, § 10, eff. July 1, 1994; Laws 1995, c. 302, § 5, eff. July 1, 1995; Laws 1997, c. 129, § 1, eff. July 1, 1997; Laws 1998, c. 419, § 14, eff. July 1, 1998; Laws 1999, c. 1, § 40, emerg. eff. Feb. 24, 1999; Laws 1999, c. 257, § 38, eff. July 1, 1999; Laws 2000, c. 379, § 2, eff. July 1, 2000; Laws 2002, c. 233, § 2, eff. July 1, 2002; Laws 2002, c. 376, § 2, eff. July 1, 2002; Laws 2003, c. 486, § 7, eff. Jan. 1, 2004; Laws 2004, c. 539, § 3, eff. July 1, 2004; Laws 2005, c. 1, § 138, emerg. eff. March 15, 2005; Laws 2013, c. 159, § 3, eff. July 1, 2013; Laws 2016, c. 297, § 21, eff. July 1, 2016; Laws 2018, c. 21, § 3, eff. Nov. 1, 2018.

NOTE: Laws 1998, c. 317, § 12 and Laws 1998, c. 360, § 4 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999. Laws 2004, c. 536, § 24 repealed by Laws 2005, c. 1, § 139, emerg. eff. March 15, 2005.

§74-915.1. Benefits subject to limitations in Section 415 of Internal Revenue Code - Excess benefit arrangements.

A. Benefits payable from the System may not exceed the maximum benefits specified by Section 415(b) of the federal Internal Revenue Code.

B. Subject to approval by the Internal Revenue Service, the Board may establish and maintain a qualified governmental excess benefit arrangement under Section 415(m) of the federal Internal Revenue Code. The Board may establish by rule the necessary and appropriate procedures for the administration of such benefit arrangement under the federal Internal Revenue Code. If the amount of any annual benefit would exceed the limitations imposed by Section 415 of the federal Internal Revenue Code, that excess amount may be paid from this benefit arrangement. The amount of any contribution that would exceed the limitations imposed by Section 415 of the federal Internal Revenue Code would be credited to this benefit arrangement. If established, the qualified excess benefit arrangement must be a separate portion of the retirement plan. The qualified excess benefit arrangement is subject to the following requirements:

1. The benefit arrangement shall be maintained solely for the purpose of providing to members in the retirement plan that part of the member's annual benefit otherwise payable under the terms of the act that exceed the limitation on benefits imposed by Section 415 of the federal Internal Revenue Code; and



2. Members do not have an election, directly or indirectly, to defer compensation to the excess benefit arrangement.  
Added by Laws 1988, c. 267, § 32, operative January 1, 1989.  
Amended by Laws 1990, c. 341, § 5, eff. July 1, 1990; Laws 1999, c. 257, § 39, eff. July 1, 1999.

§74-915.2. Modification of member contributions - Purchase of service credit - Rollover - Reduction or denial of contributions.

A. Subject to the provisions of this section, employee contributions made to the System shall not exceed the maximum annual additions permissible under Section 415 of the federal Internal Revenue Code. Notwithstanding any other provisions of law to the contrary, the Board may modify a request by a member to make a contribution to the System if the amount of the contribution would exceed the limits under Section 415(c) or Section 415(n) of the federal Internal Revenue Code subject to the following:

1. Where the System's law requires a lump-sum payment, for the purchase of service credit, the Board may establish a periodic payment plan in order to avoid a contribution in excess of the limits under Section 415(c) or Section 415(n) of the federal Internal Revenue Code. The Board may by rule adopt a procedure for the pick-up of contributions for the purchase of service. However, the implementation of the pick-up is subject to a favorable ruling by the Internal Revenue Service; and

2. An eligible member in the System, as defined by Section 1526 of the federal Taxpayer Relief Act of 1997, may purchase service credit without regard to the limitations of Section 415(c)(1) of the federal Internal Revenue Code as provided by state law in effect on August 5, 1997.

B. Notwithstanding any other provision of law to the contrary, the Board may by rule permit the System to accept rollovers for the purchase of service.

C. If the Board's options under subsection A or B of this section will not avoid a contribution in excess of the limits under Section 415(c) or Section 415(n) of the federal Internal Revenue Code, the Board shall reduce or deny the contributions.  
Added by Laws 1999, c. 257, § 40, eff. July 1, 1999.

§74-915.3. Alternate retirement benefit option.

On or before January 1, 2005, the Oklahoma Public Employees Retirement System shall implement a retirement benefit option for members retiring prior to being Medicare-eligible. The purpose of this option is to allow a person who retires prior to being Medicare-eligible to elect to receive an increased benefit to help cover the cost of the member and dependent health insurance premiums, if any, until such member is eligible to receive Medicare. Beginning in the month following such month that the member becomes

Medicare-eligible, his or her retirement benefit will be reduced by an actuarial amount. The alternative retirement benefit option shall be devised so that the increased pre-Medicare retirement benefit and the lower post-Medicare retirement benefit shall have a neutral actuarial cost to the System. The System may, but shall not be required to, make individual actuarial calculations; however, the actuarial reduction necessary to provide this alternative retirement benefit option shall be calculated after and in addition to any reduction necessary to provide a survivor benefit pursuant to Section 918 of this title. The increased pre-Medicare retirement benefit may not equal an individual's actual premium, but the formula used shall be based upon the retiree pre-Medicare health insurance premiums of the plans offered by the State and Education Employees Group Insurance Board at the time the member retires. The System shall on or before January 1 of each year update the formula based upon new health insurance premium data of the plans offered by the State and Education Employees Group Insurance Board to retired members. A member retiring under the alternative retirement benefit option shall have the member's retirement benefit based upon the formula in use at the time of retirement and shall not be amended thereafter to reflect further changes in health insurance premiums. A member electing to participate in the alternative retirement benefit option shall make an irrevocable election at the time of retirement to participate in such option. Provided further, that any married member making this election shall comply with the provisions of Section 918 of this title. The Board of Trustees of the Oklahoma Public Employees Retirement System shall promulgate such rules as are necessary to implement the provisions of this section.

No member shall be eligible to make the election provided for in this section until the Board receives official written notice that this alternative retirement benefit option satisfies the tax qualification requirements for governmental plans applicable to such benefit options as specified in the Internal Revenue Code of 1986, as amended from time to time and as applicable to governmental plans and the relevant regulatory provisions and guidance related thereto. Added by Laws 2004, c. 449, § 1, eff. July 1, 2004. Amended by Laws 2007, c. 367, § 2, eff. July 1, 2007.

§74-916. Death of member before retirement.

Except as otherwise provided for by law, the accumulated contributions of a member who dies before retirement shall be paid to the beneficiary of the member.

Amended by Laws 1985, c. 300, § 6, emerg. eff. July 24, 1985.

§74-916.1. Payments upon death - Waiver of probate procedures.

A. Upon the death of a retired member, the Oklahoma Public Employees Retirement System shall pay to the beneficiary of the member or if there is no beneficiary or if the beneficiary predeceases the member, to the estate of the member, the sum of Four Thousand Dollars (\$4,000.00) as a death benefit for those retired members who died prior to July 1, 1999. For those retired members who died on or after July 1, 1999, the sum shall be Five Thousand Dollars (\$5,000.00). The benefit payable pursuant to this subsection shall be deemed, for purposes of federal income taxation, as life insurance proceeds and not as a death benefit if the Internal Revenue Service approves this provision pursuant to a private letter ruling request which shall be submitted by the board of trustees of the System for that purpose.

B. Upon the death of a member who dies leaving no living beneficiary or having designated his estate as beneficiary, the System may pay any applicable death benefit, unpaid contributions, or unpaid benefit which may be subject to probate, in an amount of Twenty-five Thousand Dollars (\$25,000.00) or less, without the intervention of the probate court or probate procedure pursuant to Section 1 et seq. of Title 58 of the Oklahoma Statutes.

1. Before any applicable probate procedure may be waived, the System must be in receipt of the member's proof of death and the following documents from those persons claiming to be the legal heirs of the deceased member:

- a. the member's valid last will and testament, trust documents or affidavit that a will does not exist,
- b. an affidavit or affidavits of heirship which must state:
  - (1) the names and signatures of all claiming heirs to the deceased member's estate including the claiming heirs' names, relationship to the deceased, current addresses and current telephone numbers,
  - (2) a statement or statements by the claiming heirs that no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction,
  - (3) a description of the personal property claimed (i.e., death benefit or unpaid contributions or both), together with a statement that such personal property is subject to probate, and
  - (4) a statement by each individual claiming heir identifying the amount of personal property that the heir is claiming from the System, and that the heir has been notified of, is aware of and consents to the identified claims of all the

other claiming heirs of the deceased member pending with the System,

- c. a written agreement or agreements signed by all claiming heirs of the deceased member which provides that the claiming heirs release, discharge and hold harmless the System from any and all liability, obligations and costs which it may incur as a result of making a payment to any of the deceased member's heirs,
- d. a corroborating affidavit from an individual other than a claiming heir, who was familiar with the affairs of the deceased member, and
- e. proof that all debts of the deceased member, including payment of last sickness, hospital, medical, death, funeral and burial expenses have been paid or provided for.

2. The Executive Director of the System shall retain complete discretion in determining which requests for probate waiver may be granted or denied, for any reason. Should the System have any question as to the validity of any document presented by the claiming heirs, or as to any statement or assertion contained therein, the probate requirement provided for in Section 1 et seq. of Title 58 of the Oklahoma Statutes shall not be waived.

3. After paying any death benefits or unpaid contributions to any claiming heirs as provided pursuant to this subsection, the System is discharged and released from any and all liability, obligation and costs to the same extent as if the System had dealt with a personal representative of the deceased member. The System is not required to inquire into the truth of any matter specified in this subsection or into the payment of any estate tax liability.

C. Death benefits provided pursuant to this section may be assigned by the beneficiary to a person licensed as a funeral director or to a lawfully recognized business entity licensed as required by law to provide funeral services for the deceased member. Added by Laws 1987, c. 236, § 186, emerg. eff. July 20, 1987. Amended by Laws 1995, c. 94, § 1, eff. Nov. 1, 1995; Laws 1999, c. 167, § 6, eff. July 1, 1999; Laws 2001, c. 192, § 1, eff. July 1, 2001; Laws 2002, c. 352, § 6, eff. July 1, 2002; Laws 2010, c. 83, § 1, eff. Nov. 1, 2010; Laws 2013, c. 159, § 4, eff. July 1, 2013.

§74-916.2. Time for claiming death benefit, unpaid accumulated contributions or final monthly benefit.

All claims for payment of the death benefit, unpaid accumulated contributions of a deceased member or the final monthly benefit must be made within three (3) years of the date of death of the member. If no claim is made within three (3) years, payment of these monies

shall no longer be due and all such monies shall be forfeited to the System in the Oklahoma Public Employees Retirement Fund.  
Added by Laws 1993, c. 322, § 25, emerg. eff. June 7, 1993.

§74-916.3. Pension benefit on behalf of correctional, probation and parole officers killed in the line of duty - dependent children and education.

A. Notwithstanding the provisions of Sections 901 through 932 of this title, a monthly pension, as provided in subsection B of this section, shall be paid on behalf of any member who is a correctional officer or probation and parole officer of the Department of Corrections and who is killed or mortally wounded on or after January 1, 2000, during the performance of the member's duties for the Department or any employee of the Department of Corrections who is killed or mortally wounded after June 30, 2004, during the performance of the member's duties for the Department.

B. The monthly benefit shall be equal to:

1. Two and one-half percent (2 1/2%);
2. Multiplied by twenty (20) years of service, regardless of the actual number of years of credited service performed by the member prior to death, if the member had performed less than twenty (20) years of credited service, or the actual number of years of credited service of the member if greater than twenty (20) years;
3. Multiplied by the member's final average compensation; and
4. Divided by 12.

C. The pension provided for in subsection A of this section shall be paid:

1. Except as provided in subsection D of this section, to the surviving spouse for life; or

2. If there is no surviving spouse or upon the death of the surviving spouse:

- a. to the surviving child or children of said member or legal guardian of such child or children for such time as such child or children are under the age of eighteen (18) years, or
- b. to the surviving child or children between the age of eighteen (18) and twenty-two (22) years if the child is enrolled full time in and is regularly attending a public or private school or any institution of higher education.

D. No surviving spouse shall receive benefits from this section, Section 49-113 of Title 11 of the Oklahoma Statutes, Section 50-117 of Title 11 of the Oklahoma Statutes, or Section 2-306 of Title 47 of the Oklahoma Statutes as the surviving spouse of more than one member of the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Oklahoma Law Enforcement Retirement System, or the

Oklahoma Public Employees Retirement System. The surviving spouse of more than one member shall elect which member's benefits he or she will receive.

E. In addition to the pension above provided for, if said member leaves one or more children under the age of eighteen (18) years or under the age of twenty-two (22) years if the child is enrolled full-time in and is regularly attending a public or private school or any institution of higher education, Four Hundred Dollars (\$400.00) a month shall be paid to the surviving spouse or to the person having the care and custody of such children if there is no surviving spouse or if the surviving spouse dies and until each child reaches the age of eighteen (18) years or reaches the age of twenty-two (22) years if the child is enrolled full-time in and is regularly attending a public or private school or any institution of higher education.

F. The pension benefit provided in this section shall be made prospectively only from the effective date of this act. The benefits shall be payable beginning the later of the first day of the month following the date that such employee was killed or dies from a mortal wound, as provided in this section, or the effective date of this act.

G. The Board of the Oklahoma Public Employees Retirement System shall promulgate such rules as are necessary to implement the provisions of this section.

Added by Laws 2000, 1st Ex.Sess., c. 8, § 22, eff. July 1, 2000.

Amended by Laws 2004, c. 539, § 4, eff. July 1, 2004.

§74-917. Termination of employment - Payment - Vested benefits.

(1) Upon termination of employment with a participating employer, not followed by employment with such participating employer, or another participating employer, within four (4) calendar months, the member shall be paid an amount equal to the amount of money he or she has paid into the System upon the filing of the proper application with the System. Payment of these accumulated contributions may be made in less than four (4) calendar months only in the event that a member is not eligible to elect a vested benefit pursuant to this section and said member is terminally ill, as evidenced by a physician's certification that the member is not expected to live beyond four (4) months.

(2) If such member has completed eight (8) years of credited service at date of termination or if the member is a legislative session employee of the Legislature or if the employee is a session employee employed by the Legislative Service Bureau, four (4) years of credited service at date of termination, he may elect a vested benefit in lieu of receiving his accumulated contributions. The amount of the vested benefit shall commence at the normal retirement date and shall be paid monthly during the lifetime of the retirant

with the last payment made on the last day of the month in which death occurs.

(3) Upon death before the normal or early retirement date of a member who has elected a vested benefit, his accumulated contributions shall be paid to his beneficiary unless the spouse of the deceased member elects monthly benefits as provided for in Section 918 of this title.

(4) Upon death after the normal or early retirement date of a retirant who elected a vested benefit without an option, the excess, if any, of his accumulated contributions over the sum of all payments of the vested benefit made to date of death shall be paid to his beneficiary.

(5) If a former employee, who meets the eligibility requirements for membership, returns to employment after the expiration of four (4) calendar months following the termination of his employment and the employee has withdrawn his accumulated contributions, he may pay to the System the sum of the accumulated contributions he has withdrawn plus interest of not to exceed ten percent (10%), as determined by the Board, and shall receive the same benefits as if he had never withdrawn his contributions. No member shall be permitted to take advantage of the payback for restoration of creditable service more than one time. If a member, who has elected a vested benefit, or a reemployed member, who has not withdrawn the member's contributions, again becomes an employee of a participating employer, the period of absence shall not be counted as a break in service; however, the period of absence shall not be credited.

(6) Prior to January 1, 1991, members, who at the time of employment were ineligible for membership into the System due to their age, shall receive benefits for the period of ineligibility if the employer and employee contributions are paid the System for that ineligible period. No interest shall be paid on a payback of this type. However, effective January 1, 1991, to receive benefits, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title.

(7) When any error in calculation or participation coverage to a prior or current employee exists, it shall be the responsibility of the participating employer which made the error to pay the amount determined by the Board pursuant to Section 913.5 of this title. This obligation of the participating employer to pay the amount due pursuant to this section shall be considered a current obligation of the employer until the amount is paid in full, regardless of the dates of the periods of service.

(8) Upon application to the Board and payment as determined by the Board, a member of the System may receive service credit for those years of service that the member was eligible to receive service credit from the Teachers' Retirement System of Oklahoma. To

receive the service credit, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title.

(9) Upon the death of a retired member, the benefit payment for the month in which the retired member died, if not previously paid, shall be made to the beneficiary of the member or to the member's estate if there is no beneficiary. Such benefit payment shall be made in an amount equal to a full monthly benefit payment regardless of the day of the month in which the retired member died.

(10) Subject to the provisions of Sections 918 and 918.1 of this title, if there are two or more beneficiaries designated by the member, upon the member's death, the System shall pay any applicable benefits to any of the beneficiaries that have completed all required paperwork regardless of whether or not all beneficiaries have completed such paperwork.

Added by Laws 1963, c. 50, § 17, emerg. eff. May 6, 1963. Amended by Laws 1965, c. 432, § 6, emerg. eff. July 9, 1965; Laws 1975, c. 267, § 6, emerg. eff. June 5, 1975; Laws 1976, c. 207, § 6, emerg. eff. June 7, 1976; Laws 1979, c. 285, § 10, eff. July 1, 1979; Laws 1980, c. 317, § 6, eff. July 1, 1980; Laws 1982, c. 319, § 6, operative July 1, 1982; Laws 1985, c. 300, § 7, emerg. eff. July 24, 1985; Laws 1987, c. 236, § 187, emerg. eff. July 20, 1987; Laws 1988, c. 267, § 33, operative July 1, 1988; Laws 1989, c. 327, § 7, eff. July 1, 1989; Laws 1990, c. 340, § 41, eff. July 1, 1990; Laws 1991, c. 335, § 33, emerg. eff. June 15, 1991; Laws 1992, c. 376, § 16, eff. July 1, 1992; Laws 1993, c. 322, § 26, emerg. eff. June 7, 1993; Laws 1995, c. 302, § 6, eff. July 1, 1995; Laws 1998, c. 419, § 15, eff. July 1, 1998; Laws 1999, c. 1, § 41, emerg. eff. Feb. 24, 1999; Laws 1999, c. 387, § 2, eff. July 1, 1999; Laws 2002, c. 233, § 3, eff. July 1, 2002; Laws 2002, c. 376, § 3, eff. July 1, 2002; Laws 2003, c. 3, § 96, emerg. eff. March 19, 2003; Laws 2003, c. 406, § 19, eff. July 1, 2003; Laws 2004, c. 536, § 25, eff. July 1, 2004; Laws 2013, c. 159, § 5, eff. July 1, 2013.

NOTE: Laws 1975, c. 253, § 2 repealed by Laws 1976, c. 207, § 9, emerg. eff. June 7, 1976. Laws 1990, c. 324, § 3 repealed by Laws 1991, c. 335, § 37, emerg. eff. June 15, 1991. Laws 1998, c. 360, § 5 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999. Laws 2002, c. 29, § 1 repealed by Laws 2003, c. 3, § 97, emerg. eff. March 19, 2003.

§74-918. Retirement benefit payment options.

(1) Except as otherwise provided for in this section and Section 918.1 of this title, a member may elect to have the retirement benefit paid under one of the options provided in this section in lieu of having it paid in the form stated in Section 915 of this title. The election of an option must be made at any time prior to retirement or prior to termination of service with a vested benefit. A specific person must be designated as joint annuitant at



the time of election of Option A or B. Election of an option is available with respect to the vested benefit. All retirement benefits of a married member shall be paid pursuant to the Option A plan as provided for in this section unless the spouse of a member consents in writing for the benefits to be paid as provided for in Section 915 of this title or pursuant to Option B or Option C as provided for in this section.

(2) The amount of retirement benefit payable under an option shall be based on the age and sex of the member and the age and sex of the joint annuitant, and shall be such amount as to be the actuarial equivalent of the retirement benefit otherwise payable under Section 915 of this title.

(3) The retirement options are:

Option A. Joint and one-half to joint annuitant survivor. A reduced retirement benefit is payable to the retirant during his or her lifetime with one-half (1/2) of that amount continued to the joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the retirant. If the named joint annuitant dies at any time after the member's retirement date, but before the death of the retirant, the retirant shall return to the retirement benefit, including any post retirement benefit increases the member would have received had the member not selected Option A. The benefit shall be determined at the date of death of the named joint annuitant or July 1, 1994, whichever is later. This increase shall become effective the first day of the month following the date of death of the named joint annuitant or July 1, 1994, whichever is later, and shall be payable for the retirant's remaining lifetime. The retirant shall notify the Oklahoma Public Employees Retirement System of the death of the named joint annuitant in writing. In the absence of the written notice being filed by the member notifying the Oklahoma Public Employees Retirement System of the death of the named joint annuitant within six (6) months of the date of death, nothing in this subsection shall require the Oklahoma Public Employees Retirement System to pay more than six (6) months of retrospective benefits increase.

Option B. Joint and survivor. A reduced retirement benefit is payable to the retirant during his or her lifetime with that amount continued to the joint annuitant during the joint annuitant's remaining lifetime, if any, after the death of the retirant. If the named joint annuitant dies at any time after the member's retirement date, but before the death of the retirant, the retirant shall return to the retirement benefit, including any post retirement benefit increases the member would have received had the member not selected Option B. The benefit shall be determined at the date of death of the named joint annuitant or July 1, 1994, whichever is later. This increase shall become effective the first day of the month following the date of death of the named joint annuitant or

July 1, 1994, whichever is later, and shall be payable for the retirant's remaining lifetime. The retirant shall notify the Oklahoma Public Employees Retirement System of the death of the named joint annuitant in writing. In the absence of such written notice being filed by the member notifying the Oklahoma Public Employees Retirement System of the death of the named joint annuitant within six (6) months of the date of death, nothing in this subsection shall require the Oklahoma Public Employees Retirement System to pay more than six (6) months of retrospective benefits increase.

Option C. Life with ten (10) years certain. A reduced retirement benefit is payable to the retirant during his or her lifetime and if the retirant dies within the ten-year certain period, measured from the commencement of retirement benefits payments, such payments will be continued to the beneficiary during the balance of the ten-year certain period. If the retirant dies within the ten-year certain period, and there are no living designated beneficiaries, the person responsible for the estate of the retirant may elect for the estate to be paid the benefits for the remainder of the term or to receive the present value of the remaining benefit payments according to rules adopted by the Board of Trustees of the System. If the retirant predeceases a designated beneficiary within the ten-year certain period, and the beneficiary dies after the beneficiary has begun to receive benefits, the person responsible for the estate of the beneficiary may elect for the estate to be paid the benefits for the remainder of the term or to receive the present value of the remaining benefit payments according to rules adopted by the Board of Trustees of the System.

(4) If the selection of a joint annuitant would violate the distribution requirements contained in Section 918.1 of this title, such selection will not be permitted.

(5) If a member who is eligible to retire in accordance with the provisions of Section 914 of this title but is not actually retired or is eligible to vest or has elected a vested benefit dies, the member's spouse may elect to receive benefits as a joint annuitant under Option B calculated as if the member retired on the date of death, in lieu of receiving the member's accumulated contributions. However, no benefits shall be payable before the date the deceased member would have met the requirements for a normal or early retirement. The provisions of this paragraph shall be applicable to a surviving spouse of a deceased member who died prior to the effective date of this act, but only if no benefits or distributions have been previously paid.

(6) Benefits payable to a joint annuitant shall accrue from the first day of the month following the death of a member or retirant and, in the case of Option A and Option B, shall end on the last day of the month in which the joint annuitant dies.

Added by Laws 1963, c. 50, § 18, emerg. eff. May 6, 1963. Amended by Laws 1965, c. 432, § 7, emerg. eff. July 9, 1965; Laws 1975, c. 253, § 3, emerg. eff. June 2, 1975; Laws 1978, c. 206, § 2; Laws 1985, c. 300, § 8, emerg. eff. July 24, 1985; Laws 1991, c. 211, § 1, emerg. eff. May 21, 1991; Laws 1993, c. 322, § 27, emerg. eff. June 7, 1993; Laws 1994, c. 371, § 2, eff. July 1, 1994; Laws 1997, c. 216, § 1, eff. July 1, 1997; Laws 1999, c. 257, § 41, eff. July 1, 1999; Laws 2002, c. 438, § 7, eff. July 1, 2002; Laws 2003, c. 3, § 98, emerg. eff. March 19, 2003; Laws 2006, 2nd Ex. Sess., c. 46, § 33, eff. July 1, 2006.

NOTE: Laws 2002, c. 354, § 4 repealed by Laws 2003, c. 3, § 99, emerg. eff. March 19, 2003.

#### §74-918.1. Distribution of benefits.

A. All benefits paid from the System shall be distributed in accordance with the requirements of Section 401(a)(9) of the federal Internal Revenue Code and the regulations under that section. In order to meet these requirements, the System shall be administered in accordance with the following provisions:

1. Distributions of a member's benefit must begin by the later of the April 1 following the calendar year in which a member attains age seventy and one-half (70 1/2) or the April 1 of the year following the calendar year in which the member retires;

2. The life expectancy of a member or a member's spouse may not be recalculated after the benefits commence;

3. If a member dies before the distribution of the member's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died; and

4. The amount of benefits payable to a member's joint annuitant or beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the federal Internal Revenue Code.

B. Distributions from the System may be made only upon retirement, separation from service, disability or death.

Added by Laws 1999, c. 257, § 42, eff. July 1, 1999.

#### §74-919.1. Employee contribution - Rate - Deduction - Remittance - Picked up contributions - Refund

(1) Employee contributions to the System shall be:

(a) for employees except as otherwise provided in paragraphs (b), (c), (d), (e), and (f) of this subsection: beginning July 1, 2006, and thereafter, three and one-half percent (3.5%) of allowable annual compensation;

(b) for correctional officers and probation and parole officers employed by the Department of Corrections:

beginning July 1, 1998, and thereafter, and for correctional officers or probation and parole officers who are in such position on June 30, 2004, or who are hired after June 30, 2004, and who receive a promotion or change in job classification after June 30, 2004, to another position in the Department of Corrections, so long as such officers have at least five (5) years of service as a correctional officer or probation and parole officer, eight percent (8%) of allowable compensation as provided in paragraph (9) of Section 902 of this title;

- (c) for fugitive apprehension agents who are employed with the Department of Corrections on or after July 1, 2002, and for fugitive apprehension agents who are in such position on June 30, 2004, or who are hired after June 30, 2004, and who receive a promotion or change in job classification after June 30, 2004, to another position in the Department of Corrections, so long as such agents have at least five (5) years of service as a fugitive apprehension agent, eight percent (8%) of allowable compensation as provided in paragraph (9) of Section 902 of this title;
- (d) for firefighters of the Oklahoma Military Department first employed beginning July 1, 2002, and thereafter, and such firefighters who performed service prior to July 1, 2002, for the Oklahoma Military Department and who make the election authorized by division (1) of subparagraph b of paragraph (9) of subsection A of Section 915 of this title who perform service on or after July 1, 2002, in such capacity, eight percent (8%) of allowable compensation as provided in subsection (9) of Section 902 of this title;
- (e) for all public safety officers of the Grand River Dam Authority as defined by paragraph (37) of Section 902 of this title, eight percent (8%) of allowable compensation as provided in paragraph (9) of Section 902 of this title; and
- (f) for all employees except those who make contributions pursuant to paragraphs (b), (c), (d), and (e) of this subsection who make an irrevocable written election pursuant to paragraph (2) of subsection A of Section 915 of this title: six and forty-one one-hundredths percent (6.41%) of allowable annual compensation.

The contributions required by paragraphs (b), (c), and (e) of this subsection shall be made by a member for not more than twenty (20) years and thereafter shall be as provided in paragraph (a) of this subsection.

(2) Contributions shall be deducted by each state agency by the participating employer for such benefits as the Board is authorized to administer as provided for by law. Employee and employer contributions shall be remitted monthly, or as the Board may otherwise provide, to the Executive Director for deposit in the Oklahoma Public Employees Retirement Fund.

(3) Each participating employer shall pick up under the provisions of Section 414(h)(2) of the Internal Revenue Code of 1986 and pay the contribution which the member is required by law to make to the System for all compensation earned after December 31, 1988. Although the contributions so picked up are designated as member contributions, such contributions shall be treated as contributions being paid by the participating employer in lieu of contributions by the member in determining tax treatment under the Internal Revenue Code of 1986 and such picked up contributions shall not be includable in the gross income of the member until such amounts are distributed or made available to the member or the beneficiary of the member. The member, by the terms of this System, shall not have any option to choose to receive the contributions so picked up directly and the picked up contributions must be paid by the participating employer to the System.

Member contributions which are picked up shall be treated in the same manner and to the same extent as member contributions made prior to the date on which member contributions were picked up by the participating employer. Member contributions so picked up shall be included in gross salary for purposes of determining benefits and contributions under the System.

The participating employer shall pay the member contributions from the same source of funds used in paying salary to the member, by effecting an equal cash reduction in gross salary of the member.

(4) By September 1, 1989, the System shall refund the accumulated employee contributions of any member who elects to retain the member's membership in the Teachers' Retirement System of Oklahoma, in accordance with Section 17-104 of Title 70 of the Oklahoma Statutes, to such member. Upon the refund of the accumulated employee contributions referred to in this subsection, all benefits and rights accrued to such member are terminated. Added by Laws 1980, c. 317, § 7, eff. July 1, 1980. Amended by Laws 1983, c. 246, § 1, emerg. eff. June 21, 1983; Laws 1984, c. 267, § 3, operative July 1, 1984; Laws 1987, c. 206, § 92, operative July 1, 1987 (vetoed); Laws 1987, c. 236, § 188, emerg. eff. July 20, 1987; Laws 1988, c. 267, § 34, operative January 1, 1989; Laws 1989, c. 327, § 8, eff. July 1, 1989; Laws 1990, c. 324, § 4, operative July 1, 1990; Laws 1994, c. 383, § 11, eff. July 1, 1994; Laws 1998, c. 317, § 13, eff. July 1, 1998; Laws 2000, c. 379, § 3, eff. July 1, 2000; Laws 2002, c. 233, § 4, eff. July 1, 2002; Laws 2002, c. 376, § 4, eff. July 1, 2002; Laws 2003, c. 486, § 8, emerg. eff.

Jan. 1, 2004; Laws 2004, c. 539, § 5, eff. July 1, 2004; Laws 2006, 2nd Ex. Sess., c. 46, § 34, eff. July 1, 2006; Laws 2016, c. 297, § 22, eff. July 1, 2016.

§74-920. Employer's contribution.

(1) Effective July 1, 1994, every state agency which is a participating employer shall contribute to the System an amount equal to eleven and one-half percent (11 1/2%) of the monthly compensation of each member, but not in excess of Forty Thousand Dollars (\$40,000.00).

(2) Effective July 1, 1995, every state agency which is a participating employer shall contribute to the System an amount equal to eleven and one-half percent (11 1/2%) of the monthly compensation of each member, not to exceed the allowable annual compensation as defined in paragraph (9) of Section 902 of this title.

(3) Effective July 1, 1996, every state agency which is a participating employer shall contribute to the System an amount equal to twelve percent (12%) of the monthly compensation of each member, not to exceed the allowable annual compensation defined in paragraph (9) of Section 902 of this title.

(4) Effective July 1, 1999, and through the fiscal year ending June 30, 2005, every state agency which is a participating employer shall contribute to the System an amount equal to ten percent (10%) of the monthly compensation of each member, not to exceed the allowable annual compensation defined in paragraph (9) of Section 902 of this title.

(5) Effective July 1, 2005, except as otherwise provided by subsection (11) of this section, every state agency which is a participating employer shall contribute an amount to the System equal to a percentage of monthly compensation of each member, not to exceed the allowable annual compensation defined in paragraph (9) of Section 902 of this title as follows:

July 1, 2005 - June 30, 2006	11 1/2%
July 1, 2006 - June 30, 2007	12 1/2%
July 1, 2007 - June 30, 2008	13 1/2%
July 1, 2008 - June 30, 2009	14 1/2%
July 1, 2009 - June 30, 2011	15 1/2%
July 1, 2011 - June 30, 2012	
and each year thereafter	16 1/2%

(6) The Board shall certify, on or before November 1 of each year, to the Office of Management and Enterprise Services an actuarially determined estimate of the rate of contribution which will be required, together with all accumulated contributions and other assets of the System, to be paid by each participating employer to pay all liabilities which shall exist or accrue under the System, including amortization of the past service cost over a

period of not to exceed forty (40) years from June 30, 1987, and the cost of administration of the System, as determined by the Board, upon recommendation of the actuary.

(7) The Office of Management and Enterprise Services and the Governor shall include in the budget and in the budget request for appropriations the sum required to satisfy the state's obligation under this section as certified by the Board and shall present the same to the Legislature for allowance and appropriation.

(8) Each other participating employer shall appropriate and pay to the System a sum sufficient to satisfy the obligation under this section as certified by the Board.

(9) Each participating employer is hereby authorized to pay the employer's contribution from the same fund that the compensation for which said contribution is paid from or from any other funds available to it for such purpose.

(10) Forfeitures arising from severance of employment, death or for any other reason may not be applied to increase the benefits any member would otherwise receive under the System's law. However, forfeitures may be used to reduce an employer's contribution.

(11) Effective November 1, 2015, an employer shall be required to make payment to the Oklahoma Public Employees Retirement System of the amount described by subsection A of Section 10 of this act with respect to any employee who is a participant in the defined contribution system created pursuant to the provisions of Sections 1 through 11 of this act. The employer shall be required to make the required matching contribution amount for all employees that participate in the defined contribution system and to remit the difference between such amount and the amount the employer would otherwise have paid pursuant to the provisions of this section to the Oklahoma Public Employees Retirement System.

Added by Laws 1963, c. 50, § 20, emerg. eff. May 6, 1963. Amended by Laws 1965, c. 432, § 8, emerg. eff. July 9, 1965; Laws 1970, c. 296, § 8, emerg. eff. April 28, 1970; Laws 1972, c. 57, § 4, operative July 1, 1972; Laws 1975, c. 267, § 8, emerg. eff. June 5, 1975; Laws 1977, p. 1001, S.J.R. No. 6, § 6, operative July 1, 1977; Laws 1979, c. 285, § 12, eff. July 1, 1979; Laws 1980, c. 317, § 8, eff. July 1, 1980; Laws 1987, c. 206, § 93, operative July 1, 1987 (vetoed); Laws 1987, c. 236, § 189, emerg. eff. July 20, 1987; Laws 1989, c. 251, § 2, eff. Sept. 1, 1989; Laws 1990, c. 204, § 8, emerg. eff. May 10, 1990; Laws 1991, c. 239, § 4, eff. July 1, 1991; Laws 1994, c. 383, § 12, eff. July 1, 1994; Laws 1995, c. 1, § 37, emerg. eff. March 2, 1995; Laws 1999, c. 378, § 3, eff. July 1, 1999; Laws 2000, c. 6, § 27, emerg. eff. March 20, 2000; Laws 2003, c. 486, § 9, eff. Jan. 1, 2004; Laws 2004, c. 536, § 26, eff. July 1, 2004; Laws 2008, c. 415, § 10, eff. July 1, 2008; Laws 2010, c. 470, § 1, eff. July 1, 2010; Laws 2012, c. 304, § 929; Laws 2014, c. 375, § 13, eff. Nov. 1, 2014.

NOTE: Laws 1994, c. 381, § 6 repealed by Laws 1995, c. 1, § 40, emerg. eff. March 2, 1995. Laws 1999, c. 257, § 43 repealed by Laws 2000, c. 6, § 33, emerg. eff. March 20, 2000.

§74-920A. Counties and municipalities - Employer and employee contributions.

A. Any county, county hospital, city or town, conservation district, circuit engineering district or any public or private trust in which a county, city or town participates and is the primary beneficiary, which is a participating employer and any eligible employee shall contribute to the System. The total employer and employee contributions shall be based on the allowable annual compensation as defined in paragraph (9) of Section 902 of this title. Except as provided for in this section, the employer shall not pay for the employee any of the employee contribution to the System.

B. For the fiscal year ending June 30, 2005, the total employer and employee contributions shall equal thirteen and one-half percent (13 1/2%) of the allowable monthly compensation of each member; provided, however, each participating employer listed in this section may set the amount of the employer and employee contribution to equal thirteen and one-half percent (13 1/2%) of the allowable monthly compensation of each member for compensation as provided in paragraph (9) of Section 902 of this title; provided, the employer contribution shall not exceed ten percent (10%) and the employee contribution shall not exceed eight and one-half percent (8 1/2%).

C. The total employer and employee contributions for fiscal years following the fiscal year ending June 30, 2005, shall be as follows:

July 1, 2005 - June 30, 2006	15%
July 1, 2006 - June 30, 2007	16%
July 1, 2007 - June 30, 2008	17%
July 1, 2008 - June 30, 2009	18%
July 1, 2009 - June 30, 2010	19%
July 1, 2010 - June 30, 2011	

and each fiscal year thereafter 20%

Such employee and employer contributions shall be based upon the allowable monthly compensation of each member for compensation as provided in paragraph (9) of Section 902 of this title. The maximum employer contribution of ten percent (10%) in subsection B of this section shall increase by one and one-half percent (1.5%) beginning in the fiscal year ending June 30, 2006, and one percent (1%) for each fiscal year thereafter until it reaches sixteen and one-half percent (16.5%). For such years, the employee contribution shall not exceed eight and one-half percent (8 1/2%).

D. For members who make the election pursuant to paragraph (2) of subsection A of Section 915 of this title, the employee



contribution shall increase by two and ninety-one one-hundredths percent (2.91%). Such employee contribution increase shall be paid by the employee.

E. Each participating employer pursuant to the provisions of this section may pick up under the provisions of Section 414(h) (2) of the Internal Revenue Code of 1986 and pay the contribution which the member is required by law to make to the System for all compensation earned after December 31, 1989. Although the contributions so picked up are designated as member contributions, such contributions shall be treated as contributions being paid by the participating employer in lieu of contributions by the member in determining tax treatment under the Internal Revenue Code of 1986 and such picked up contributions shall not be includable in the gross income of the member until such amounts are distributed or made available to the member or the beneficiary of the member. The member, by the terms of this System, shall not have any option to choose to receive the contributions so picked up directly and the picked up contributions must be paid by the participating employer to the System.

F. Member contributions which are picked up shall be treated in the same manner and to the same extent as member contributions made prior to the date on which member contributions were picked up by the participating employer. Member contributions so picked up shall be included in gross salary for purposes of determining benefits and contributions under the System.

G. The participating employer shall pay the member contributions from the same source of funds used in paying salary to the member, by effecting an equal cash reduction in gross salary of the member.

Added by Laws 1975, c. 267, § 9, emerg. eff. June 5, 1975. Amended by Laws 1979, c. 285, § 13, eff. July 1, 1979; Laws 1980, c. 317, § 9, eff. July 1, 1980; Laws 1981, c. 316, § 3, eff. July 1, 1981; Laws 1984, c. 267, § 4, operative July 1, 1984; Laws 1987, c. 206, § 94, operative July 1, 1987 (vetoed); Laws 1987, c. 236, § 190, emerg. eff. July 20, 1987; Laws 1988, c. 267, § 35, operative July 1, 1988; Laws 1988, c. 284, § 9, operative July 1, 1988; Laws 1989, c. 84, § 2, operative July 1, 1989; Laws 1990, c. 340, § 42, eff. July 1, 1990; Laws 1991, c. 239, § 5, eff. July 1, 1991; Laws 1994, c. 383, § 13, eff. July 1, 1994; Laws 1995, c. 302, § 7, eff. July 1, 1995; Laws 1998, c. 317, § 14, eff. July 1, 1998; Laws 1999, c. 378, § 4, eff. July 1, 1999; Laws 2003, c. 486, § 10, eff. Jan. 1, 2004; Laws 2004, c. 536, § 27, eff. July 1, 2004; Laws 2005, c. 1, § 140, emerg. eff. March 15, 2005.

NOTE: Laws 2004, c. 325, § 3 repealed by Laws 2005, c. 1, § 141, emerg. eff. March 15, 2005.

§74-920B. Remittance of retirement contributions.

A. All participating employers shall remit to the Oklahoma Public Employees Retirement System all required retirement contributions due on a monthly basis. All employee contributions withheld shall be considered trust funds held by the employer on behalf of the employee and shall be promptly remitted to the System pursuant to subsection B of this section.

B. For non-state agency employers, all required employer and employee contributions and supporting documentation are due and must be received by the System on or before the fifteenth day of the month following the month for which the contributions are due. For state agency employers, all required employer and employee contributions and supporting documentation are due and must be received by the System on or before the fifteenth day following the last day of the payroll period for which said contributions are due.

C. Employer and employee contributions remitted to the System after thirty (30) days from the due dates set forth in subsection B of this section shall be subject to a monthly late charge of three percent (3%) of the unpaid balance to be paid by the employer to the System.

Added by Laws 2004, c. 536, § 28, eff. July 1, 2004. Amended by Laws 2011, c. 75, § 2.

§74-921. Oklahoma Public Employees Retirement Fund - Management - Warrants and vouchers - Retirement Medical Benefit Fund.

A. All employee and employer contributions and dedicated revenues shall be deposited in a fund in the State Treasury which is hereby created and shall be known as the Oklahoma Public Employees Retirement Fund. The Board of Trustees shall have the responsibility for the management of the Oklahoma Public Employees Retirement Fund, and may transfer monies used for investment purposes by the Oklahoma Public Employees Retirement System from the Oklahoma Public Employees Retirement Fund in the State Treasury to the custodian bank or trust company of the System.

B. All benefits payable pursuant to the provisions of the Oklahoma Public Employees Retirement System, refunds of contribution and overpayments, and all administrative expenses in connection with the System shall be paid from the Oklahoma Public Employees Retirement Fund upon warrants or vouchers signed by two persons designated by the Board of Trustees. All salaries and expenses of the administration of the State Employees Deferred Compensation Plan and the Deferred Savings Incentive Plan, including marketing and participant education, shall be paid from the Oklahoma Public Employees Retirement Fund. The Oklahoma Public Employees Retirement Fund shall be reimbursed for such expenses, on at least an annual basis, in accordance with the procedure established by the Board. The Board of Trustees may transfer monies from the custodian bank or trust company of the System to the Oklahoma Public Employees

Retirement Fund in the State Treasury for the purposes specified in this subsection.

C. There is hereby created the Retirement Medical Benefit Fund. The fund shall be maintained as a subaccount of the Oklahoma Public Employees Retirement Fund. The Retirement Medical Benefit Fund is composed of all assets which may be contributed to this subaccount to pay the retirement system's portion of the monthly retiree health insurance premium benefit described by Section 1316.2 of this title. All such allocated assets and any earnings thereon in the Retirement Medical Benefit Fund shall be held for the exclusive purpose of providing retiree medical benefits. The Retirement Medical Benefit Fund is to be administered in accordance with the requirements of Section 401(h) of the Internal Revenue Code of 1986, as amended from time to time. The Board of Trustees may promulgate such rules as are necessary to implement the funding and administration of the fund pursuant to the provisions of this subsection.

Added by Laws 1963, c. 50, § 21, emerg. eff. May 6, 1963. Amended by Laws 1969, c. 349, § 8, emerg. eff. May 13, 1969; Laws 1982, c. 227, § 6, emerg. eff. May 4, 1982; Laws 1983, c. 6, § 4, emerg. eff. Feb. 24, 1983; Laws 1983, c. 201, § 2, operative July 1, 1983; Laws 1987, c. 236, § 191, emerg. eff. July 20, 1987; Laws 1988, c. 321, § 37, operative July 1, 1988; Laws 1994, c. 351, § 8, eff. July 1, 1994; Laws 1996, c. 55, § 3, eff. July 1, 1996; Laws 1999, c. 257, § 44, eff. July 1, 1999.

§74-922. Repealed by Laws 2012, c. 109, § 3, eff. July 1, 2012.

§74-922.1. Revolving fund.

There is hereby created in the State Treasury a Revolving Fund for the Oklahoma Public Employees Retirement System. The revolving fund shall consist of funds transferred from the Oklahoma Public Employees Retirement Fund for operational expenses of the System. Expenditures from said funds shall be made pursuant to the laws of the state and statutes relating to the System. This revolving fund shall be a continuing fund, not subject to fiscal year limitations, and shall be under the control and management of the Oklahoma Public Employees Retirement System Board.

Added by Laws 1982, c. 263, § 5, emerg. eff. May 14, 1982.

§74-923. Protection of vested rights - Exemption of benefits from legal process - Offset.

A. Except as otherwise provided by this section, no alteration, amendment, or repeal of this act shall affect the then existing rights of members and beneficiaries, but shall be effective only as to rights which would otherwise accrue hereunder as a result of services rendered by an employee after such alteration, amendment, or repeal. Any annuity, benefits, fund, property, or rights created

by or accruing to any person under the provisions of this act shall not be subject to execution, garnishment or attachment, or any other process or claim whatsoever, and shall be unassignable, except as specifically provided by Section 901 et seq. of this title.

Notwithstanding the foregoing, the Board of Trustees may offset any benefits of a member or beneficiary to pay a judgment or settlement against a member or beneficiary for a crime involving the System, for a fraud or breach of the member's fiduciary duty to the System, or for funds or monies incorrectly paid to a member or a beneficiary, provided such offset is in accordance with the requirements of Section 401(a)(13) of the Internal Revenue Code of 1986. The offset applies to any benefits which may otherwise be payable to a member or beneficiary from any plan or fund which is administered by the Board of Trustees.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a member or provision of support for a minor child or children and which creates or recognizes the existence of the right of an alternate payee, or assigns to an alternate payee the right, to receive a portion of the benefits payable with respect to a member of the System.

3. For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. A qualified domestic order is valid and binding on the State Board and the related member only if it meets the requirements of this subsection.

5. A qualified domestic order shall clearly specify:

- a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,
- b. the amount or percentage of the member's benefits to be paid by the System to the alternate payee,
- c. the number of payments or period to which such order applies,
- d. the characterization of the benefit as to marital property rights or child support, and
- e. each plan to which such order applies.

6. A qualified domestic order meets the requirements of this subsection only if such order:

- a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,
- b. does not require the System to provide increased benefits, and
- c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the System as a valid order prior to the effective date of this act.

7. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date or withdrawal of the related member and shall not attach to or require the payment of any amount of benefits related to a deferred compensation plan or program authorized by Section 1701 et seq. of this title.

8. The obligation of the System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

9. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001 et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

10. The Oklahoma Public Employees Retirement System Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection.

11. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the Board pursuant to this subsection in order to continue receiving his or her benefit. Added by Laws 1963, c. 50, § 23, emerg. eff. May 6, 1963. Amended by Laws 1989, c. 249, § 44, eff. Jan. 1, 1989; Laws 1993, c. 322, § 28, emerg. eff. June 7, 1993; Laws 1998, c. 198, § 9, eff. Nov. 1, 1998; Laws 2001, c. 192, § 2, eff. July 1, 2001; Laws 2004, c. 536, § 29, eff. July 1, 2004.

#### §74-924. False statements - Errors.

Any person who shall knowingly make any false statement, or who shall falsify or permit to be falsified any record necessary for carrying out the intent of this act for the purpose of committing fraud, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00) or by imprisonment for not exceeding one (1) year. Should any error in any records of the Oklahoma Public Employees Retirement System result in any member or beneficiary receiving more or less than he

would have been entitled to receive had the records been correct, the Board shall correct such error, and, as far as practicable, make future payments in such manner that the actuarial equivalent of the benefit to which such member or beneficiary was entitled shall be paid, and to this end may recover any overpayments. The agency shall charge interest on any overpayments in an amount not to exceed the actuarially assumed interest rate adopted by the Board for investment earnings each year. Interest charges may be waived upon the approval of the Executive Director.

Added by Laws 1963, c. 50, § 24, emerg. eff. May 6, 1963. Amended by Laws 2017, c. 94, § 3, eff. Nov. 1, 2017.

§74-925. Membership as condition of employment.

All employees of participating employers who are eligible or may hereafter become eligible to be members of the system as provided by this act shall, as a condition of continuing employment or as a condition of obtaining employment with a participating employer, become members of the system.

Added by Laws 1963, c. 50, § 25, emerg. eff. May 6, 1963.

§74-929. Vending stand operators and managers - Eligibility and enrollment in system.

A. Any person who is licensed by the Department of Rehabilitation Services as a vending stand operator or managing operator shall be eligible for membership in the Oklahoma Public Employees Retirement System established by Sections 901 through 928 of this title. Enrollment in the System shall be optional with each operator under regulations prescribed by the Oklahoma Public Employees Retirement System Board of Trustees. Persons who elect to participate in the Oklahoma Public Employees Retirement System pursuant to the provisions of this section shall be considered as state employees only for retirement purposes and shall make contributions pursuant to the provisions of Section 919.1 of this title. Any payment or contributions to be made for members of the System shall be payable by the operator in such manner as may be determined by the Department of Rehabilitation Services, and shall not be a responsibility or liability of the Department of Rehabilitation Services; provided that, the Department may, in its discretion, make all or a part of such payments.

B. Any person first licensed under this section on or after November 1, 2015, shall not be eligible for membership in the Oklahoma Public Employees Retirement System established by Sections 901 through 928 of this title, but such person shall be eligible for participation in the defined contribution plan as set forth in Section 2 of Enrolled House Bill No. 2630 of the 2nd Session of the 54th Oklahoma Legislature, as amended by Section 2 of this act.

Added by Laws 1974, c. 9, § 1, emerg. eff. April 2, 1974. Amended by Laws 1983, c. 283, § 14, operative July 1, 1983; Laws 1998, c. 107, § 6, eff. July 1, 1998; Laws 2014, c. 419, § 1, eff. Nov. 1, 2014.

§74-930.3. Increase in retirement benefits.

A. Every member receiving retirement benefits from the System as of June 30, 1994, who retired with a final average compensation of less than Thirteen Thousand Eight Hundred Dollars (\$13,800.00) and who had twenty (20) or more years of credited service within the Oklahoma Public Employees Retirement System as of the member's retirement date, shall receive on July 1, 1994, a retirement benefit increase to reflect a final average compensation of Thirteen Thousand Eight Hundred Dollars (\$13,800.00) multiplied by two percent (2%), further multiplied by the number of years of credited service of the member; provided said increase shall be adjusted to reflect any options selected by the member or reduction factors applicable at the time of retirement.

B. Every member receiving retirement benefits from the System as of June 30, 1994, who retired with a final average compensation of less than Thirteen Thousand Eight Hundred Dollars (\$13,800.00) and who had at least fifteen (15) but not more than nineteen (19) years of credited service within the Oklahoma Public Employees Retirement System as of the member's retirement date, shall receive on July 1, 1994, a retirement benefit increase to reflect a final average compensation of Thirteen Thousand Eight Hundred Dollars (\$13,800.00) multiplied by two percent (2%), further multiplied by the number of years of credited service of the member multiplied by one-half (1/2); provided said increase shall be adjusted to reflect any options selected by the member or reduction factors applicable at the time of retirement.

C. Every member receiving retirement benefits from the System as of June 30, 1994, who retired with a final average compensation of less than Thirteen Thousand Eight Hundred Dollars (\$13,800.00) and who had less than fifteen (15) years of credited service within the Oklahoma Public Employees Retirement System as of the member's retirement date shall not be eligible for the retirement benefit increase reflecting a minimum final average compensation as otherwise provided by this section.

D. Any member receiving retirement benefits from the System as of June 30, 1993, who was eligible to receive an increase in benefits pursuant to subsection A or B of this section, but in an amount less than the increase in benefits provided by this subsection or who was not eligible to receive an increase in benefits pursuant to subsection A or B of this section, shall receive on July 1, 1994, an increase in retirement benefits to be computed as follows:

1. Multiply Four Hundred Ninety-seven Dollars (\$497.00) by two percent (2%);

2. Multiply the sum of paragraph 1 by the number of years of credited service of the member;

3. Divide the sum of paragraph 2 by twelve (12) and this shall be the increase in the monthly retirement benefit; and

4. This increase shall be adjusted to reflect any options selected by the member at the time of retirement.

E. A member receiving an increase in retirement benefits pursuant to subsection D of this section shall not be eligible for an increase in retirement benefits pursuant to subsection A or B of this section.

Added by Laws 1985, c. 300, § 9, emerg. eff. July 24, 1985. Amended by Laws 1986, c. 238, § 8, operative July 1, 1986; Laws 1987, c. 236, § 192, emerg. eff. July 20, 1987; Laws 1990, c. 340, § 43, eff. July 1, 1990; Laws 1994, c. 383, § 14, eff. July 1, 1994; Laws 1995, c. 302, § 8, eff. July 1, 1995.

§74-930.4. Additional retirement benefit.

A. Except as provided by subsection B of this section, the Oklahoma Public Employees Retirement System shall pay to its retirees, who retire not later than June 30, 1997, or their joint annuitant, from assets of the retirement system, an additional amount, for the fiscal year ending June 30, 1998, based upon the number of years of credited service upon which the retirement benefit of the member was computed as follows:

1. One Hundred Fifty Dollars (\$150.00) for at least ten (10), but no more than fourteen (14) years of service;

2. Three Hundred Dollars (\$300.00) for at least fifteen (15), but no more than nineteen (19) years of service;

3. Four Hundred Fifty Dollars (\$450.00) for at least twenty (20), but no more than twenty-four (24) years of service; and

4. Six Hundred Dollars (\$600.00) for twenty-five (25) or more years of service.

B. The Oklahoma Public Employees Retirement System shall pay to retirees, who retire not later than June 30, 1997, with a disability retirement benefit and having less than ten (10) years of service, the sum of One Hundred Fifty Dollars (\$150.00).

C. For purposes of subsection A or B of this section, months of credited service in excess of a whole number of years shall be disregarded for purposes of determining the applicable payment amount.

D. The payment authorized by this section shall be distributed not later than August 1, 1997.

E. The payment authorized by this section shall not be a recurring benefit and shall only be made for the fiscal year ending June 30, 1998, and for no other fiscal year.



F. If a retiree has multiple joint annuitants, the amount prescribed by subsection A of this section shall be divided equally among the beneficiaries on a per capita basis.

Added by Laws 1997, c. 384, § 22, eff. July 1, 1997.

§74-930.5. Cost of living adjustment - Calculation.

A. It is the intent of the Legislature to provide a cost of living adjustment to retirants of the Oklahoma Public Employees Retirement System which reflects a replacement of the loss of purchasing power, while remaining consistent with the basic benefit formula of the System.

B. To fulfill the intent as set forth in subsection A of this section, every person receiving retirement benefits from the System as of June 30, 1997, who continues to receive benefits on or after July 1, 1998, shall receive an increase in retirement benefits as follows:

1. Persons who have been retired ten (10) years or less will receive two and one-half percent (2.5%) of the retirement benefit on July 1, 1998, multiplied by the number of years the member has been retired;

2. Persons who have been retired in excess of ten (10) years will receive two and one-half percent (2.5%) of the retirement benefit on July 1, 1998, multiplied by ten (10);

3. For purposes of calculating the increase, the member's effective retirement date will be utilized, provided further, that a fractional year of six (6) months or more shall be considered as one (1) year and less than six (6) months shall be disregarded;

4. The increase provided in this section shall become effective with the July 1998 benefit payment.

Added by Laws 1998, c. 317, § 15, eff. July 1, 1998.

§74-930.6. Calculation of retirement benefit increase.

Any member receiving retirement benefits from the System as of June 30, 1999, who continues to receive benefits on or after July 1, 2000, shall receive an increase in retirement benefits to be computed as follows:

1. Multiply One Thousand Two Hundred Eighty-three Dollars (\$1,283.00) by two percent (2%);

2. Multiply the sum of paragraph 1 by the number of years of credited service of the member;

3. Divide the sum of paragraph 2 by twelve (12) and this shall be the increase in the monthly retirement benefit; and

4. This increase shall be adjusted to reflect any options selected by the member at the time of retirement.

Added by Laws 2000, c. 377, § 14, eff. July 1, 2000.

§74-930.7. Increase in benefits - Amount.

A. Except as otherwise provided by this section, any person receiving retirement benefits from the Oklahoma Public Employees Retirement System as of June 30, 2001, who continues to receive benefits on or after July 1, 2002, shall, beginning in July 2002, receive an increase in retirement benefits equal to five percent (5%).

B. Any person who is otherwise eligible for the benefit increase provided in subsection A of this section, who retired from the System with not less than twenty-five (25) years nor more than twenty-nine (29) years of service, shall receive, in lieu of the benefit increase provided in subsection A of this section, an increase in retirement benefits equal to five and five-tenths percent (5.5%) beginning July 2002.

C. Any person who is otherwise eligible for the benefit increase provided in subsection A of this section, who retired from the System with thirty (30) or more years of service, shall receive, in lieu of the benefit increase provided in subsection A of this section, an increase in retirement benefits equal to six percent (6%) beginning July 2002.

Added by Laws 2002, c. 394, § 5, eff. July 1, 2002.

§74-930.8. Public Employees Retirement System - Increase of benefits.

Beginning July 1, 2004, any person receiving benefits from the Oklahoma Public Employees Retirement System as of June 30, 2003, who continues to receive benefits on or after July 1, 2004, shall receive a percentage increase in said benefits on July 1, 2004, as follows:

Years of Service of the Retired Member	Monthly Benefit as of June 30, 2004	Benefit Increase
20 years or more	Less than \$1,500.00	4.5%
	\$1,500.00 to \$2,500.00	4.0%
	Over \$2,500.00	3.5%
15 to 19 years	Less than \$1,000.00	4.0%
	\$1,000.00 to \$2,000.00	3.5%
	Greater than \$2,000.00	3.0%
Less than 15 years	\$800.00 or less	3.5%
	\$800.01 to \$1,499.99	3.0%
	\$1,500.00 or greater	2.5%

Added by Laws 2004, c. 536, § 31, eff. July 1, 2004.

§74-930.9. Increase in benefits - July 1, 2006.

Any person receiving benefits from the Oklahoma Public Employees Retirement System as of June 30, 2005, who continues to receive benefits on or after July 1, 2006, shall receive a four-percent increase in said benefits beginning in July 2006.

Added by Laws 2006, 2nd Ex. Sess., c. 46, § 10, eff. July 1, 2006.

§74-930.10. Increase in benefits - July 1, 2008.

Any person receiving benefits from the Oklahoma Public Employees Retirement System as of June 30, 2007, who continues to receive benefits on or after July 1, 2008, shall receive a four-percent increase in said benefits beginning in July 2008.

Added by Laws 2008, c. 415, § 6, eff. July 1, 2008.

§74-931.1. Reissuance of canceled warrants.

Warrants issued for retirement benefits or withdrawal of accumulated contributions that have been canceled by statute may be reissued at any time after cancellation upon submission of the cancelled warrant to the Board.

Laws 1980, c. 317, § 11, eff. July 1, 1980.

§74-932. Confidential information

Except for the member's name, age, amount of contributions paid in, benefits being paid, amount of credited service and any documents verifying credited service or benefits, all information, documents and copies thereof contained in a member's retirement file shall be given confidential treatment and shall not be made public by the System without the prior written consent of the member to which it pertains, but shall be subject to subpoena or court order. Laws 1976, c. 207, § 8, emerg. eff. June 7, 1976. Amended by Laws 2004, c. 302, § 6, emerg. eff. May 13, 2004.

§74-933. Repealed by Laws 1992, c. 376, § 17, eff. July 1, 1992.

§74-935. Statewide organization - General mailings to retired members.

Any statewide organization limited to state employee membership with a minimum membership of one thousand (1,000) dues-paying members may annually send one general mailing to all retired members of the Oklahoma Public Employees Retirement System and shall pay for the total cost. The Board of Trustees and any qualifying organization under this section shall agree on the method of providing a list of retired members of the system and their addresses to accomplish the mailing, while preserving the confidentiality of the list. Such an agreement may include providing the list to a third party in the business of providing mailing services if the third party agrees to maintain the confidentiality of the list. The System shall not be held responsible or be liable to retired members for providing the names and addresses as provided herein.

Added by Laws 2004, c. 454, § 1, eff. July 1, 2004.

§74-935.1. Short title - Retirement Freedom Act.

This act shall be known and may be cited as the "Retirement Freedom Act".

Added by Laws 2014, c. 375, § 1, eff. Nov. 1, 2014.

§74-935.2. Defined contribution system establishment.

A. The Oklahoma Public Employees Retirement System (System) shall establish a defined contribution system for those persons who first become employed in a full-time equivalent position or a position which is less than full-time but more than half-time position and which qualifies for employee benefits, including but not limited to, health insurance and leave time by any participating employer of the System, as defined by paragraph (25) of Section 902 of this title, on or after November 1, 2015. Any person first licensed by the Department of Rehabilitation Services as a vending stand operator or managing operator on or after November 1, 2015, as defined by Section 929 of this title, shall be eligible for participation in the defined contribution system.

B. The provisions of subsection A of this section and the provisions of this act shall not be applicable to employees who are initially employed in the positions described in division (i), (ii), (iii), or (iv) of subparagraph (d) of paragraph (24) of Section 902 of this title, district attorneys, assistant district attorneys or other employees of the district attorney's office, and any employees of a county, county elected officials, county hospital, city or town, conservation district, circuit engineering district, and any public or private trust in which a county, city or town participates and is the primary beneficiary.

C. An employee described by subsection A of this section shall become a participant in the defined contribution system and the employee shall not accrue any service credit in the Oklahoma Public Employees Retirement System as established pursuant to Section 901 et seq. of this title.

D. Employees who participate in the defined contribution system shall be deemed to begin service in the defined contribution system on the first day of the month following employment.

E. An employee who begins participating in the defined benefit plan on or after November 1, 2015, in one of the positions described in subsection B of this section, shall continue to participate in the defined benefit plan only as long as he or she continues to be employed in a position described in subsection B of this section.

F. Any employee employed on or after November 1, 2015, by the Legislative Service Bureau, State Senate or House of Representatives for the full duration of a regular legislative session shall be eligible for membership only in the defined contribution system regardless of classification as a temporary employee. The temporary session employee may participate in the defined contribution system during the regular legislative session at the option of the

employee. Once the temporary session employee makes a choice to participate, the choice shall be binding for all future legislative sessions during which the temporary session employee is employed. For purposes of this subparagraph, the determination of whether an employee is employed for the full duration of a regular legislative session shall be made by the employer.

Added by Laws 2014, c. 375, § 2, eff. Nov. 1, 2014. Amended by Laws 2014, c. 419, § 2, eff. Nov. 1, 2014; Laws 2015, c. 303, § 1, eff. Nov. 1, 2015; Laws 2017, c. 94, § 4, eff. Nov. 1, 2017.

#### §74-935.3. Internal Revenue Service recognition.

The Board of Trustees of the Oklahoma Public Employees Retirement System (Board) shall take whatever action is reasonable and necessary to have the defined contribution system authorized by this act to be recognized as a tax-qualified plan as that term is defined by Section 401 et seq. of Title 26 of the United States Code, or any other applicable provisions of federal law. The Board is also authorized to establish a plan or use an existing plan established under Section 457(b) of Title 26 of the United States Code, if it is necessary to carry out the intent of this act. The Board shall take whatever action is reasonable and necessary to obtain confirmation from the Internal Revenue Service that any such 457(b) plan is consistent with the requirements of Section 457(b). Added by Laws 2014, c. 375, § 3, eff. Nov. 1, 2014.

#### §74-935.4. Employee contribution percentages.

A. Employee contributions to the defined contribution retirement system shall consist of a minimum of four and five-tenths percent (4.5%) of compensation.

B. Employee contributions to the defined contribution retirement system that are eligible for an employer match shall not exceed a percentage, based on the employee's compensation, which would exceed the maximum amount allowed pursuant to Section 415 of the Internal Revenue Code of 1986, as amended.

Added by Laws 2014, c. 375, § 4, eff. Nov. 1, 2014. Amended by Laws 2015, c. 303, § 2, eff. Nov. 1, 2015.

#### §74-935.5. Employer match.

A. Except as otherwise provided by subsection B of this section, employers of employees who become participants in the defined contribution retirement system shall match the employee contribution paid on a monthly or more frequent basis at the rate of six percent (6.0%) based on the same compensation amount used to compute the employee contribution amount.

B. If an employee selects a contribution rate of seven percent (7.0%) or more, but not higher than allowed pursuant to the maximum annual contribution limit prescribed by Section 415 of the Internal

Revenue Code of 1986, as amended, the employer matching amount shall be seven percent (7.0%).

C. The initial four and five-tenths percent (4.5%) employee contribution shall be the only mandatory contribution of an employee participating in the defined contribution retirement system created by this act. These funds shall be placed by the System in either a 401(a) plan or a 457(b) plan, to be determined by the Board to maintain the plan consistent with the Internal Revenue Code. Any employee contributions eligible to be matched under this section over the four and five-tenths percent (4.5%) initial contribution shall be considered voluntary deferrals of compensation and placed in a 457(b) plan. All employer matching funds shall be placed in a 401(a) plan.

Any contribution rate that is more than the four and five-tenths percent (4.5%) rate can be chosen by the participating employee upon the employee's initial participation, and can be changed once per month. The employee contribution rate chosen shall continue until the employee elects to change the contribution rate or terminates service or retires.

D. The employer match as set forth in subsection A of this section may be increased at any time by the Legislature without affecting the then-existing rights of participating employees and beneficiaries in order to encourage participating employees to accumulate deferred income reserves for themselves and their dependents. The employer match may be decreased at any time by the Legislature without affecting the then-existing rights of participating employees and beneficiaries in order to provide funding as may be needed to reduce the unfunded liabilities of the defined benefit plan as set forth in Section 901 et seq. of this title, but shall not be less than six percent (6.0%) for any year during which the defined contribution plan is maintained.

Added by Laws 2014, c. 375, § 5, eff. Nov. 1, 2014. Amended by Laws 2015, c. 303, § 3, eff. Nov. 1, 2015; Laws 2016, c. 267, § 1, eff. Nov. 1, 2016.

§74-935.6. Employer payments - Salary deductions - Administration costs.

A. Except as otherwise provided by this section, employers shall make payment of the required matching amount as provided by Section 5 of this act within five (5) business days of the participating employee's payroll pay date. The System shall ensure the payment is credited to the defined contribution system account or accounts maintained on behalf of the participating employee as soon as possible.

B. All employee contributions to the defined contribution system shall be effected by salary deductions from the salary of the employee and shall be remitted by the participating employer to the

System for deposit into the defined contribution system account or accounts maintained on behalf of the employee.

C. Participating employers whose salary deductions and employer contributions are not remitted to the System through the Office of Management and Enterprise Services shall either:

1. Send all such remittances by electronic funds transfer; or
2. Place all such remittances in a bank account from which

OPERS can debit the amount due,

both within five (5) business days of the payroll pay date of the participating employee. Payroll data shall be remitted by the same deadline.

D. The Office of Management and Enterprise Services shall cooperate with the Board to ensure that any necessary programming changes are made to the state's payroll system to carry out the requirements of this act.

E. Each employer which has employees participating in the defined contribution system shall pay to the System in the same manner and at the same time required for contributions under this section an amount to reimburse the cost of administration of the defined contribution system, as determined by the Board.

1. The Board shall certify each year to the Office of Management and Enterprise Services and to participating employers whose salary deductions and employer contributions are not remitted to the System through the Office of Management and Enterprise Services, the determined amount for the administrative cost of the defined contribution system which will be required to be paid for each participant. The Board shall promulgate such rules as necessary to implement the provisions of this subsection and provide the methodology for the determination.

2. Each employer shall pay at least monthly to the System the sum sufficient to satisfy the obligation under this section as certified by the Board.

F. The funds held on behalf of each employee participating in the defined contribution system shall consist of the amount in the account or accounts plus credits representing employer and employee contributions, profits, income and other increments attributable to such contributions, and minus debits representing any losses, other decrements, or expenses under the system and any distributions made to the employee under the system.

Added by Laws 2014, c. 375, § 6, eff. Nov. 1, 2014.

§74-935.7. Employee vesting - Investment options.

A. Participating employees shall at all times be vested at one hundred percent (100%) of their accounts containing solely their employee contributions, and the gains or losses on these contributions. Participating employees will have investment

discretion over these accounts within the available options offered by the Board.

B. Participating employees shall be vested with respect to the employer matching amounts, and the gains or losses on these funds, deposited into their defined contribution system account or accounts according to the following schedule based on years of participating service:

Year 1	20%
Year 2	40%
Year 3	60%
Year 4	80%
Year 5 and thereafter	100%

C. Participating employees will have investment discretion over all employer contributions.

D. For purposes of determining a participating employee's right to withdraw employer matching contributions and any investment gains upon such employer contribution matching amounts, the vesting percentages apply at the end of each full year of service as described in subsection B of this section.

E. For participating employees who do not select any investment options, the OPERS Board will establish default investment options for the contributions received from participating employees and default investment options for matching employer contributions.

F. To the extent that participants leave employment and have not vested in all of the employer contributions, the nonvested employer contributions, including any gains or losses, shall be immediately forfeited to the 401(a) plan and may be used to offset costs of administering the plan. Upon reemployment with an employer and satisfying the eligibility requirements to become a participant, the reemployed participant shall receive credit for previous service and be vested at the same percentage the participant was vested when service was previously terminated. However, under no circumstances shall the participant be entitled to any previously forfeited employer contributions.

Added by Laws 2014, c. 375, § 7, eff. Nov. 1, 2014. Amended by Laws 2015, c. 303, § 4, eff. Nov. 1, 2015.

#### §74-935.8. Picked-up contributions.

A. Each participating employer shall pick up under the provisions of Section 414(h)(2) of the Internal Revenue Code of 1986, as amended, and pay the contribution which the participating employee is required by law to make to the System for all compensation earned after the date as of which an employee begins to participate in the defined contribution system. Although the contributions so picked up are designated as participating employee contributions, such contributions shall be treated as contributions being paid by the employer in lieu of contributions by the



participating employee in determining tax treatment under the Internal Revenue Code of 1986, as amended, and such picked-up contributions shall not be includable in the gross income of the participating employee until such amounts are distributed or made available to the participating employee or the beneficiary of the participating employee. The participating employee, by the terms of this System, shall not have any option to choose to receive the contributions so picked up directly and the picked-up contributions must be paid by the employer to the System.

B. Contributions by the participating employee into a 457(b) plan may not be picked up by the employer but shall be a voluntary deferral of the employee's compensation. Participating employers within OPERS that are not eligible to participate in the Deferred Compensation Plan administered by OPERS under subsection B of Section 1701 of Title 74 of the Oklahoma Statutes, and the Oklahoma State Employees Deferred Savings Incentive Plan under Section 1707 of Title 74 of the Oklahoma Statutes, and have established 457(b) plans for their employees, will have the obligation to ensure that their employees do not exceed the maximum annual contributions to a 457(b) plan under the Internal Revenue Code.

Added by Laws 2014, c. 375, § 8, eff. Nov. 1, 2014.

#### §74-935.9. Investment options - Service providers.

The Board of Trustees shall contract with one or more business entities in order to create a range of choices regarding investment of funds deposited into defined contribution system accounts. The investment options shall be substantially similar to the options provided to members of the Oklahoma Public Employees Retirement System that maintain a Deferred Savings Incentive Plan account as offered by the System pursuant to the provisions of the Deferred Savings Incentive Plan. In selecting investment options for participants in the plan, the Board shall give due consideration to offering investment options provided by business entities that provide guaranteed lifetime income in retirement such as annuities, guaranteed investment contracts, or similar products. The Board may amend any of its existing contracts with its current service providers to perform substantially the same type of service the provider is currently performing for the Board, in order to facilitate the timely introduction of the new defined contribution system created by this act. Thereafter, the contracting process for the selection of service providers carrying out duties related to the administration of the plan shall be the same as the selection process for other providers selected by the Board under subsection D of Section 909.1 of Title 74 of the Oklahoma Statutes.

Added by Laws 2014, c. 375, § 9, eff. Nov. 1, 2014.

#### §74-935.10. Deposit of remitted funds.

A. Notwithstanding any other provision of the statutes governing the System to the contrary, each participating employer shall remit to the System the difference between the amount of money which would be remitted to the System using the employer contribution rate required by Section 920 of Title 74 of the Oklahoma Statutes and the amount of money required for the participating employer to make the required matching contribution amount on behalf of a participating employee who participates in the defined contribution system authorized pursuant to the provisions of Section 5 of this act.

B. The System shall deposit the monies remitted to it by employers having participating employees in the defined contribution system created by this act, as described by subsection A of this section, into the existing defined benefit pension plan authorized pursuant to Section 901 et seq. of Title 74 of the Oklahoma Statutes in order to reduce the liabilities of the defined benefit pension plan.

Added by Laws 2014, c. 375, § 10, eff. Nov. 1, 2014.

§74-935.11. Rights of employees and beneficiaries - Qualified domestic orders.

A. Except as otherwise provided by this section or in subsection D of Section 935.5 of this title, no alteration, amendment, or repeal of this act shall affect the then-existing rights of participating employees and beneficiaries, but shall be effective only as to rights which would otherwise accrue hereunder as a result of services rendered by an employee after such alteration, amendment, or repeal. Any benefits, fund, property, or rights created by or accruing to any person under the provisions of this act shall not be subject to execution, garnishment or attachment, or any other process or claim whatsoever, and shall be unassignable, except as specifically provided by this section. Notwithstanding the foregoing, the Board may offset any amounts held by a participant in the plan or beneficiary to pay a judgment or settlement against a participating employee or beneficiary for a crime involving the System, for a fraud or breach of the participating employee's fiduciary duty to the System, or for funds or monies incorrectly paid to a participating employee or a beneficiary, provided such offset is in accordance with the requirements of Section 401(a)(13) or similar provisions of the Internal Revenue Code. The offset applies to any assets held in the plan which may otherwise be payable to a participating employee or beneficiary from the plan administered by the Board.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a participating employee or provision of support for a minor child or children and which creates or recognizes the existence of the right of an alternate payee, or assigns to an alternate payee the right, to receive a portion of the funds payable with respect to a participant in the plan.

3. For purposes of the payment of marital property, to qualify as an alternate payee a spouse or former spouse must have been married to the related participating employee for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. A qualified domestic order is valid and binding on the Board and the related participating employee only if it meets the requirements of this subsection.

5. A qualified domestic order shall clearly specify:

- a. the name and last-known mailing address (if any) of the participating employee and the name and mailing address of the alternate payee covered by the order,
- b. the amount or percentage of the participating employee's funds or assets to be paid by the System to the alternate payee,
- c. the number of payments or period to which such order applies,
- d. the characterization of the benefit as to marital property rights or child support, and
- e. each plan to which such order applies.

6. A qualified domestic order meets the requirements of this subsection only if such order:

- a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,
- b. does not require the System to provide increased benefits, and
- c. does not require the payment of funds or assets to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the System as a valid order prior to November 1, 2014.

7. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A., Section 1001 et seq., as amended from time to time, or

rules and regulations promulgated thereunder, and court cases interpreting the act.

8. The Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

9. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the Board pursuant to this subsection in order to continue receiving his or her benefit. Added by Laws 2014, c. 375, § 11, eff. Nov. 1, 2014. Amended by Laws 2015, c. 26, § 1, eff. Nov. 1, 2015.

NOTE: Laws 2015, c. 303, § 5 repealed by Laws 2016, c. 210, § 47, emerg. eff. April 26, 2016.

§74-941. Oklahoma State Pension Commission - Members - Meetings - Apportionment of administrative costs.

A. There is hereby created the Oklahoma State Pension Commission. The Commission shall consist of seven (7) members as follows:

1. The State Auditor and Inspector or that person's designee;

2. The Director of the Office of Management and Enterprise Services or that person's designee;

3. The State Treasurer or that person's designee;

4. One member who shall be appointed by the President Pro Tempore of the Senate who shall serve at the pleasure of the appointing authority and who shall have demonstrated experience in the investment of private or public funds;

5. One member who shall be appointed by the Speaker of the House of Representatives who shall serve at the pleasure of the appointing authority and who shall have demonstrated experience in the investment of private or public funds;

6. One person to be appointed by the Governor who shall have at least ten (10) years of demonstrated experience in the financial services industry; and

7. One person to be appointed by the Governor who shall have at least ten (10) years of experience in retirement planning, including demonstrated experience with retirement plan designs.

No member of the governing body of a state retirement system shall be eligible to be appointed to the Commission.

B. The Commission shall hold regular meetings at least once each quarter, the dates, time and place to be set by the Commission. The Commission shall hold its first meeting prior to September 30, 1988.

C. The Office of the State Auditor and Inspector shall provide the administrative support required by the Commission.

D. The cost of providing the administrative support shall be apportioned by the State Auditor and Inspector among the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police

Pension and Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System, the Teachers' Retirement System of Oklahoma, the Oklahoma Public Employees Retirement System and the Department of Wildlife Conservation on behalf of the retirement plan adopted by the Wildlife Conservation Commission in proportion to the percentage that the assets of each system at the end of the preceding fiscal year were to the combined total of the assets of the systems. Added by Laws 1988, c. 321, § 38, operative July 1, 1988. Amended by Laws 1993, c. 322, § 29, emerg. eff. June 7, 1993; Laws 1996, c. 29, § 1, eff. Nov. 1, 1996; Laws 2002, c. 391, § 1, eff. July 1, 2002; Laws 2012, c. 304, § 930; Laws 2015, c. 301, § 1; Laws 2017, c. 180, § 1, eff. Nov. 1, 2017.

§74-942. Duties of Commission - Reports - Management consultants - Fiduciary duties.

A. The Oklahoma State Pension Commission shall:

1. Publish, on a quarterly basis, a performance report analyzing the performance of the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System, the Teachers' Retirement System of Oklahoma, the Oklahoma Public Employees Retirement System and the retirement plan adopted by the Wildlife Conservation Commission on an individual and consolidated basis. The Commission shall establish a format for use by each of the state retirement systems in submitting the information requested by the Commission for the report. The report shall contain:

- a. combined and individual rates of return of the investment managers by category of investment, over periods of time,
- b. the data obtained pursuant to subparagraph a of this paragraph compared with similar data for a larger population of investment managers by asset class as well as by style of management, and
- c. any other information that the Commission may include;

2. Publish widely an annual report in simple and easily understood language containing:

- a. on an individual and consolidated basis, a report of the changes in the investment policy statements adopted by each retirement system in the prior year,
- b. an analysis of the performance of the securities lending program and short-term investment fund of the custodian employed by each governing body of the retirement systems specified in paragraph 1 of this subsection with regard to short-term investment funds, if any, containing retirement system monies,

- c. recommendations on administrative and legislative changes which are necessary to improve the performance of the retirement systems in accordance with current standards for large public fund portfolio management,
- d. a summary of the results of the most recent actuarial valuation to include total assets, total liabilities, unfunded liability or over funded status, contributions and any other information deemed relevant by the Commission. The results shall be determined using the standards prescribed by the Government Accounting Standards Board or any successor entity, and
- e. a listing by category of the expenses of the Commission;

3. Make recommendations to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the State Senate, based upon the advice of pension consultants, for updating or standardizing retirement system benefit designs; and

4. Make recommendations to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the State Senate regarding the methods for the adequate financing of benefits authorized or required by law for performance of service upon behalf of employers participating in any of the retirement systems administered by the entities identified in paragraph 1 of this subsection, including, but not limited to, recommendations regarding the use of dedicated tax or other revenue sources or the modification of such tax or other revenue sources to provide additional funding to retirement systems the actuarial condition of which would benefit from such sources.

B. The Commission shall distribute its reports and recommendations to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the chairman and vice-chairman of the Joint Committee on Fiscal Operations. The Commission shall make the reports widely available to the members of the Legislature, members of the retirement systems and the general public.

C. The Commission shall hire one or more pension fund management consultants to assist the Commission in accomplishing its objectives specified in subsection A of this section. Consultants shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Commission. A consultant:

- 1. Shall be experienced in providing unbiased third-party consulting services;
- 2. Shall have in its client base individual clients that are comparable in size to the combined total assets of the retirement systems specified in paragraph 1 of subsection A of this section; and

3. Shall not be under contract with any of the individual governing bodies of the various state retirement systems.

D. For purposes of this subsection, pension fund management consultants hired by the Commission are hereby considered fiduciaries of the state retirement systems.

1. A fiduciary with respect to the state retirement systems shall not cause or advise a retirement system to engage in a transaction if the fiduciary knows or should know that such transaction constitutes a direct or indirect:

- a. sale or exchange, or leasing of any property from a retirement system to a party in interest for less than adequate consideration or from a party in interest to a retirement system for more than adequate consideration,
- b. lending of money or other extension of credit from a retirement system to a party in interest without the receipt of adequate security and a reasonable rate of interest, or from a party in interest to a retirement system with provision of excessive security or an unreasonably high rate of interest,
- c. furnishing of goods, services or facilities from a retirement system to a party in interest for less than adequate consideration, or from a party in interest to a retirement system for more than adequate consideration, or
- d. transfer to, or use by or for the benefit of, a party in interest of any assets of a retirement system for less than adequate consideration.

2. A fiduciary with respect to the state retirement systems shall not:

- a. deal with the assets of a retirement system in the fiduciary's own interest or for the fiduciary's own account,
- b. in the fiduciary's individual or any other capacity act in any transaction involving a retirement system on behalf of a party whose interests are adverse to the interests of a retirement system or the interests of its participants or beneficiaries, or
- c. receive any consideration for the fiduciary's own personal account from any party dealing with a retirement system in connection with a transaction involving the assets of a retirement system.

Added by Laws 1988, c. 321, § 39, operative July 1, 1988. Amended by Laws 1993, c. 322, § 30, emerg. eff. June 7, 1993; Laws 2002, c. 391, § 2, eff. July 1, 2002; Laws 2003, c. 90, § 1, emerg. eff. April 15, 2003; Laws 2011, c. 379, § 8, eff. Sept. 1, 2011; Laws 2016, c. 45, § 1, eff. Nov. 1, 2016.

§74-943. Oklahoma State Pension Commission Revolving Fund.

There is hereby created in the State Treasury a revolving fund to be designated the "Oklahoma State Pension Commission Revolving Fund" which shall consist of all monies received by the Commission as provided by law. The fund shall be a continuing fund not subject to fiscal year limitations. Monies accruing to the credit of the fund are hereby appropriated and may be expended by the Oklahoma State Pension Commission for implementing its duties. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims submitted by the Commission to the Director of the Office of Management and Enterprise Services for audit and payment.

Added by Laws 1988, c. 321, § 40, operative July 1, 1988. Amended by Laws 2012, c. 304, § 931.

§74-951. State policy.

In furtherance of its obligation to advance the general welfare of the state, the Legislature is cognizant of its duty to give all citizens the opportunity to reach their full potential. Therefore, the Legislature declares that any inhibiting condition caused by racial, ethnic, or religious factors are matters of concern to the state government, threaten the rights and privileges of its citizens, and the institutions of a free and democratic society. Laws 1963, c. 322, § 1, emerg. eff. June 1, 1963.

§74-952. Repealed by Laws 2013, c. 214, § 33, emerg. eff. May 7, 2013.

§74-953. Repealed by Laws 2013, c. 214, § 33, emerg. eff. May 7, 2013.

§74-954. Discrimination in state employment.

It is hereby prohibited for any department or agency of the State of Oklahoma, or any official or employee of the same for and on behalf of the State of Oklahoma: to refuse to employ or to discharge any person, otherwise qualified, on account of race, color, creed, national origin, age, handicap, or ancestry; to discriminate for the same reasons in regard to tenure, terms, or conditions of employment; to deny promotion or increase in compensation solely for these reasons; to publish an offer of employment based on such discrimination; to adopt or enforce any rule or employment policy which so discriminates as to any employee; or to seek such information as to any applicant or employee or to discriminate in the selection of personnel for training solely on such basis. These provisions shall be cumulative and in addition to existing laws relating to discrimination in the classified service.



It shall be the duty of the Oklahoma Merit Protection Commission to investigate, upon its own initiative, upon complaint filed by any aggrieved person, or upon complaint filed by the Attorney General's Office of Civil Rights Enforcement, any violation of this section and to enforce compliance with the same, both in the classified and the nonclassified service. The Attorney General's Office of Civil Rights Enforcement shall investigate, upon its own initiative or on complaint filed with it, any such violation and may file a formal complaint with the Oklahoma Merit Protection Commission. When any complaint is filed by the Attorney General with the Oklahoma Merit Protection Commission, the Oklahoma Merit Protection Commission shall set a hearing on the same, at which hearing the Attorney General, or his or her representative, may appear and present the finding of the Attorney General in regard to such violation. In the enforcement of this section, the Oklahoma Merit Protection Commission shall follow the provisions of existing laws relating to hearings, procedures, and notices, and shall have power to enforce its orders pertaining to violations of this section as is provided by law in regard to the classified service.

Added by Laws 1963, c. 322, § 4, emerg. eff. June 21, 1963. Amended by Laws 1982, c. 338, § 52, eff. July 1, 1982; Laws 1985, c. 165, § 20, eff. Nov. 1, 1985; Laws 1986, c. 158, § 26, operative July 1, 1986; Laws 2013, c. 214, § 31, emerg. eff. May 7, 2013.

§74-955. Repealed by Laws 2013, c. 214, § 33, emerg. eff. May 7, 2013.

§74-1001. Purpose.

It is the purpose of Section 1001 et seq. of this title to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities. The cooperating governmental units can, if they deem it necessary, create an entity to carry out the cooperative functions.

Added by Laws 1965, c. 189, § 1, emerg. eff. June 8, 1965. Amended by Laws 1994, c. 312, § 1, emerg. eff. June 7, 1994.

§74-1002. Citation.

This act may be cited as the Interlocal Cooperation Act.  
Laws 1965, c. 189, § 2, emerg. eff. June 8, 1965.

§74-1003. Definitions.

A. For the purposes of Section 1001 et seq. of this title, the term "public agency" shall mean:

1. Any political subdivision of this state;
2. Any agency of the state government or of the United States;
3. Each and every public trust of this state regardless of whether the beneficiary of such trust is a municipality, a county, or the State of Oklahoma, except the Oklahoma Ordnance Works Authority;

4. Any corporation organized not for profit pursuant to the provisions of the Oklahoma General Corporation Act, Section 1001 et seq. of Title 18 of the Oklahoma Statutes, for the primary purpose of developing and providing rural water supply and sewage disposal facilities to serve rural residents or to provide community-based services or assistance to clients of the Department of Mental Health and Substance Abuse Services as provided in Section 2-106 of Title 43A of the Oklahoma Statutes;

5. Any political subdivision of another state; and

6. Any city-county health department created pursuant to Section 1-210 of Title 63 of the Oklahoma Statutes.

B. The term "state" shall mean a state of the United States and the District of Columbia.

Added by Laws 1965, c. 189, § 3, emerg. eff. June 8, 1965. Amended by Laws 1986, c. 276, § 18, operative July 1, 1986; Laws 1988, c. 49, § 1, emerg. eff. March 22, 1988; Laws 1995, c. 85, § 2, eff. Nov. 1, 1995; Laws 2015, c. 36, § 1, eff. Nov. 1, 2015.

§74-1004. Agreements authorized.

A. Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state, and jointly with any public agency of any other state or of the United States to the extent that laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges and authority conferred by this act upon a public agency.

B. Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the provisions of this act. If it becomes advisable and economically advantageous for any Oklahoma public agency administering federal housing programs statewide within the State of Oklahoma to enter into agreements with an agency of the United States or of another state in order to benefit the State of Oklahoma through administration of federal housing programs either within or outside of the State of Oklahoma, such Oklahoma public agency may do so.

Appropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies of the participating public

agencies shall be necessary before any such agreement may enter into force.

C. Any such agreement shall specify the following:

1. Its duration;
2. The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, provided such entity may be legally created;
3. Its purpose or purposes;
4. The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor;
5. The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination; and
6. Any other necessary and proper matters.

D. In the event that the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to paragraphs 1, 3, 4, 5 and 6 set forth in subsection C of this section, contain the following:

1. Provisions for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, public agencies party to the agreement shall be represented; and
2. The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking.

E. No agreement made pursuant to this act shall relieve any public agency of any obligation or responsibility imposed upon it by law except that, to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made hereunder, the performance may be offered in satisfaction of the obligation or responsibility.

F. Every agreement made hereunder, except those agreements authorized by Section 601 of Title 69 of the Oklahoma Statutes which shall be approved by the district attorney, shall, prior to and as a condition precedent to its entry into force, be submitted to the Attorney General who shall determine whether the agreement is in proper form and compatible with the laws of this state, including any agreements entered into pursuant to the provisions of the Oklahoma Community Economic Development Pooled Finance Act. The Attorney General shall approve any agreement submitted to the Attorney General hereunder unless the Attorney General shall find that it does not meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to

disapprove an agreement submitted hereunder within sixty (60) days of its submission shall constitute approval thereof.

G. Financing of joint projects by agreements shall be as provided by law, including any agreements entered into pursuant to the provisions of the Oklahoma Community Economic Development Pooled Finance Act.

Added by Laws 1965, c. 189, § 4, emerg. eff. June 8, 1965. Amended by Laws 2000, c. 180, § 2, eff. Nov. 1, 2000; Laws 2009, c. 309, § 18, eff. July 1, 2009; Laws 2018, c. 114, § 1, eff. Nov. 1, 2018.

§74-1005. Filing of agreements - Status - Actions.

Prior to its entry into force, an agreement made pursuant to this act shall be filed with the county clerk and with the Secretary of State. In the event that an agreement entered into pursuant to this act is between or among one or more public agencies of this state and one or more public agencies of another state or of the United States, said agreement shall have the status of an interstate compact, but in any case or controversy involving performance or interpretation thereof or liability thereunder, the public agencies party thereto shall be real parties in interest and the state may maintain an action to recoup or otherwise make itself whole for any damages or liability which it may incur by reason of being joined as a party therein. Such action shall be maintainable against any public agency or agencies whose default, failure of performance, or other conduct caused or contributed to the incurring of damage or liability by the state.

Laws 1965, c. 189, § 5, emerg. eff. June 8, 1965.

§74-1006. Approval of agreements.

In the event that an agreement made pursuant to this act shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction in the same manner and subject to the same requirements governing the action of the Attorney General pursuant to Section 4(f) of this act. This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the Attorney General. .

Laws 1965, c. 189, § 6, emerg. eff. June 8, 1965.

§74-1007. Appropriation of funds - Personnel or services.

Any public agency entering into an agreement pursuant to the act may appropriate funds and may sell, lease, give, or otherwise supply

the administrative joint board or other legal or administrative entity created to operate the joint or cooperative undertaking by providing such personnel or services therefor as may be within its legal power to furnish.

Laws 1965, c. 189, § 7, emerg. eff. June 8, 1965.

§74-1008. Contracts for governmental services.

A. Any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which any of the public agencies entering into the contract is authorized by law to perform, provided that such contract shall be authorized by the governing body of each party to the contract. Such contract shall set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting parties.

B. Except as otherwise specifically provided by law, the acquisition of food items or food products by a state public agency from a public trust created pursuant to Sections 176 through 180.56 of Title 60 of the Oklahoma Statutes shall comply with competitive bidding procedures pursuant to Section 85.7 of this title.

Laws 1965, c. 189, § 8, emerg. eff. June 8, 1965; Laws 1994, c. 223, § 2, eff. Sept. 1, 1994.

§74-1051. Text of compact.

The Southern States Energy Compact is hereby entered into by this state with any and all other states legally joining therein in accordance with its terms, in the form substantially as follows:

#### ARTICLE I. POLICY AND PURPOSE

The party states recognize that the proper employment and conservation of energy and employment of energy-related facilities, materials, and products, within the context of a responsible regard for the environment, can assist substantially in the industrialization of the South and the development of a balanced economy for the region. They also recognize that optimum benefit from and acquisition of energy resources and facilities require systematic encouragement, guidance, and assistance from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis; it is the purpose of this Compact to provide the instruments and framework for such a cooperative effort to improve the economy of the South and contribute to the individual and community well-being of the region's people.

#### ARTICLE II. THE BOARD

(a) There is hereby created an agency of the party states to be known as the "Southern States Energy Board", hereinafter called the Board. The Board shall be composed of three (3) members from each party state, one of whom shall be appointed or designated in each

state to represent the Governor, the State Senate and the State House of Representatives, respectively. Each member shall be designated or appointed in accordance with the law of the state which he represents and serving and subject to removal in accordance with such law. Any member of the Board may provide for the discharge of his duties and the performance of his functions thereon, either for the duration of his membership or for any lesser period of time, by a deputy or assistant, if the laws of his state make specific provision therefor. The federal government may be represented without vote if provision is made by federal law for such representation.

(b) Each party state shall each be entitled to one vote on the Board to be determined by majority vote of each member or member's representative from the party state present and voting on any question. No action of the Board shall be binding unless taken at a meeting at which a majority of all party states are represented and unless a majority of the total number of votes on the Board are cast in favor thereof.

(c) The Board shall have a seal.

(d) The Board shall elect annually, from among its members, a chairman, a vice-chairman, and a treasurer. The Board shall appoint an Executive Director who shall serve at its pleasure and who shall also act as Secretary, and who, together with the treasurer, shall be bonded in such amounts as the Board may require.

(e) The Executive Director, with the approval of the Board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the Board's functions irrespective of the civil service, personnel or other merit system laws of any of the party states.

(f) The Board may establish and maintain, independently or in conjunction with any one or more of the party states, a suitable retirement system for its full-time employees. Employees of the Board shall be eligible for social security coverage in respect of old age and survivors insurance provided that the Board takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The Board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(g) The Board may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

(h) The Board may accept for any of its purposes and functions under this Compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution,

person, firm or corporation, and may receive, utilize and dispose of the same.

(i) The Board may establish and maintain such facilities as may be necessary for the transacting of its business. The Board may acquire, hold, and convey real and personal property and any interest therein.

(j) The Board shall adopt bylaws, rules and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules, and regulations. The Board shall publish its bylaws, rules, and regulations in convenient form and shall file a copy thereof, and shall also file a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(k) The Board annually shall make, to the governor of each party state, a report covering the activities of the Board for the preceding year, and embodying such recommendations as may have been adopted by the Board, which report shall be transmitted to the Legislature of said state. The Board may issue such additional reports as it may deem desirable.

#### ARTICLE III. FINANCES

(a) The Board shall submit to the executive head or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the Legislature thereof.

(b) Each of the Board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. One-half (1/2) of the total amount of each budget of estimated expenditures shall be apportioned among the party states in equal shares; one-quarter (1/4) of each such budget shall be apportioned among the party states in accordance with the ratio of their populations to the total population of the entire group of party states based on the last Decennial Federal Census; and one-quarter (1/4) of each such budget shall be apportioned among the party states on the basis of the relative average per capita income of the inhabitants in each of the party states based on the latest computations published by the federal census-taking agency. Subject to appropriation by their respective Legislatures, the Board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the Board.

(c) The Board may meet any of its obligations in whole or in part with funds available to it under Article II (h) of this Compact, provided that the Board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the Board makes use

of funds available to it under Article II (h) hereof, the Board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to meet the same.

(d) The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Board shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become a part of the annual report of the Board.

(e) The accounts of the Board shall be open at any reasonable time for inspection.

#### ARTICLE IV. ADVISORY COMMITTEES

The Board may establish such advisory and technical committees as it may deem necessary, membership on which to include but not be limited to private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies, and officials of local, state and federal government, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this Compact.

#### ARTICLE V. POWERS

The Board shall have power to:

(a) Ascertain and analyze on a continuing basis the position of the South with respect to energy, energy-related industries and environmental concerns.

(b) Encourage the development, conservation and responsible use of energy and energy-related facilities, installations, and products as part of a balanced economy and healthy environment.

(c) Collect, correlate, and disseminate information relating to civilian uses of energy and energy-related materials and products.

(d) Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspect of:

(1) Energy, environment, and application of energy, environmental, and related concerns to industry, medicine, or education or the promotion or regulation thereof.

(2) The formulation or administration of measures designed to promote safety in any matter related to the development, use or disposal of energy and energy-related materials, products, installations, or wastes.

(e) Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations of energy product, material, or equipment use and disposal and of proper techniques or processes for the application of energy resources to the civilian economy or general welfare.



(f) Undertake such nonregulatory functions with respect to sources of radiation as may promote the economic development and general welfare of the region.

(g) Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to energy and environmental fields.

(h) Recommend such changes in, or amendments or additions to, the laws, codes, rules, regulations, administrative procedures and practices or ordinances of the party states in any of the fields of its interest and competence as in its judgment may be appropriate. Any such recommendation shall be made through the appropriate state agency with due consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstance which may justify variations to meet local conditions.

(i) Prepare, publish and distribute, with or without charge, such reports, bulletins, newsletters or other material as it deems appropriate.

(j) Cooperate with the United States Department of Energy or any agency successor thereto, any other officer or agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interests.

(k) Act as licensee of the United States Government or any party state with respect to the conduct of any research activity requiring such license and operate such research facility or undertake any program pursuant thereto.

(l) Ascertain from time to time such methods, practices, circumstances, and conditions as may bring about the prevention and control of energy and environmental incidents in the area comprising the party states, to coordinate the environmental and other energy-related incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with energy and environmental incidents. The Board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with energy and environmental incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this Compact.

#### ARTICLE VI. SUPPLEMENTARY AGREEMENTS

(a) To the extent that the Board has not undertaken an activity or project which would be within its power under the provisions of Article V of this Compact, any two or more of the party states, acting by their duly constituted administrative officials, may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify its purpose or purposes; its duration and the procedure for termination

thereof or withdrawal therefrom; the method of financing and allocating the costs of the activity or project; and such other matters as may be necessary or appropriate. No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the Board. The Board shall give such approval unless it finds that the supplementary agreement or the activity or project contemplated thereby is inconsistent with the provisions of this Compact or a program or activity conducted by or participated in by the Board.

(b) Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the Board may administer or otherwise assist in the operation of any supplementary agreement.

(c) No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this Compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the Compact.

#### ARTICLE VII. OTHER LAWS AND RELATIONSHIPS

Nothing in this Compact shall be construed to:

(a) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order or ordinance of a party state or subdivision thereof now or hereafter made, enacted or in force.

(b) Limit, diminish, or otherwise impair jurisdiction exercised by the United States Department of Energy, any agency successor thereto, or any other federal department, agency or officer pursuant to and in conformity with any valid and operative act of Congress.

(c) Alter the relations between the respective internal responsibilities of the government of a party state and its subdivisions.

(d) Permit or authorize the Board to exercise any regulatory authority or to own or operate any nuclear reactor for the generation of electric energy; nor shall the Board own or operate any facility or installation for industrial or commercial purposes.

#### ARTICLE VIII. ELIGIBLE PARTIES, ENTRY INTO FORCE AND WITHDRAWAL

(a) Any or all of the states of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia, the Commonwealth of Puerto Rico, and the United States Virgin Islands shall be eligible to become party to this Compact.

(b) As to any eligible party state, this Compact shall become effective when its Legislature shall have enacted the same into law;

provided that it shall not become initially effective until enacted into law by seven states.

(c) Any party state may withdraw from this Compact by enacting a statute repealing the same, but no such withdrawal shall become effective until the Governor of the withdrawing state shall have sent formal notice in writing to the Governor of each other party state informing said Governors of the action of the Legislature in repealing the Compact and declaring an intention to withdraw.

#### ARTICLE IX. SEVERABILITY AND CONSTRUCTION

The provisions of this Compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this Compact or such supplementary agreement is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact or such supplementary agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact or any supplementary agreement entered into hereunder shall be held contrary to the constitution of any state participating therein, the Compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this Compact and of any supplementary agreement entered into pursuant hereto shall be liberally construed to effectuate the purpose thereof.

Added by Laws 1965, c. 255, § 1, emerg. eff. June 21, 1965. Amended by Laws 1980, c. 19, § 1.

#### §74-1052. Governor as ex officio member - Assistant.

The Governor shall be, ex officio, this state's member of the Southern Interstate Nuclear Board as established by Article II of the Compact. Provided, that whenever the Governor shall deem it advisable to do so he may appoint an assistant in the Governor's office or the executive head of any state department, agency or institution as this state's member of the Board, and thereafter such appointed member shall serve on the Board at the pleasure of the Governor. An executed counterpart of each letter of appointment by the Governor shall be filed with the Secretary of the Board.

Added by Laws 1965, c. 255, § 2, emerg. eff. June 21, 1965.

#### §74-1053. Expenditures - Appropriations.

Any supplementary agreement entered into pursuant to Article VI of the Compact and requiring the expenditure of funds or the assumption of an obligation to expend funds shall not become effective as to this state prior to the making of an appropriation therefor by the Legislature. Provided, that with respect to the

payment of this state's share of the budget of expenditures for the maintenance of the Board as provided in Article III(b) of the Compact, the Governor may, in the absence of a specific legislative appropriation for such purpose, use appropriations as are made available to him for emergency and contingency expenditures. Laws 1965, c. 255, § 3, emerg. eff. June 21, 1965.

§74-1054. Cooperation.

All officers, departments, agencies and institutions of this State and of its political subdivisions are hereby authorized to cooperate with the Southern Interstate Nuclear Board in the furtherance of any of its activities pursuant to the Compact. Laws 1965, c. 255, § 4, emerg. eff. June 21, 1965.

§74-1108a. Establishment of boundaries for planning regions.

(1) It shall be the duty of the Oklahoma Industrial Development and Park Commission to establish criteria for boundaries of planning regions within the state in the following manner:

(a) The Director shall within six (6) months after the effective date of this act recommend to the Commission proposed criteria to be used in the establishment of planning regions;

(b) The Commission shall within three (3) months after the date of submission of the criteria by the Director establish and adopt criteria to be used in the delineation of planning regions following at least one public hearing with notice to all regional planning agencies, counties and municipalities included therein.

(2) The Commission shall establish boundaries for planning regions in the following manner:

(a) Based upon criteria adopted by the Commission the Director shall within thirty (30) days recommend to the Commission planning regional boundaries;

(b) The Commission shall within sixty (60) days after the Director's recommendation adopt and establish planning regional boundaries following at least one public hearing with notice to all regional planning agencies, counties and municipalities included therein.

(3) Any regional planning agency may, within forty-five (45) days after a final decision of the Commission on delineation of planning regional boundaries, file an appeal in writing to the Governor with a copy to the Commission. In the event of such appeal the Governor may approve or modify the decision of the Commission.

(4) When any two or more regional planning agencies shall propose to the Director in writing a modification of existing boundaries, the Director shall within thirty (30) days after receipt of such request forward said request with his recommendations to the Commission which shall conduct a public hearing with notice to the

regional planning agencies, counties and municipalities affected therein before final action on such request.

(5) The Commission may delegate to the Director the holding of public hearings as required by this section, in which case the full proceedings of the hearing shall be transcribed and transmitted to the Commission.

(6) Where a Standard Metropolitan Statistical Area (SMSA), as determined by the Federal Office of Management and Budget, crosses the state line and includes counties both from Oklahoma and another state, the regional and areawide planning covering the Oklahoma counties shall be the sole responsibility of the Oklahoma Regional Planning Agency established for the area delineated in accordance with this section, and not a regional organization operating across the state line. The Oklahoma Regional Planning Agency shall have the sole responsibility for determining eligibility and for clearing all grants and all projects.

(7) As used in this section:

(a) "Regional planning agency" means an agency of state government or other entity which has planning responsibilities for two or more counties; and

(b) "Notice" means written notifications at least fifteen (15) days prior to public hearing.

Laws 1969, c. 197, § 1, emerg. eff. April 18, 1969; Laws 1974, c. 69, § 1.

§74-1121. Indian Cultural Center Revolving Fund.

There is hereby created in the State Treasury the "Indian Cultural Center Revolving Fund," which shall be a continuing fund not subject to fiscal year limitations. Said fund shall consist of monies appropriated thereto by the Legislature, proceeds from the sale of products and other business operations of said center and monies donated, granted or otherwise acquired by said center. Expenditures from said Indian Cultural Center Revolving Fund, herein created, shall be used exclusively for purchasing raw materials, items for resale, personal services, equipment, supplies, construction, renovation and repair of said center and shall be made on claims approved by the Division of Parks, Recreation and Waterways. The Division of Parks, Recreation and Waterways is hereby authorized to accept for and on behalf of the Indian Cultural Center contributions, gifts, bequests, devises, donations and other monies, public and private, and tangible articles for use in furthering the purposes of the center. Said Division is hereby authorized and directed to cooperate with agencies of the federal government and other units of government and to enter into contract for furthering the purposes and objectives of said center.

Laws 1965, c. 493, § 6, emerg. eff. July 15, 1965.

§74-1151. Inclusion of state as part of economic development region.

The State of Oklahoma hereby concurs in the inclusion of all or a portion of said state, with portions of other states, as a part of an "economic development region," now or hereafter designated by the U.S. Secretary of Commerce, or such other official as may be provided by law, under laws heretofore or hereafter enacted by the Congress of the United States; such concurrence refers particularly to, but is not limited to, the Ozarka Region of Eastern Oklahoma, Western Arkansas, Southern Missouri and contiguous areas.  
Laws 1965, p. 1217, H.J.R.No.553, § 1.

§74-1152. Establishment of multistate regional commission or commissions.

The State of Oklahoma hereby accepts the invitation heretofore or hereafter received from the U.S. Secretary of Commerce, or such other official as may be provided by law, to join with the federal government and other states for the establishment of the appropriate multistate regional commission or commissions for the economic development region or regions, referred to in Section 2 hereof, under laws heretofore or hereafter enacted by the Congress of the United States.  
Laws 1965, p. 1217, H.J.R.No.553, § 2.

§74-1153. Oklahoma members of commission - Participation in activities - Reimbursement for expenses.

It is hereby provided by the law of the State of Oklahoma that upon the establishment of such multistate regional commission or commissions, referred to in Sections 1151 and 1152 hereof, the State of Oklahoma member of such commission or commissions shall be the Governor of the State of Oklahoma and the State of Oklahoma alternate for such commission or commissions shall be the Director of the Oklahoma Industrial Development and Park Commission. The participation of said state officials in the activities of said commission or commissions, attendance at meetings thereof and related functions in connection therewith, shall be a part of the regular and official duties of said state officials, to be performed without additional salary or compensation to them from the State of Oklahoma, except that travel and related expenses of said state officials in connection with such added duties shall be reimbursed by the State of Oklahoma the same as is now provided by law for reimbursement of such expenses in connection with the official duties of said state offices.  
Laws 1965, p. 1217, H.J.R.No. 553, § 3; Laws 1967, c. 49, § 1, emerg. eff. April 13, 1967.

§74-1201. Repealed by Laws 2011, c. 305, § 6.

§74-1202. Repealed by Laws 2011, c. 305, § 6.

§74-1203. Repealed by Laws 2011, c. 305, § 6.

§74-1204. Renumbered as § 840-5.22 of this title by Laws 1998, c. 388, § 13, eff. July 1, 1998.

§74-1205. Repealed by Laws 2011, c. 305, § 6.

§74-1206. Transfer of powers, duties, functions, and responsibilities.

A. On the effective date of this act, all powers, duties, functions, and responsibilities of the Oklahoma Indian Affairs Commission shall be transferred to the Oklahoma Native American Liaison created in Section 2 of this act. Except as otherwise provided for in this section, the transfer shall include all real property, buildings, furniture, equipment, supplies, records, assets, current and future liabilities, fund balances, encumbrances, obligations, and indebtedness associated with the Oklahoma Indian Affairs Commission.

B. For purposes of this section, the Oklahoma Indian Affairs Commission shall mean the Oklahoma Indian Affairs Commission as created in Section 1201 of Title 74 of the Oklahoma Statutes.

C. Appropriate conveyances and other documents shall be executed by January 1, 2012, to effectuate the transfer of property owned by the Oklahoma Indian Affairs Commission to the Oklahoma Native American Liaison.

D. Any monies accruing to or in the name of the Oklahoma Indian Affairs Commission on and after the effective date of this act, or any monies that accrue in any funds or accounts on and after the effective date of this act, in the name of the Oklahoma Indian Affairs Commission or maintained for the benefit of the Oklahoma Indian Affairs Commission, shall be transferred to the Oklahoma Native American Liaison.

E. The Oklahoma Native American Liaison shall succeed to any contractual rights and responsibilities incurred by the Oklahoma Indian Affairs Commission.

Added by Laws 2011, c. 305, § 1.

§74-1207. Oklahoma Native American Liaison.

A. The State of Oklahoma recognizes the status of the federally recognized tribal governments residing in the geographical boundaries of the state as sovereign nations and the state recognizes the need for further cooperation between the state and the tribes and their citizens and the importance of the government-to-government relationship between the state and the tribes.

B. There is hereby created the position of Oklahoma Native American Liaison who shall be appointed by the Governor. The Oklahoma Native American Liaison may also serve as the Secretary of Native American Affairs or a successor cabinet position and shall have jurisdictional areas of responsibility related to Native American issues and state and tribal relations. The first Oklahoma Native American Liaison shall be appointed no later than December 1, 2012.

C. Any person appointed to the position of Oklahoma Native American Liaison shall be a member or citizen of a federally recognized American Indian tribe or nation that has its primary tribal headquarters located in Oklahoma and shall have valid proof of membership or citizenship.

D. The salary and any other expenses for the Oklahoma Native American Liaison shall be budgeted as a separate line item through the Governor. The Governor shall provide adequate office space, equipment and support necessary to enable the Oklahoma Native American Liaison to carry out the duties and responsibilities of the position.

E. The Oklahoma Native American Liaison shall:

1. Have the powers and duties over Native American issues and state and tribal relation areas designated to the position by the Governor;

2. Monitor all compacts, including gaming, tobacco, and motor vehicle fuel compacts, entered into by the state and political subdivisions with federally recognized Indian tribal governments within this state;

3. Coordinate with the Office of Tribal Relations within the Oklahoma Historical Society on the gathering, preserving and maintaining of all compacts and agreements between federally recognized Indian tribal governments and the state and political subdivisions and all related records, documents and materials;

4. Monitor state agency consultation policies with tribal governments;

5. Monitor the interactions of state agencies with tribal governments;

6. Provide coordination between tribes and state agencies for any activities of the state agency that will directly affect tribal governments or their property;

7. Inform tribes about ongoing or proposed state programs that will affect tribal governments or their property;

8. Coordinate with tribal governments to determine priorities of interest for possible cooperation between the various agencies and the tribal governments;

9. Inform tribes on funding opportunities through partnerships with state agencies to address locally determined priorities of interest agreed to by both the state and tribal governments;



10. Ensure continuing outreach to tribes and shall establish and maintain relationships with tribes and tribal organizations; and

11. Make an annual report on the interaction between the state and state agencies and tribal governments and shall submit the report to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate.

Added by Laws 2011, c. 305, § 2. Amended by Laws 2012, c. 299, § 1.

§74-1221. Indian tribes - Acknowledgment of federal recognition - Cooperative agreements - Surface water and/or groundwater resources.

A. The State of Oklahoma acknowledges federal recognition of Indian tribes recognized by the Department of Interior, Bureau of Indian Affairs.

B. The State of Oklahoma recognizes the unique status of Indian tribes within the federal government and shall work in a spirit of cooperation with all federally recognized Indian tribes in furtherance of federal policy for the benefit of both the State of Oklahoma and tribal governments.

C. 1. The Governor is authorized to negotiate and enter into cooperative agreements on behalf of this state with federally recognized Indian tribal governments within this state to address issues of mutual interest. The Governor may elect to name a designee who shall have authority to negotiate and enter into cooperative agreements on behalf of the state with federally recognized Indian tribes as provided for in this section. Except as otherwise provided by this subsection, such agreements shall become effective upon approval by the Joint Committee on State-Tribal Relations.

2. If the cooperative agreements specified and authorized by paragraph 1 of this subsection involve trust responsibilities, approval by the Secretary of the Interior or designee shall be required.

3. Any cooperative agreement specified and authorized by paragraph 1 of this subsection involving the surface water and/or groundwater resources of this state or which in whole or in part apportions surface and/or groundwater ownership shall become effective only upon the consent of the Oklahoma Legislature authorizing such cooperative agreement.

D. 1. The governing board of a political subdivision of this state is authorized to negotiate and enter into intergovernmental cooperative agreements in behalf of the political subdivision, with a federally recognized Indian tribal government within this state to address issues of mutual interest. Except as otherwise provided by this subsection, such agreements shall be effective upon approval by the Joint Committee on State-Tribal Relations and the Governor, or the designee of the Governor.

2. Agreements for juvenile detention facilities made pursuant to Section 2-3-103 of Title 10A of the Oklahoma Statutes shall become effective upon approval by the board of county commissioners.

3. Any cooperative agreement specified and authorized by paragraph 1 of this subsection involving the surface water and/or groundwater resources of this state shall become effective only upon the consent of the Oklahoma Legislature authorizing such cooperative agreement.

4. Agreements between the Military Department of the State of Oklahoma and an Indian tribe for the management or operation of a juvenile facility shall not be subject to the requirements of this section.

5. Agreements between the Department of Transportation of the State of Oklahoma and an Indian tribe or the Oklahoma Turnpike Authority and an Indian tribe for the maintenance and construction of transportation facilities, roads or bridges shall not be subject to the requirements of this section.

E. An executed original of every agreement approved pursuant to this section shall be filed with the Secretary of State. A copy of every agreement shall be filed with the Office of Tribal Relations within the Oklahoma Historical Society.

Added by Laws 1988, c. 160, § 1. Amended by Laws 1989, c. 296, § 1, emerg. eff. May 24, 1989; Laws 1991, c. 202, § 3, emerg. eff. May 17, 1991; Laws 1994, c. 290, § 73, eff. July 1, 1994; Laws 2000, c. 240, § 4, eff. Nov. 1, 2000; Laws 2002, c. 485, § 2, emerg. eff. June 6, 2002; Laws 2009, c. 234, § 164, emerg. eff. May 21, 2009; Laws 2011, c. 305, § 3; Laws 2012, c. 102, § 1, emerg. eff. April 19, 2012; Laws 2012, c. 299, § 2.

§74-1221.A. Moratorium on compacts or cooperative agreements relating to surface water or groundwater.

In order to provide for the conservation, preservation, protection and optimum development and utilization of surface water and groundwater within this state, the Legislature hereby establishes a moratorium on any state or tribal compact or any intergovernmental cooperative agreement, authorized pursuant to law, which is drafted in whole or in part to apportion surface water or groundwater ownership, or authorize or otherwise implement any sale or exportation of surface water or groundwater outside this state, except as authorized by the provisions of this act. Unless earlier repealed or revoked by the Legislature, the moratorium shall be in effect for a five-year period beginning on the effective date of this act or until such time as the State of Oklahoma conducts and completes a comprehensive scientific hydrological study of the water resources of this state.

Added by Laws 2002, c. 485, § 3, emerg. eff. June 6, 2002. Amended by Laws 2004, c. 392, § 2, eff. Nov. 1, 2004.

§74-1222. Joint Committee on State-Tribal Relations.

A. There is hereby created the "Joint Committee on State-Tribal Relations". The Committee shall be responsible for overseeing and approving agreements between tribal governments and the State of Oklahoma. The Committee shall consist of ten (10) members, to be appointed as follows:

1. Five members of the Senate to be appointed by the President Pro Tempore of the Senate; and

2. Five members of the House of Representatives to be appointed by the Speaker of the House of Representatives.

B. The chairman and vice-chairman of the Committee shall be designated from the membership of the Committee by the Speaker of the House of Representatives and the President Pro Tempore of the Senate as provided for in this subsection. The President Pro Tempore of the Senate shall designate the initial chairman who shall serve until the convening of the First Regular Session of the 44th Oklahoma Legislature. The Speaker of the House of Representatives shall designate the initial vice-chairman who shall serve until the convening of the First Regular Session of the 44th Oklahoma Legislature. Thereafter, the chairmanship shall alternate every two (2) years between the House of Representatives and the Senate, beginning with the convening of the First Regular Session of the Legislature.

C. All members of the Committee shall serve at the pleasure of the appointing authority.

D. All actions of the Committee shall require a quorum which shall be defined as a majority of the members appointed. Approval of any agreement pursuant to Section 1221 of this title by the Committee shall be determined by a majority of the quorum present.

E. Staff for the Committee shall be provided by the House of Representatives and Senate from their existing staff.

Added by Laws 1988, c. 160, § 2. Amended by Laws 1989, c. 296, § 2, emerg. eff. May 24, 1989; Laws 1991, c. 202, § 4, emerg. eff. May 17, 1991.

§74-1223. Agency responsible for monitoring Indian gaming compacts.

The Oklahoma State Bureau of Investigation is hereby declared to be the agency responsible, on behalf of the state, for monitoring and oversight for compacts relating to Indian gaming that are approved pursuant to Sections 1221 and 1222 of Title 74 of the Oklahoma Statutes.

Added by Laws 1993, c. 305, § 1, eff. July 1, 1993.

§74-1224. Land of Indian and Hard Rock Mining Museum Commission - Sale to Northeast Eight Inter-Tribal Council - Federal trust.

A. Notwithstanding any other provision relating to the authority of the Office of Management and Enterprise Services, the Office of Management and Enterprise Services is hereby authorized to enter into a private land sale agreement with the Northeast Eight Inter-Tribal Council to secure title to the former land of the Indian and Hard Rock Mining Museum Commission, which has by law been deemed as a state reservation for the benefit of said Inter-Tribal Council subject to the restrictions and covenants set forth in Section 1225 of this title.

B. The purpose of this section is to provide for the transfer of title to the Inter-Tribal Council in such manner that the Secretary of the Interior of the United States can immediately place it in federal trust for the benefit of the Northeast Eight Inter-Tribal Council. The sale of said property must be for fair market value.

Added by Laws 1990, c. 262, § 1, eff. Sept. 1, 1990. Amended by Laws 2012, c. 304, § 933.

§74-1225. Sale to Northeast Eight Inter-Tribal Council - Restrictions and covenants.

The restrictions and covenants of the private land sale agreement authorized by Section 1 of this act shall include, but not be limited to, the following:

1. A provision prohibiting the grantee, any subsequent grantee or lessee, or any other person or entity from using the subject land for purposes of operating or permitting to be operated any bingo games, rip off games, pull tab games or any other gaming activities or any type of pari-mutuel wagering; and

2. A provision prohibiting the grantee, any subsequent grantee or lessee, or any other person or entity from establishing or operating any retail or wholesale business on the subject land which is not required to collect and remit or otherwise pay any tax or fees levied pursuant to the laws of this state; provided, however, this prohibition shall not apply to craftwork or souvenir items crafted by tribal members.

Added by Laws 1990, c. 262, § 2, eff. Sept. 1, 1990.

§74-1226. Purpose.

In order to promote the history and culture of Native Americans for the mutual benefit of the State of Oklahoma and its Indian and non-Indian citizens, there is hereby created the "Native American Cultural and Educational Authority", which Authority is hereby authorized and empowered to construct, maintain, repair and operate a Native American cultural center, museum and theme park, along with commercial facilities as defined by Section 1226.3 of this title, within the State of Oklahoma as shall be approved by the Authority and to issue revenue bonds of the Authority payable solely from

revenues to pay the cost of such projects. Provided, no state appropriations shall be used to pay costs of financing or constructing commercial facilities, except for commercial elements within and incidental to the Cultural Center.

Added by Laws 1994, c. 388, § 2, eff. Sept. 1, 1994. Amended by Laws 2000, c. 320, § 1, eff. July 1, 2000; Laws 2006, c. 108, § 1, eff. Nov. 1, 2006.

§74-1226.1. Revenue bonds - Obligation.

Revenue bonds issued under the provisions of this act shall not at any time be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, but such bonds shall be payable solely from the funds therein provided therefor from revenues. Such revenue bonds shall contain on the face thereof a statement to the effect that neither the state nor the Authority shall be obligated to pay the same or the interest thereon except from the revenues of the project or projects for which they are issued and that neither the faith and credit nor the taxing power of the state or any political subdivision thereof is pledged, or may hereafter be pledged, to the payment of the principal of or the interest on such bonds.

Added by Laws 1994, c. 388, § 3, eff. Sept. 1, 1994.

§74-1226.2. Powers - Transfer of property - Members - Surety bonds - Expenses - Subcommittees - Holding other offices.

A. There is hereby created a body corporate and politic to be known as the "Native American Cultural and Educational Authority" (Authority), and by that name the Authority may sue and be sued, and plead and be impleaded. The Authority is hereby constituted an agency of the state, and the exercise by the Authority of the powers conferred by Section 1226 et seq. of this title shall be deemed to be essential governmental functions of the state with all the attributes thereof. Provided, however, the Authority is authorized to carry liability insurance to the extent authorized by the Authority, and in addition thereto it shall be subject to the workers' compensation laws of the State of Oklahoma the same as a private employer. The Office of Management and Enterprise Services (OMES) shall assist the Authority in fulfilling the responsibilities of Section 1226 et seq. of this title, as requested by the Authority.

B. 1. The Legislature hereby finds and it is hereby declared to be the public policy of the State of Oklahoma that the completion and operation of the American Indian Cultural Center and Museum (AICCM) and the transfer of responsibility for operation and maintenance of the AICCM to the City of Oklahoma City (together with any designee thereof, hereinafter referred to as the "City") or its

designee will produce significant benefits to the state and the citizens of the state, which benefits include, but are not limited to:

- a. savings by reason of the state not being required to pay operation and maintenance cost of the AICCM,
- b. savings to the state by reason of the state not being required to appropriate funds for the general operations of the Authority,
- c. sales and other taxes projected to be derived from operation of the AICCM and the surrounding commercial development, as well as derived as a result of the existence of the AICCM and the surrounding commercial development,
- d. increases in employment and the benefits derived by the state from such employment, including income and other taxes, and
- e. other direct and indirect benefits to the state.

The Legislature further finds and declares that the State of Oklahoma and its citizens will be best served by the soonest possible completion of the AICCM and transfer of the Authority's unimproved property to the City for a complementary commercial development, with lease revenues therefrom to supply revenues to support the operations of the AICCM. The Legislature further finds that the State of Oklahoma will be best served by transferring responsibility for operations and maintenance of the AICCM to the City, and in furtherance of such purposes and intent, hereby adopts Section 1226 et seq. of this title.

2. As contemplated by the existing Amended and Restated Ground Lease Agreement between the Authority and the Oklahoma Capitol Improvement Authority (OCIA), but only upon the execution of the agreement described in paragraph 5 of this subsection, all of the unimproved real property of the Authority, which is all of the real property held by the Authority less and except the real property described as provided for by subsection C of Section 1226.18 of this title, shall be transferred to the City. Such transfer shall be for the purpose of enabling the development of commercial facilities on such unimproved property, lease revenues of which shall be used to support the operations of the AICCM upon its completion. The Director of the Office of Management and Enterprise Services (OMES) is hereby authorized and directed to coordinate the transfer of such real property in accordance with the provisions of Section 1226 et seq. of this title.

3. The Authority shall be terminated no later than the first day the AICCM is open to the public. The Office of Management and Enterprise Services (OMES) shall make the determination of whether AICCM is open to the public for purposes of this paragraph. For purposes of this subsection, the AICCM shall mean the museum and

cultural center and associated improvements constructed upon the real property described as provided for by subsection C of Section 1226.18 of this title. If the AICCM has not been opened to the public by July 1, 2020, the Director of OMES may certify that all building and site construction is complete, and upon such certification the statutory entity created by subsection C of this section shall be terminated, irrespective of whether all museum content and exhibits have been completed. Upon the termination of the Authority the functions of the Authority, including the leasing of the AICCM, the right to acquire clear title to the AICCM upon payment of all bonds, and the requirement to make lease payments to pay debt service on all bonds previously or hereafter issued by OCIA shall be transferred from the Authority to the American Indian Cultural Center and Museum Trust Authority (AICCMTA) created pursuant to Section 1226.21 of this title. Upon the termination of the Authority the remaining assets of the Authority shall be transferred to the AICCMTA; provided, that any unexpended funds held by the Authority for operational expenses of the Authority or to enable the payment of principal and interest on bonds or other obligations issued for the benefit of the Authority or the AICCM shall be specifically transferred as provided by paragraph 4 of this subsection. Assets to be transferred to the AICCMTA shall include, but not be limited to, all remaining real property and improvements, personal property, intellectual property, intangible property, rights and obligations pursuant to contract and any other assets, which assets shall be made available to the City to enable the City to exercise its rights and fulfill its obligations under the agreements contemplated by paragraph 5 of this subsection. Notwithstanding any other provision of law, the Director of OMES is hereby authorized and directed to coordinate with the City, the Authority and the AICCMTA to make such assets available for use by the City, for at least the life of outstanding bonds, by management agreement, license or otherwise, for the consideration contemplated by paragraph 5 of this subsection, and to take all steps necessary to effectuate the purpose of Section 1226 et seq. of this title. The AICCMTA, in consultation with OMES, is hereby authorized to transfer to the City any assets obtained by the Authority prior to its termination, including real property, personal property, intellectual property and intangible property, provided that measures are taken to ensure the tax-exempt status of outstanding bonds, and provided further that no such transfers shall take place in advance of the execution of the agreement contemplated by paragraph 5 of this subsection. For purposes of this paragraph, "outstanding bonds" shall include any bonds or other obligations issued by OCIA pursuant to Section 304.2 of Title 73 of the Oklahoma Statutes.

4. Unexpended funds held by the Authority for operational expenses of the Authority or to enable the payment of principal and interest on bonds or other obligations issued for the benefit of the Authority or the AICCM shall, upon termination of the Authority, transfer to the American Indian Cultural Center and Museum Postcompletion Revolving Fund created by Section 1226.22 of this title.

5. With the exception of Section 1226.20 of this title, Section 1226 et seq. of this title shall be null and void unless, prior to January 15, 2016, or not later than the expiration of sixty (60) days from such date with the approval of an extension of time, which may be less than sixty (60) days, by the Director of the Office of Management and Enterprise Services upon a showing by the parties that such extension is likely to result in the execution of a final agreement, the Authority, the City and OMES enter into a written agreement with the following minimum provisions:

- a. with the exception of funds provided pursuant to law for the fiscal year ending June 30, 2016, neither the State of Oklahoma, the Authority nor any other state governmental entity shall have any responsibility for providing funds for operation or maintenance of the AICCM,
- b. the City shall utilize all revenues derived from admissions, event income, merchandise sales, food and beverage sales at the AICCM and revenue from leases of the real property transferred to the City by paragraph 2 of this subsection, for the operation, administration, management and maintenance of the AICCM, for repairs and capital improvements thereto, for the repair, maintenance, development and operation of exhibits and cultural programs, and to provide reserve funds for such purposes,
- c. fifty percent (50%) of the total revenues in excess of Seven Million Dollars (\$7,000,000.00) each fiscal year derived from each and all of the following sources shall be credited to the General Revenue Fund of the State Treasury until the total amount paid pursuant to this subparagraph equals Twenty-five Million Dollars (\$25,000,000.00):
  - (1) profits received by the City or its designee from food and beverage sales occurring at AICCM,
  - (2) profits received by the City or its designee from merchandise sales occurring at AICCM,
  - (3) profits received by the City or its designee from events conducted at the AICCM,
  - (4) gross revenues derived from admissions to the AICCM facility, and



- (5) gross revenues derived from the lease of real property transferred from the Authority to the City pursuant to the provisions of paragraph 2 of this subsection.

The amount of Seven Million Dollars (\$7,000,000.00) prescribed by this subparagraph shall be adjusted, not less often than once each five (5) years, based upon increases, if any, in the Consumer Price Index-All Urban Consumers (CPI-U) or its successor index, as published by the United States Bureau of Labor Statistics. The first adjustment shall be made on July 1, 2020. The Office of Management and Enterprise Services shall be responsible for monitoring and auditing the payments required by the provisions of this paragraph and may require the City to provide such documentation regarding the accuracy and timing of the payments as OMES may request. OMES shall ensure that the agreement required by subparagraph f of this paragraph contains enforceable provisions to allow OMES to monitor and audit the payments required by this subparagraph,

- d. no later than the transfers provided for in paragraph 3 of this subsection, the City shall make payment to the American Indian Cultural Center and Museum Completion Fund created pursuant to Section 1226.20 of this title in the amount of Nine Million Dollars (\$9,000,000.00) toward completion of the AICCM,
- e. the agreement shall specify a plan for completion that will result in the opening of the AICCM to the public using a combination of funds provided or committed by the state, the City and the other contributors to the project,
- f. the City, the Authority or its successor and OMES shall enter into a separate operation, maintenance and management agreement concerning the real property described by the survey conducted pursuant to subsection C of Section 1226.18 of this title and the improvements constructed thereon, which separate operation, maintenance and management agreement shall be executed prior to the termination of the Authority and include the following minimum terms:
  - (1) the term of the agreement shall be no less than the remaining term of outstanding bonds, including any bonds or other obligations issued by OCIA pursuant to Section 304.2 of Title 73 of the Oklahoma Statutes, or thirty (30) years, whichever is longer,

- (2) the City shall operate and manage the AICCM or shall cause it to be operated and managed,
  - (3) the state shall have no responsibility for the operations and maintenance costs of the AICCM,
  - (4) the Authority or its successor shall deliver possession of the AICCM to the City,
  - (5) the City shall have the right to make such alterations and further improvements as it deems necessary or desirable to further the success of the AICCM and the surrounding commercial development,
  - (6) the City shall have the right to assign its rights under this agreement to a designee and to engage third parties to fulfill its obligations under this agreement,
  - (7) the City shall use its revenues from the AICCM and the surrounding commercial development as provided by this section, and
  - (8) within five (5) years after the date on which all outstanding bonds, including any bonds or other obligations issued by OCIA pursuant to Section 304.2 of Title 73 of the Oklahoma Statutes, issued for the AICCM have been retired, the City shall accept title of the AICCM and the real property upon which it is located from the Authority or its successor, and
- g. after execution of the agreement described by this paragraph, the Director of OMES shall provide a copy of the executed version of the agreement to the Governor, the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the Oklahoma State Senate.

6. Notwithstanding anything herein provided, the City shall be authorized to transfer any assets, rights or responsibilities transferred to it pursuant to Section 1226 et seq. of this title to any of its instrumentalities, public trusts or designees as appropriate and, with respect to the real property described as provided for by subsection C of Section 1226.18 of this title and improvements thereon, to contract with such public and private entities as it deems proper for the purpose of exercising its rights and carrying out its obligations pursuant to agreements contemplated by Section 1226 et seq. of this title between the State of Oklahoma and the City, and with respect to the property transferred by paragraph 2 of this subsection to contract with such public and private entities, including the leasing or transfer of property to such public or private entities, as it deems proper for the purpose

of carrying out the commercial development of the unimproved property.

7. Contracts and privileges which have been issued, made, granted or allowed to become effective by the statutory entity that may be terminated by the provisions of Section 1226 et seq. of this title or by any provision of law affected by Section 1226 et seq. of this title shall continue in effect according to their terms until terminated or modified by operation of law; provided, that the City shall, upon termination of the Authority, be permitted to assume the Authority's interest in such contracts.

8. Notwithstanding any other provision of law, any lease revenue bonds or other obligations issued prior to or after September 1, 2015, by OCIA or other state instrumentalities for the benefit of the Authority and/or completion of the AICCM shall remain in full force and effect, and any obligation, moral or otherwise, to make payments under the lease or other agreements or to service the lease revenue bonds or other obligations shall remain unaffected and in full force and effect. It is the intent of the Legislature to appropriate sufficient monies to the Authority or its successor for deposit in the American Indian Cultural Center and Museum Postcompletion Revolving Fund created by Section 1226.22 of this title to cover the payment of all lease and other scheduled payments for the purpose of retiring such lease revenue bonds or other obligations.

C. The Authority shall consist of seven appointed members who are members of a federally recognized American Indian Tribe located within this state, six ex officio members and four appointed members from the business community. Each appointed member, excluding ex officio members, shall have one vote for purposes of conducting the business of the Authority. Except for the members appointed pursuant to paragraph 3 of this subsection, the appointed members shall be residents of the state, and shall have been qualified electors therein for a period of at least one (1) year preceding their appointment. Any member of the Authority shall be eligible for reappointment, and no member shall be removed from office except for good cause shown. Good cause may be shown in evidence of excessive failure to attend three consecutive regular Board meetings of the Authority. The chair of the Authority shall have the right to remove any member pursuant to good cause. At the expiration of any term, the person holding such office shall continue to serve until such person's duly appointed successor shall be appointed and qualified.

1. Seven members appointed to serve shall serve overlapping terms and shall be chosen as follows: three members shall be appointed by the Governor; two members shall be appointed by the President Pro Tempore of the Senate; and two members shall be appointed by the Speaker of the House of Representatives. Each of

these members shall be a member of a federally recognized American Indian tribe located within this state. Such tribal membership shall be determined by the respective tribes. Appointments shall be made from names provided by tribal governments, councils or other recognized tribal entities. Appointments shall be restricted to not more than one representative of any tribe. Such appointed members initially appointed shall continue in office for terms of from three (3) to seven (7) years, respectively, from the date of their appointment, with the term of each initially appointed member to be designated by the Governor at the time of the appointment, with one member to be appointed to a three-year term, two members to be appointed to a four-year term, one member to be appointed to a five-year term, one member to be appointed to a six-year term, and two members to be appointed to a seven-year term. Any person appointed to fill a vacancy shall serve only for the unexpired term. Upon the expiration of a term, on or after July 1, 2000, any succeeding term shall be for four (4) years.

2. The six ex officio members shall be as follows: the Oklahoma Native American Liaison, or the designee of the same; the Lieutenant Governor, or the designee of same; the Director of the Oklahoma Historical Society, or the designee of same; the Secretary of Commerce, or the designee of same; the Executive Director of the Oklahoma Arts Council, or the designee of same; and the Executive Director of the Oklahoma Tourism and Recreation Department, or the designee of the same.

3. The four appointed members from the business community shall be chosen as follows: two members shall be appointed by the Governor; one member shall be appointed by the Speaker of the House of Representatives; and one member shall be appointed by the President Pro Tempore of the Senate. Each member shall have at least fifteen (15) years of experience in business, banking, finance or corporate law, and shall have demonstrated outstanding ability in business or industry. However, in lieu of appointing a member with such experience, one of the two members appointed by the Governor may be a person who has exhibited at least three (3) years of outstanding leadership and involvement in recognized Native American organizations and activities. Upon the expiration of a term, on or after July 1, 2000, any succeeding term shall be for four (4) years. Any person appointed to fill a vacancy shall serve only for the unexpired term.

D. The Authority shall elect one of its members as chairperson, and another as vice-chairperson, and also shall elect a secretary, treasurer and such other officers as the Authority may deem appropriate. A majority of the members of the Authority (exclusive of vacancies) shall constitute a quorum and the vote of a majority of the members (exclusive of vacancies) shall be necessary for any action taken by the Authority. No vacancy in the membership of the

Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

E. Before the issuance of any revenue bonds under the provisions of Section 1226 et seq. of this title, each member of the Authority shall execute a surety bond in the penal sum of Twenty-five Thousand Dollars (\$25,000.00) and the secretary and treasurer shall execute a surety bond in the penal sum of One Hundred Thousand Dollars (\$100,000.00), each such surety bond to be conditioned upon the faithful performance of the duties of his or her office, to be executed by a surety company authorized to transact business in the State of Oklahoma as surety, and to be filed in the office of the Secretary of State.

F. The members of the Authority shall not be entitled to compensation for their services, but each member shall be reimbursed for actual expenses necessarily incurred in the performance of duties on behalf of the Authority; provided, that members of the Authority shall be compensated for their travel expenses pursuant to the State Travel Reimbursement Act. All expenses incurred in carrying out the provisions of Section 1226 et seq. of this title shall be payable solely from funds provided under the authority of Section 1226 et seq. of this title and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which monies shall have been provided under the authority of Section 1226 et seq. of this title. With the exception of funds appropriated to the Authority for the fiscal year ending June 30, 2016, no further appropriations shall be made to the Authority, or to any successor state entity owning some interest in the AICCM, for the purpose of operating the AICCM; provided, however, that appropriations to pay debt service on revenue bonds or other obligations issued heretofore or hereafter by OCIA or other state agencies for the benefit of the Authority will continue until all such bonds or other obligations are fully paid.

G. The Authority is authorized to establish subcommittees as necessary to perform its functions and duties. A subcommittee may be composed of Authority members and/or nonmembers and shall not have more than five members. Nonmembers of a subcommittee shall be reimbursed by the Authority in accordance with the State Travel Reimbursement Act.

H. Members of the Authority shall be exempt from the provisions of Section 6 of Title 51 of the Oklahoma Statutes, which prohibits the holding of any other office during the member's term of office on the Authority.

I. The Directors and staff of the Authority employed to perform the duties of Section 1226 et seq. of this title shall be considered employees of the Authority. The employees of the Authority shall be entitled to be reimbursed for actual and necessary expenses incurred in the performance of duties on behalf of the Authority. Such

compensation for travel expenses shall be paid pursuant to the State Travel Reimbursement Act.

J. Real property transferred by the Authority to any person, firm, partnership, corporation, limited liability company, express private trust, public trust or any other lawfully recognized entity shall be subject to the same restrictions regarding the use of such real property as contained in the instrument of conveyance by which the Authority acquired title to such real property, including, but not limited to, any restriction regarding gambling activity upon such real property.

Added by Laws 1994, c. 388, § 4, eff. Sept. 1, 1994. Amended by Laws 1996, c. 348, § 13, eff. July 1, 1996; Laws 1997, c. 394, § 1, eff. Sept. 1, 1997; Laws 1999, c. 372, § 5, eff. July 1, 1999; Laws 2000, c. 320, § 2, eff. July 1, 2000; Laws 2005, c. 30, § 1, emerg. eff. April 6, 2005; Laws 2005, c. 146, § 2, eff. July 1, 2005; Laws 2011, c. 305, § 4; Laws 2015, c. 339, § 1, eff. Sept. 1, 2015; Laws 2018, c. 170, § 1, eff. July 1, 2018.

#### §74-1226.3. Definitions.

As used in Sections 1226 through 1226.16 of this title:

1. "Authority" shall mean the Native American Cultural and Educational Authority, created by Section 1226.2 of this title, or, if such Authority shall be abolished, the board, body, or commission succeeding to the principal functions hereof or to whom the powers given by Section 1226 et seq. of this title shall be given by law;

2. "Project" or "projects" shall mean any facilities constructed or improvements made under the provisions of this act by the Authority for the purpose of constructing a Native American cultural center, museum and theme park, to also include commercial facilities as herein defined, and shall embrace all buildings, structures, landscaping, infrastructure, utilities, roadways, parking structures, parking lots, sidewalks, personal property and fixtures, equipment and machinery, and other improvements which the Authority may deem necessary for the operation of such projects, together with all property, rights, easements and interests which may be acquired by the Authority for the construction or the operation of such;

3. "Commercial facilities" shall mean facilities, including, but not limited to, conference centers, hotels, motels, recreational vehicle parks, festival marketplaces, restaurants, retail sales facilities, studios and other facilities for the design, development and manufacture of Native American art, crafts and cultural objects, and uses related thereto and other supporting, complementary and ancillary uses;

4. "Cost" as applied to a project shall include expenditures of the Authority, other governmental agencies, and private entities, to include past, present and future expenditures, and shall embrace the

cost of construction, the cost of the acquisition of all land, rights-of-way, property, rights, easements and interests acquired by the Authority for such construction, the cost of all machinery and equipment, financing charges, provision for working capital, interest prior to, during, and after construction and a reserve for interest in such amounts as the Authority shall determine, cost of engineering, architecture, planning, legal and accounting expenses, plans, specifications, surveys, estimates of cost, and of revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing any such project, administrative expense, and such other expense as may be necessary or incident to the construction of the project, the financing of such construction, and the placing of the project in operation, and other expenditures in furtherance of the objectives of Sections 1226 through 1226.16 of this title;

5. "Owner" shall include all individuals, copartnerships, associations, corporations, trusts, and any other person or entity having any title or interest in any property, rights, easements, and interests authorized to be acquired by Sections 1226 through 1226.16 of this title;

6. The phrase "operational services" shall mean services of a maintenance or operational nature, including, but not limited to, grounds maintenance and security services, provided by the Authority, pursuant to an agreement between the Authority and any service recipient; and

7. The phrase "other governmental agencies" shall mean the State of Oklahoma or other agencies thereof, the national government, other states or agencies thereof, public trusts, municipalities, counties and other subdivisions of government. Added by Laws 1994, c. 388, § 5, eff. Sept. 1, 1994. Amended by Laws 2000, c. 320, § 3, eff. July 1, 2000; Laws 2006, c. 108, § 2, eff. Nov. 1, 2006.

#### §74-1226.4. Powers and duties.

The Authority is hereby authorized and empowered:

1. To adopt bylaws for the regulation of its affairs and conduct of its business;
2. To adopt an official seal and alter the same at pleasure;
3. To have its principal office located at a site designated by the Authority;
4. To sue and be sued in contract, reverse condemnation, equity, mandamus and similar actions in its own name, plead and be impleaded; provided, that any and all actions at law or in equity against the Authority shall be brought in Oklahoma County. The Authority shall be subject to the Governmental Tort Claims Act, Section 151 et seq. of Title 51 of the Oklahoma Statutes;

5. To construct, maintain, repair and operate a Native American cultural center, museum and theme park;

6. To construct, maintain, repair and operate any facilities necessary to effectuate educational and training programs relating to Native American cultures, languages, skills, arts and crafts, to include facilities for the sale of such Native American artwork and crafts;

7. To issue revenue bonds of the Authority, payable solely from revenues, including the revenues accruing to the trust fund created by this act, for the purpose of paying all or any part of the cost of any one or more projects;

8. To fix and revise from time to time user charges for the use of projects;

9. To acquire, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties, to include the right to acquire such property for prospective projects, including the acquisition of existing facilities, buildings, equipment and improvements;

10. To lease projects, or portions thereof, to other governmental agencies or to private persons, partnerships, corporations, trusts, and other private entities;

11. To acquire in the name of the Authority by purchase or otherwise on such terms and conditions and in such manner as it may deem proper, such public or private lands, including public parks, or reservations, or parts thereof or rights therein, rights-of-way, property rights, easements, and interests, as it may deem necessary for carrying out the provisions of this act;

12. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, and to employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation;

13. To receive and accept from any federal agency grants for or in aid of the construction of any project; and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made;

14. To do all things necessary or convenient to carry out the powers expressly granted in this act; and

15. All meetings of the Authority shall be subject to the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes and all records of the Authority shall be subject to the Oklahoma Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes, both as the same shall from time to time be amended.



Added by Laws 1994, c. 388, § 6, eff. Sept. 1, 1994.

§74-1226.4A. Native American Cultural and Educational Authority - Contractual agreements.

With respect to approval of agreements for the planning, construction, development, operation, maintenance, and administration of commercial facilities which support, enhance, or contribute to the American Indian Cultural Center, the Native American Cultural and Educational Authority, notwithstanding any other provision of law, may enter into contractual agreements without approval from the Office of Management and Enterprise Services, and the provisions of the Public Building Construction and Planning Act, Section 202 et seq. of Title 61 of the Oklahoma Statutes and Sections 60 through 65 of Title 61 of the Oklahoma Statutes shall not apply. With the exception of the development of the commercial facilities described in this section, this section shall not be construed to enlarge the powers of the Native American Cultural and Educational Authority.

Added by Laws 2010, c. 400, § 1, eff. Nov. 1, 2010. Amended by Laws 2012, c. 304, § 934.

§74-1226.5. Issuance of revenue bonds - Use of proceeds - Definitions.

A. The Authority may provide by resolution, at one time or from time to time, for the issuance of revenue bonds of the Authority for the purpose of paying all or any part of the cost of any one or more projects. The Authority, when it finds that it would be economical and beneficial to do so, may combine two or more, or any part thereof, or all of its proposed projects into one unit and consider the same as one project to the same extent and with like effect as if the same were a single project. The principal of and the interest on the bonds shall be payable solely from the funds provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates not exceeding the limitations pertaining to public trust indebtedness from time to time expressed in subsection (f) of Section 176 of Title 60 of the Oklahoma Statutes, shall mature at such time or times not exceeding forty (40) years from their date or dates, as may be determined by the Authority, and may be made redeemable before maturity at the option of the Authority at such price or prices and pursuant to such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state. If any officer whose

signature or facsimile of whose signature appears on any bonds or coupons shall cease to be said officer before the delivery of the bonds, the signature or the facsimile shall nevertheless be valid and sufficient for all purposes the same as if the person had remained in office until such delivery. All bonds issued pursuant to the provisions of this act shall have all the qualities and incidents of negotiable instruments subject to the negotiable instruments law of this state. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Authority may sell the bonds in such amounts and in such manner, either at public or private sale, and for such price, as it may determine to be in the best interests of this state, but in no event at a discount in excess of that from time to time expressed in said subsection (f) of Section 176 of Title 60 of the Oklahoma Statutes.

B. The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project for which such bonds have been issued, and shall be disbursed in such manner and pursuant to such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus may be deposited to the credit of the sinking fund for such bonds, or may be used by the Authority in implementing any other power expressly granted to the Authority in this act.

C. Prior to the preparation of definitive bonds, the Authority, subject to like restrictions, may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which have become mutilated or were destroyed or lost. Bonds may be issued pursuant to the provisions of this act without obtaining the consent of any department, division, commission, board, bureau, or agency of this state, and without any other proceedings or the occurrence of any other conditions or things than those proceedings, conditions, or things that are specifically required by this act; provided however, the

Authority shall be subject to and shall comply with the Oklahoma Bond Oversight and Reform Act, Section 695.2 et seq. of Title 62 of the Oklahoma Statutes, and for purposes of said act the Authority shall be deemed to be a state governmental entity.

D. The Authority is hereby authorized to provide that the bonds:

1. Be made payable from time to time on demand or tender for purchase by the owner provided a credit facility supports such bonds, unless the Authority specifically determines that a credit facility is not required;

2. Be additionally supported by a credit facility;

3. Be made subject to redemption prior to maturity, with or without premium, on such notice and at such time or times and with such redemption provisions as may be determined by the Authority or with such variations as may be permitted in connection with a par formula;

4. Bear interest at a rate or rates that may vary as permitted pursuant to a par formula and for such period or periods of time, all as may be determined by the Authority; and

5. Be made the subject of a remarketing agreement whereby an attempt is made to remarket the bonds to new purchasers prior to their presentment for payment to the provider of the credit facility or to the Authority. No credit facility, repayment agreement, par formula or remarketing agreement shall become effective without the approval of the Authority.

E. As used in this section, the following terms shall have the following meanings:

1. "Credit facility" means an agreement entered into by the Authority with any bank, savings and loan association or other banking institution; an insurance company, reinsurance company, surety company, or other insurance institution; a corporation, investment banker or other investment institution; or any other financial institution providing for prompt payment of all or any part of the principal, whether at maturity, presentment for purchase, redemption or acceleration, redemption premium, if any, and interest on any bonds payable on demand or tender by the owner issued in accordance with this section, in consideration of the Authority's agreeing to repay the provider of such credit facility in accordance with the terms and provisions of such repayment agreement, provided, that any such repayment agreement shall provide that the obligation of the Authority thereunder shall have only such sources of payment as are permitted for the payment of the bonds issued under this act; and

2. "Par formula" means any provision or formula adopted by the Authority to provide for the adjustment, from time to time, of the interest rate or rates borne by any such bonds so that the purchase

price of such bonds in the open market would be as close to par as possible.

F. Nothing in any law heretofore enacted or enacted at the present session of the Legislature shall be deemed to limit or restrict the right of the Authority to issue bonds or other obligations the interest income, in whole or in part, on which is subject, directly or indirectly, to federal income taxation.

G. All bonds issued, reissued or refunded by the Authority shall comply with the Oklahoma Bond Oversight and Reform Act, Section 695.2 et seq. of Title 62 of the Oklahoma Statutes, and for purposes of said Act the Authority shall be deemed to be a state governmental entity.

Added by Laws 1994, c. 388, § 7, eff. Sept. 1, 1994.

§74-1226.6. Trust agreements for securing revenue bonds.

In the discretion of the Authority any bonds issued under the provisions of this act may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. Such trust agreement may pledge or assign lease payments, user fees and other revenues to be received from the project constructed by the use of the proceeds of the bonds. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the project in connection with which such bonds shall have been authorized, and the custody, safeguarding and application of all monies in connection with the construction or operation of such project or projects. It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds and debentures of corporations. In addition to the foregoing any such trust agreement may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement may be treated as a part of the cost of the operation of the project or projects.

Added by Laws 1994, c. 388, § 8, eff. Sept. 1, 1994.

§74-1226.7. Compensation for use of projects - Sinking fund - Use of monies.

A. The Authority, subject to the provisions hereof, is hereby authorized to fix, revise, charge and collect compensation for the use of each project, and parts or sections thereof, and to contract with any person, partnership, association, corporation, or other governmental agencies desiring the use, for any purpose, of all or any part of any project and to fix the terms, conditions, rents and rates of charge for such use. Such compensation, subject to other restrictions hereof, shall be so fixed and adjusted so as to provide a fund sufficient with other revenues, if any, to pay:

1. The cost of maintaining, repairing and operating such project or projects; and

2. The principal of and the interest of bonds issued for the purpose of financing Authority projects as the same shall become due and payable, and to create reserves for such purposes.

B. The compensation derived from the projects in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary to pay for maintenance, repair, and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of:

1. The interest upon such bonds as such interest shall become due;

2. The principal of such bonds as the same shall fall due;

3. The necessary charges of paying agents for paying principal and interest; and

4. The redemption price or the purchase price of bonds retired by call or purchased as herein provided, which are a charge against such fund.

C. The use and disposition of monies to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided for in such resolution or such trust agreement, such sinking fund shall be a fund for all such bond issues without distinction or priority of one over another. The money in the sinking fund, less such reserve as may be provided in such resolution or trust agreement, if not used within a reasonable time for the purchase of bonds for cancellation as above provided, shall be applied to the redemption of bonds at the redemption price then applicable.

Added by Laws 1994, c. 388, § 9, eff. Sept. 1, 1994.

§74-1226.8. Monies received held as trust funds.

All monies received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds, to be held and applied solely as provided in this act. The resolution authorizing the bonds of any issue or the trust agreement securing such bonds shall provide that any officer to whom, or any bank or trust company to which, such monies shall be paid shall act as trustee of such monies and shall hold and apply the same for the purposes hereof, subject to such regulations as this act and such resolution or trust agreement may provide. Added by Laws 1994, c. 388, § 10, eff. Sept. 1, 1994.

§74-1226.9. Bondholders - Protection and enforcement of rights.

Any holder of bonds issued under the provisions of this act or any of the coupons appertaining thereto, and the trustee under the trust agreement, except to the extent the rights herein given may be restricted by such trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding protect and enforce any and all rights under the laws of the state or granted hereunder or under such trust agreement or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this act or by such trust agreement or resolution to be performed by the Authority or by any officer thereof, including the fixing, charging and collecting of charges and compensation for use of projects.

Added by Laws 1994, c. 388, § 11, eff. Sept. 1, 1994.

§74-1226.10. Exercise of powers.

The exercise of the powers granted by this act will be in all respects for the benefit of the people of the state, for the increase of their education, commerce and prosperity, and as the operation and maintenance of projects by the Authority will constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any project or any property acquired or used by the Authority under the provisions of this act or upon the income therefrom.

Added by Laws 1994, c. 388, § 12, eff. Sept. 1, 1994.

§74-1226.11. Bonds as securities - Investment of funds.

Bonds issued under the provisions of this act are hereby made securities in which all public officers and public bodies, agencies, and instrumentalities of the state and its political subdivisions, all banks, trust companies, trust and loan associations, investment companies, and others carrying on a banking business, and all insurance companies and insurance associations, and others carrying on an insurance business, may legally and properly invest funds including capital in their control or belonging to them.

Added by Laws 1994, c. 388, § 13, eff. Sept. 1, 1994.

§74-1226.12. Project maintenance - Transfer of property.

A. Each project when constructed shall be maintained and kept in good condition and repair by the Authority. The Authority shall employ such employees as the Authority may deem necessary.

B. All political subdivisions and other governmental agencies, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the Authority at its request upon such terms and conditions as the proper authorities of such political subdivisions or other governmental agencies may deem reasonable and fair and without the necessity for any advertisement, competitive bidding, order of court or other action or formality, other than the regular and formal action or authorities concerned, any property which may be necessary or convenient to the effectuation of the authorized purposes of the Authority, including property already devoted to public use.

Added by Laws 1994, c. 388, § 14, eff. Sept. 1, 1994.

§74-1226.13. Issuance of revenue refunding bonds - Use of proceeds.

A. The Authority is hereby authorized to provide by resolution for the issuance of revenue refunding bonds of the Authority for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this act including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if the Authority shall so determine, for the additional purpose of constructing improvements, extensions, or enlargements of the project or projects in connection with which the bonds to be refunded shall have been issued. The Authority is further authorized to provide for the issuance of its revenue bonds for the combined purpose of:

1. Refunding any bonds then outstanding which shall have been issued under the provisions of this act, including the payment of any redemption premium thereon and any interest accrued, or to accrue to the date of redemption of such bonds; and

2. Paying all or any part of the cost of any additional project or projects as authorized by this act.

The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the Authority in respect of the same, shall be governed by the provisions of this act insofar as the same may be applicable.

B. Bonds may be issued by the Authority under the provisions of this section at any time prior to the maturity or maturities of the date selected for the redemption of the bonds being refunded thereby. Pending the application of the proceeds of such refunding bonds, with any other available funds, to the payment of the

principal, accrued interest, and any redemption premium of the bonds being refunded, and if so provided or permitted in the resolution authorizing the issuance of such refunding bonds or in the trust agreement securing the same, to the payment of any interest on such refunding bonds, and any expenses in connection with such refunding, such proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America which shall mature or which shall be subject to redemption by the holder thereof at the option of such holder, not later than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended, or, in lieu of such investments, all or any part of such proceeds may be placed in interest-bearing time deposits or other similar arrangements may be made with regard thereto which will assure that such proceeds, together with the interest accruing thereon, will be available when required for the purposes intended.

Added by Laws 1994, c. 388, § 15, eff. Sept. 1, 1994.

§74-1226.14. Endowment fund - Scholarships - Expenditure limitations.

The Authority is hereby authorized to create an endowment fund for the purpose of providing educational or vocational scholarships to members of federally recognized Indian tribes located in the State of Oklahoma. No more than sixty percent (60%) of all revenues in excess of any amounts needed to satisfy the provisions of Section 7 of this act may be expended to fund such endowment.

Added by Laws 1994, c. 388, § 16, eff. Sept. 1, 1994.

§74-1226.15. Financial condition report.

The Authority shall make and submit to the Governor, within ninety (90) days of the close of the Authority's fiscal year, a full report showing the financial condition of the Authority.

Added by Laws 1994, c. 388, § 17, eff. Sept. 1, 1994.

§74-1226.16. Annual audit.

The Native American Cultural and Educational Authority shall conduct an annual audit of its activities and expenditures and report the same to the Governor, the Senate, the House of Representatives and the State Auditor and Inspector by the first day of each year.

Added by Laws 1994, c. 388, § 18, eff. Sept. 1, 1994. Amended by Laws 1997, c. 394, § 2, eff. Sept. 1, 1997; Laws 2000, c. 320, § 4, eff. July 1, 2000.

§74-1226.17. Native American Cultural and Educational Authority Fund.



There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services (OMES) to be designated the "Native American Cultural and Educational Authority Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. The fund shall consist of all monies authorized by law for deposit in such fund including but not limited to appropriations, gifts, grants, private donations, fee revenues and funds by governmental or tribal government entities. Monies deposited or apportioned to the credit of the fund may be expended for the purposes authorized by law. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Office of Management and Enterprise Services (OMES). Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims submitted to the Director of the Office of Management and Enterprise Services. Added by Laws 1997, c. 308, § 6, eff. Sept. 1, 1997. Amended by Laws 2012, c. 304, § 935; Laws 2018, c. 170, § 2, eff. July 1, 2018.

§74-1226.18. Transfer of property to American Indian Cultural Center and Museum Trust Authority.

A. On July 1, 2020, or on the first day the American Indian Cultural Center and Museum (AICCM) is open to the public, whichever is sooner, the determination of which shall be made by the Director of OMES, the authority of the Native American Cultural and Educational Authority (Authority) to hold, use and dispose of real property and improvements thereon shall be terminated, and title to the following generally described real property and rights to improvements thereon shall transfer to the American Indian Cultural Center and Museum Trust Authority (AICCMTA):

1. A tract of land being a part of the East Half of Section 2, Township 11 North, Range 3 West of the Indian Meridian, Oklahoma County, Oklahoma, and being more particularly described as follows: Commencing at the Northeast Corner of said Section 2, Thence South 00°29'24" West along the East line of said Section 2, a distance of 1958.26 feet, Thence North 89°30'36" West, a distance of 1240.19 feet to the POINT OF BEGINNING, Thence South 23°33'16" West a distance of 93.48 feet, Thence on a nontangent curve to the right, having a radius of 340.91 feet, a chord bearing of South 38°38'40" East, a chord distance of 187.41 feet, for an arc distance of 189.86 feet to a point of tangency, Thence South 22°41'33" East, a distance of 102.54 feet, Thence on a nontangent curve to the right, having a radius of 859.19 feet, a chord bearing of South 19°48'33" West, a chord distance of 546.60 feet, for an arc distance of 556.26 feet, Thence South 00°00'00" East, a distance of 169.81 feet,

Thence North 90°00'00" West, a distance of 258.96 feet,  
Thence North 44°58'52" West, a distance of 208.81 feet,  
Thence South 83°35'02" West, a distance of 229.85 feet to a  
point of curvature,  
Thence on a curve to the right, having a radius of 602.79 feet,  
chord bearing of North 11°33'34" East, a chord distance of  
1146.73 feet, for an arc distance of 2271.94 feet to a point of  
tangency,  
Thence South 60°27'53" East, a distance of 374.31 feet,  
Thence South 70°57'26" East, a distance of 153.94 feet to the  
POINT OF BEGINNING.

Said tract of land contains 33.62 acres, more or less; and

2. The basis of bearing of the description provided in this section is derived from the Oklahoma State Plane Coordinate System NAD83, Zone Oklahoma North with the East line of NE/4 of Section 2-11N-3W having a bearing of South 00°29'26" West.

B. The legal description provided in subsection A of this section is intended to include the real property upon which the museum and cultural center improvements exist, including the following specific elements:

1. Hall of the People;
2. East Wing, including the Performance Facility;
3. North Gallery;
4. South Gallery;
5. Central Plant;
6. Promontory Mound; and
7. Visitor Center.

C. The instrument of conveyance as contemplated by subsection A of this section shall reflect a legal description determined by a current survey which ensures that the elements described in subsection B of this section are included, and shall further reflect a separate legal description for the sewer lift station.

D. The Office of Management and Enterprise Services (OMES), the AICCMTA and, for so long as the Authority exists, the Authority are hereby authorized and directed to grant such access and other temporary and permanent easements upon and across the real property described in this section as are necessary or desirable to promote or ensure the successful development of the commercial property transferred to the City of Oklahoma City (City) pursuant to paragraph 2 of subsection B of Section 1226.2 of Title 74 of the Oklahoma Statutes, and in connection therewith the Legislature finds and hereby declares that the commitments entered into by the City as contemplated by paragraph 5 of subsection B of Section 1226.2 of Title 74 of the Oklahoma Statutes shall be adequate consideration.

E. The AICCMTA and the Director of OMES are hereby authorized and directed to take all steps necessary to effectuate the provisions of this act.

F. Real property transferred to AICCM by the Authority shall be subject to the same restrictions regarding the use of such real property as contained in the instrument of conveyance by which the Authority acquired title to such real property, including, but not limited to, any restriction regarding gambling activity upon such real property.

Added by Laws 2015, c. 339, § 2, eff. Sept. 1, 2015.

§74-1226.19. Proceeds from obligations for American Indian Cultural Center and Museum - Purpose - Limits.

A. Proceeds of the bonds or other obligations issued pursuant to Section 304.2 of Title 73 of the Oklahoma Statutes shall only be expended for the purpose of completing the American Indian Cultural Center and Museum (AICCM).

B. Proceeds of the bonds or other obligations issued pursuant to Section 304.2 of Title 73 of the Oklahoma Statutes shall be expended according to the limits of this subsection.

1. Upon certification by the Office of Management and Enterprise Services (OMES) that a specific amount exceeding Ten Million Dollars (\$10,000,000.00) in nonstate and nonfederal donations, contributions, gifts and bequests for the purpose of completing the AICCM has been deposited into the American Indian Cultural Center and Museum Completion Fund created pursuant to Section 1226.20 of this title, the Oklahoma Capitol Improvement Authority (OCIA) and the Native American Cultural and Educational Authority (Authority) shall be authorized to expend an amount to be certified by OMES from the proceeds of bonds or other obligations issued pursuant to Section 304.2 of Title 73 of the Oklahoma Statutes. The Nine Million Dollars (\$9,000,000.00) committed by the City of Oklahoma City (City) pursuant to Section 1226.2 of this title shall not be included within the amount certified pursuant to this paragraph, regardless of when such funds are provided.

2. Following the initial certification provided by paragraph 1 of this subsection, OCIA and the Authority may expend additional funds upon subsequent certifications by OMES that specific additional amounts of nonstate and nonfederal donations, contributions, gifts and bequests have been deposited into the American Indian Cultural Center and Museum Completion Fund. OCIA or the Authority may request such certifications at any time. Upon such certifications, OCIA and the Authority shall be authorized to expend equal amounts from the proceeds of bonds issued pursuant to Section 304.2 of Title 73 of the Oklahoma Statutes. In no event may total expenditures from the proceeds of bonds issued pursuant to Section 304.2 of Title 73 of the Oklahoma Statutes exceed the total amounts certified by OMES. The Nine Million Dollars (\$9,000,000.00) committed by the City pursuant to Section 1226.2 of this title may be included within the amounts certified pursuant to this paragraph.

Added by Laws 2015, c. 339, § 4, eff. Sept. 1, 2015. Amended by Laws 2017, c. 373, § 2, emerg. eff. May 31, 2017.

§74-1226.20. American Indian Cultural Center and Museum Completion Fund.

A. There is hereby created in the State Treasury a revolving fund for the Native American Cultural and Educational Authority (Authority) to be designated the "American Indian Cultural Center and Museum Completion Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Authority. The fund shall consist of monies received by the Authority in the form of nonstate and nonfederal donations, contributions, gifts and bequests for the purpose of completing the American Indian Cultural Center and Museum (AICCM). Monies deposited to the credit of the fund shall only be expended for the purpose of completing the AICCM.

B. The fund created by this section shall not receive any additional federal funds issued pursuant to the Indian Financing Amendments Act of 2002, P.L. 107-331.

Added by Laws 2015, c. 339, § 5, eff. Sept. 1, 2015.

§74-1226.21. American Indian Cultural Center and Museum Trust Authority - Declaration of trust - Termination.

A. Upon the effective date of this act, the state expressly approves the creation of a public trust to be named the "American Indian Cultural Center and Museum Trust Authority", also known as "AICCMTA", of which the state shall be the beneficiary and the provisions of this act, as passed by the Legislature and approved by action of the Governor, shall constitute the acceptance of the beneficial interest in such public trust pursuant to the provisions of Section 176 et seq. of Title 60 of the Oklahoma Statutes; provided, however, such approval shall be contingent upon satisfaction of the following conditions:

1. Finalizing the declaration of trust; and
2. Adoption of the declaration of trust by an official action of the trustees of the AICCMTA.

B. The approved declaration of trust shall:

1. Specify that the AICCMTA shall be created as a public trust pursuant to Section 176 et seq. of Title 60 of the Oklahoma Statutes and shall have the same rights, responsibilities and attributes as any public trust created under such laws;
2. Specify that the primary purpose of the AICCMTA shall be to carry out the functions, duties and responsibilities pursuant to Section 1226 et seq. of Title 74 of the Oklahoma Statutes and the provisions of this act; and

3. To the extent required by law, specify the adoption of bylaws and rules for the due and orderly administration and regulation of affairs of the AICCMTA, which shall require approval in accordance with the provisions of the Administrative Procedures Act.

C. 1. The AICCMTA shall have eleven (11) trustees, seven of which shall be members of a federally recognized American Indian Tribe located within this state and of those seven trustees three shall be appointed by the Governor, two shall be appointed by the President Pro Tempore of the Senate, and two shall be appointed by the Speaker of the House of Representatives. Such tribal membership shall be determined by the respective tribes. Appointments shall be made from names provided by tribal governments, councils or other recognized tribal entities. Appointments shall be restricted to not more than one representative of any tribe. Such appointed members initially appointed shall continue in office for terms of from three (3) to seven (7) years, respectively, from the date of their appointment, with the term of each initially appointed member to be designated by the Governor at the time of the appointment, with one member to be appointed to a three-year term, two members to be appointed to a four-year term, one member to be appointed to a five-year term, one member to be appointed to a six-year term, and two members to be appointed to a seven-year term. Any person appointed to fill a vacancy shall serve only for the unexpired term. Succeeding terms shall be for a term of four (4) years.

2. The other four appointed trustees shall be from the business community and shall be chosen as follows: two members shall be appointed by the Governor, one member shall be appointed by the President Pro Tempore of the Senate, and one member shall be appointed by the Speaker of the House of Representatives. Each member shall have at least fifteen (15) years of experience in business, banking, finance or corporate law and shall have demonstrated outstanding ability in business or industry. However, in lieu of appointing a member with such experience, one of the two members appointed by the Governor may be a person who has exhibited at least three (3) years of outstanding leadership and involvement in recognized Native American organizations and activities. The initial terms of the trustees appointed by the Governor shall be for one (1) year, the trustee appointed by the President Pro Tempore of the Senate shall be for two (2) years and the trustee appointed by the Speaker of the House of Representatives shall be for three (3) years. Upon the expiration of a term any succeeding term shall be for four (4) years. Any person appointed to fill a vacancy shall serve only for the unexpired term.

3. None of the appointments otherwise authorized by this subsection shall be effective until title to the real property and improvements constituting the AICCM has been transferred to the

AICCMTA as provided by Section 1226.2 of Title 74 of the Oklahoma Statutes.

D. The provisions of The Governmental Tort Claims Act shall apply to the AICCMTA as a state-beneficiary public trust created pursuant to state law.

E. Members of the AICCMTA shall be exempt from the provisions of Section 6 of Title 51 of the Oklahoma Statutes.

F. Notwithstanding any other provision of law, the AICCMTA shall have the authority to transfer title of the American Indian Cultural Center and Museum (AICCM), and the real property upon which it is located (as more fully described in Section 2 of this act), and any intellectual property or personal property (including exhibits) still held by the AICCMTA, less and except monies held by the AICCMTA, to the City of Oklahoma City (City) within five (5) years after the date on which all outstanding bonds issued for the AICCM have been retired, including any bonds or other obligations issued by the Oklahoma Capitol Improvement Authority (OCIA) pursuant to Section 3 of this act, pursuant to the agreements provided in paragraph 5 of subsection B of Section 1226.2 of Title 74 of the Oklahoma Statutes; and in connection therewith, the Legislature finds and hereby declares that the commitments entered into by the City as contemplated by paragraph 5 of subsection B of Section 1226.2 of Title 74 of the Oklahoma Statutes shall be adequate consideration. Such transfer shall not occur until after all outstanding bonds issued for the AICCM have been retired including any bonds or other obligations issued by the Oklahoma Capitol Improvement Authority (OCIA) pursuant to Section 3 of this act.

G. The AICCMTA created by this section shall be terminated and abolished upon the transfer contemplated by subsection F of this section. Upon such termination, any remaining monies held by the AICCMTA shall be transferred to the General Revenue Fund of the State Treasury, all then-existing funds of the AICCMTA shall be abolished, and any remaining rights of the AICCMTA shall be transferred to the Office of Management and Enterprise Services. Added by Laws 2015, c. 339, § 6, eff. Sept. 1, 2015.

#### §74-1226.22. American Indian Cultural Center and Museum Postcompletion Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Native American Cultural and Educational Authority (Authority), to be designated the "American Indian Cultural Center and Museum Postcompletion Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Authority. The fund shall consist of monies received in the form of state appropriations and unexpended operational funds remaining to the Authority upon its

termination as provided for by Section 1226.2 of Title 74 of the Oklahoma Statutes. Monies deposited to the credit of the fund shall only be expended for the purpose of making rental or other payments to the Oklahoma Capitol Improvement Authority to retire bonds or other obligations issued for the benefit of the Authority or the American Indian Cultural Center and Museum.

Added by Laws 2015, c. 339, § 7, eff. Sept. 1, 2015.

§74-1251. Intergovernmental cooperation.

The State of Oklahoma recognizes that intergovernmental cooperation is an essential factor in resolving problems affecting this state and that the interchange of personnel between and among governmental agencies at the same or different levels of government is a significant factor in achieving such cooperation.

Laws 1967, c. 341, § 1.

§74-1252. Definitions.

(a) As used in this act, "sending agency" means any department or agency of the federal government or a state government which sends any employee thereof to another government agency under this act.

(b) As used in this act, "receiving agency" means any department or agency of the federal government or a state government which receives an employee of another government under this act.

Laws 1967, c. 341, § 2.

§74-1253. Temporary interchange of employees authorized.

(a) Any department, agency, or instrumentality of the state is authorized to participate in a program of interchange of employees with departments, agencies, or instrumentalities of the federal government, or another state, as a sending or receiving agency.

(b) The period of individual assignment or detail under an interchange program shall be negotiated on an annual basis. Details relating to any matter covered in this act may be the subject of an agreement between the sending and receiving agencies. Elected officials shall not be assigned from a sending agency nor detailed to a receiving agency.

Added by Laws 1967, c. 341, § 3. Amended by Laws 1972, c. 47, § 1, emerg. eff. March 10, 1972; Laws 1976, c. 110, § 1, emerg. eff. May 14, 1976; Laws 1978, c. 112, § 1, eff. Oct. 1, 1978.

§74-1254. Status of employees of sending agency.

(a) Employees of a sending agency participating in an exchange of personnel as authorized in Section 3 may be considered during such participation to be on detail to regular work assignments of the sending agency.

(b) Employees who are on detail shall be entitled to the same salary and benefits to which they would otherwise be entitled and shall remain employees of the sending agency for all other purposes except that the supervision of their duties during the period of detail may be governed by agreement between the sending agency and the receiving agency.

(c) Any employee who participates in an exchange under the terms of this section who suffers disability or death as a result of personal injury arising out of and in the course of an exchange, or sustained in performance of duties in connection therewith, shall be treated, for the purposes of the sending agency's employee compensation program, as an employee, as defined in such act, who has sustained such injury in the performance of such duty, but shall not receive benefits under that act for any period for which he is entitled to and elects to receive similar benefits under the receiving agency's employee compensation program.

Laws 1967, c. 341, § 4.

§74-1255. Travel expenses - Per diem.

A sending agency in this State may, in accordance with the travel regulations of such agency, pay the travel expenses of employees assigned to a receiving agency on either a detail or leave basis, but shall not pay the travel expenses of such employees incurred in connection with their work assignments at the receiving agency. During the period of assignment, the sending agency may pay a per diem allowance to the employee on assignment or detail.

Laws 1967, c. 341, § 5.

§74-1256. State acting as receiving agency.

(a) When any unit of government of this state acts as a receiving agency, employees of the sending agency who are assigned under authority of this act may be considered to be on detail to the receiving agency.

(b) Appointments of persons so assigned may be made without regard to the laws or regulations governing the selection of employees of the receiving agency. Such person shall be in the unclassified service of the state.

(c) Employees who are detailed to the receiving agency shall not by virtue of such detail be considered to be employees thereof, except as provided in subsection (d). The supervision of salaries and duties of such employees during the period of detail may be governed by agreement between the sending agency and the receiving agency.

(d) Any employee of a sending agency assigned in this state who suffers disability or death as a result of personal injury arising out of and in the course of such assignment, or sustained in the performance of duties in connection therewith, shall be treated for



the purpose of receiving agency's employee compensation program, as an employee, as defined in such act, who has sustained such injury in the performance of such duty, but shall not receive benefits under that act for any period for which he elects to receive similar benefits as an employee under the sending agency's employee compensation program.

Laws 1967, c. 341, § 6; Laws 1972, c. 47, § 2, emerg. eff. Mar. 10, 1972.

§74-1257. Payment of travel expenses by receiving agency.

A receiving agency in this state may, in accordance with the travel regulations of such agency, pay travel expenses of persons assigned thereto under this act during the period of such assignments on the same basis as if they were regular employees of the receiving agency.

Laws 1967, c. 341, § 7.

§74-1301. Oklahoma Employees Insurance and Benefits Act.

This act shall be known and may be cited as the "Oklahoma Employees Insurance and Benefits Act".

Added by Laws 1967, c. 374, § 1, emerg. eff. May 23, 1967; Amended by Laws 1970, c. 70, § 1, emerg. eff. March 17, 1970; Laws 1982, c. 333, § 1, emerg. eff. June 1, 1982; Laws 1986, c. 150, § 1, emerg. eff. April 29, 1986; Laws 1988, c. 165, § 3, operative July 1, 1988; Laws 2012, c. 303, § 12, eff. Nov. 1, 2012.

§74-1302. Purpose.

It is hereby declared that the purpose of this act is:

(a) To provide uniformity in Accident and Health Insurance and/or Benefits Coverage and Life Insurance on all employees of the State of Oklahoma;

(b) To enable the state to attract and retain qualified employees by providing health, dental and life insurance benefits similar to those commonly provided in private industry;

(c) To recognize and protect the state's investment in each permanent employee by promoting and preserving good health and longevity among state employees;

(d) To recognize the service to the state by elected and appointed officials by extending to them the same health, dental and life insurance benefits as are provided herein for state employees;

(e) To recognize long and faithful service, and to encourage employees to remain in state service until eligible for retirement by providing health, dental and life insurance benefits for employees; and

(f) To ensure state compliance with the Health Maintenance Organization Act of 1973 pursuant to 42 U.S.C., Section 300e et seq.

Amended by Laws 1982, c. 333, § 2, emerg. eff. June 1, 1982; Laws 1985, c. 230, § 1, emerg. eff. July 8, 1985.

§74-1303. Definitions.

For the purposes of and as used in the Oklahoma Employees Insurance and Benefits Act:

1. "Board" means the Oklahoma Employees Insurance and Benefits Board as created by the Oklahoma Employees Insurance and Benefits Act;

2. "Plan" means the Oklahoma Employees Insurance Plan;

3. "Employee" means those state employees, education employees and other eligible employees participating in the Oklahoma Employees Insurance and Benefits Act;

4. "Education employee" means those employees other than adjunct professors employed by a state institution of higher education, in the service of an education entity who are members or are or will be eligible to become members of the Teachers' Retirement System of Oklahoma and who receive compensation for such service after the education entity begins to participate in the Oklahoma Employees Insurance and Benefits Act and visiting faculty who are not eligible for membership in the Teachers' Retirement System of Oklahoma;

5. "Adjunct professor" means a person employed by an institution of higher education who is attached in a subordinate or temporary capacity to the faculty or staff, and who is contracted to instruct in a given specific discipline;

6. "Visiting faculty" means a person employed by an institution of higher education who is not eligible for academic rank or tenure, other than an adjunct professor, and who is contracted to instruct in a given specific discipline generally not to exceed one (1) academic year;

7. "Education entity" means a school district, a technology center school district, or an institution comprising The Oklahoma State System of Higher Education;

8. "State employee" means and includes each officer or employee in the service of the State of Oklahoma who, after January 1, 1966, received compensation for service rendered to the State of Oklahoma on a warrant issued pursuant to a payroll certified by a department or by an elected or duly appointed officer of the state or who receives payment for the performance of personal services on a warrant issued pursuant to a payroll certified by a department and drawn by the State Treasurer against appropriations made by the Legislature from any state fund or against trust funds held by the State Treasurer, who is employed in a position normally requiring actual performance of duty during not less than one thousand (1,000) hours per year, and whose employment is not seasonal or temporary, except that a person elected by popular vote will be considered an

employee during the person's tenure in office; provided, however, that employees who are otherwise eligible who are on approved leave without pay shall be eligible to continue coverage during such leave not to exceed twenty-four (24) months, as provided and published in the Office of Management and Enterprise Services Rules for Employment, from the date the employee goes on such leave provided the employee pays the full premiums due or persons who are drawing disability benefits under the State Employees Disability Program Act or meet each and every requirement of the State Employees Disability Program shall be eligible to continue coverage provided the person pays the full premiums due;

9. "Carrier" means the State of Oklahoma or a state designated Health Maintenance Organization (HMO). Such HMO shall be a federally qualified Health Maintenance Organization under 42 U.S.C., Section 300e et seq.;

10. "Health insurance plan" means a self-insured plan by the State of Oklahoma for the purpose of paying the cost of hospital and medical care up to the maximum coverage provided by said plan or prepaid medical plan(s) offered to employees as an alternative to the state-administered plan by federally qualified HMOs which have contracted with the state;

11. "Life insurance plan" means a self-insured plan for the purpose of paying death and dismemberment benefits up to the maximum coverage provided by the plan;

12. "Dental benefits plan" means a plan by the State of Oklahoma for the purpose of paying the cost of dental care up to the maximum coverage provided by the plan; whenever the term "dental insurance plan" or a term of like import appears in the Oklahoma Employees Insurance and Benefits Act, the term shall mean "dental benefits plan";

13. "Other insurance" means any type of coverage other than basic hospital and medical benefits, major medical benefits, comprehensive benefits, life insurance benefits or dental insurance benefits, which the Plan may be directed to offer;

14. "Dependent" means an employee's spouse or any unmarried child:

- a. under the age of twenty-five (25) years, regardless of residence, provided that the employee is primarily responsible for their support, including:
  - (1) an adopted child, and
  - (2) a stepchild or child who lives with the employee in a regular parent-child relationship, or
- b. regardless of age who is incapable of self-support because of mental or physical incapacity that existed prior to reaching the age of twenty-five (25) years;

15. "Comprehensive benefits" means benefits which reimburse the expense of hospital room and board, other hospital services, certain

outpatient expenses, maternity benefits, surgical expense, including obstetrical care, in-hospital medical care expense, diagnostic radiological and laboratory benefits, physicians' services provided by house and office calls, treatments administered in physicians' office, prescription drugs, psychiatric services, Christian Science practitioners' services, Christian Science nurses' services, optometric medical services for injury or illness of the eye, home health care, home nursing service, hospice care, and such other benefits as may be determined by the Board. Such benefits shall be provided on a copayment or coinsurance basis, the insured to pay a proportion of the cost of such benefits, and may be subject to a deductible that applies to all or part of the benefits as determined by the Board; and

16. "Life insurance coverage" shall include a maximum amount of basic life insurance or benefit with or without a double indemnity provision and an amount of accidental death and dismemberment insurance or benefit per employee to be provided by the State of Oklahoma, and the employee shall have the option to purchase additional life insurance or benefits on the employee's life up to the amount provided by the plan. Such basic life insurance benefits, with or without double indemnity, and accidental death and dismemberment benefits shall not exclude coverage for death or dismemberment resulting from war, insurrection or riot. The Board may also extend dependent life insurance in an amount to be determined by the Board to each insured employee who elects to insure the employee's eligible dependents. Premiums for the dependent life insurance shall be paid wholly by the employee.

Added by Laws 1967, c. 374, § 3, emerg. eff. May 23, 1967. Amended by Laws 1970, c. 70, § 3, emerg. eff. March 17, 1970; Laws 1977, c. 261, § 1, emerg. eff. June 17, 1977; Laws 1979, c. 47, § 100, emerg. eff. April 9, 1979; Laws 1982, c. 333, § 3, emerg. eff. June 1, 1982; Laws 1985, c. 230, § 2, emerg. eff. July 8, 1985; Laws 1986, c. 150, § 2, emerg. eff. April 29, 1986; Laws 1988, c. 165, § 4, operative July 1, 1988; Laws 1988, c. 298, § 53, operative July 1, 1988; Laws 1989, c. 322, § 1, emerg. eff. May 26, 1989; Laws 1990, c. 244, § 1, eff. July 1, 1990; Laws 1991, c. 219, § 3, emerg. eff. May 22, 1991; Laws 1991, c. 335, § 34, emerg. eff. June 15, 1991; Laws 1993, c. 239, § 54, eff. July 1, 1993; Laws 1995, c. 239, § 1, emerg. eff. May 24, 1995; Laws 1998, c. 377, § 6, eff. Nov. 1, 1998; Laws 1999, c. 339, § 1, eff. July 1, 1999; Laws 2001, c. 33, § 177, eff. July 1, 2001; Laws 2004, c. 345, § 1, eff. July 1, 2004; Laws 2006, c. 231, § 1, eff. July 1, 2006; Laws 2008, c. 415, § 13, eff. July 1, 2008; Laws 2012, c. 303, § 13, eff. Nov. 1, 2012.

NOTE: Laws 1991, c. 65, § 1 repealed by Laws 1991, c. 335, § 37, emerg. eff. June 15, 1991. Laws 2008, c. 344, § 11 repealed by Laws 2009, c. 2, § 36, emerg. eff. March 12, 2009.

§74-1304. Repealed by Laws 2012, c. 303, § 21, eff. Nov. 1, 2012.

§74-1304.1. Oklahoma Employees Insurance and Benefits Board.

A. The State and Education Employees Group Insurance Board and the Oklahoma State Employees Benefits Council are hereby abolished. Wherever the State and Education Employees Group Insurance Board and the Oklahoma State Employees Benefits Council are referenced in law, that reference shall be construed to mean the Oklahoma Employees Insurance and Benefits Board.

B. There is hereby created the Oklahoma Employees Insurance and Benefits Board.

C. The chair and vice-chair shall be elected by the Board members at the first meeting of the Board and shall preside over meetings of the Board and perform other duties as may be required by the Board. Upon the resignation or expiration of the term of the chair or vice-chair, the members shall elect a chair or vice-chair. The Board shall elect one of its members to serve as secretary.

D. The Board shall consist of seven (7) members to be appointed as follows:

1. The State Insurance Commissioner, or designee;
2. Four members shall be appointed by the Governor;
3. One member shall be appointed by the Speaker of the Oklahoma House of Representatives; and
4. One member shall be appointed by the President Pro Tempore of the State Senate.

E. The appointed members shall:

1. Have demonstrated professional experience in investment or funds management, public funds management, public or private group health or pension fund management, or group health insurance management;
2. Be licensed to practice law in this state and have demonstrated professional experience in commercial matters; or
3. Be licensed by the Oklahoma Accountancy Board to practice in this state as a public accountant or a certified public accountant.

In making appointments that conform to the requirements of this subsection, at least one but not more than three members shall be appointed each from paragraphs 2 and 3 of this subsection by the combined appointing authorities.

F. Each member of the Board shall serve a term of four (4) years from the date of appointment.

G. Members of the Board shall be subject to the following:

1. The appointed members shall each receive compensation of Five Hundred Dollars (\$500.00) per month. Appointed members who fail to attend a regularly scheduled meeting of the Board shall not receive the related compensation;
2. The appointed members shall be reimbursed for their expenses, according to the State Travel Reimbursement Act, as are

incurred in the performance of their duties, which shall be paid from the Health Insurance Reserve Fund;

3. In the event an appointed member does not attend at least seventy-five percent (75%) of the regularly scheduled meetings of the Board during a calendar year, the appointing authority may remove the member;

4. A member may also be removed for any other cause as provided by law;

5. No Board member shall be individually or personally liable for any action of the Board; and

6. Participation on the Board is contingent upon maintaining all necessary annual training as may be required through the Health Insurance Portability and Accountability Act of 1996, Medicare contracting requirements or other statutory or regulatory guidelines.

H. The Board shall meet as often as necessary to conduct business but shall meet no less than four times a year, with an organizational meeting to be held prior to December 1, 2012. The organizational meeting shall be called by the Insurance Commissioner. A majority of the members of the Board shall constitute a quorum for the transaction of business, and any official action of the Board must have a favorable vote by a majority of the members of the Board present.

I. Except as otherwise provided in this subsection, no member of the Board shall be a lobbyist registered in this state as provided by law, or be employed directly or indirectly by any firm or health care provider under contract to the State and Education Employees Group Insurance Board, the Oklahoma State Employees Benefits Council, or the Oklahoma Employees Insurance and Benefits Board, or any benefit program under its jurisdiction, for any goods or services whatsoever. Any physician member of the Board shall not be subject to the provisions of this subsection.

J. Any vacancy occurring on the Board shall be filled for the unexpired term of office in the same manner as provided for in subsection D of this section.

K. The Board shall act in accordance with the provisions of the Oklahoma Open Meeting Act, the Oklahoma Open Records Act and the Administrative Procedures Act.

L. The Administrative Director of the Courts shall designate grievance panel members as shall be necessary. The members of the grievance panel shall consist of two attorneys licensed to practice law in this state and one state licensed health care professional or health care administrator who has at least three (3) years practical experience, has had or has admitting privileges to a hospital in this state, has a working knowledge of prescription medication, or has worked in an administrative capacity at some point in their career. The state health care professional shall be appointed by

the Governor. At the Governor's discretion, one or more qualified individuals may also be appointed as an alternate to serve on the grievance panel in the event the Governor's primary appointee becomes unable to serve.

M. The Office of Management and Enterprise Services shall have the following duties, responsibilities and authority with respect to the administration of the flexible benefits plan authorized pursuant to the State Employees Flexible Benefits Act:

1. To construe and interpret the plan, and decide all questions of eligibility in accordance with the Oklahoma State Employees Benefits Act and 26 U.S.C.A., Section 1 et seq.;

2. To select those benefits which shall be made available to participants under the plan, according to the Oklahoma State Employees Benefits Act, and other applicable laws and rules;

3. To prescribe procedures to be followed by participants in making elections and filing claims under the plan;

4. Beginning with the plan year which begins on January 1, 2013, to select and contract with one or more providers to offer a group TRICARE Supplement product to eligible employees who are eligible TRICARE beneficiaries. Any membership dues required to participate in a group TRICARE Supplement product offered pursuant to this paragraph shall be paid by the employee. As used in this paragraph, "TRICARE" means the Department of Defense health care program for active duty and retired service members and their families;

5. To prepare and distribute information communicating and explaining the plan to participating employers and participants. Health Maintenance Organizations or other third-party insurance vendors may be directly or indirectly involved in the distribution of communicated information to participating state agency employers and state employee participants subject to the following condition: the Board shall verify all marketing and communications information for factual accuracy prior to distribution;

6. To receive from participating employers and participants such information as shall be necessary for the proper administration of the plan, and any of the benefits offered thereunder;

7. To furnish the participating employers and participants such annual reports with respect to the administration of the plan as are reasonable and appropriate;

8. To keep reports of benefit elections, claims and disbursements for claims under the plan;

9. To negotiate for best and final offer through competitive negotiation with the assistance and through the purchasing procedures adopted by the Office of Management and Enterprise Services and contract with federally qualified health maintenance organizations under the provisions of 42 U.S.C., Section 300e et seq., or with Health Maintenance Organizations granted a certificate

of authority by the Insurance Commissioner pursuant to the Health Maintenance Reform Act of 2003 for consideration by participants as an alternative to the health plans offered by the Oklahoma Employees Insurance and Benefits Board, and to transfer to the health maintenance organizations such funds as may be approved for a participant electing health maintenance organization alternative services. The Board may also select and contract with a vendor to offer a point-of-service plan. An HMO may offer coverage through a point-of-service plan, subject to the guidelines established by the Board. However, if the Board chooses to offer a point-of-service plan, then a vendor that offers both an HMO plan and a point-of-service plan may choose to offer only its point-of-service plan in lieu of offering its HMO plan. The Board may, however, renegotiate rates with successful bidders after contracts have been awarded if there is an extraordinary circumstance. An extraordinary circumstance shall be limited to insolvency of a participating health maintenance organization or point-of-service plan, dissolution of a participating health maintenance organization or point-of-service plan or withdrawal of another participating health maintenance organization or point-of-service plan at any time during the calendar year. Nothing in this section of law shall be construed to permit either party to unilaterally alter the terms of the contract;

10. To retain as confidential information the initial Request For Proposal offers as well as any subsequent bid offers made by the health plans prior to final contract awards as a part of the best and final offer negotiations process for the benefit plan;

11. To promulgate administrative rules for the competitive negotiation process;

12. To require vendors offering coverage to provide such enrollment and claims data as is determined by the Board. The Board shall be authorized to retain as confidential any proprietary information submitted in response to the Board's Request For Proposal. Provided, however, that any such information requested by the Board from the vendors shall only be subject to the confidentiality provision of this paragraph if it is clearly designated in the Request For Proposal as being protected under this provision. All requested information lacking such a designation in the Request For Proposal shall be subject to Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes. From health maintenance organizations, data provided shall include the current Health Plan Employer Data and Information Set (HEDIS);

13. To authorize the purchase of any insurance deemed necessary for providing benefits under the plan including indemnity dental plans, provided that the only indemnity health plan selected by the Board shall be the indemnity plan offered by the Board, and to transfer to the Board such funds as may be approved for a



participant electing a benefit plan offered by the Board. All indemnity dental plans shall meet or exceed the following requirements:

- a. they shall have a statewide provider network,
- b. they shall provide benefits which shall reimburse the expense for the following types of dental procedures:
  - (1) diagnostic,
  - (2) preventative,
  - (3) restorative,
  - (4) endodontic,
  - (5) periodontic,
  - (6) prosthodontics,
  - (7) oral surgery,
  - (8) dental implants,
  - (9) dental prosthetics, and
  - (10) orthodontics, and
- c. they shall provide an annual benefit of not less than One Thousand Five Hundred Dollars (\$1,500.00) for all services other than orthodontic services, and a lifetime benefit of not less than One Thousand Five Hundred Dollars (\$1,500.00) for orthodontic services;

14. To communicate deferred compensation programs as provided in Section 1701 of Title 74 of the Oklahoma Statutes;

15. To assess and collect reasonable fees from contracted health maintenance organizations and third-party insurance vendors to offset the costs of administration;

16. To accept, modify or reject elections under the plan in accordance with the Oklahoma State Employees Benefits Act and 26 U.S.C.A., Section 1 et seq.;

17. To promulgate election and claim forms to be used by participants;

18. To adopt rules requiring payment for medical and dental services and treatment rendered by duly licensed hospitals, physicians and dentists. Unless the Board has otherwise contracted with the out-of-state health care provider, the Board shall reimburse for medical services and treatment rendered and charged by an out-of-state health care provider at least at the same percentage level as the network percentage level of the fee schedule established by the Oklahoma Employees Insurance and Benefits Board if the insured employee was referred to the out-of-state health care provider by a physician or it was an emergency situation and the out-of-state provider was the closest in proximity to the place of residence of the employee which offers the type of health care services needed. For purposes of this paragraph, health care providers shall include, but not be limited to, physicians, dentists, hospitals and special care facilities;

19. To enter into a contract with out-of-state providers in connection with any PPO or hospital or medical network plan which shall include, but not be limited to, special care facilities and hospitals outside the borders of the State of Oklahoma. The contract for out-of-state providers shall be identical to the in-state provider contracts. The Board may negotiate for discounts from billed charges when the out-of-state provider is not a network provider and the member sought services in an emergency situation, when the services were not otherwise available in the State of Oklahoma or when the Administrator appointed by the Board approved the service as an exceptional circumstance;

20. To create the establishment of a grievance procedure by which a three-member grievance panel shall act as an appeals body for complaints by insured employees regarding the allowance and payment of claims, eligibility, and other matters. Except for grievances settled to the satisfaction of both parties prior to a hearing, any person who requests in writing a hearing before the grievance panel shall receive a hearing before the panel. The grievance procedure provided by this paragraph shall be the exclusive remedy available to insured employees having complaints against the insurer. Such grievance procedure shall be subject to the Oklahoma Administrative Procedures Act, including provisions thereof for review of agency decisions by the district court. The grievance panel shall schedule a hearing regarding the allowance and payment of claims, eligibility and other matters within sixty (60) days from the date the grievance panel receives a written request for a hearing unless the panel orders a continuance for good cause shown. Upon written request by the insured employee to the grievance panel and received not less than ten (10) days before the hearing date, the grievance panel shall cause a full stenographic record of the proceedings to be made by a competent court reporter at the insured employee's expense; and

21. To intercept monies owing to plan participants from other state agencies, when those participants in turn owe money to the Office of Management and Enterprise Services, and to ensure that the participants are afforded due process of law.

N. Except for a breach of fiduciary obligation, a Board member shall not be individually or personally responsible for any action of the Board.

O. The Board shall operate in an advisory capacity to the Office of Management and Enterprise Services.

P. The members of the Board shall not accept gifts or gratuities from an individual organization with a value in excess of Ten Dollars (\$10.00) per year. The provisions of this section shall not be construed to prevent the members of the Board from attending educational seminars, conferences, meetings or similar functions.

Added by Laws 2012, c. 303, § 14, eff. Nov. 1, 2012. Amended by Laws 2013, c. 266, § 2, eff. Nov. 1, 2013.

§74-1305. Repealed by Laws 2012, c. 303, § 21, eff. Nov. 1, 2012.

§74-1305.1. Discharge of duties - Investment of monies - Indemnity insurance - Investment committee - Investment managers - Funds and custodian of investment fund and revenues - Investment plan - Quarterly financial report.

(1) The Director of the Office of Management and Enterprise Services and the Oklahoma Employees Insurance and Benefits Board shall discharge their duties with respect to the Oklahoma Employees Insurance and Benefits Act, the State Employees Flexible Benefits Act and the State Employees Disability Program Act solely in the interest of said Acts and:

(a) for the exclusive purpose of:

- (i) providing benefits to the participants and their dependents, and
- (ii) defraying reasonable expenses of administering the Oklahoma Employees Insurance and Benefits Act, the State Employees Flexible Benefits Act and the State Employees Disability Program Act;

(b) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(c) by diversifying investments so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(d) in accordance with the laws, documents and instruments governing the Oklahoma Employees Insurance and Benefits Act, the State Employees Flexible Benefits Act and the State Employees Disability Program Act.

(2) The monies received by the Office of Management and Enterprise Services shall be invested only in assets eligible for the investment of funds of legal reserve life insurance companies in this state as provided for in Sections 1602 through 1611, 1613 through 1620, and 1622 through 1624 of Title 36 of the Oklahoma Statutes. The term admitted assets shall mean the amount of the monies received by the Office and the provisions relating to limitation of investments as a percentage of surplus and loans to policyholders shall be inapplicable with respect to investment of the monies received by the Office.

(3) The Office may procure insurance indemnifying the members of the Board and the Director from personal loss or accountability from liability resulting from action or inaction.

(4) The Director may establish an investment committee. The investment committee shall be composed of not more than three (3) members of the Board selected by the Director. The committee shall make recommendations to the full Board on all matters related to the choice of custodians and managers of the assets of the Office of Management and Enterprise Services relating to the Oklahoma Employees Insurance and Benefits Act, on the establishment of investment and fund management guidelines, and in planning future investment policy. The committee shall have no authority to act on behalf of the Board or Director in any circumstances whatsoever. No recommendation of the committee shall have effect as an action of the Board or Director nor take effect without the approval of the Board or Director.

(5) The Board shall retain qualified investment managers to provide for the investment of the monies received by the Office. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board. Subject to the overall investment guidelines set by the Board, the investment managers shall have full discretion in the management of those monies of the Office allocated to the investment managers. The Board shall manage those monies not specifically allocated to the investment managers. The monies of the Office allocated to the investment managers shall be actively managed by the investment managers, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

(6) Funds and revenues for investment by the investment managers or the Board shall be placed with a custodian selected by the Board. The custodian shall be a bank or trust company offering pension fund master trustee and master custodial services. The custodian shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board. In compliance with the investment policy guidelines of the Board, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of the Office are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the investment managers of the Office as to the investment of the monies of the Office in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the Office for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles.

(7) Prior to August 1 of each year, the Board shall develop a written investment plan for the monies received by the Office.

(8) The Administrator shall compile a quarterly financial report of all the funds of the Office on a calendar year basis. The report shall be compiled pursuant to uniform reporting standards prescribed by the Insurance Commissioner for all domestic insurance companies. The report shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall contain combined and individual rate of returns of the investment managers by category of investment, over periods of time. The report shall be distributed to the Governor, the Legislative Service Bureau and the Joint Committee on Fiscal Operations. Added by Laws 1989, c. 318, § 6, operative July 1, 1989. Amended by Laws 1991, c. 219, § 6, emerg. eff. May 22, 1991; Laws 2002, c. 196, § 2, eff. July 1, 2002; Laws 2012, c. 304, § 936.

§74-1305.2. Fiduciaries - Duties, powers and responsibilities.

(1) A fiduciary with respect to the State and Education Employees Group Insurance Board shall not cause the Board to engage in a transaction if the fiduciary knows or should know that such transaction constitutes a direct or indirect:

(a) sale or exchange, or leasing of any property from the Board to a party in interest for less than adequate consideration or from a party in interest to the Board for more than adequate consideration;

(b) lending of money or other extension of credit from the Board to a party in interest without the receipt of adequate security and a reasonable rate of interest, or from a party in interest to the Board with provision of excessive security or an unreasonably high rate of interest;

(c) furnishing of goods, services or facilities from the Board to a party in interest for less than adequate consideration, or from a party in interest to the Board for more than adequate consideration; or

(d) transfer to, or use by or for the benefit of, a party in interest of any assets of the Board for less than adequate consideration.

(2) A fiduciary with respect to the Board shall not:

(a) deal with the assets of the Board in the fiduciary's own interest or for the fiduciary's own account;

(b) in the fiduciary's individual or any other capacity act in any transaction involving the Board on behalf of a party whose interests are adverse to the interests of the Board or the interests of its participants or beneficiaries; or

(c) receive any consideration for the fiduciary's own personal account from any party dealing with the Board in connection with a transaction involving the assets of the Board.

(3) A fiduciary with respect to the Board may:

(a) invest all or part of the assets of the Board in deposits which bear a reasonable interest rate in a bank or similar financial institution supervised by the United States or a state, if such bank or other institution is a fiduciary of such plan; or

(b) provide any ancillary service by a bank or similar financial institution supervised by the United States or a state, if such bank or other institution is a fiduciary of such plan.

(4) A person or a financial institution is a fiduciary with respect to the Board to the extent that the person or the financial institution:

(a) exercises any discretionary authority or discretionary control respecting management of the Board or exercises any authority or control respecting management or disposition of the assets of the Board;

(b) renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or other property of the Board, or has any authority or responsibility to do so; or

(c) has any discretionary authority or discretionary responsibility in the administration of the Board.

Added by Laws 1989, c. 318, § 7, operative July 1, 1989.

§74-1306. Repealed by Laws 2012, c. 303, § 21, eff. Nov. 1, 2012.

§74-1306.1. Board - Right of subrogation in certain cases - Extent - Release of responsible party.

A. The Office of Management and Enterprise Services shall have the right of subrogation to recover any payments made for injury to an employee or dependent caused by a third party's wrongful act or negligence. The Office shall have the authority to waive or reduce subrogation in individual cases when the exercise of the right of subrogation would create an extreme financial hardship on the employee or dependent.

B. Subrogation will exist only to the extent of actual claims paid.

C. If an employee or dependent has prejudiced the Office's right of subrogation by releasing the responsible party prior to submitting claims to the Office, the claims may be denied by the Office. If claims are submitted and paid after the employee or dependent has released the responsible party, the Office shall be entitled to bring an action against the employee, dependent, or their assignees, for any such claims paid and for additional costs incurred by the Office including, but not limited to: interest, administrative and adjudicative costs, and attorney fees.

Added by Laws 1990, c. 244, § 4, emerg. eff. May 21, 1990. Amended by Laws 2012, c. 304, § 937.

§74-1306.2. Information regarding utilization review - Submission to Commissioner.

A. The Director of the Office of Management and Enterprise Services shall submit to the Insurance Commissioner the following information regarding utilization review performed by employees of the Office:

1. A utilization review plan that includes:
  - a. an adequate summary description of review standards, protocol and procedures to be used in evaluating proposed or delivered hospital and medical care,
  - b. assurances that the standards and criteria to be applied in review determinations are established with input from health care providers representing major areas of specialty and certified by the boards of the various American medical specialties, and
  - c. the provisions by which patients or health care providers may seek reconsideration or appeal of adverse decisions concerning requests for medical evaluation, treatment or procedures;
2. The type and qualifications of the personnel either employed or under contract to perform the utilization review;
3. The procedures and policies to ensure that an employee of the Office is reasonably accessible to patients and health care providers five (5) days a week during normal business hours, such procedures and policies to include as a requirement a toll-free telephone number to be available during said business hours;
4. The policies and procedures to ensure that all applicable state and federal laws to protect the confidentiality of individual medical records are followed;
5. The policies and procedures to verify the identity and authority of personnel performing utilization review by telephone;
6. A copy of the materials designed to inform applicable patients and health care providers of the requirements of the utilization review plan;
7. The procedures for receiving and handling complaints by patients, hospitals and health care providers concerning utilization review; and
8. Procedures to ensure that after a request for medical evaluation, treatment, or procedures has been rejected in whole or in part and in the event a copy of the report on said rejection is requested, a copy of the report of the personnel performing utilization review concerning the rejection shall be mailed by the insurer, postage prepaid, to the ill or injured person, the treating health care provider, hospital or to the person financially responsible for the patient's bill within fifteen (15) days after receipt of the request for the report.

B. The Office shall pay an annual fee to the Insurance Commissioner of Five Hundred Dollars (\$500.00). Added by Laws 1991, c. 294, § 17, eff. Nov. 1, 1991. Amended by Laws 2012, c. 304, § 938.

§74-1306.3. Repealed by Laws 2012, c. 303, § 21, eff. Nov. 1, 2012.

§74-1306.4. Repealed by Laws 2012, c. 303, § 21, eff. Nov. 1, 2012.

§74-1306.5. Amendment of network provider facility or physician contracts - Mutual consent.

A network provider facility or physician contract, or any part or section of it, may be amended at any time during the term of the contract only by mutual written consent of duly authorized representatives of the Office of Management and Enterprise Services and the facility or physician.

Added by Laws 2002, c. 198, § 1, eff. July 1, 2002. Amended by Laws 2012, c. 304, § 939.

§74-1306.6. Administration of Medical Expense Liability Revolving Fund.

The Director of the Office of Management and Enterprise Services, in accordance with administering the Medical Expense Liability Revolving Fund pursuant to Section 746.1 of Title 19 of the Oklahoma Statutes, shall employ, appoint, or otherwise designate the necessary personnel to carry out the duties of the fund.

Added by Laws 2003, c. 319, § 6. Amended by Laws 2012, c. 304, § 940.

§74-1307. Specifications - Limitations on benefits - Exceptions.

A. The specifications drawn by the Office of Management and Enterprise Services for the Health Insurance Plan shall provide for comprehensive hospital medical and surgical benefits. The Health Insurance Plan may limit coverage for a particular illness, disease, injury or condition; but, except for such limits, shall not exclude or limit particular services or procedures that can be provided for the diagnosis and treatment of an illness, disease, injury or condition, so long as the services and procedures provided are of sound efficacy, are medically necessary, and fall within the licensed scope of practice of the practitioner providing same. The Health Insurance Plan may contract with providers for specific services based on levels of outcomes defined by the Office and achieved by the provider. The Health Insurance Plan may provide for the application of deductibles and copayment or coinsurance provisions that are based on contracts with providers for specific services based on levels of outcomes or cost.



B. The Life Insurance Plan shall include Accidental Death and Dismemberment Benefits and additional optional life insurance coverage.

Added by Laws 1967, c. 374, § 7, emerg. eff. May 23, 1967. Amended by Laws 1970, c. 70, § 6, emerg. eff. March 17, 1970; Laws 1977, c. 261, § 6, emerg. eff. June 17, 1977; Laws 1982, c. 333, § 6, emerg. eff. June 1, 1982; Laws 1990, c. 244, § 5, emerg. eff. May 21, 1990; Laws 1991, c. 171, § 1, eff. July 1, 1991; Laws 2011, c. 326, § 1, eff. Nov. 1, 2011; Laws 2012, c. 304, § 941; Laws 2015, c. 58, § 1, eff. Nov. 1, 2015.

§74-1307.1. Change of primary care physician within HMO.

No employee or dependent who participates in an HMO through the Oklahoma Employees Insurance and Benefits Act shall be denied the right of changing the primary care physician to any other primary care physician within the HMO. The employee or dependent shall notify the HMO in writing of any change in the choice of primary care physician forty-five (45) days in advance of the change by certified mail with return receipt requested. Any such change in a primary care physician shall not be subject to the approval of the HMO, the Office of Management and Enterprise Services or state agency.

Added by Laws 1988, c. 199, § 3, emerg. eff. June 9, 1988. Amended by Laws 2001, c. 197, § 2, emerg. eff. May 7, 2001; Laws 2012, c. 304, § 942.

§74-1307.2. Diabetes treatment - Equipment, supplies and services.

On and after November 1, 1996, the Office of Management and Enterprise Services shall include coverage for equipment, supplies and related services for the treatment of Type I, Type II, and gestational diabetes as provided by and pursuant to the provisions of Section 6060.2 of Title 36 of the Oklahoma Statutes.

Added by Laws 1996, c. 125, § 2, eff. Nov. 1, 1996. Amended by Laws 2012, c. 304, § 943.

§74-1307.3. Payment for services provided by out-of-state providers.

Unless the Office of Management and Enterprise Services has otherwise contracted with an out-of-state provider, the Office shall pay for medical services and treatment rendered by an out-of-state provider at the same level paid to an in-state provider if the insured was referred to the out-of-state provider by a physician or it was an emergency situation and the out-of-state provider which offers the type of services needed is the closest provider in proximity to the place of residence of the employee.

Added by Laws 1998, c. 312, § 1, eff. July 1, 1998. Amended by Laws 2001, c. 68, § 2, eff. July 1, 2001; Laws 2012, c. 304, § 944.

§74-1308. Enrollment in Plan.

(1) Any employee eligible for membership in the Health Insurance Plan, Dental Insurance Plan or Life Insurance Plan upon its effective date shall be enrolled in the plan unless the employee elects not to be enrolled within thirty (30) days of the effective dates. The employee shall be advised of Health Maintenance Organization prepaid plans available as an alternative to the state self-insured Health Insurance Plan. The Office of Management and Enterprise Services shall establish the procedure by which eligible employees not electing to be enrolled initially in the Health Insurance Plan, Dental Insurance Plan or Life Insurance Plan may be subsequently enrolled.

(2) Any eligible employee who is employed after the effective dates of the Health Insurance Plan, Dental Insurance Plan and Life Insurance Plan or HMO plans approved by the Office may become enrolled on the first day of the second month of employment.

Added by Laws 1967, c. 374, § 8, emerg. eff. May 23, 1967. Amended by Laws 1970, c. 70, § 7, emerg. eff. March 17, 1970; Laws 1977, c. 261, § 7, emerg. eff. June 17, 1977; Laws 1982, c. 333, § 7, emerg. eff. June 1, 1982; Laws 1985, c. 230, § 4, emerg. eff. July 8, 1985; Laws 1988, c. 165, § 7, operative July 1, 1988; Laws 2001, c. 197, § 3, emerg. eff. May 7, 2001; Laws 2004, c. 345, § 3, eff. July 1, 2004; Laws 2012, c. 304, § 945.

§74-1308.1. Educational entities - Extension of health, dental and life insurance plans.

(1) An educational entity may extend the benefits of the health insurance plan, the dental insurance plan, and the life insurance plan to education employees employed by the entity. The benefits of the plans for an education employee shall be the same and shall include the same plan options as would be made available to a state employee participating in the plan that resided at the same location. Notwithstanding the provisions of Section 1308.2 of this title, a period shall exist for enrolling education entities from April 1, 1989 through October 1, 1991, whereby education employees of a participating education entity may be enrolled, pursuant to this act, during the entities' initial enrollment period, regardless of preexisting conditions. The Office of Management and Enterprise Services shall adopt rules and regulations for enrollment by which education entities may apply to participate in the insurance plans. Once an education entity becomes a participant in the health and dental insurance plans offered through the Oklahoma Employees Insurance and Benefits Act, the education entity may withdraw from participation, in a manner prescribed by the Office. If a school district is participating in the health and dental insurance plans pursuant to the Oklahoma Employees Insurance and Benefits Act,

Sections 1301 through 1329.1 of this title, the employees of the school district who are eligible to participate in the health and dental plans, at such time as the school district may withdraw from such participation, may require the board of education of the school district to call an election to allow the employees to vote as to whether the school district shall continue participation in the health and dental insurance plans offered through the Oklahoma Employees Insurance and Benefits Act. Upon the filing with the board of education of a petition calling for such an election which is signed by no less than thirty percent (30%) of the eligible employees of the school district, the board of education shall call an election for the purpose of determining whether the school district shall continue participation in the health and dental insurance plans offered through the Oklahoma Employees Insurance and Benefits Act. The election shall be held within thirty (30) days of the filing of the petition. If a majority of those eligible employees voting at the election vote to continue participation in the health and dental insurance plans offered through the Oklahoma Employees Insurance and Benefits Act, the board of education shall be prohibited from withdrawing the school district from such participation. If a majority of those eligible employees voting at the election vote against continued participation in the health and dental insurance plans offered through the Oklahoma Employees Insurance and Benefits Act, the board of education of the school district shall apply to discontinue such participation within thirty (30) days of the election and within the times the school district is authorized to withdraw from participation in accordance with rules established for withdrawal by the Office.

(2) Except as otherwise provided in this subsection, when an education entity participates in the health and dental insurance plans offered through the Oklahoma Employees Insurance and Benefits Act, all employees shall be advised of Health Maintenance Organizations prepaid plans available as an alternative to the state self-insured health insurance plan. Eligible part-time education employees, at the option of the employee, may enroll in the plans either at the time the education entity begins participation in the plans or, if later, upon a showing of insurability to the satisfaction of the Office.

(3) Any employee of an education entity participating in the health and dental insurance plans offered through the Oklahoma Employees Insurance and Benefits Act who is employed after the education entity began said participation may be enrolled in the health and dental insurance plans or HMO plans approved by the Office on the first day of the second month of employment.

(4) Upon initial enrollment of an institution of higher education to participate in the health and dental insurance plans offered through the Oklahoma Employees Insurance and Benefits Act,

all individuals presently insured by said institution's present group health insurance plan shall become enrolled in said state plans for the remaining period of said institution's contractual liabilities.

(5) Education employees who shall be absent from the teaching service because of election or appointment as a local, state, or national education association officer shall be allowed to retain coverage pursuant to the Oklahoma Employees Insurance and Benefits Act upon the payment of the full cost of the coverage at the rate and under such terms and conditions established by the Office.

(6) Except as otherwise provided by law, an educational entity may cease to participate in the Oklahoma Employees Insurance and Benefits Act but provide health insurance coverage through another insurance carrier. The subsequent carrier shall provide coverage to the employees of the educational entity who terminated employment with a retirement benefit, with a vested benefit, or who have ten (10) or more years of service with a participating educational entity but did not have a vested benefit through the retirement system of the educational entity, if the election to retain health insurance coverage was made within thirty (30) days of termination of employment. Coverage shall also be provided to the eligible dependents of the employees if an election to retain coverage is made within thirty (30) days of termination of employment.

Added by Laws 1988, c. 165, § 8, operative July 1, 1988. Amended by Laws 1989, c. 322, § 4, emerg. eff. May 26, 1989; Laws 1990, c. 244, § 6, eff. July 1, 1990; Laws 1990, c. 337, § 24; Laws 1991, c. 219, § 8, emerg. eff. May 22, 1991; Laws 1993, c. 359, § 4, eff. July 1, 1993; Laws 2004, c. 41, § 1, emerg. eff. April 1, 2004; Laws 2012, c. 304, § 946.

NOTE: Laws 1990, c. 7, § 2 repealed by Laws 1990, c. 337, § 26.

§74-1308.2. Persons not subject to preexisting condition exclusion.

Any person eligible to begin coverage in the health insurance plan pursuant to the State and Education Employees Group Insurance Act shall not be subject to a preexisting condition exclusion if the person was continuously covered under a previous group health insurance plan, was eligible to use military medical facilities, or was eligible to use Indian health services medical facilities.

Added by Laws 1989, c. 322, § 5, emerg. eff. May 26, 1989.

§74-1308.3. Basic health plan - Opting out.

Any active employee eligible to participate or who is a participant may opt out of the state's basic plan as outlined in Sections 1370 and 1371 of this title, or may opt out of the health and dental basic plan options only and retain the life and disability plan benefits, provided that the participant is currently covered by a separate group health insurance plan or will be covered

by a separate group health insurance plan at or before the beginning of the next plan year. Any active employee eligible to participate or who is a participant opting out of coverage pursuant to this section shall provide proof of the separate health insurance plan participation and sign an affidavit attesting that the participant is currently covered and does not require state-provided health insurance each plan year. Any active employee opting out of the state's basic plan or the health and dental basic plan options pursuant to this section shall receive One Hundred Fifty Dollars (\$150.00) in lieu of the flexible benefit amount the employee would be otherwise eligible to receive. Any savings realized by the state as a result of a participant opting out of health insurance plan coverage shall be retained by the state.

Added by Laws 2011, c. 326, § 2, eff. Nov. 1, 2011. Amended by Laws 2012, c. 352, § 1, eff. Nov. 1, 2012; Laws 2013, c. 266, § 3, eff. Nov. 1, 2013.

#### §74-1309. Dependents.

A. Any eligible employee may elect to have a dependent or dependents of the employee covered by the Health Insurance Plan and Dental Insurance Plan or by any available Health Maintenance Organization (HMO) approved by the Office of Management and Enterprise Services. The employee may elect to cover all dependent children and not elect to cover the spouse of the employee. Such election shall be made at the time the employee becomes enrolled in the Plan, under such procedures as the Office may establish. If dependent coverage is not elected or if the employee elects to cover all dependent children and not the spouse of the employee at the time an employee becomes enrolled in the Plan, dependent coverage or coverage for the spouse cannot be elected until the next enrollment period or until a qualifying event has occurred as established by the Office. Such subsequent election of dependent coverage shall be made under such conditions as the Office may impose. If electing not to cover the spouse, the employee shall submit a statement signed by both the employee and the spouse acknowledging their choice not to provide insurance coverage for the spouse under the Health Insurance Plan and Dental Insurance Plan or approved HMO plans.

B. Any employee with dependent coverage, as provided in this section, who has a change in the number of dependents may at the time of such change increase or decrease the number of dependents covered by the Health Insurance Plan and Dental Insurance Plan or approved HMO plans, under procedures established by the Office.

C. Any employee who has no eligible dependents at the time the employee becomes enrolled may elect dependent coverage at the time the dependency status of the employee changes under procedures established by the Office.

Added by Laws 1967, c. 374, § 9, emerg. eff. May 23, 1967. Amended by Laws 1982, c. 333, § 8, emerg. eff. June 1, 1982; Laws 1985, c. 230, § 5, emerg. eff. July 8, 1985; Laws 1999, c. 339, § 2, eff. July 1, 1999; Laws 2001, c. 197, § 4, emerg. eff. May 7, 2001; Laws 2012, c. 304, § 947.

§74-1309.1. Coverage for dependents up to age of 25.

Any dependent shall be allowed to remain covered as a dependent under the State and Education Employees Group Insurance Act up to the age of twenty-five (25) years.

Added by Laws 2006, c. 231, § 4, eff. July 1, 2006. Amended by Laws 2008, c. 415, § 14, eff. July 1, 2008.

NOTE: Laws 2008, c. 344, § 12 repealed by Laws 2009, c. 2, § 37, emerg. eff. March 12, 2009.

§74-1310. Payment to funds.

A. Except as provided in subsection B of this section, each state agency participating in the Group Insurance Plans shall appropriate and pay to the appropriate reserve fund an amount to be set by the Oklahoma Employees Insurance and Benefits Board for each employee other than education employees per month enrolled in said Plans, from funds appropriated to said agency or from other funds available to such agency for operational purposes.

B. During the fiscal year ending June 30, 1997, each state agency participating in the Insurance Plans shall appropriate and pay to the State Employees Group Insurance Clearing Fund an amount to be set by the Board for each employee other than education employees per month enrolled in said Plans, from funds appropriated to said agency or from other funds available to such agency for operational purposes.

Added by Laws 1967, c. 374, § 10, emerg. eff. May 23, 1967. Amended by Laws 1969, c. 71, § 1, emerg. eff. July 1, 1969; Laws 1970, c. 70, § 8, emerg. eff. March 17, 1970; Laws 1982, c. 333, § 9, emerg. eff. June 1, 1982; Laws 1986, c. 150, § 5, emerg. eff. April 29, 1986; Laws 1988, c. 165, § 9, operative July 1, 1988; Laws 1989, c. 318, § 8, operative July 1, 1989; Laws 1991, c. 263, § 8, operative July 1, 1991; Laws 1996, c. 275, § 1, eff. Sept. 1, 1996; Laws 2012, c. 304, § 948.

§74-1310.1. Certified employees - Payment of health and dental insurance premiums.

A. If a certified employee elects health care coverage under a plan offered by a school district, including a plan offered by the Office of Management and Enterprise Services or a self-insured plan offered by the school district, then a school district shall pay no less than one hundred percent (100%) of the premium amount for the

HealthChoice (HI) option plan for an individual offered by the Office.

The amount a school district is required to pay pursuant to this subsection shall be reduced by the flexible benefit allowance provided for in Section 26-105 of Title 70 of the Oklahoma Statutes.

B. The premium for education entities that participate in the health and dental insurance plans offered through the Oklahoma Employees Insurance and Benefits Act shall be the same as paid by state agencies for said plans.

C. All education entities that participate in the insurance plans offered through the Oklahoma Employees Insurance and Benefits Act shall forward the appropriate premiums for each employee to the Office no later than the tenth day of each month following the month for which payment is due. Nothing shall prohibit a school district from forwarding appropriate premiums to the Office prior to the month for which payment is due.

Added by Laws 1988, c. 165, § 10, operative July 1, 1988. Amended by Laws 1998, c. 380, § 10, emerg. eff. June 9, 1998; Laws 2002, c. 282, § 4, eff. July 1, 2002; Laws 2003, c. 415, § 33, eff. July 1, 2003; Laws 2004, c. 373, § 1, eff. July 1, 2004; Laws 2012, c. 321, § 2, eff. July 1, 2012; Laws 2013, c. 15, § 115, emerg. eff. April 8, 2013.

NOTE: Laws 2012, c. 304, § 949 repealed by Laws 2013, c. 15, § 116, emerg. eff. April 8, 2013.

§74-1310.2. Health care coverage under school district plan - Cost of premium payable by district.

A school district shall pay fifty percent (50%) of the cost of the individual health care premium amount for school district employees who are not otherwise covered pursuant to Section 1310.1 of this title or Section 26-105 of Title 70 of the Oklahoma Statutes, if such employee elects health care coverage under a plan offered by a school district, including a plan offered by the Office of Management and Enterprise Services or a self-insured plan offered by the school district.

Added by Laws 2002, c. 418, § 3, eff. July 1, 2002. Amended by Laws 2012, c. 304, § 950.

§74-1311. Payroll deductions.

The amount of monthly contribution to be made by employees enrolled in the Insurance Plans shall be deducted from the monthly salaries of such employees and remitted to the Office of Management and Enterprise Services. The procedure for such deductions and remittances shall be established by the Director.

Added by Laws 1967, c. 374, § 11, emerg. eff. May 23, 1967. Amended by Laws 1970, c. 70, § 9, emerg. eff. March 17, 1970; Laws 1982, c.

333, § 10, emerg. eff. June 1, 1982; Laws 1986, c. 150, § 6, emerg. eff. April 29, 1986; Laws 2012, c. 304, § 951.

§74-1311.1. Deduction of contributions from monthly disability benefits.

The amount of monthly contribution to be made by persons who are drawing disability benefits under Section 1331 et seq. of this title and who are enrolled in the Insurance Plans shall be deducted from the monthly disability benefits of such persons and remitted to the Office of Management and Enterprise Services. The procedures for such deductions and remittances shall be established by the Office. Added by Laws 1986, c. 150, § 7, emerg. eff. April 29, 1986. Amended by Laws 2012, c. 304, § 952.

§74-1311.2. Repealed by Laws 2003, c. 8, § 9, eff. July 1, 2003.

§74-1312. Health and Dental Insurance Reserve Fund.

(1) Except as otherwise provided by law, all employee and employer contributions, appropriations and dividend payments related to the health and dental plans administered by the Director of the Office of Management and Enterprise Services shall be deposited in a fund in the State Treasury which is hereby created and which shall be known as the Health and Dental Insurance Reserve Fund. The money in such fund shall be invested by the Oklahoma Employees Insurance and Benefits Board in the manner specified in Section 1305.1 of this title. Investment income of the fund shall be added to the fund. Money payable to the claims administrator and all expenses in connection with the plans shall be paid from the fund. The Board shall have responsibility for management of the fund.

(2) All monies in the Health and Dental Insurance Reserve Fund that are reserves for the life insurance plan administered by the Office shall be transferred to the Life Insurance Reserve Fund on July 1, 1989.

Added by Laws 1967, c. 374, § 12, emerg. eff. May 23, 1967. Amended by Laws 1970, c. 70, § 10, emerg. eff. March 17, 1970; Laws 1971, c. 297, § 1, operative July 1, 1971; Laws 1977, c. 261, § 8, emerg. eff. June 17, 1977; Laws 1982, c. 263, § 4, emerg. eff. May 14, 1982; Laws 1982, c. 333, § 11, emerg. eff. June 1, 1982; Laws 1986, c. 150, § 8, emerg. eff. April 29, 1986; Laws 1988, c. 165, § 11, operative July 1, 1988; Laws 1989, c. 318, § 9, operative July 1, 1989; Laws 1991, c. 263, § 9, operative July 1, 1991; Laws 2012, c. 304, § 953.

§74-1312.1. Revolving fund.

There is hereby created in the State Treasury a Revolving Fund for the Oklahoma Employees Insurance and Benefits Plan. The revolving fund shall consist of funds transferred from the Health



and Dental Insurance Reserve Fund and the Life Insurance Reserve Fund for operational expenses of the State Health and Life Insurance Plan and monies assessed from or collected for and due a Health Maintenance Organization (HMO) as approved by the Office of Management and Enterprise Services. Expenditures from said funds shall be made pursuant to the laws of the state and statutes relating to the Plan. This revolving fund shall be a continuing fund, not subject to fiscal year limitations, and shall be under the control and management of the Office.

Added by Laws 1982, c. 263, § 6, emerg. eff. May 14, 1982. Amended by Laws 1985, c. 230, § 6, emerg. eff. July 8, 1985; Laws 1986, c. 150, § 9, emerg. eff. April 29, 1986; Laws 1988, c. 165, § 12, operative July 1, 1988; Laws 1989, c. 318, § 10, operative July 1, 1989; Laws 2012, c. 304, § 954.

§74-1312.2. Life Insurance Reserve Fund.

(1) There is hereby created in the State Treasury, the Life Insurance Reserve Fund. Except as otherwise provided by law, all contributions, appropriations, transfers, dividend payments, and investment income of the fund received from or for the benefit of the life insurance plan administered by the Office of Management and Enterprise Services shall be deposited in the reserve fund.

The monies in said reserve fund shall be invested by the Oklahoma Employees Insurance and Benefits Board in the manner specified in Section 1305.1 of this title. The Board shall have responsibility for management of the fund.

Money payable to the claims administrator and all expenses in connection with the life insurance plan shall be paid from the reserve fund.

(2) All monies in the Life Insurance Reserve Fund that are reserves for the health and dental plans administered by the Office of Management and Enterprise Services shall be transferred to the Health and Dental Insurance Reserve Fund on July 1, 1989.

Added by Laws 1988, c. 165, § 13, operative July 1, 1988. Amended by Laws 1989, c. 318, § 11, operative July 1, 1989; Laws 1991, c. 263, § 10, operative July 1, 1991; Laws 2012, c. 304, § 955.

§74-1312.3. Oklahoma Employees Insurance and Benefits Clearing Fund.

There is hereby created in the State Treasury, the Oklahoma Employees Insurance and Benefits Clearing Fund. The monies paid to the Oklahoma Employees Insurance and Benefits Clearing Fund pursuant to Section 1310 of this title shall be distributed as follows:

1. The first Thirty-one Million Five Hundred Thousand Dollars (\$31,500,000.00) received after the effective date of this act during the fiscal year beginning July 1, 1996, shall be distributed to the Oklahoma State Regents for Higher Education; and

2. The balance thereof shall be distributed to and deposited in the appropriate reserve fund as directed by the Office of Management and Enterprise Services.

Added by Laws 1991, c. 263, § 11, operative July 1, 1991. Amended by Laws 1996, c. 275, § 2, eff. Sept. 1, 1996; Laws 2012, c. 304, § 956.

§74-1314. Officers and employees exempt - Options.

Except as provided in Section 483 of Title 40 of the Oklahoma Statutes, the provisions of the State and Education Employees Group Insurance Act, Section 1301 et seq. of this title, shall not apply to the employees and officers of The Oklahoma State System of Higher Education nor to the Commissioners of the State Department of Transportation nor to any member of an administrative board or commission of any agency, board, authority or commission of the State of Oklahoma unless such member is a full-time salaried employee; provided, however, that any state system or institution of higher education may elect to come under the provisions of said act. Amended by Laws 1982, c. 333, § 13, emerg. eff. June 1, 1982; Laws 1986, c. 150, § 11, emerg. eff. April 29, 1986; Laws 1988, c. 165, § 15, operative July 1, 1988; Laws 1989, c. 313, § 13, operative July 1, 1989; Laws 1990, c. 303, § 6, eff. Jan. 1, 1991.

§74-1314.1. Employment Security Commission - System of Higher Education - Participation - Payroll deductions.

The Oklahoma Employment Security Commission and the Oklahoma State System of Higher Education have provided and may continue to provide hospital and medical benefits, accident, health, and life insurance, or any of the aforesaid, in any company authorized to do business in the State of Oklahoma, for any or all of its officers or employees, and said Commission and the Oklahoma State System of Higher Education may pay a portion or all of said premiums from any of the Commission's or the Oklahoma State System of Higher Education's general funds, and may deduct from the wages or salary of any such officer or employee, upon written authority signed by the officer or employee, amounts for the payment of all or any portion of the monthly premium for same. Laws 1971, c. 301, § 2, emerg. eff. June 25, 1971.

§74-1314.2. Definitions.

As used in Sections 1 through 5 of this act:

(a) "Agency Plan" means the health insurance program offered by the Oklahoma Employment Security Commission to its employees as of the effective date of this act. The Agency Plan presently conforms to the Federal Plan;

(b) "State Plan" means the health insurance program provided for state employees pursuant to the State and Education Employees Group Insurance Act;

(c) "Federal Plan" means the health insurance program provided for federal employees upon which the Agency Plan is based, and is more specifically defined in 5 CFR Ch.1, PART 890--FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM, as may be amended from time to time, and represents the standard against which the State Plan is to be measured to determine material differences for purposes of securing the supplemental health insurance for which provision is made in this act; and

(d) "Commission" means the Oklahoma Employment Security Commission.

Added by Laws 1990, c. 303, § 1, emerg. eff. May 30, 1990.

§74-1314.3. Supplemental benefits - Transfer to State Plan - Employer contributions - Preexisting conditions - Satisfaction of deductible - Dental and life insurance plans.

(1) All otherwise eligible employees hired by the Oklahoma Employment Security Commission after the effective date of this act shall participate in the State Plan and shall not be entitled to the supplemental health insurance for which provision is made in this act nor to any other Commission benefit plan not generally available to state employees, and no other provisions of this act shall apply to such future hires.

(2) All otherwise eligible Commission employees not participating in the Agency Plan as of the effective date of this act shall be enrolled in the State Plan on July 1, 1990. Said nonparticipating Commission employees shall not be entitled to the supplemental health insurance for which provision is made in this act.

(3) All Commission employees, retirees and dependents participating in the Agency Plan as of the effective date of this act shall be permitted to transfer to the State Plan and receive the supplemental insurance benefits for which provision is made in Section 1314.4 of this title at such time as the supplemental insurance is available. If not sooner transferred, all Agency Plan participants shall be transferred to the State Plan on January 1, 1991. Such mandatory transfer shall occur simultaneously with any cancellation by the insurance provider of the Agency Plan, occurring prior to January 1, 1991.

(4) All Commission employees, retirees and dependents enrolling in or transferring to the State Plan under the provisions of this section shall be given the opportunity to participate in all options under the State Plan at the time of their enrollment or transfer.

(5) For active employees of the Commission, the Commission shall pay the same monthly premium toward employee-only coverage as

that set by the Office of Management and Enterprise Services and paid by the other state agencies participating in the state health insurance program. For retirees of the Commission who retired pursuant to the provisions of the Oklahoma Public Employees Retirement System, the Oklahoma Public Employees Retirement System shall pay the same monthly contribution towards premiums for regular or Medicare supplement health insurance coverage for those retirees as the amount paid towards the premiums for the Oklahoma Public Employees Retirement System retirees from other agencies. For retirees of the Commission who retired under the provisions of another retirement plan, the Commission shall pay the same monthly contribution towards premiums for regular or Medicare supplement health insurance coverage for those retirees as the amount paid towards premiums by the Oklahoma Public Employees Retirement System for retirees of other state agencies.

(6) Except as provided in this subsection, employees and retirees of the Commission, and their dependents, shall be covered under the dental and life insurance plans provided by the Office of Management and Enterprise Services pursuant to the same provisions and premiums as apply to the employees and retirees of other state agencies. Employees and retirees may elect to keep their present agency offered life insurance, in addition to the state life insurance. Any employee who elects to keep their agency offered life insurance shall pay the premium for the life insurance provided pursuant to the Oklahoma Employees Insurance and Benefits Act. Any Commission retiree who elects to participate in the life insurance program provided pursuant to the Oklahoma Employees Insurance and Benefits Act shall pay the premium for such coverage.

(7) In the event that the agency offered life insurance plan is canceled by the insurer offering it, the Commission shall contract with the Office for replacement coverage equal to that lost by said cancellation. The Office is expressly authorized and directed to enter into such a contract. The Commission and the participants shall pay the full actuarial costs and all reasonable administrative costs for such coverage. Said actuarial and administrative costs shall be divided between the Commission and the participants in the same ratio as premiums are now divided for the agency offered life insurance. The Office shall maintain separate reserves for said coverage. On January 1, 2005, the Commission shall convert the agency offered life insurance to the life insurance plans provided by the Office pursuant to the same provisions and premiums as apply to the employees and retirees of other state agencies. The Commission may offer eligible employees an opportunity to voluntarily relinquish their agency life insurance upon a payment to the eligible employee, provided funds exist to do so.

Added by Laws 1990, c. 303, § 2, emerg. eff. May 30, 1990. Amended by Laws 2004, c. 278, § 1, emerg. eff. May 10, 2004; Laws 2012, c. 304, § 957.

§74-1314.4. Supplemental health insurance.

(1) The Oklahoma Employment Security Commission shall provide supplemental health insurance, in the manner provided in Section 1314.5 of this title for Agency Plan participants. Such supplemental insurance shall cover material differences between the coverage under the State Plan and the Agency Plan. Material differences as of the effective date of this act are:

- (a) The difference between the Agency Plan and the State Plan with regard to the amount of the lifetime maximum benefit;
- (b) The difference between the Agency Plan and the State Plan with regard to the amount of the annual hospital copayment;
- (c) The difference between the Agency Plan and the State Plan with regard to the amount of the retiree prescription copayment;
- (d) The difference between the Agency Plan and the State Plan with regard to the allowable cost for a medical procedure; provided the procedure was not readily available from a provider under the State Plan.

(2) The Commission may vary the terms of the supplemental health insurance at such times as there is a material change in the coverage offered under the State Plan from coverage offered under the Federal Plan.

(3) The Commission may require participants to share in the cost of the supplemental health insurance or contribute to copayments and/or provide for deductibles, if required by the United States Department of Labor; provided that the cost to the participant for both the State Plan and the supplemental health insurance does not exceed the cost to the participant for the Agency Plan as estimated by the Commission.

Added by Laws 1990, c. 303, § 3, emerg. eff. May 30, 1990. Amended by Laws 2004, c. 278, § 2, emerg. eff. May 10, 2004.

§74-1314.5. Procurement of supplemental health insurance - Self-insurance.

A. The Oklahoma Employment Security Commission shall attempt to obtain the supplemental health insurance described in Section 1314.4 of this title through competitive procurement under The Central Purchasing Act. If the Commission does not obtain such supplemental health insurance in this manner, it shall contract with the Office of Management and Enterprise Services for such coverage or the

Commission may provide the supplemental health insurance through a self-insurance program.

B. If the Commission decides to contract with the Office for the supplemental health insurance coverage, the Office is expressly authorized and directed to enter into such a contract and administer the supplemental benefit in such manner to cause the least disruption to its systems and daily operations. The supplemental benefit does not have to be offered as a supplemental plan but can be combined with the state plan to be administered and actuarially rated as a single plan. If this option is chosen, all dependents of employees or former employees currently eligible for the supplemental health insurance shall be included in the plan, regardless of whether or not the dependents were previously included in the plan, and this subsection will prevail over the provisions of Section 1314.3 of this title. The Commission shall pay the full actuarial cost to be determined by the Office and all reasonable administrative costs for such coverage, if provided by or through the Office. The Office may consider the utilization experience of the group participating in the benefit when calculating the rate for providing the benefit. The Office shall maintain separate reserves for said coverage.

C. If the Commission decides to provide supplemental health insurance through a self-insurance program, the Commission shall be authorized to contract with a private company to provide claims adjusting services for the supplemental health insurance claims adjusting and processing.

Added by Laws 1990, c. 303, § 4, emerg. eff. May 30, 1990. Amended by Laws 2004, c. 278, § 3, emerg. eff. May 10, 2004; Laws 2012, c. 304, § 958.

§74-1315. Participation by political subdivisions, public trusts, utility districts, nonprofit entities, and other local service agencies.

A. Upon application in writing and subject to any underwriting criteria that may be established by the Office of Management and Enterprise Services, the Office may extend the benefits of the Oklahoma Employees Insurance and Benefits Plans to employees who are employed in positions requiring actual performance of duty during not less than one thousand (1,000) hours per year and to all full-time employees of:

1. Any of the following groups which participate in the Oklahoma Public Employees Retirement System:

- a. county,
- b. city,
- c. town,
- d. public trust for which the state is the primary beneficiary, or

- e. conservation districts; and
- 2. Any of the following groups:
  - a. county hospital,
  - b. rural water district, including employees and board members,
  - c. sewer district,
  - d. gas district,
  - e. solid waste management district,
  - f. nonprofit water corporation employees and board members,
  - g. conservancy district or master conservancy district authorized by the provisions of Section 541 of Title 82 of the Oklahoma Statutes,
  - h. voluntary organization of Oklahoma local government jurisdictions listed in Section 2003 of Title 62 of the Oklahoma Statutes including any council created by the voluntary organizations,
  - i. voluntary association designated to administer the County Government Council as authorized in Section 7 of Title 19 of the Oklahoma Statutes,
  - j. statewide nonprofit entities representing employees of the state or employees of local political subdivisions who are eligible for insurance benefits authorized by the provisions of the Oklahoma Employees Insurance and Benefits Act, or
  - k. statewide nonprofit entities receiving state funds to provide no cost legal services to low income and senior citizens.

B. Applications to participate in the Oklahoma Employees Insurance and Benefits Plans shall be approved by majority action of the governing body of the groups listed in subsection A of this section.

C. Groups listed in subsection A of this section participating in the Oklahoma Employees Insurance and Benefits Plans shall pay all costs attributable to their participation. The benefits of said plans for a participant provided coverage pursuant to this section shall be the same and shall include the same plan options as would be made available to a state employee participating in the plan that resided at the same location. The premium for participating groups listed in subsection A of this section shall be the same as paid by state and education employees.

D. Participating groups listed in subsection A of this section shall not be required to offer dental insurance as defined in paragraph 11 of Section 1303 of this title, or other insurance as defined in paragraph 12 of Section 1303 of this title. However, if dental insurance or any other insurance is offered, it must be provided to all eligible employees. If an employee retires and

begins to receive benefits from the Oklahoma Public Employees Retirement System or terminates service and has a vested benefit with the Oklahoma Public Employees Retirement System, the employee may elect, in the manner provided in Section 1316.2 of this title, to participate in the dental insurance plan offered through the Oklahoma Employees Insurance and Benefits Act within thirty (30) days from the date of termination of employment. The employee shall pay the full cost of the dental insurance.

E. 1. Any employee of a group listed in subsection A of this section who retires or who has a vested benefit pursuant to the Oklahoma Public Employees Retirement System may begin the health insurance coverage if the employer of the employee is not a participant of the Oklahoma Employees Insurance and Benefits Act and does not offer health insurance to its employees. Such election by the employee to begin coverage shall be made within thirty (30) days from the date of termination of service.

2. Any employee of a group listed in subsection A of this section who retires or who has a vested benefit pursuant to the Oklahoma Public Employees Retirement System may begin or continue the health insurance coverage if the employer of the employee is a participant of the Oklahoma Employees Insurance and Benefits Act and the election to begin or continue coverage is made within thirty (30) days from the date of termination of service.

F. Any county, city, town, county hospital, public trust, conservation district, or rural water, sewer, gas or solid waste management district, or nonprofit water corporation, any of which of the aforementioned groups is not a participating employer in the Oklahoma Public Employees Retirement System, but which has employees who are participating in the health, dental or life insurance plans offered by or through the Oklahoma Employees Insurance and Benefits Act on July 1, 1997, may continue to allow its current and future employees to participate in such health, dental or life insurance plans. Participation of such employees may also continue following termination of employment if the employee has completed at least eight (8) years of service with a participating employer and such an election to continue in force is made within thirty (30) days following termination of employment. Any retiree or terminated employee electing coverage pursuant to this section shall pay the full cost of the insurance.

G. An employee of a group listed in paragraph 2 of subsection A of this section may continue in force health, dental and life insurance coverage following termination of employment if the employee has a minimum of eight (8) years of service with a participating employer and the election to continue in force is made within thirty (30) calendar days following termination of employment.



H. Notwithstanding other provisions in this section, an employer listed in subsection A of this section may cease to participate in the Oklahoma Employees Insurance and Benefits Act but provide health insurance coverage for its current and former employees through another insurance carrier. The subsequent carrier shall be responsible for providing coverage to the entity's employees who terminated employment with a retirement benefit, with a vested benefit, or who have eight (8) or more years of service with a participating employer but did not have a vested benefit through the Oklahoma Public Employees Retirement System, if the election to retain health insurance coverage was made within thirty (30) days of termination of employment. Coverage shall also be provided to the eligible dependents of the employees if an election to retain coverage is made within thirty (30) days of termination of employment. Employees who terminate employment from an employer covered by this paragraph before December 31, 2001, and elect coverage under the Oklahoma Employees Insurance and Benefits Act, shall not be required to change insurance carriers in the event that the employer changes its insurance carrier to a subsequent carrier. The provisions of this subsection shall become effective January 1, 2002.

I. Employers pursuant to subsection A of this section who participate in the Oklahoma Public Employees Retirement System and who offer health insurance coverage to their active employees, shall offer health insurance coverage to those employees who retire from the employer and also to those employees who terminate employment and are eligible to elect a vested benefit in the System. Such employers shall begin offering coverage to such employees on or before January 1, 2004. Such employees who wish to continue coverage shall make an election to retain health insurance coverage within thirty (30) days of termination of employment. However, former employees of such employers who have already retired or who have terminated and are eligible to elect a vested benefit under the Oklahoma Public Employees Retirement System, during the period beginning January 1, 2002, and ending December 31, 2003, may make an election to begin participation in the plans offered by the Office on or before December 31, 2003, in the same manner as other participating retired or vested members. The employer, assisted by the Oklahoma Public Employees Retirement System shall notify by October 1, 2003, all members who have either retired from the System or who are eligible to elect a vested benefit in the System between January 1, 2002, through December 31, 2003, and who were employed by an employer listed in subsection A of this section of the member's potential eligibility to participate in such plans. Each employer shall notify the Oklahoma Public Employees Retirement System when an employee is retiring and makes the election pursuant to this subsection to continue coverage under a plan offered by such

employer and when an employee terminates employment and is eligible to elect a vested benefit in the System and such employee elects to continue coverage under a plan offered by such employer. Such employer shall also notify the Oklahoma Public Employees Retirement System if a retired employee or an employee who is eligible to elect a vested benefit in the System terminates such continued coverage.

J. Any group that begins participation in the Oklahoma Employees Insurance and Benefits Plans after the effective date of this act and that is not composed of state or education employees must have one hundred percent (100%) participation in the health plan offered pursuant to the Oklahoma Employees Insurance and Benefits Act.

Added by Laws 1970, c. 70, § 12, emerg. eff. March 17, 1970.

Amended by Laws 1971, c. 297, § 3, operative July 1, 1971; Laws 1977, c. 261, § 10, emerg. eff. June 17, 1977; Laws 1981, c. 73, § 1; Laws 1982, c. 333, § 14, emerg. eff. June 1, 1982; Laws 1986, c. 150, § 12, emerg. eff. April 29, 1986; Laws 1988, c. 165, § 16, operative July 1, 1988; Laws 1989, c. 322, § 6, emerg. eff. May 26, 1989; Laws 1990, c. 276, § 1, operative July 1, 1990; Laws 1993, c. 359, § 5, eff. July 1, 1993; Laws 1996, c. 338, § 1, eff. July 1, 1996; Laws 2001, c. 69, § 1, eff. Jan. 1, 2002; Laws 2001, c. 376, § 1, eff. July 1, 2001; Laws 2002, c. 124, § 1, emerg. eff. April 22, 2002; Laws 2002, c. 450, § 1, eff. July 1, 2002; Laws 2003, c. 370, § 1; Laws 2004, c. 5, § 103, emerg. eff. March 1, 2004; Laws 2004, c. 345, § 4, eff. July 1, 2004; Laws 2012, c. 304, § 959.

NOTE: Laws 1990, c. 244, § 7 repealed by Laws 1991, c. 325, § 1, emerg. eff. June 14, 1991. Laws 2001, c. 306, § 1 repealed by Laws 2002, c. 22, § 34, emerg. eff. March 8, 2002. Laws 2003, c. 366, § 1 repealed by Laws 2004, c. 5, § 104, emerg. eff. March 1, 2004.

NOTE: Laws 2001, c. 376, § 1 provides a separate effective date for subsection H of this section of January 1, 2002.

§74-1315.1. Participation by county election board secretaries.

Upon election and application by the secretary of a county election board and subject to any underwriting criteria that may be established by the Office of Management and Enterprise Services, the Office shall extend the benefits of the Oklahoma Employees Insurance and Benefits Plans to the secretary of each county election board, if the county in which the secretary serves is not participating in such plans.

Added by Laws 2002, c. 71, § 1, eff. Nov. 1, 2002. Amended by Laws 2012, c. 304, § 960.

§74-1316.1. Continuance or purchase of life insurance benefits - Election.

A. Any person who retires or who has elected to receive a vested benefit under the provisions of the State of Oklahoma

retirement systems or persons who are currently drawing disability benefits under Section 1331 et seq. of this title or who meet each and every requirement of the State Employees Disability Program or the spouse or dependent of any such employee may continue in force the life insurance benefits authorized by this act in a face amount of not less than one-fourth (1/4) of the basic life insurance amount, if such election to continue in force is made within thirty (30) days from the time of severance. Persons electing to continue in force life insurance benefits shall pay the full cost of the life insurance and under such terms and conditions as established by the Office of Management and Enterprise Services. Further, any such retiree may continue in force any additional life insurance that was purchased prior to retirement at an actuarially adjusted rate and under such terms and conditions as established by the Office.

Effective January 1, 2002, nonvested employees may also continue their life insurance benefits as provided in this section following termination of employment, if the employee has completed at least eight (8) years of service with an employer participating in the Oklahoma Public Employees Retirement System or at least ten (10) years of service with an employer participating in the Teachers' Retirement System of Oklahoma. The election to continue the employee's life insurance in force must be made within thirty (30) days after the date of termination.

B. Any retired employee who is receiving a benefit or terminates employment with a vested benefit from the Teachers' Retirement System of Oklahoma and who becomes enrolled in the health insurance plan offered by the Oklahoma Employees Insurance and Benefits Act, pursuant to subsection E of Section 5-117.5 of Title 70 of the Oklahoma Statutes, may elect to purchase life insurance benefits in amounts and at a cost as provided for in this section.

C. In lieu of subsection A of this section, any person who retires or who has elected to receive a vested benefit under the provisions of the State of Oklahoma retirement systems and who is participating in a health insurance plan, the dental insurance plan, or the life insurance plan offered by the Office, including such persons who are currently drawing disability benefits under Section 1331 et seq. of this title or who meet each and every requirement of the State Employees Disability Program on or before July 1, 1999, or the spouse of any such person may elect to purchase life insurance benefits authorized by this subsection in a face amount not to exceed Fifty Thousand Dollars (\$50,000.00). Eligible persons pursuant to this subsection shall make an election by January 1, 2000, to purchase the life insurance coverage provided in this subsection. Life insurance coverage pursuant to this subsection shall depend upon providing satisfactory evidence of insurability for the person who is to be covered. Life insurance coverage, pursuant to this subsection, shall be purchased in blocks of Five

Thousand Dollars (\$5,000.00). The premium for such life insurance coverage shall be at a blended rate and shall be set by the Office. The Office shall promulgate rules necessary for the implementation of the provisions of this subsection.

Added by Laws 1979, c. 108, § 2, eff. Oct. 1, 1979. Amended by Laws 1986, c. 150, § 14, emerg. eff. April 29, 1986; Laws 1991, c. 78, § 1, emerg. eff. April 18, 1991; Laws 1997, c. 213, § 1, eff. July 1, 1997; Laws 1999, c. 255, § 2, eff. Nov. 1, 1999; Laws 2000, c. 6, § 29, emerg. eff. March 20, 2000; Laws 2001, c. 197, § 5, eff. Jan. 1, 2002; Laws 2002, c. 127, § 1, eff. July 1, 2002; Laws 2012, c. 304, § 961.

NOTE: Laws 1999, c. 208, § 1 repealed by Laws 2000, c. 6, § 33, emerg. eff. March 20, 2000.

§74-1316.2. Noneducation employees who have retired or otherwise terminated service - Law enforcement retirement system members killed, injured in line of duty - Continuance of health and dental insurance benefits.

A. Any employee, other than an education employee, who retires pursuant to the provisions of the Oklahoma Public Employees Retirement System or who has a vested benefit pursuant to the provisions of the Oklahoma Public Employees Retirement System may continue in force the health and dental insurance benefits authorized by the provisions of the Oklahoma Employees Insurance and Benefits Act, or other employer insurance benefits if the employer does not participate in the plans offered by the Office of Management and Enterprise Services, if such election to continue in force is made within thirty (30) days from the date of termination of service. Except as otherwise provided for in Section 840-2.27I of this title and subsection H of this section, health and dental insurance coverage may not be reinstated at a later time if the election to continue in force is declined. Vested employees other than education employees who have terminated service and are not receiving benefits and effective July 1, 1996, nonvested persons who have terminated service with more than eight (8) years of participating service with a participating employer, who within thirty (30) days from the date of termination of service elect to continue such coverage, shall pay the full cost of the insurance premium at the rate and pursuant to the terms and conditions established by the Office. Provided also, any employee other than an education employee who commences employment with a participating employer on or after September 1, 1991, who terminates service with such employer on or after July 1, 1996, but who otherwise has insufficient years of service to retire or terminate service with a vested benefit pursuant to the provisions of the Oklahoma Public Employees Retirement System or to elect to continue coverage as a nonvested employee as provided in this section, but who, immediately

prior to employment with the participating employer, was covered as a dependent on the health and dental insurance policy of a spouse who was an active employee other than an education employee, may count as part of his or her credited service for the purpose of determining eligibility to elect to continue coverage under this section, the time during which the terminating employee was covered as such a dependent.

B. 1. Health insurance benefit plans offered pursuant to this section shall include:

- a. indemnity plans offered through the Office,
- b. managed care plans offered as alternatives to the indemnity plans offered through the Office,
- c. Medicare supplements offered pursuant to the Oklahoma Employees Insurance and Benefits Act,
- d. Medicare risk-sharing contracts offered as alternatives to the Medicare supplements offered through the Office. All Medicare risk-sharing contracts shall be subject to a risk adjustment factor, based on generally accepted actuarial principles for adverse selection which may occur, and
- e. for the Oklahoma Public Employee Retirement System, other employer-provided health insurance benefit plans if the employer does not participate in the plans offered pursuant to the Oklahoma Employees Insurance and Benefits Act.

2. Health insurance benefit plans offered pursuant to this section shall provide prescription drug benefits, except for plans designed pursuant to the Medicare Prescription Drug Improvement and Modernization Act of 2003, for which provision of prescription drug benefits is optional, and except for plans offered pursuant to subparagraph e of paragraph 1 of this subsection.

C. 1. Designated public retirement systems shall contribute a monthly amount towards the health insurance premium of certain individuals receiving benefits from the public retirement system as follows:

- a. a retired employee, other than an education employee or an employee who participates in the defined contribution system administered by the Oklahoma Public Employees Retirement System on or after November 1, 2015, who is receiving benefits from the Oklahoma Public Employees Retirement System after September 30, 1988, shall have One Hundred Five Dollars (\$105.00), or the premium rate of the health insurance benefit plan, whichever is less, paid by the Oklahoma Public Employees Retirement System to the Board or other insurance carrier of the employer if the employer does not participate in the plans offered

by the Office in the manner specified in subsection G of this section,

- b. a retired employee or surviving spouse other than an education employee who is receiving benefits from the Oklahoma Law Enforcement Retirement System after September 30, 1988, is under sixty-five (65) years of age and is not otherwise eligible for Medicare shall have the premium rate for the health insurance benefit plan or One Hundred Five Dollars (\$105.00), whichever is less, paid by the Oklahoma Law Enforcement Retirement System to the Office in the manner specified in subsection G of this section,
- c. a retired employee other than an education employee who is receiving benefits from the Oklahoma Law Enforcement Retirement System after September 30, 1988, is sixty-five (65) years of age or older or who is under sixty-five (65) years of age and is eligible for Medicare shall have One Hundred Five Dollars (\$105.00), or the premium rate of the health insurance benefit plan, whichever is less, paid by the Oklahoma Law Enforcement Retirement System to the Office in the manner specified in subsection G of this section, and
- d. a retired employee other than an education employee who is receiving benefits from the Uniform Retirement System for Justices and Judges after September 30, 1988, shall have One Hundred Five Dollars (\$105.00), or the premium rate of the health insurance plan, whichever is less, paid by the Uniform Retirement System for Justices and Judges to the Office in the manner specified in subsection G of this section.

2. Premium payments made pursuant to this section shall be made subject to the following conditions:

- a. the health plan shall be authorized by the provisions of the Oklahoma Employees Insurance and Benefits Act, except that if an employer from which an employee retired or with a vested benefit pursuant to the provisions of the Oklahoma Public Employees Retirement System does not participate in the plans authorized by the provisions of the Oklahoma Employees Insurance and Benefits Act, the health plan will be the health insurance benefits of the employer from which the individual retired or vested,
- b. for plans offered by the Oklahoma Employees Insurance and Benefits Act, the amount to be paid shall be determined pursuant to the provisions of this subsection and shall first be applied in whole or in part to the prescription drug coverage premium. Any

remaining amount shall be applied toward the medical coverage premium,

c. for all plans, if the amount paid by the public retirement system does not cover the full cost of the elected coverage, the individual shall pay the remaining premium amount, and

d. payment shall be made by the retirement systems in the manner specified under subsection G of this section.

D. For any member of the Oklahoma Law Enforcement Retirement System killed in the line of duty, whether the member was killed in the line of duty prior to May 18, 2005, or on or after May 18, 2005, or if the member was on a disability leave status at the time of death, the surviving spouse or dependents of such deceased member of the Oklahoma Law Enforcement Retirement System may elect to continue or commence health and dental insurance benefits, provided the dependents pay the full cost of such insurance, and for deaths occurring on or after July 1, 2002, such election is made within thirty (30) days of the date of death. The eligibility for the benefits shall terminate for the surviving children when the children cease to qualify as dependents.

E. Effective July 1, 2004, a retired member of the Oklahoma Law Enforcement Retirement System who retired from the System by means of a personal and traumatic injury of a catastrophic nature and in the line of duty and any surviving spouse of such retired member and any surviving spouse of a member who was killed in the line of duty shall have one hundred percent (100%) of the retired member's or surviving spouse's health care premium cost, whether the member or surviving spouse elects coverage under the Medicare supplement or Medicare risk-sharing contract, paid by the Oklahoma Law Enforcement Retirement System to the Office in the manner specified in subsection H of this section. For plans offered by the Office, such contributions will first be applied in whole or in part to the prescription drug coverage premium, if any.

F. Dependents of a deceased employee who was on active work status or on a disability leave at the time of death or of a participating retardant or of any person who has elected to receive a vested benefit under the Oklahoma Public Employees Retirement System, the Uniform Retirement System for Justices and Judges or the Oklahoma Law Enforcement Retirement System may continue the health and dental insurance benefits in force, provided the dependents pay the full cost of such insurance and they were covered as eligible dependents at the time of such death and such election is made within thirty (30) days of date of death. The eligibility for the benefits shall terminate for the surviving children when the children cease to qualify as dependents.

G. The amounts required to be paid by the Oklahoma Public Employees Retirement System, the Uniform Retirement System for

Justices and Judges and the Oklahoma Law Enforcement Retirement System pursuant to this section shall be forwarded no later than the tenth day of each month following the month for which payment is due by the Oklahoma Public Employees Retirement System Board of Trustees or the Oklahoma Law Enforcement Retirement Board to the Office for deposit in the Health, Dental and Life Insurance Reserve Fund or to another insurance carrier as provided for in subsection H of Section 1315 of this title.

H. Upon retirement from employment of the Board of Regents of the University of Oklahoma, any person who was or is employed at the George Nigh Rehabilitation Institute and who transferred employment pursuant to Section 3427 of Title 70 of the Oklahoma Statutes, any person who was employed at the Medical Technology and Research Authority and who transferred employment pursuant to Section 7068 of this title, and any person who is a member of the Oklahoma Law Enforcement Retirement System pursuant to the authority of Section 2-314 of Title 47 of the Oklahoma Statutes may participate in the benefits authorized by the provisions of the Oklahoma Employees Insurance and Benefits Act for retired participants, including health, dental and life insurance benefits, if such election to participate is made within thirty (30) days from the date of termination of service. Life insurance benefits for any such person who transferred employment shall not exceed the coverage the person had at the time of such transfer. Retirees who transferred employment and who participate pursuant to this paragraph shall pay the premium for elected benefits less any amounts paid by a state retirement system pursuant to this section.

Added by Laws 1988, c. 165, § 17, operative Oct. 1, 1988. Amended by Laws 1988, c. 267, § 37, operative July 1, 1988; Laws 1989, c. 322, § 7, emerg. eff. May 26, 1989; Laws 1990, c. 244, § 8, eff. July 1, 1990; Laws 1991, c. 218, § 1, eff. July 1, 1991; Laws 1996, c. 355, § 2, eff. July 1, 1996; Laws 1997, c. 2, § 22, emerg. eff. Feb. 26, 1997; Laws 1998, c. 256, § 6, eff. July 1, 1998; Laws 2000, c. 377, § 15, eff. July 1, 2000; Laws 2001, c. 5, § 59, emerg. eff. March 21, 2001; Laws 2002, c. 127, § 2, eff. July 1, 2002; Laws 2002, c. 450, § 2, eff. July 1, 2002; Laws 2003, c. 3, § 100, emerg. eff. March 19, 2003; Laws 2003, c. 370, § 2, eff. July 1, 2003; Laws 2004, c. 160, § 1, eff. July 1, 2004; Laws 2004, c. 345, § 5, eff. July 1, 2004; Laws 2005, c. 198, § 2, emerg. eff. May 18, 2005; Laws 2012, c. 304, § 962; Laws 2014, c. 419, § 3, eff. Nov. 1, 2014.

NOTE: Laws 1996, c. 338, § 2 repealed by Laws 1997, c. 2, § 26, emerg. eff. Feb. 26, 1997. Laws 2000, c. 313, § 2 repealed by Laws 2001, c. 5, § 60, emerg. eff. March 21, 2001. Laws 2002, c. 399, § 9 repealed by Laws 2003, c. 3, § 101, emerg. eff. March 19, 2003. Laws 2002, c. 438, § 8 repealed by Laws 2003, c. 3, § 102, emerg. eff. March 19, 2003.



§74-1316.3. Teachers' Retirement System of Oklahoma participating employees - Retirement or other termination of service - Continuation of health and dental insurance benefits.

A. Any person who retires pursuant to the provisions of the Teachers' Retirement System of Oklahoma with at least ten (10) years of creditable service or who has a vested benefit with at least ten (10) years of creditable service, pursuant to the provisions of the Teachers' Retirement System of Oklahoma may continue in force the health and dental insurance benefits authorized by the provisions of the Oklahoma Employees Insurance and Benefits Act if such election to continue in force or begin is made within thirty (30) days from the date of termination of service. Except as provided in subsection E of Sections 5-117.5 and 14-108.1 of Title 70 of the Oklahoma Statutes and Section 840-2.27I of this title and subsection K of this section, health and dental insurance coverage may not be reinstated at a later time if the election to continue in force or begin coverage is declined. Vested persons who have terminated service and are not receiving benefits and effective July 1, 1996, nonvested persons who have terminated service with more than ten (10) years of participating service with a qualifying employer, who within thirty (30) days from the date of termination of service, elect to continue such coverage, shall pay the full cost of said insurance premium at the rate and pursuant to the terms and conditions established by the Office of Management and Enterprise Services.

B. 1. Health insurance benefit plans offered pursuant to this section shall include:

- a. indemnity plans offered through the Office,
- b. managed care plans offered as alternatives to the indemnity plans,
- c. Medicare supplements offered through the Office,
- d. Medicare risk-sharing contracts offered as alternatives to the Medicare supplements offered through the Office, and
- e. any other employer-provided health insurance benefit plans if the employer does not participate in the plans offered pursuant to the Oklahoma Employees Insurance and Benefits Act.

2. Health insurance benefit plans offered pursuant to this section shall provide prescription drug benefits, except for plans designed pursuant to the Medicare Prescription Drug Improvement and Modernization Act of 2003, which may or may not contain prescription drug benefits, for which provision of prescription drug benefits is optional, and except for plans offered pursuant to subparagraph e of paragraph 1 of this subsection.

C. A retired person who:

1. Is receiving benefits from the Teachers' Retirement System of Oklahoma after September 30, 1988, is under sixty-five (65) years of age and is not otherwise eligible for Medicare and pursuant to subsection A of this section elects to begin or to continue the health insurance plan;

2. Is receiving benefits from the Teachers' Retirement System of Oklahoma after June 30, 1993, is under sixty-five (65) years of age and is not otherwise eligible for Medicare and participates in a health insurance plan provided by a participating education employer of the Teachers' Retirement System of Oklahoma other than a health insurance plan offered pursuant to the Oklahoma Employees Insurance and Benefits Act or an alternative health plan offered pursuant to the Oklahoma State Employees Benefits Act;

3. Is receiving benefits from the Teachers' Retirement System of Oklahoma after September 30, 1988, made contributions to the system and is sixty-five (65) years of age or older, or who is under sixty-five (65) years of age and is eligible for Medicare and is a participant in the Oklahoma Employees Insurance and Benefits Act and elects coverage under the Medicare supplement offered by the Office; or

4. Is receiving benefits from the Teachers' Retirement System of Oklahoma after June 30, 1993, made contributions to the system and is sixty-five (65) years of age or older, or who is under sixty-five (65) years of age and is eligible for Medicare and participates in a health insurance plan provided by a participating education employer of the Teachers' Retirement System of Oklahoma other than a health insurance plan offered pursuant to the Oklahoma Employees Insurance and Benefits Act or an alternative health plan offered pursuant to the Oklahoma State Employees Benefits Act and elects coverage under the Medicare supplement offered by the Office, shall have the amount determined pursuant to subsection E of this section, or the premium rate of the health insurance benefit plan, whichever is less, paid by the Teachers' Retirement System of Oklahoma. If the amount paid by the Teachers' Retirement System of Oklahoma does not cover the full cost of the health insurance premium, the retired person shall pay the remaining amount if the retired person wants to continue the coverage.

D. The Teachers' Retirement System shall pay the amount due pursuant to the provisions of subsection C of this section as follows:

1. For those individuals participating in plans provided through the Oklahoma Employees Insurance and Benefits Act, payment shall be made to the Office pursuant to the provisions of subsection I of this section; or

2. For those individuals participating in plans provided through a participating education employer of the Teachers' Retirement System of Oklahoma other than a health insurance plan

offered pursuant to the Oklahoma Employees Insurance and Benefits Act, payment shall be made to the education employer.

E. Beginning July 1, 2000, the maximum benefit payable by the Teachers' Retirement System of Oklahoma on behalf of a retired person toward said person's monthly premium for health insurance shall be determined in accordance with the following schedule:

AVERAGE SALARY USED FOR DETERMINING RETIREMENT ALLOWANCE	LESS THAN		
	LESS THAN 15 YEARS OF CREDITABLE SERVICE	25 YEARS BUT GREATER THAN 14.99 YEARS OF CREDITABLE SERVICE	GREATER THAN 24.99 YEARS OF CREDITABLE SERVICE
Less than \$20,000.00	\$103.00	\$104.00	\$105.00
Less than \$30,000.00 but greater than \$19,999.99	\$102.00	\$103.00	\$104.00
Less than \$40,000.00 but greater than \$29,999.99	\$101.00	\$102.00	\$103.00
\$40,000.00 or greater	\$100.00	\$101.00	\$102.00

For plans offered by the Office, the amount paid pursuant to this subsection shall first be applied to the prescription drug coverage premium, if any. Any remaining amounts shall be applied towards the medical coverage premium.

F. If a person retires and begins to receive benefits from the Teachers' Retirement System of Oklahoma or terminates service and has a vested benefit with the Teachers' Retirement System of Oklahoma, the person may elect, in the manner provided in subsection A of this section, to participate in the dental insurance plan offered through the Oklahoma Employees Insurance and Benefits Act. The person shall pay the full cost of the dental insurance.

G. Those persons who are receiving benefits from the Teachers' Retirement System of Oklahoma and have health insurance coverage which on the operative date of this section is being paid by the education entity from which the person retired shall make the election required in subsection A of this section within thirty (30) days of the termination of said health insurance coverage. The person making the election shall give the Office certified documentation satisfactory to the Office of the termination date of the other health insurance coverage.

H. Dependents of a deceased education employee who was on active work status or on a disability leave at the time of death or of a participating retirant or of any person who has elected to receive a vested benefit under the Teachers' Retirement System of Oklahoma may continue the health and dental insurance benefits in force provided said dependents pay the full cost of such insurance and they were covered as eligible dependents at the time of such death and such election is made within thirty (30) days of date of death. The eligibility for said benefits shall terminate for the

surviving children when said children cease to qualify as dependents.

I. The amounts required to be paid by the Teachers' Retirement System of Oklahoma pursuant to this section shall be forwarded no later than the tenth day of each month following the month for which payment is due by the Board of Trustees of the Teachers' Retirement System of Oklahoma to the Office for deposit in the Education Employees Group Insurance Reserve Fund.

J. The Teachers' Retirement System of Oklahoma shall provide the Office information concerning the employers of retired and vested members necessary to allow the Office to track eligibility for continued coverage.

K. Upon retirement from employment with the Board of Regents of the University of Oklahoma, any person who is or was employed at the George Nigh Rehabilitation Institute and who transferred employment pursuant to Section 3427 of Title 70 of the Oklahoma Statutes, any person who was employed at the Medical Technology and Research Authority and who transferred employment pursuant to Section 7068 of this title, and any person who is a member of the Oklahoma Law Enforcement Retirement System pursuant to the authority of Section 2-314 of Title 47 of the Oklahoma Statutes may participate in the benefits authorized by the provisions of the Oklahoma Employees Insurance and Benefits Act for retired participants, including health, dental and life insurance benefits, if such election to participate is made within thirty (30) days from the date of termination of employment. Life insurance benefits for any such person who transferred employment shall not exceed the coverage the person had at the time of such transfer. Retirees who are persons transferred employment and who participate pursuant to this paragraph shall pay the premium for elected benefits less any amounts paid by the retirement system pursuant to this section.

Added by Laws 1988, c. 165, § 18, operative Oct. 1, 1988. Amended by Laws 1989, c. 322, § 8, emerg. eff. May 26, 1989; Laws 1990, c. 244, § 9, eff. July 1, 1990; Laws 1991, c. 219, § 9, emerg. eff. May 22, 1991; Laws 1993, c. 359, § 6, eff. July 1, 1993; Laws 1996, c. 355, § 3, eff. July 1, 1996; Laws 1997, c. 2, § 23, emerg. eff. Feb. 26, 1997; Laws 1998, c. 256, § 7, eff. July 1, 1998; Laws 1999, c. 255, § 3, eff. Nov. 1, 1999; Laws 2000, c. 377, § 16, eff. July 1, 2000; Laws 2001, c. 5, § 61, emerg. eff. March 21, 2001; Laws 2002, c. 196, § 4, eff. July 1, 2002; Laws 2002, c. 438, § 9, eff. July 1, 2002; Laws 2003, c. 144, § 1, eff. July 1, 2003; Laws 2003, c. 326, § 3, eff. July 1, 2003; Laws 2004, c. 345, § 6, eff. July 1, 2004; Laws 2005, c. 198, § 3, emerg. eff. May 18, 2005; Laws 2012, c. 304, § 963.

NOTE: Laws 1996, c. 338, § 3 repealed by Laws 1997, c. 2, § 26, emerg. eff. Feb. 26, 1997. Laws 2000, c. 313, § 3 repealed by Laws

2001, c. 5, § 62, emerg. eff. March 21, 2001. Laws 2002, c. 127, § 3 repealed by Laws 2002, c. 438, § 11, eff. July 1, 2002.

§74-1317. Blind vending stand operators and managing operators - Eligibility.

Any legally blind person who is licensed by the Department of Rehabilitation Services as a vending stand operator or managing operator shall be eligible for membership in the Health Insurance Plan, Dental Insurance Plan and Life Insurance Plan referred to in the Oklahoma Employees Insurance and Benefits Act. Enrollment in the Plan shall be optional with each operator pursuant to the rules prescribed by the Office of Management and Enterprise Services. Any payments required to be made for enrollees in the Plan shall be payable by the operator in such manner as may be determined by the Department of Rehabilitation Services; provided, that the Department may, in its discretion, make all or a part of such payments.

Added by Laws 1971, c. 166, § 1, emerg. eff. May 27, 1971. Amended by Laws 1982, c. 333, § 15, emerg. eff. June 1, 1982; Laws 1986, c. 150, § 15, emerg. eff. April 29, 1986; Laws 1988, c. 165, § 19, operative July 1, 1988; Laws 1998, c. 107, § 7, eff. July 1, 1998; Laws 2012, c. 304, § 964.

§74-1318. Maximum for which reemployed former employee may be insured.

No former employee who is reemployed by a participating entity within twenty-four (24) months after the date of termination of previous employment shall be enrolled in the Oklahoma Employees Insurance and Benefits Plan authorized by Sections 1301 through 1329.1 of this title, for a greater amount of life insurance or life benefit than the amount for which the life of the former employee was insured under the plan at the date of termination of employment, except upon the former employee furnishing evidence of insurability, satisfactory to the Office of Management and Enterprise Services, and any greater amount of benefit or insurance provided the employee shall be at the former employee's cost.

Added by Laws 1972, c. 201, § 1, emerg. eff. April 7, 1972. Amended by Laws 1977, c. 261, § 12, emerg. eff. June 17, 1977; Laws 1986, c. 150, § 16, emerg. eff. April 29, 1986; Laws 1988, c. 165, § 20, operative July 1, 1988; Laws 2001, c. 197, § 6, emerg. eff. May 7, 2001; Laws 2012, c. 304, § 965.

§74-1319. Repealed by Laws 2004, c. 76, § 1, emerg. eff. April 12, 2004.

§74-1320. Employment of administrator, director of internal audit, attorneys, and other personnel - Service contracts.

A. For purposes of administering the Oklahoma Employees Insurance and Benefits Act, the Director of the Office of Management and Enterprise Services is authorized to hire and appoint an Administrator who shall be in the unclassified service and shall serve at the pleasure of the Director of the Office of Management and Enterprise Services.

B. The Director of the Office of Management and Enterprise Services may hire a director of internal audit and one attorney licensed to practice law in this state. The attorney hired by the Board shall have not less than five (5) years of experience in matters related to the insurance industry. The Director shall directly supervise the duties of the director of internal audit, and shall not delegate the supervision to the Administrator or any other employee. In addition to duties assigned by the Director, the director of internal audit is authorized to audit all records of health providers and pharmacists who enter into any contract with the Board in order to ensure compliance with said contract provisions.

The Director shall employ such persons as are necessary to administer the provisions of the Oklahoma Employees Insurance and Benefits Act, the State Employees Flexible Benefits Act and the State Employees Disability Program Act. The Director may employ a maximum of two attorneys for purposes of administering the Oklahoma Employees Insurance and Benefits Act. The Administrator or one of the deputy administrators shall have not less than seven (7) years of group health insurance administration experience on a senior managerial level.

C. The Director shall not contract for private legal counsel except for extraordinary situations other than normal day to day situations, and when approved by the Attorney General. The Director may contract with a nonemployee consulting actuary, a nonemployee medical consultant and a nonemployee dental consultant subject to competitive bid at least every three (3) years. The Director may contract with health care providers for a level of reimbursement for the payment of claims incurred by the plan participants. The Director may at its request use the services of the office of the Attorney General and the actuarial services of any actuary employed by the Insurance Commissioner and may also seek the advice and counsel of the Insurance Commissioner of the State of Oklahoma or any employee of the Office of the Insurance Commissioner.

Added by Laws 1977, c. 261, § 2, emerg. eff. June 17, 1977. Amended by Laws 1978, c. 306, § 1, emerg. eff. May 10, 1978; Laws 1988, c. 165, § 22, emerg. eff. May 24, 1988; Laws 1989, c. 322, § 9, operative July 1, 1989; Laws 1990, c. 244, § 10, emerg. eff. May 21, 1990; Laws 1991, c. 219, § 10, emerg. eff. May 22, 1991; Laws 1992, c. 400, § 17, eff. July 1, 1992; Laws 1998, c. 285, § 4, emerg. eff.

May 27, 1998; Laws 2006, c. 264, § 73, eff. July 1, 2006; Laws 2012, c. 303, § 15, eff. Nov. 1, 2012.

§74-1321. Determination of rates, benefits, and premiums.

A. The Office of Management and Enterprise Services shall have the authority to determine all rates and life, dental and health benefits. All rates shall be compiled in a comprehensive Schedule of Benefits. The Schedule of Benefits shall be available for inspection during regular business hours at the Office of Management and Enterprise Services. The Office shall have the authority to annually adjust the rates and benefits based on claim experience.

B. The premiums for such insurance plans offered for the next plan year shall be established as follows:

1. For active employees and their dependents, the Office's premium determination shall be made no later than the bid submission date for health maintenance organizations set by the Oklahoma State Employees Benefits Council, which shall be set in August no later than the third Friday of that month; and

2. For all other covered members and dependents, the Office's and the health maintenance organizations' premium determinations shall be no later than the fourth Friday of September.

C. The Office may approve a mid-year adjustment provided the need for an adjustment is substantiated by an actuarial determination or more current experience rating. The only publication or notice requirements that shall apply to the Schedule of Benefits shall be those requirements provided in the Oklahoma Open Meeting Act. It is the intent of the Legislature that the benefits provided not include cosmetic dental procedures except for certain orthodontic procedures as adopted by the Director.

Added by Laws 1977, c. 261, § 14, emerg. eff. June 17, 1977.

Amended by Laws 1982, c. 333, § 16, emerg. eff. June 1, 1982; Laws 1985, c. 230, § 7, emerg. eff. July 8, 1985; Laws 1986, c. 150, § 18, emerg. eff. April 29, 1986; Laws 1988, c. 165, § 23, operative July 1, 1988; Laws 1997, c. 362, § 2; Laws 1999, c. 255, § 4, eff. Nov. 1, 1999; Laws 2001, c. 197, § 7, emerg. eff. May 7, 2001; Laws 2002, c. 439, § 8, eff. July 1, 2002; Laws 2005, c. 198, § 4, emerg. eff. May 18, 2005; Laws 2006, c. 231, § 5, eff. July 1, 2006; Laws 2012, c. 304, § 966.

§74-1322. Confidentiality of information - Inspection of files.

All information, documents, medical reports and copies thereof contained in a member's insurance file shall be treated as confidential information and shall not be released or made available or open to public inspection without the prior written consent and authorization of the individual to whom it pertains, but shall be subject to subpoena or court order.

Added by Laws 1978, c. 306, § 5, emerg. eff. May 10, 1978.

§74-1323. Fraud - Penalties - Audits.

Any person who shall knowingly make any false statement, or who shall falsify or permit to be falsified any record necessary for carrying out the intent of the Oklahoma Employees Insurance and Benefits Act, Sections 1301 through 1329.1 of this title, for the purpose of committing fraud, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding Five Thousand Dollars (\$5,000.00) or by imprisonment for not exceeding one (1) year or by both the fine and imprisonment. The Office of Management and Enterprise Services shall have the right to audit participating employer groups to verify eligibility for any member and/or dependent and may require proof of eligibility upon demand. Added by Laws 1986, c. 150, § 19, emerg. eff. April 29, 1986. Amended by Laws 1988, c. 165, § 24, operative July 1, 1988; Laws 1997, c. 163, § 1, eff. Nov. 1, 1997; Laws 2004, c. 345, § 7, eff. July 1, 2004; Laws 2012, c. 304, § 967.

§74-1324. Coverage for side effects associated with prostate-related conditions.

A. All health benefit plans that are offered by the Office of Management and Enterprise Services shall provide coverage for side effects that are commonly associated with radical retropubic prostatectomy surgery, including, but not limited to impotence and incontinence, and for other prostate-related conditions.

B. The Office shall provide notice to each insured or enrollee under the plan regarding the coverage required by this section in the plan's evidence of coverage, and shall provide additional written notice of the coverage to the insured or enrollee as follows:

1. In the next mailing made by the plan to the employee; or
2. As part of the enrollment information packet sent to the enrollee.

C. The Office shall promulgate any rules or actions necessary to implement the provisions of this section.

Added by Laws 1998, c. 312, § 2, eff. July 1, 1998. Amended by Laws 2012, c. 304, § 968.

§74-1325. Changes in reimbursement rates or methodology - Hearing.

The Office of Management and Enterprise Services shall schedule a hearing thirty (30) days prior to adopting any major change in the reimbursement rates or methodology. The Office shall notify health care providers who provide services pursuant to a contract with the Office at least fifteen (15) days prior to the hearing. The notice shall include proposed changes to the reimbursement rates or methodology. The Office shall also inform such health care providers at the hearing of any proposed changes to the



reimbursement rates or methodology. At the hearing the Office shall provide an open forum for such health care providers to comment on the proposed changes.

Added by Laws 1999, c. 209, § 2, eff. July 1, 1999. Amended by Laws 2012, c. 304, § 969.

§74-1326. Fee schedules.

The Office of Management and Enterprise Services shall make available, upon request, copies of relevant fee schedules to participating health care providers.

Added by Laws 1999, c. 209, § 3, eff. July 1, 1999. Amended by Laws 2012, c. 304, § 970.

§74-1327. Health benefit plans offered by Office of Management and Enterprise Services - Optometrists to be permitted to provide services for vision care or medical diagnosis and treatment for the eye.

A. All health benefit plans offered by the Office of Management and Enterprise Services which provide for services for vision care or medical diagnosis and treatment for the eye shall allow optometrists to be providers of those services. All such health benefit plans shall also require equal payment for the same services provided by an optometrist if the services are within the scope of practice of optometry.

B. With respect to optometric services, any health benefit plan offered by the Office which uses a gatekeeper or equivalent for referrals for services for vision care or for medical diagnosis and treatment of the eye shall require such covered services be provided on a referral basis within the medical group or network at the request of an enrollee who has a condition requiring vision care or medical diagnosis and treatment of the eye if:

1. A referral is necessitated in the judgment of the primary care physician; and

2. Treatment for the condition falls within the licensed scope of practice of an optometrist.

C. All health benefit plans offered by the Office shall have a defined set of standards and procedures for selecting providers, including specialists, to serve enrollees. The standards and procedures shall be drafted in such a manner that they are applicable to all categories of providers and shall be utilized by the health maintenance organization in a manner that is without bias for or discrimination against a particular category or categories of providers.

D. No health benefit plan specified by this section shall require a provider to have hospital privileges if hospital privileges are not usual and customary for the services the provider provides.

E. Nothing in this section shall be construed to:

1. Prohibit a health benefit plan offered by the Office which provides for services for vision care or medical diagnosis and treatment for the eye from determining the adequacy of the size of its network;

2. Prohibit an optometrist from agreeing to a fee schedule;

3. Limit, expand, or otherwise affect the scope of practice of optometry; or

4. Alter, repeal, modify or affect the laws of this state except where such laws are in conflict or are inconsistent with the express provisions of this section.

F. Existing health benefit plans offered by the Office shall comply with the requirements of this section upon issuance or renewal on or after the effective date of this act.

Added by Laws 2000, c. 54, § 4, eff. Nov. 1, 2000. Amended by Laws 2012, c. 304, § 971.

§74-1328. Reimbursement of claims within certain time period.

A. The contracted claims administrator for the Office of Management and Enterprise Services shall reimburse all clean claims of an enrollee, an assignee of the enrollee, or a health care provider within forty-five (45) calendar days after receipt of the claim by the entity.

B. As used in this section, "clean claim" means a claim that has no defect or impropriety, including a lack of any required substantiating documentation, or particular circumstance requiring special treatment that impedes prompt payment.

C. 1. If a claim or any portion of a claim is determined to have defects or improprieties, including a lack of any required substantiating documentation, or a particular circumstance requiring special treatment, the enrollee, assignee of the enrollee, or health care provider shall be notified in writing within thirty (30) calendar days after receipt of the claim by the contracted claims administrator for the Office. The written notice shall specify the portion of the claim that is causing a delay in processing and explain any additional information or corrections needed. Failure of the Office's claims administrator to provide the enrollee, assignee of the enrollee, or health care provider with such notice shall constitute prima facie evidence that the claim will be paid in accordance with the terms of the health benefit claims administration contract.

2. The portion of the claim that is accurate shall be paid within forty-five (45) calendar days after receipt of the claim by the claims administrator for the Office.

D. Upon receipt of the additional information or corrections which led to the claim's being delayed and a determination that the information is accurate, the claims administrator for the Office

shall either pay or deny the claim or a portion of the claim within forty-five (45) calendar days.

E. Payment shall be considered made on:

1. The date a draft or other valid instrument which is equivalent to the amount of the payment is placed in the United States mail in a properly addressed, postpaid envelope; or

2. If not so posted, the date of delivery.

F. An overdue payment shall bear simple interest at the rate of ten percent (10%) per year.

G. In the event litigation should ensue based upon such a claim, the prevailing party shall be entitled to recover a reasonable attorney fee to be set by the court and taxed as costs against the party or parties who do not prevail.

Added by Laws 2001, c. 65, § 3, eff. July 1, 2001. Amended by Laws 2002, c. 155, § 1, eff. July 1, 2002; Laws 2012, c. 304, § 972.

#### §74-1329. Health Savings Account - Contributions.

The Office of Management and Enterprise Services shall contract with a vendor to make available a health savings account to all enrollees in the HealthChoice qualified high-deductible health plan. Any employer or employee contributions to the health savings account shall be allowable as a remittance to the vendor through payroll deduction in conjunction with the employer's Section 125 Plan and shall not be subject to any assessment of administrative fees by the Office of Management and Enterprise Services or any state agency for remittance to the vendor. The State of Oklahoma and the Office of Management and Enterprise Services shall take necessary measures to make any employer or employee health savings account contributions permissible under the state's Section 125 Plan.

Added by Laws 2011, c. 326, § 5, eff. Nov. 1, 2011. Amended by Laws 2012, c. 304, § 973.

#### §74-1329.1. Mutual accountability incentive program - Contractual requirement.

The Office of Management and Enterprise Services shall contract for 2012 with a vendor that offers a Health Insurance Portability and Accountability Act (HIPAA) compliant web-based, doctor-patient mutual accountability incentive program. The purpose of the contract is to conduct a pilot project to test the value proposition of a program that offers financial incentives to both the health care provider and the patient for each care encounter in which the provider and patient incorporate evidence-based medicine treatment guidelines, patient health education remedies and other proven medical interventions made available and recorded through the program in the rendering and utilization of health care. The Office shall use operating funds to underwrite the cost of this pilot project and shall not pass these costs along to the participating

state agencies, or school boards or providers. The Office may retain or share with participating state agencies or school boards any savings realized as a result of the pilot program. The program will demonstrate a self-sustaining financial model that, through the savings incurred by better utilization health care programs, will offset the costs of this program with savings. This program will offer the health care provider the flexibility to use the health care provider's clinical judgment to adhere to or deviate from the program's treatment guidelines and still receive a financial incentive, as long as the health care provider communicates care guidelines and patient health education remedies to the patient that include an explanation of the provider's adherence or reason for nonadherence to the guideline. The vendor managing the pilot program shall offer a financial reward to the patient for responding to the vendor's guidelines for care and patient education remedies by demonstrating the patient's understanding of the patient's health condition, by declaring or demonstrating adherence to recommended care, by agreeing to allow the patient's physician to view patient's responses and acknowledge the patient's health accomplishments, and by judging the quality of care given to the patient against these guidelines and recommended care. Any communications to patient and provider shall be in compliance with all HIPAA regulations and standards. Participation in the program shall be voluntary to both the provider and patient on an encounter-by-encounter basis. The program shall be offered and administered by the program vendor through an Internet application that is HIPAA-compliant. This pilot project shall include a minimum of fifteen thousand beneficiaries of the Office to achieve a statistical significance and collect and analyze data over a period of three (3) years in order to determine the program's effectiveness and ability to become self-funded. Added by Laws 2011, c. 326, § 6, eff. Nov. 1, 2011. Amended by Laws 2012, c. 304, § 974.

§74-1331. Short title.

Sections 108 through 111 of this act shall be known and may be cited as the "State Employees Disability Program Act". Added by Laws 1985, c. 203, § 108, operative July 1, 1985.

§74-1332. Establishment of plan - Contents - Participation - Administration - Funding - Coverage - Grievance procedure - Claims administration.

A. The State and Education Employees Group Insurance Board shall establish a Disability Insurance Program for state employees. The program shall consist of a long-term disability plan and a short-term disability plan. Participation in the program shall be limited to state employees who have been state employees for a period of not less than one (1) month and who are eligible for

enrollment in the Health Insurance Plan administered by the Board. No state employee shall be eligible to receive any benefits from the long-term disability program unless the state employee has used all of the sick leave of the employee. The Board shall promulgate such rules as are necessary for adoption and administration of the Disability Insurance Program, including but not limited to benefit eligibility requirements, methods for computing benefit amounts, benefits amounts, and verification of medical and health status of employees applying for or receiving benefits.

B. The Disability Insurance Program shall be funded from appropriations made by the Legislature. Employees shall not be required to make contributions to participate in the program.

C. Employee disability insurance coverage shall begin on March 1, 1986.

D. The Board shall establish a grievance procedure by which a three-member grievance panel established in the same manner as specified in paragraph 6 of Section 1306 of this title shall act as an appeals body for complaints regarding the allowance and payment of claims, eligibility, and other matters. The grievance procedure provided by this subsection shall be the exclusive remedy available to persons having complaints against the insurer. Such grievance procedure shall be subject to the Oklahoma Administrative Procedures Act, including provisions for the review of agency decisions by the district court. The grievance panel shall schedule a hearing regarding the allowance and payment of claims, eligibility and other matters within sixty (60) days from the date the grievance panel receives a written request for a hearing. Upon written request to the grievance panel received not less than ten (10) days before the hearing date, the grievance panel shall cause a full stenographic record of the proceedings to be made by a licensed or certified court reporter at the insured employee's expense.

E. The Board may establish a claim processing division for claims administration or may contract for claims administration services with a private insurance carrier or a company that specializes in claims administration of any insurance that the Board may be directed to offer.

Added by Laws 1985, c. 203, § 109, operative July 1, 1985. Amended by Laws 1986, c. 150, § 20, emerg. eff. April 29, 1986; Laws 1989, c. 322, § 10, operative July 1, 1989; Laws 1991, c. 86, § 1, eff. July 1, 1991; Laws 1992, c. 367, § 9, eff. July 1, 1992; Laws 2000, c. 353, § 49, eff. Nov. 1, 2000; Laws 2001, c. 197, § 8, emerg. eff. May 7, 2001.

§74-1332.1. Collection of premiums - Deposit - Monthly statement of revenues and disbursements - Annual report - Continuation of dependent health coverage of disability recipients - Deduction of premiums for disability recipients.

A. The State and Education Employees Group Insurance Board shall collect from state agencies each month, the premium amount, as determined by the Board, for each employee of a state agency that participates in the Disability Insurance Program. Said sum shall be deposited in the State Employees Disability Insurance Reserve Fund for use in accordance with law.

B. The State and Education Employees Group Insurance Board shall submit a monthly statement of the revenues and disbursements of the Disability Insurance Program to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Legislative Service Bureau. The Legislative Service Bureau shall distribute copies of such monthly statements to the fiscal staff of the House of Representatives and the State Senate.

C. On or before March 1 of each year, the State and Education Employees Group Insurance Board shall submit a report of the actuarially-determined future needs of the Disability Insurance Program. Said report shall be submitted and distributed as provided for in subsection B of this section.

D. The Board shall provide for the continuation of dependent health coverage to disability recipients for that period of time when the employee is qualified as disabled but not yet received disability benefit income.

E. The Board shall deduct all dependent health coverage premiums due and owing from the first retroactive disability payment and each payment thereafter.

Added by Laws 1990, c. 204, § 5, emerg. eff. May 10, 1990; Laws 1991, c. 86, § 2, eff. July 1, 1991.

§74-1332.2. Disability Insurance Program - Election to participate - Continued employee status during disability.

A. Beginning July 1, 1990, persons who are active employees of the Oklahoma Employment Security Commission may elect to participate in the Disability Insurance Program. Any election to participate shall be received by the State and Education Employees Group Insurance Board prior to January 1, 1991. Employees who do not elect to participate in the disability program shall not thereafter be eligible to participate in the State Disability Insurance Program unless their present disability insurance coverage is canceled by the insurer offering said coverage. In the event of such cancellation, all participants in the agency offered disability plan shall be immediately transferred to the state disability insurance plan. Any person who does not qualify for the Commission disability plan prior to their transfer to the State Plan shall participate in the state disability insurance program.

B. Oklahoma Employment Security Commission employees who are or become disabled pursuant to the provisions of the agency disability

plan shall retain their status as an employee so long as their disability continues.

Added by Laws 1990, c. 303, § 5, emerg. eff. May 30, 1990.

§74-1333. State Employees Disability Insurance Reserve Fund.

A. There is hereby created in the State Treasury the State Employees Disability Insurance Reserve Fund. All appropriations, dividend payments, and investment income received pursuant to the provisions of the State Employees Disability Insurance Act, Section 1331 et seq. of this title, shall be deposited in the reserve fund.

B. The monies in said reserve fund shall be invested by the State and Education Employees Group Insurance Board in the manner specified in Section 6 of this act. The Board shall have responsibility for management of the fund.

C. Money payable to the claims administrator and all expenses in connection with the Disability Insurance Program shall be paid from the reserve fund.

Added by Laws 1985, c. 203, § 110, operative July 1, 1985. Amended by Laws 1986, c. 150, § 21, emerg. eff. April 29, 1986; Laws 1989, c. 318, § 12, operative July 1, 1989.

§74-1335. County or city participation.

A. A county, upon adoption of a resolution by the board of county commissioners, may participate in the Disability Insurance Program administered by the Oklahoma Employees Insurance and Benefits Board. Upon the filing of a certified copy of the resolution with the Board, the county shall become a participant on the first day of the second full month following the filing of the resolution. All employees of any county electing to participate in the Program shall have disability insurance coverage. The county shall forward to the Board, at such times as determined by the Board, the contributions necessary to pay for the disability insurance coverage of the employees of the county. The Board shall determine the amount of contribution required for the disability insurance coverage.

B. A city, upon adoption of a resolution by the municipal governing body, may participate in the Disability Insurance Program administered by the Oklahoma Employees Insurance and Benefits Board. Upon the filing of a certified copy of the resolution with the Board, the city shall become a participant on the first day of the second full month following the filing of the resolution. All employees of any city electing to participate in the Program shall have disability insurance coverage. The city shall forward to the Board, at such times as determined by the Board, the contributions necessary to pay for the disability insurance coverage of the employees of the city. The Board shall determine the amount of contribution required for the disability insurance coverage.

Added by Laws 1989, c. 84, § 3, operative July 1, 1989.  
Amended by Laws 2016, c. 201, § 1, eff. Nov. 1, 2016.

§74-1341. Short title.

Sections 5 through 10 of this act shall be known and may be cited as the "State Employees Flexible Benefits Act".

Added by Laws 1989, c. 370, § 5, operative July 1, 1989.

§74-1342. Definitions.

As used in the State Employees Flexible Benefits Act, Section 1341 et seq. of this title:

1. "Board" means the State and Education Employees Group Insurance Board;

2. "Flexible benefits plan" means a written plan providing benefits to eligible employees which meets the requirements of Title 26, Section 125 et seq. of the Internal Revenue Code of the United States and regulations promulgated thereunder;

3. "Employee" means any person eligible to participate in the State and Education Employees Group Insurance Act, Section 1301 et seq. of this title, or an employee of the Oklahoma Employment Security Commission. "Employee" shall not include a person who is an employee of the State Regents for Higher Education or any institution under the authority of the State Regents for Higher Education or any person who is an employee of any school district or political subdivision of this state, except as provided for in Section 1348 of this title;

4. "Employer" means any state agency, board, commission, department, institution, authority, officer, bureau, council, office or other entity created by the Oklahoma Constitution or statutes, but shall not include any school district, or political subdivision of the state, except as provided for in Section 1348 of this title. Provided the term "employer" shall also mean the State Regents for Higher Education or any institution under the authority of the State Regents for Higher Education upon agreement between the State Regents for Higher Education or the appropriate governing board of an institution under the authority of the State Regents for Higher Education and the Council; and

5. "Salary adjustment agreement" means a written agreement between an eligible employee and an employer whereby the employer agrees to adjust the salary of the employee by a stated amount or an amount equal to the cost of benefits selected under a flexible benefits plan and the employer agrees to contribute such amount to cover certain costs of the benefits selected by the eligible employee.

Added by Laws 1989, c. 370, § 6, operative July 1, 1989. Amended by Laws 1991, c. 219, § 11, emerg. eff. May 22, 1991; Laws 1992, c.



163, § 1, eff. July 1, 1992; Laws 1993, c. 359, § 7, eff. July 1, 1993.

§74-1343. Design, development, implementation or administration of employees flexible benefits plan - Personnel - Contracts.

The Board shall retain qualified agencies, persons or entities to design, develop, communicate, implement or administer the state employees flexible benefits plan. The Board shall solicit proposals on a competitive bid basis for such agencies, persons or entities according to the standards set out in the Oklahoma Central Purchasing Act, Section 85.1 et seq. of this title. When requested by the Board, the Office of Management and Enterprise Services shall assist the Board in the process of selecting contracts for the design, development, communication or implementation of the state employees flexible benefits plan.

When awarding a contract for services pursuant to this subsection, the Board shall satisfy itself that the contractor has no interests which would impair its ability to perform the tasks and services required and that the contractor will exercise independent judgment when performing its responsibilities under the act and under the agreement.

Added by Laws 1989, c. 370, § 7, operative July 1, 1989. Amended by Laws 1990, c. 244, § 11, eff. July 1, 1991; Laws 1991, c. 219, § 12, emerg. eff. May 22, 1991; Laws 2012, c. 304, § 975.

§74-1344. Flexible benefits plan - Expenses included - Income exclusions and inclusions - Administration contracts with private firms - Informational meeting.

A. The Board shall establish a flexible benefits plan. All state employers as defined in Section 1342 of this title shall offer the flexible benefits plan to employees.

B. Expenses included in an employee's salary adjustment agreement pursuant to the flexible benefits plan shall be limited to expenses for:

1. Dependent health insurance pursuant to the provisions of Section 1309 of this title;

2. Insurance premiums or retirement plan premiums or payments which are supplemental to insurance or retirement programs offered by the State of Oklahoma or which are paid for under salary adjustment agreements pursuant to the provisions of paragraph 1, 3 or 4 of subsection B of Section 7.10 of Title 62 of the Oklahoma Statutes;

3. Dependent care;

4. Medical care as defined by the Board; or

5. All other eligible programs offered under Title 26, Section 125 et seq. of the Internal Revenue Code of the United States.

C. The amount by which an employee's salary is adjusted pursuant to a salary adjustment agreement shall be excluded from income in computation of income tax withholding, unemployment payments and workers' compensation coverage. Such amount shall be included as income in computation of state retirement contributions and benefits. Provided, if the inclusions and exclusions provided in this subsection conflict with the provisions of federal law or regulations pertaining to flexible benefits plans, the Board is authorized to modify or abolish such inclusions and exclusions.

D. The Administrator of the State and Education Employees Group Insurance Board with approval of the Board shall promulgate rules, regulations and procedures as necessary for implementation and administration of the flexible benefits plan.

E. The Administrator of the State and Education Employees Group Insurance Board under the direction of the Board shall contract with one or more private firms or organizations to administer the flexible benefits plan. The contract shall be made at no cost to any employee of the State of Oklahoma.

F. All employers shall begin offering the flexible benefits plan to employees not later than January 1, 1990.

G. No less than thirty (30) working days prior to the annual deadline for making changes to state employees' benefit packages, all state agencies shall provide a one-day employee benefit informational meeting. Representatives of vendors that have an authorized payroll deduction for state employees pursuant to Section 7.10 of Title 62 of the Oklahoma Statutes or Section 1701 of this title shall be invited and encouraged to attend these meetings to provide benefit information and answer questions of state employees related to health, financial planning and other benefits. Agencies shall provide vendors with adequate space within which to meet with employees. Agencies shall provide adequate notice of the meetings to active and retired employees, and shall allow each active employee to spend at least sixty (60) minutes during the workday to attend the meetings. For those state government facilities that operate twenty-four (24) hours a day, vendors shall be allowed access to each shift.

Added by Laws 1989, c. 370, § 8, eff. July 1, 1989. Amended by Laws 1990, c. 244, § 12, eff. July 1, 1991; Laws 1991, c. 219, § 13, emerg. eff. May 22, 1991; Laws 2005, c. 215, § 1, eff. July 1, 2005; Laws 2006, c. 231, § 6, eff. July 1, 2006.

§74-1344.1. Enrollment materials from vendors with authorized payroll deductions.

Materials from vendors that have an authorized payroll deduction for state employees pursuant to Section 7.10 of Title 62 of the Oklahoma Statutes or Section 1701 of this title shall be placed in

the annual benefit enrollment materials provided to state employees and their dependents.

Added by Laws 2005, c. 215, § 2, eff. July 1, 2005. Amended by Laws 2006, c. 231, § 7, eff. July 1, 2006.

§74-1345. Repealed by Laws 1993, c. 359, § 16, eff. July 1, 1993.

§74-1346. Flexible Benefit Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the State and Education Employees Group Insurance Board to be designated the "Flexible Benefit Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of employee payroll deductions and contributions for flexible spending accounts. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State and Education Employees Group Insurance Board for expenses of the state employees flexible benefits plan and for expenses authorized by law. The State and Education Employees Group Insurance Board is authorized to pay employee claim costs associated with the state employees flexible benefits plan from monies accrued for said purpose. Expenditures from said funds shall be pursuant to the laws of the state and statutes relating to the state employees flexible benefits plan.

Added by Laws 1989, c. 370, § 10, operative July 1, 1989. Amended by Laws 1990, c. 244, § 14, eff. July 1, 1991; Laws 1991, c. 26, § 29, operative July 1, 1991.

NOTE: Laws 1991, c. 26, § 28 repealed by Laws 1993, c. 359, § 16, eff. July 1, 1993.

§74-1347. Monthly interagency reimbursements for projected employer Social Security (FICA) savings - Deposit.

Beginning April 1, 1991, all monthly interagency reimbursements for projected employer Social Security (FICA) savings made pursuant to the State Employees Flexible Benefits Plan Act shall be deposited into the General Revenue Fund of the State Treasury.

Added by Laws 1991, c. 26, § 30, emerg. eff. April 1, 1991.

§74-1348. State Regents, counties, municipalities, political subdivisions and school districts - Flexible benefits plan.

A. The Board shall develop a flexible benefits plan, in accordance with the provisions of Section 1344 of this title, to be made available to the State Regents for Higher Education or any institution under the authority of the State Regents for Higher Education, counties, municipalities, political subdivisions or school districts. If the State Regents for Higher Education or any institution under the authority of the State Regents for Higher Education, any individual county, municipality, political

subdivision or school district chooses to participate in the plan, it must, by a resolution adopted by the governing body, adopt a written flexible benefits plan and notify the Board in order to participate in the program. All full-time employees of a participating entity shall be given the option of participating in the program. The Board is authorized to contract with the State Regents for Higher Education or any institution under the authority of the State Regents for Higher Education, any county, municipality, political subdivision or school district within this state for providing a flexible benefits plan and is authorized to assess charges to participating entities to cover the costs associated with administering this program.

B. Nothing in this section shall prohibit the State Regents for Higher Education or any institution under the authority of the State Regents for Higher Education, counties, municipalities, political subdivisions or school districts from participating in other flexible benefit plans under the same terms and conditions as specified in subsection C of Section 1344 of this title.

Added by Laws 1992, c. 163, § 2, eff. July 1, 1992. Amended by Laws 1992, c. 400, § 18, eff. July 1, 1992; Laws 1997, c. 362, § 3.

§74-1351. Corporations authorized - Manner of incorporation.

Nonprofit associations, foundations, or other organizations may be incorporated in this State for the purpose of promoting, developing and advancing the economic, industrial and business growth, prosperity and welfare of the state, or any political subdivision, or area or region thereof. Any such corporation may be incorporated in the manner as provided for the incorporation of religious, charitable, educational, benevolent or scientific corporations, and shall be governed and regulated by the provisions of law relating to such corporations.

Laws 1968, c. 123, § 1, emerg. eff. April 4, 1968.

§74-1352. County, city, town incorporation.

Any county, city or town, or any combination thereof, may, jointly or singly, or in cooperation with other persons, organize and incorporate for the purposes above set forth in Section 1 hereof.

Laws 1968, c. 123, § 2, emerg. eff. April 4, 1968.

§74-1353. Purpose and powers.

The purposes of such corporations as authorized herein shall be to promote, aid and, through the united efforts of the governmental entities, institutions and corporations which shall from time to time become members thereof, develop and advance the industrial and business prosperity and welfare of the State of Oklahoma; to encourage new industries; to stimulate and help to expand all kinds of business ventures which tend to promote the growth of the state;

to act whenever and wherever deemed by it advisable in conjunction with other organizations, the objects of which are the promotion of industrial, agricultural or recreational developments within the state; and in furtherance of such purposes, and in addition to the powers conferred by the general laws relating to nonprofit corporations, shall, subject to the restrictions and limitations herein contained, have the following powers:

(a) To borrow money on secured or unsecured notes from any banks, banking institution or insurance company, from any financial institution, from any agency established under the Small Business Investment Act of 1958 (Public Law 85-699, 85th Congress) or any other federal or state agency that may legally loan to the corporation; and to pledge bonds, notes and other securities as collateral therefor.

(b) To lend money upon secured or unsecured notes; provided, it shall not be the purpose hereof to take from any banking institutions within the state any such loans or commitments as may be desired by such institutions generally in the ordinary course of their business.

(c) To establish and regulate the terms and conditions of any such loans and charges for interest or service connected therewith.

(d) To purchase, hold, lease and otherwise acquire and to convey such real estate as may, from time to time, be acquired by it in satisfaction of debts or may be acquired by it in the foreclosure of mortgages thereon or upon judgments for debts or in settlements to secure debts.

(e) To purchase bonds, stocks, or debentures of any corporation and sell, convert, or otherwise dispose of such evidences of indebtedness.

(f) Contract with the United States of America, the State of Oklahoma, or any of the agencies, subdivisions, or entities thereof, and other persons for developing and operating antipoverty programs, economic development programs, and area redevelopment programs in the state.

(g) Make application for, accept, acquire, receive, take and hold by bequest, devise, grant, gift, purchase, exchange, lease, transfer, judicial order or decree, or otherwise, for any of its objects and purposes, any property, both real and personal, of whatever kind, nature or description, or wherever situated, for use in the furtherance of the purpose for which such corporation is organized. Own, develop, plat, dedicate lands and construct thereon, maintain manufacturing or industrial buildings, dwelling houses, apartment houses, hotels and other buildings and improvements of every kind and equip and manage, rent, lease, either as lessor or lessee, sell, exchange or otherwise dispose of the same, to enter into contracts with others for the construction, repair and maintenance in their behalf of manufacturing and industrial

buildings, dwelling houses, apartment houses, hotels and other buildings and improvements of every kind, all in furtherance of the objects and purposes of the corporation.

Laws 1968, c. 123, § 3, emerg. eff. April 4, 1968.

§74-1361. Short title.

This act shall be known and may be cited as the "Oklahoma State Employees Benefits Act".

Added by Laws 1992, c. 400, § 1, eff. July 1, 1992.

§74-1362. Purpose.

It is hereby declared that the purpose of Section 1361 et seq. of this title is:

1. To recognize that the employee benefit needs of individual state employees differ, depending on the age, salary and family status of the employee, and that it is needful to permit participating employees to select and tailor the benefits they receive in a manner calculated to best meet the particular needs of themselves and their families;

2. To furnish state employees with choices among various employee benefits or cash compensation;

3. To provide state employees and their dependents with basic group health insurance, basic group term life insurance, and basic long-term disability insurance;

4. To provide state employees and their dependents with optional employee benefits, to include, but not be limited to, enhanced health insurance coverage, health maintenance organization services, life insurance, dental insurance and enhanced long-term disability insurance;

5. To provide state employees with reimbursement for qualifying dependent care expenses for which a dependent care tax credit is not taken, reimbursement for qualifying health care expenses not reimbursed by any other insurance plan or taken as a tax deduction, additional benefits which are currently taxable, additional benefits which are not currently taxable, and cash compensation;

6. To provide state employees with tax sheltered income deferment plans;

7. To provide uniform benefit options for all state employees regardless of their place of residence within this state;

8. To manage the provision of health care benefits in a manner that allows for the long term control of costs;

9. To provide for the coordination and design, in accordance with applicable law, of all employee benefits offered to state employees so as to increase the efficient delivery and effectiveness of those benefits;

10. To enable the state to attract and retain qualified employees by providing employee benefits which are competitive with those provided private industry;

11. To offer uniformity in those benefits that are offered to both state employees and those eligible for participation in the State and Education Employees Group Insurance Act, Section 1301 et seq. of this title;

12. To recognize and protect the state's investment in each employee by promoting and preserving good health and longevity among state employees;

13. To recognize the service to the state by elected and appointed officials by extending to them the same benefits as are provided under the flexible benefits program to state employees; and

14. To recognize long and faithful service, and to encourage employees to remain in state service until eligible for retirement by providing employee benefits.

Added by Laws 1992, c. 400, § 2, eff. July 1, 1992. Amended by Laws 1993, c. 359, § 8, eff. July 1, 1993; Laws 1997, c. 48, § 1, eff. Nov. 1, 1997.

#### §74-1363. Definitions.

The following words and phrases as used in Section 1361 et seq. of this title, unless a different meaning is clearly required by the context, shall have the following meanings:

1. "Authority" means the Oklahoma Health Care Authority;

2. "Basic plan" means the plan that provides the least amount of benefits each participant is required to purchase pursuant to the provisions of the plan. The basic plan shall include only health, dental, disability and life benefits;

3. "Benefit" means any of the benefits which may be purchased or is required to be purchased under the plan;

4. "Benefit plan" means the specific terms and conditions regarding a benefit which may be purchased under the plan, including the terms and conditions of any separate plan document, group insurance policy or administrative services contract entered into by the Oklahoma Employees Insurance and Benefits Board;

5. "Benefit price" means the number of flexible benefit dollars needed to purchase a benefit under the plan;

6. "Board" means the Oklahoma Employees Insurance and Benefits Board;

7. "Code" means the Internal Revenue Code of 1986, as amended, from time to time;

8. "Compensation" means the remuneration directly paid to a participating employee by a participating employer exclusive of overtime pay, and longevity pay, calculated prior to and without regard to adjustments arising out of an employee's participation in the plan authorized pursuant to this act, or amounts deferred under

the tax sheltered income deferment plans as authorized by Section 1701 et seq. of this title;

9. "Default benefit" means any benefit a participant who fails to make a proper election under the plan shall be deemed to have purchased;

10. "Dependent" means a participant's spouse or any of his or her dependents as defined in Code Section 152 and regulations promulgated thereunder;

11. "Flexible benefit allowance" means the annual amounts credited by the participating employer for each participant for the purchase of benefits under the plan;

12. "Flexible benefit dollars" means the sum of the flexible benefit allowance and pay conversion dollars allocated by a participant pursuant to provisions of the plan;

13. "Participant" means any officer or employee of a participating employer who is a member of the Oklahoma Law Enforcement Retirement System, the Oklahoma Public Employees Retirement System or the Uniform Retirement System for Justices and Judges, any officer or employee of a participating employer, whose employment is not seasonal or temporary and whose employment requires at least one thousand (1,000) hours of work per year and whose salary and wage is equal to or greater than the hourly wage for state employees, and any employee of a participating employer who is a member of the Teachers' Retirement System of Oklahoma;

14. "Participating employer" means any state agency, board, commission, department, institution, authority, officer, bureau, council, office or other entity created by the Oklahoma Constitution or statute that is a participating employer of the Oklahoma Law Enforcement Retirement System, the Oklahoma Public Employees Retirement System or the Uniform Retirement System for Justices and Judges, but shall not include any county, county hospital, city or town, conservation district, any private or public trust in which a county, city or town participates and is the primary beneficiary, any school district or technology center school district, or political subdivision of the state, but shall include the State Department of Education, the Oklahoma Department of Wildlife Conservation, the Oklahoma Employment Security Commission, the Teachers' Retirement System of Oklahoma and the Oklahoma Department of Career and Technology Education. Provided the term "participating employer" shall also mean the State Regents for Higher Education or any institution under the authority of the State Regents for Higher Education upon agreement between the State Regents for Higher Education or the appropriate governing board of an institution under the authority of the State Regents for Higher Education and the Board;



15. "Pay conversion dollars" means amounts by which a participant elects to reduce the participant's compensation to purchase benefits under the plan;

16. "Plan" means the flexible benefits plan authorized pursuant to the State Employees Flexible Benefits Act as modified by the provisions of this act;

17. "Plan year" means for the plan year beginning July 1, 2001, the six-month period commencing on July 1 and ending on the following December 31. The next plan year shall begin January 1, 2002. It shall mean the twelve-month period commencing on January 1 and ending on the following December 31;

18. "Salary adjustment agreement" means a written agreement between a participant and participating employer whereby the employer agrees to adjust the salary of the participant by a stated amount or an amount equal to the cost of benefits selected under the plan and the participating employer agrees to contribute such amount to cover certain costs of the benefits selected by the participant to the Board; and

19. "Termination" means the termination of a participant's employment as an employee of a participating employer, whether by reasons of discharge, voluntary termination, retirement, death or reduction-in-force.

Added by Laws 1992, c. 400, § 3, eff. July 1, 1992. Amended by Laws 1993, c. 359, § 9, eff. July 1, 1993; Laws 1994, c. 2, § 32, emerg. eff. March 2, 1994; Laws 1999, c. 255, § 5, eff. Nov. 1, 1999; Laws 2001, c. 33, § 178, eff. July 1, 2001; Laws 2012, c. 303, § 16, eff. Nov. 1, 2012.

NOTE: Laws 1993, c. 332, § 22 repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994.

§74-1364. Repealed by Laws 2012, c. 303, § 21, eff. Nov. 1, 2012.

§74-1365. Repealed by Laws 2012, c. 303, § 21, eff. Nov. 1, 2012.

§74-1366. Flexible benefits plan - Awarding of contracts - Employee's salary adjustment agreement.

A. The Office of Management and Enterprise Services shall establish a flexible benefits plan in accordance with the provisions of Section 1361 et seq. of this title. All participating employers shall offer the plan to their eligible employees.

B. The Office shall interpret the plan and decide any matters arising thereunder and may adopt such rules and procedures as it deems necessary, desirable or appropriate in the administration of the plan subject to the Administrative Procedures Act. All rules and decisions of the Office shall be uniformly and consistently applied to all participants in similar circumstances and shall be conclusive and binding on all persons having an interest in the

plan. When making any decision or determination, the Office shall be entitled to rely upon such information as may be furnished to it by a participant, a participating employer, legal counsel, third party administrator or the management of any individual benefit plan which is incorporated in the plan.

C. The Office may contract with one or more firms or organizations to administer or provide consulting services in regard to all or any portion of the plan.

The Office shall solicit proposals on a competitive bid basis. Contracts for the flexible benefits plan shall not be subject to the provisions of The Oklahoma Central Purchasing Act, Section 85.1 et seq. of this title. The Office shall promulgate rules establishing appropriate competitive bidding criteria and procedures for contracts awarded for flexible benefits plans.

When awarding a contract for services pursuant to this subsection, the Office shall satisfy itself that the contractor has no interests which would impair its ability to perform the tasks and services required and that the contractor will exercise proper independent judgment when performing its responsibilities under Section 1361 et seq. of this title and under the contract.

D. Expenses included in an employee's salary adjustment agreement pursuant to the flexible benefits plan shall be limited to expenses for:

1. Premiums for any health insurance, health maintenance organization, life insurance, long term disability insurance, dental insurance or high deductible health benefit plan offered to employees and their dependents;

2. Insurance premiums or retirement plan premiums or payments which are supplemental to insurance or retirement programs offered by this state or which are paid for under salary adjustment agreements pursuant to the provisions of Section 34.70 of Title 62 of the Oklahoma Statutes;

3. Dependent care;

4. Medical care, as defined by the Office; and

5. All other eligible benefit programs offered under 26 United States Code Section 125.

E. The amount by which an employee's salary is adjusted pursuant to a salary adjustment agreement shall be excluded from income in computation of income tax withholding, federal insurance contributions act taxes, unemployment payments and workers' compensation coverage. Such amount shall be included as income in computation of state retirement contributions and benefits. Provided, if the inclusions and exclusions provided in this subsection conflict with the provisions of federal law or regulations pertaining to flexible benefits plans, the Council is authorized to modify or abolish such inclusions and exclusions.

F. 1. Legal representation shall be provided by the Office of the Attorney General.

2. The executive director shall be the appointing authority and agency head. All other positions and employees shall be classified and subject to the provisions of the Merit System of Personnel Administration except actuaries and other personnel and positions in the unclassified service as provided in Section 840-5.5 of this title.

Added by Laws 1992, c. 400, § 6, eff. July 1, 1992. Amended by Laws 1996, c. 183, § 3, eff. July 1, 1996; Laws 1997, c. 257, § 2, eff. Nov. 1, 1997; Laws 1997, c. 362, § 5; Laws 2012, c. 304, § 976.

NOTE: Laws 1997, c. 48, § 4 repealed by Laws 1997, c. 362, § 8.

§74-1366.1. Contracts relating to plan year beginning January 1, 2003 - Duties of Board.

Notwithstanding any other provision of law to the contrary, for contracts relating to the plan year beginning January 1, 2003, and for each plan year thereafter, the Oklahoma Employees Insurance and Benefits Board shall:

- a. develop geographic service areas and list the zip codes contained in such service areas. Each participating health maintenance organization shall not be required to offer enrollment in every service area as a condition to participation in the State Account,
- b. not require participating health maintenance organizations to offer a Medicare supplement plan. However, if the participating health maintenance organization offers a Medicare supplement plan to other entities within this state then it shall be required to offer a Medicare supplement plan,
- c. require participating health maintenance organizations to meet the standardized benefit plan as required by the Oklahoma Employees Insurance and Benefits Board. However, participating health maintenance organizations may offer enhancements in an effort to make their plans more attractive and competitive, and
- d. ensure that all premiums are paid to participating health maintenance organizations within sixty (60) calendar days from receipt of the bill.

Added by Laws 2002, c. 439, § 10, eff. July 1, 2002. Amended by Laws 2012, c. 304, § 977.

§74-1366.2. Development of service areas - Medicare supplement plans not required to be offered - Standardized benefit plan - Payment of collected premiums.

Notwithstanding any other provision of law to the contrary, for contracts relating to the plan year beginning January 1, 2003, and for each plan year thereafter, the Oklahoma Employees Insurance and Benefits Board shall:

- a. develop geographic service areas and list the zip codes contained in such service areas. Each participating health maintenance organization shall not be required to offer enrollment in every service area as a condition to participation in the State Account,
- b. not require participating health maintenance organizations to offer a Medicare supplement plan; provided, however, any participating health maintenance organization that offers a Medicare supplement plan to other entities within this state shall be required to offer a Medicare supplement plan,
- c. require participating health maintenance organizations to meet the standardized benefit plan as required by the Oklahoma Employees Insurance and Benefits Board; provided, however, participating health maintenance organizations may offer enhancements in an effort to make their plans more attractive and competitive, and
- d. ensure that all premiums collected are paid to participating health maintenance organizations within sixty (60) calendar days of receipt.

Added by Laws 2002, c. 489, § 3, eff. Nov. 1, 2002. Amended by Laws 2012, c. 304, § 978.

NOTE: Editorially renumbered from § 1366.1 of this title to avoid a duplication in numbering.

§74-1367. Repealed by Laws 1997, c. 49, § 4, eff. Nov. 1, 1997 and Laws 1997, c. 362, § 8.

NOTE: Laws 1997, c. 362, § 8 repealed this section as last amended by Laws 1997, c. 48, § 5.

§74-1368. Benefits Council Administration Revolving Fund.

The Benefits Council Administration Revolving Fund is hereby dissolved. Any reference in the Oklahoma Statutes to the Benefits Council Administration Revolving Fund shall be construed to mean the Human Capital Management Revolving Fund. Assets of the Benefits Council Administration Revolving Fund are hereby transferred to the Human Capital Management Revolving Fund.

Added by Laws 1992, c. 400, § 8, eff. July 1, 1992. Amended by Laws 1997, c. 49, § 1, eff. Nov. 1, 1997; Laws 1997, c. 362, § 6; Laws 2012, c. 303, § 17, eff. Nov. 1, 2012.

NOTE: Laws 1997, c. 48, § 6 repealed by Laws 1997, c. 362, § 8.

§74-1369. Eligibility to participate.

A. A state employee shall be eligible to participate in the plan commencing July 1 of the plan year beginning July 1, 2001, and commencing January 1 for any plan year beginning after January 1, 2002, provided such employee qualifies as a participant as provided in this act.

B. Except to the extent a benefit plan provides otherwise, each participant's eligibility to participate in the plan and each benefit plan shall terminate on the participant's termination.

C. Each of the benefit plans incorporated in the plan may have its own eligibility requirements for participation which differ from those set forth in the plan to govern participation in the plan. The eligibility requirements set forth in the plan relate only to participation in the plan and shall have no effect on such eligibility requirements.

Added by Laws 1992, c. 400, § 9, eff. July 1, 1992. Amended by Laws 1999, c. 255, § 6, eff. Nov. 1, 1999; Laws 2001, c. 197, § 9, emerg. eff. May 7, 2001.

§74-1370. Flexible benefit allowance.

A. Subject to the requirement that a participant must elect the default benefits, the basic plan, or is a person who has retired from a branch of the United States military and has been provided with health care through a federal plan, to the extent that it is consistent with federal law, or is an active employee who is eligible to participate and who is a participant who has opted out of the state's basic plan according to the provisions of Section 1308.3 of this title, and provides proof of this coverage, flexible benefit dollars may be used to purchase any of the benefits offered by the Oklahoma State Employees Benefits Council under the flexible benefits plan. A participant who has opted out of the state's basic plan and provided proof of other coverage as described in this subsection shall receive One Hundred Fifty Dollars (\$150.00) in lieu of the flexible benefit monthly. A participant's flexible benefit dollars for a plan year shall consist of the sum of (1) flexible benefit allowance credited to a participant by the participating employer, and (2) pay conversion dollars elected by a participant.

B. Each participant shall be credited annually with a specified amount as a flexible benefit allowance which shall be available for the purchase of benefits. For participants on a biweekly payroll system the disbursement of the flexible benefit allowance shall be credited over twenty-four pay periods resulting in two pay periods that do not reflect a credit. The amount of the flexible benefit allowance credited to each participant shall be communicated to him or her prior to the enrollment period for each plan year.

C. Except as provided in subsection D of this section, for the plan year beginning January 1, 2013, the benefit allowance shall not

be less than the Plan Year 2012 benefit allowance amounts, and each plan year thereafter, the amount of a participant's benefit allowance, which shall be the total amount the employer contributes for the payment of insurance premiums or other benefits, shall be:

1. The greater of the amount of benefit which the participant would have qualified for as of plan year 2012, or an amount equal to the monthly premium of the HealthChoice High Option plan, the average monthly premiums of the dental plans, the monthly premium of the disability plan, and the monthly premium of the basic life insurance plan offered to state employees or the amount determined by the Council based on a formula for determining a participant's benefit credits consistent with the requirements of 26 U.S.C., Section 125(g)(2) and regulations thereunder; or

2. The greater of the amount of benefit which the participant would have qualified for as of plan year 2012 or an amount equal to the monthly premium of the HealthChoice High Option plan, the average monthly premiums of the dental plans, the monthly premium of the disability plan, and the monthly premium of the basic life insurance plan offered to state employees plus one of the additional amounts as follows for participants who elect to include one or more dependents:

- a. for a spouse, seventy-five percent (75%) of the HealthChoice High Option plan, available for coverage of a spouse,
- b. for one child, seventy-five percent (75%) of the HealthChoice High Option plan, for coverage of one child,
- c. for two or more children, seventy-five percent (75%) of the HealthChoice High Option plan, for coverage of two or more children,
- d. for a spouse and one child, seventy-five percent (75%) of the HealthChoice High Option plan, for coverage of a spouse and one child, or
- e. for a spouse and two or more children, seventy-five percent (75%) of the HealthChoice High Option plan, for coverage of a spouse and two or more children.

D. To the extent that it is consistent with federal laws and regulations, and in particular the regulations set forth by the Secretary of Defense in 32 C.F.R. Section 199.8(d)(6), a benefit may be provided to an employee who is an eligible TRICARE beneficiary whereby he or she may purchase a group TRICARE Supplemental product under a qualifying cafeteria plan consistent with the requirements of 26 U.S.C., Section 125, provided that:

1. The state, as employer may not provide any payment for nor receive any consideration or compensation for offering the benefit;

2. The employer's only involvement is in providing the administrative support for the benefit under the cafeteria plan; and

3. The employee's participation in the plan is completely voluntary.

The benefit allowance under paragraph 2 of subsection C of this section of an employee whose plan participation includes a group TRICARE Supplemental benefit shall not include any allowance or portion thereof for such TRICARE Supplemental benefit.

E. This section shall not prohibit payments for supplemental health insurance coverage made pursuant to Section 1314.4 of this title or payments for the cost of providing health insurance coverage for dependents of employees of the Grand River Dam Authority.

F. If a participant desires to buy benefits whose sum total of benefit prices is in excess of his or her flexible benefit allowance, the participant may elect to use pay conversion dollars to purchase such excess benefits. Pay conversion dollars may be elected through a salary reduction agreement made pursuant to the election procedures of Section 1371 of this title. The elected amount shall be deducted from the participant's compensation in equal amounts each pay period, with the exception of participants on a biweekly payroll system, where such deduction shall occur over twenty-four pay periods over the plan year. On termination of employment during a plan year, a participant shall have no obligation to pay the participating employer any pay conversion dollars allocated to the portion of the plan year after the participant's termination of employment.

G. If a participant elects benefits whose sum total of benefit prices is less than his or her flexible benefit allowance, he or she shall receive any excess flexible benefit allowance as taxable compensation. Such taxable compensation will be paid in substantially equal amounts each pay period, with the exception of participants on a biweekly payroll system, where such deduction shall occur over twenty-four pay periods over the plan year. On termination during a plan year, a participant shall have no right to receive any such taxable cash compensation allocated to the portion of the plan year after the participant's termination. Nothing herein shall affect a participant's obligation to elect the minimum benefits or to accept the default benefits of the plan with corresponding reduction in the sum of his or her flexible benefit allowance equal to the sum total benefit price of such minimum benefits or default benefits.

Added by Laws 1992, c. 400, § 10, eff. July 1, 1992. Amended by Laws 1993, c. 221, § 1, eff. July 1, 1993; Laws 1997, c. 384, § 11, eff. July 1, 1997; Laws 1998, c. 257, § 3, eff. July 1, 1998; Laws 1999, c. 397, § 15, emerg. eff. June 10, 1999; Laws 2001, c. 213, § 2, eff. July 1, 2001; Laws 2003, c. 453, § 5, eff. July 1, 2003; Laws 2004, c. 405, § 3, eff. July 1, 2004; Laws 2005, c. 450, § 3, eff. July 1, 2005; Laws 2007, c. 269, § 5, emerg. eff. June 4, 2007;

Laws 2009, c. 28, § 2, eff. July 1, 2009; Laws 2011, c. 277, § 2, eff. July 1, 2011; Laws 2011, c. 326, § 3, eff. Nov. 1, 2011; Laws 2012, c. 303, § 18, eff. Nov. 1, 2012; Laws 2013, c. 266, § 4, eff. Nov. 1, 2013.

NOTE: Laws 1999, c. 255, § 7 repealed by Laws 2001, c. 395, § 2, eff. July 1, 2001.

§74-1371. Election of benefit plans - Plans offered by health maintenance organizations - Default benefits.

A. All participants must purchase at least the basic plan unless, to the extent that it is consistent with federal law, the participant is a person who has retired from a branch of the United States military and has been provided with health coverage through a federal plan and that participant provides proof of that coverage, or the participant has opted out of the state's basic plan according to the provisions in Section 1308.3 of this title. On or before January 1 of the plan year beginning July 1, 2001, and July 1 of any plan year beginning after January 1, 2002, the Oklahoma Employees Insurance and Benefits Board shall design the basic plan for the next plan year to ensure that the basic plan provides adequate coverage to all participants. All benefit plans, whether offered by the State and Education Employees Group Insurance Board, a health maintenance organization or other vendors shall meet the minimum requirements set by the Board for the basic plan.

B. The Board shall offer health, disability, life and dental coverage to all participants and their dependents. For health, dental, disability and life coverage, the Board shall offer plans at the basic benefit level established by the Board, and in addition, may offer benefit plans that provide an enhanced level of benefits. The Board shall be responsible for determining the plan design and the benefit price for the plans that they offer. Effective for the plan year beginning January 1, 2017, and for each plan year thereafter, in setting health insurance premiums for active employees and for retirees under sixty-five (65) years of age, the Board shall set the monthly premium for active employees to be equal to the monthly premium for retirees under sixty-five (65) years of age; except that the Board may offer retirees under sixty-five (65) years of age the opportunity to voluntarily enroll in an alternative plan of insurance at a rate that is between One Hundred Dollars (\$100.00) less than the monthly premium for active employees and up to One Hundred Dollars (\$100.00) more than the monthly premium for active employees. Retirees under the age of sixty-five (65) who enroll in an alternative plan of insurance shall retain the right to enroll in any other health insurance plan offered by the Board for which they might be qualified during a subsequent open enrollment period.



Nothing in this subsection shall be construed as prohibiting the Board from offering additional medical plans, provided that any medical plan offered to participants shall meet or exceed the benefits provided in the medical portion of the basic plan.

C. In lieu of electing any of the preceding medical benefit plans, a participant may elect medical coverage by any health maintenance organization made available to participants by the Board. The benefit price of any health maintenance organization shall be determined on a competitive bid basis. Contracts for said plans shall not be subject to the provisions of The Oklahoma Central Purchasing Act. The Board shall promulgate rules establishing appropriate competitive bidding criteria and procedures for contracts awarded for flexible benefits plans. All plans offered by health maintenance organizations meeting the bid requirements as determined by the Board shall be accepted. The Board shall have the authority to reject the bid or restrict enrollment in any health maintenance organization for which the Board determines the benefit price to be excessive. The Board shall have the authority to reject any plan that does not meet the bid requirements. All bidders shall submit along with their bid a notarized, sworn statement as provided by Section 85.22 of this title. Effective for the plan year beginning January 1, 2007, and for each plan year thereafter, in setting health insurance premiums for active employees and for retirees under sixty-five (65) years of age, HMOs, self-insured organizations and prepaid plans shall set the monthly premium for active employees to be equal to the monthly premium for retirees under sixty-five (65) years of age.

D. Nothing in this section shall be construed as prohibiting the Board from offering additional qualified benefit plans or currently taxable benefit plans.

E. Each employee of a participating employer who meets the eligibility requirements for participation in the flexible benefits plan shall make an annual election of benefits under the plan during an enrollment period to be held prior to the beginning of each plan year. The enrollment period dates will be determined annually and will be announced by the Board, providing the enrollment period shall end no later than thirty (30) days before the beginning of the plan year.

Each such employee shall make an irrevocable advance election for the plan year or the remainder thereof pursuant to such procedures as the Board shall prescribe. Any such employee who fails to make a proper election under the plan shall, nevertheless, be a participant in the plan and shall be deemed to have purchased the default benefits described in this section.

F. The Board shall prescribe the forms that participants will be required to use in making their elections, and may prescribe deadlines and other procedures for filing the elections.

G. Any participant who, in the first year for which he or she is eligible to participate in the plan, fails to make a proper election under the plan in conformance with the procedures set forth in this section or as prescribed by the Board shall be deemed automatically to have purchased the default benefits. The default benefits shall be the same as the basic plan benefits. Any participant who, after having participated in the plan during the previous plan year, fails to make a proper election under the plan in conformance with the procedures set forth in this section or prescribed by the Board, shall be deemed automatically to have purchased the same benefits which the participant purchased in the immediately preceding plan year, except that the participant shall not be deemed to have elected coverage under the health care reimbursement account plan or the dependent care reimbursement account plan.

H. Benefit plan contracts with the Board, health maintenance organizations, and other third party insurance vendors shall provide for a risk adjustment factor for adverse selection that may occur, as determined by the Board, based on generally accepted actuarial principles.

I. 1. For the plan year ending December 31, 2004, employees covered or eligible to be covered under the State and Education Employees Group Insurance Act and the State Employees Flexible Benefits Act who are enrolled in a health maintenance organization offering a network in Oklahoma City, shall have the option of continuing care with a primary care physician for the remainder of the plan year if:

- a. that primary care physician was part of a provider group that was offered to the individual at enrollment and later removed from the network of the health maintenance organization, for reasons other than for cause, and
- b. the individual submits a request in writing to the health maintenance organization to continue to have access to the primary care physician.

2. The primary care physician selected by the individual shall be required to accept reimbursement for such health care services on a fee-for-service basis only. The fee-for-service shall be computed by the health maintenance organization based on the average of the other fee-for-service contracts of the health maintenance organization in the local community. The individual shall only be required to pay the primary care physician those co-payments, coinsurance and any applicable deductibles in accordance with the terms of the agreement between the employer and the health maintenance organization and the provider shall not balance bill the patient.

3. Any network offered in Oklahoma City that is terminated prior to July 1, 2004, shall notify the health maintenance organization, and Oklahoma Employees Insurance and Benefits Board by June 11, 2004, of the network's intentions to continue providing primary care services as described in paragraph 2 of this subsection offered by the health maintenance organization to state and public employees.

Added by Laws 1992, c. 400, § 11, eff. July 1, 1992. Amended by Laws 1993, c. 359, § 11, eff. July 1, 1993; Laws 1996, c. 183, § 4, eff. July 1, 1996; Laws 1996, c. 288, § 8, eff. July 1, 1996; Laws 1997, c. 271, § 1, emerg. eff. May 27, 1997; Laws 1997, c. 362, § 7; Laws 1999, c. 255, § 8, eff. Nov. 1, 1999; Laws 2001, c. 196, § 2, eff. July 1, 2001; Laws 2001, c. 395, § 1, eff. July 1, 2001; Laws 2003, c. 453, § 6, eff. July 1, 2003; Laws 2004, c. 414, § 1, emerg. eff. June 4, 2004; Laws 2006, c. 231, § 8, eff. July 1, 2006; Laws 2007, c. 269, § 6, emerg. eff. June 4, 2007; Laws 2011, c. 326, § 4, eff. Nov. 1, 2011; Laws 2012, c. 304, § 979; Laws 2016, c. 178, § 1, eff. Nov. 1, 2016.

NOTE: Laws 1996, c. 139, § 3 repealed by Laws 1996, c. 288, § 10, eff. July 1, 1996. Laws 1997, c. 48, § 7 repealed by Laws 1997, c. 362, § 8. Laws 1997, c. 128, § 2 repealed by Laws 1997, c. 362, § 8. Laws 1997, c. 257, § 3 repealed by Laws 1997, c. 362, § 8.

§74-1372. Claims for flexible spending account benefits - Notice of denial - Hearing.

The Office of Management and Enterprise Services shall be responsible for making all determinations as to the rights of any participant or any beneficiary of a participant to receive amounts under the flexible spending account benefits plan. The Office shall prescribe forms and procedures for making claims for flexible spending account benefits under the plan. Each person making a claim for benefits under the flexible spending account benefits plan shall also furnish the Office with such documents, evidence, data or information in support of such claim as the Oklahoma Employees Insurance and Benefits Board considers necessary or desirable. If any claim for the flexible spending account benefits plan is wholly or partially denied, the claimant shall be given notice in writing of such denial within a reasonable period of time, but no later than forty-five (45) days after the claim is filed.

A claimant whose claim is denied shall have the right to a hearing before the Director of the Office of Management and Enterprise Services or hearing officer designated by the Director. Written notification by a claimant for a hearing must be received by the executive director within ten (10) business days of notification of claim denial. The hearing shall be conducted within thirty (30) days in accordance with the provisions of the Administrative Procedures Act. The Office shall promulgate administrative rules

establishing policies and procedures specific to the notice of denial, request for explanation, and hearing for flexible spending account benefit claims denial.

Added by Laws 1992, c. 400, § 12, eff. July 1, 1992. Amended by Laws 2003, c. 369, § 1, eff. July 1, 2003; Laws 2012, c. 304, § 980.

§74-1373. Coverage for side effects associated with prostate-related conditions.

A. All health benefit plans that are offered by the Oklahoma Employees Insurance and Benefits Board shall provide coverage for side effects that are commonly associated with radical retropubic prostatectomy surgery, including, but not limited to impotence and incontinence, and for other prostate related conditions.

B. The Office of Management and Enterprise Services shall provide notice to each insured or enrollee under such plan regarding the coverage required by this section in the plan's evidence of coverage, and shall provide additional written notice of the coverage to the insured or enrollee as follows:

1. In the next mailing made by the plan to the employee; or

2. As part of the enrollment information packet sent to the enrollee.

C. The Office shall promulgate any rules or actions necessary to implement the provisions of this section.

Added by Laws 1998, c. 312, § 3, eff. July 1, 1998. Amended by Laws 2012, c. 304, § 981.

§74-1374. Vision plans

A. For the plan year beginning January 1, 2017, and for each year thereafter, it shall be the responsibility of the Office of Management and Enterprise Services to offer vision plans to participants during the open enrollment period. Providers of plans eligible for selection shall submit information requested by the Office of Management and Enterprise Services. Plans eligible for selection shall meet or exceed the following criteria:

1. Has in place a statewide network of at least one hundred fifty providers. "Providers", for purposes of this section, means Optometrists (OD), Ophthalmologists (MD), and Ophthalmologists (DO) which shall be counted once regardless of the number of locations where they may practice. Optical shops and retail optical locations shall not be listed as providers. The company offering the vision plan must have a direct relationship with each provider on its panel, and may not lease, borrow, or otherwise obtain use of a provider panel from another company. This would not prevent a company from offering its plan through one corporate entity and administering the plan or provider panel through another legal entity of the same organization so long as the entity receiving premiums remains legally responsible for the payment of benefits.

Providers must be actively engaged in providing the services offered under the vision plan they represent;

2. Has operated in Oklahoma for at least five (5) years; provided, that an immediately prior operation in Oklahoma of a nonsurviving corporation that merges into an affiliated corporation shall be counted in determining whether the surviving corporation has operated a plan in Oklahoma for five (5) years;

3. Is properly licensed, registered, certified or authorized to operate its business in this state by the Insurance Department. Vision plans must be offered by the company administering the plan, not by an agent or third party. A company shall offer only one vision plan and rate schedule for each plan year;

4. Presents accurate product information in a reproducible format not to exceed two pages; and

5. Vision plans must provide an examination, frames and lenses, and/or contact lenses and some form of indemnified payment to the contracted providers for each component of the benefits, i.e., the exam, frames and lenses and/or contact lenses. This does not eliminate discounted supplementary benefits under a qualified plan, so long as such benefits pertain to vision care.

B. Any administrative fees imposed by the Office of Management and Enterprise Services shall be applied equally to all qualified vision plans. There shall be no additional requirements imposed on a vision plan other than the proper licensing, certification or authorization to operate its business by the Oklahoma Insurance Department.

C. No more than two Oklahoma-based vision care benefits companies that meet the criteria as specified in subsection A of this section and no more than two out-of-state vision care benefits companies that meet the criteria as specified in subsection A of this section shall be offered as vendors for enrollment in any state employee benefit offering. For purposes of this subsection, an "Oklahoma-based vision care benefits company" shall be defined as follows:

1. A vision care benefits company that has a home office, customer service and administration located within the State of Oklahoma and is subject to Oklahoma state income taxes; or

2. A vision care benefits company that has a majority of ownership interest held either directly or indirectly by residents of the State of Oklahoma and is subject to Oklahoma state income taxes.

D. In the event the number of vision companies submitting offerings exceeds the amount permitted under subsection C of this section, the Office of Management and Enterprise Services shall have the authority to reject excess offerings based upon failures to meet bid requirements or for providing lesser value for the State of Oklahoma.

Added by Laws 2002, c. 501, § 1, eff. July 1, 2002. Amended by Laws 2003, c. 113, § 1, eff. July 1, 2003; Laws 2004, c. 310, § 1, eff. July 1, 2004; Laws 2006, c. 231, § 9, eff. July 1, 2006; Laws 2012, c. 304, § 982; Laws 2016, c. 303, § 1; Laws 2018, c. 26, § 1, emerg. eff. April 12, 2018.

§74-1375. High deductible health plan.

The Oklahoma Employees Insurance and Benefits Board of the Office of Management and Enterprise Services shall make the pretax health savings account authorized by the provisions of the Health Savings Account Act established in Section 6060.14 of Title 36 of the Oklahoma Statutes available by offering a high deductible health plan to all persons who are eligible employees for purposes of any health care insurance offered through or under the supervision of the Office. The high deductible health plan shall be offered no later than January 1, 2009. Any employee who elects to participate in a high deductible health plan offered through the Office of Management and Enterprise Services may establish a health savings account (HSA) as defined in Section 223 of the Internal Revenue Code. The Director of the Office of Management and Enterprise Services shall form a working group to study the Oklahoma Employees Insurance and Benefits Plan structure, including, but not limited to, future recommendations for the state employee flexible benefits allowance and the potential of funding on employee health savings accounts. The Director shall provide a report of the working group study and recommendations to the Legislature and Governor no later than December 31, 2012.

Added by Laws 2007, c. 269, § 7, emerg. eff. June 4, 2007. Amended by Laws 2011, c. 69, § 1, eff. Nov. 1, 2011; Laws 2012, c. 303, § 19, eff. Nov. 1, 2012.

§74-1381. Short title.

This act shall be known and may be cited as the "Wellness Program Act".

Added by Laws 1994, c. 99, § 1, eff. Sept. 1, 1994.

§74-1382. Wellness Council.

A. There is hereby created within the Oklahoma State Employee Benefits Council, the Wellness Council, to continue until July 1, 2012, in accordance with the provisions of the Oklahoma Sunset Law.

B. The Wellness Council shall be composed of one representative from every state agency which has designated a person to serve on the Council as the wellness coordinator for their respective state agency and one representative of the Oklahoma Governor's Council on Physical Fitness and Sports.

C. Each state agency with two hundred (200) or more full-time-equivalent employees shall appoint a wellness coordinator. All

wellness coordinators shall be appointed by October 1, 1994. Each wellness coordinator shall be appointed for a term of two (2) years. If a wellness coordinator can no longer serve for any reason the appointing agency shall fill the vacancy for the unexpired term.

D. The first meeting of the Council shall be called by the Executive Director of the Employee Benefits Council. The Employee Benefits Council shall designate a person to serve as the State Government Wellness Coordinator. The State Government Wellness Coordinator shall serve as the chairman of the Wellness Council. The chairman shall preside over meetings of the Council and perform such other duties as may be required by the Council. The Council shall elect one of its members to serve as vice-chairman who shall perform the duties of the chairman in the absence of the chairman or upon the inability or refusal of the chairman to act.

E. The Council shall meet at least once quarterly, and may meet more often as necessary.

F. The members of the Council shall serve without compensation.

G. A majority of the members of the Council shall constitute a quorum for the transaction of business.

Added by Laws 1994, c. 99, § 2, eff. Sept. 1, 1994. Amended by Laws 2000, c. 21, § 1; Laws 2006, c. 50, § 1.

#### §74-1383. Wellness Council - Duties - Wellness Coordinating Committee.

A. The Wellness Council shall coordinate and develop wellness programs in state government. The Council shall work to encourage participation in wellness programs by state employees. The Wellness Council may provide programs to state agencies for quarterly health and safety training as required by the Department of Labor according to the provisions of Section 403 of Title 40 of the Oklahoma Statutes. In addition the Council shall establish methods and a plan of action for receiving money through grants from federal and private funds to implement wellness programs in this state.

B. The chair of the Wellness Council shall appoint a Wellness Coordinating Committee. The members of the Committee shall be selected from among the members of the Council. The Committee shall be responsible for meeting and coordinating wellness efforts with the State and Education Employees Group Insurance Board, the Oklahoma State Employees Benefits Council, the State Employee Assistance Program and the Oklahoma Health Care Authority. In addition the Committee shall be responsible for developing a plan of action to solicit public and private funds for wellness programs. Added by Laws 1994, c. 99, § 3, eff. Sept. 1, 1994. Amended by Laws 1997, c. 49, § 2, eff. Nov. 1, 1997.

#### §74-1384. Wellness Program Fund.

There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services to be designated the "Wellness Program Fund". The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of all monies received by the Wellness Council division of the Office from money received through grants, donations, contributions and gifts from any public or private source and transfer of funds from the Benefits Council Administration Revolving Fund as approved by the Office. The Wellness Council may expend funds as provided for by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Office of Management and Enterprise Services for approval and payment. Added by Laws 1994, c. 99, § 4, eff. Sept. 1, 1994. Amended by Laws 1997, c. 49, § 3, eff. Nov. 1, 1997; Laws 2012, c. 304, § 983.

§74-1412. Repealed by Laws 1986, c. 255, § 33, emerg. eff. June 13, 1986.

NOTE: Laws 1986, c. 255, § 34, provided for recodification of Title 74, § 1412, as Title 74, § 4248.

§74-1561. Priority for fire protection training and education programs.

In conducting fire protection training and education programs, the Commission shall give priority to volunteer fire departments and, when possible, shall require funded fire departments to pay a fee, as determined by the Commission, for said programs.

Added by Laws 1984, c. 1, § 17, emerg. eff. Jan. 30, 1984.

§74-1604. State Employee Suggestion Program.

A. Each state agency may develop a State Employee Suggestion Program. The purpose of the program shall be to promote efficiency and effectiveness of state governmental operations by providing economic incentives to employees who make suggestions which result in direct cost savings.

B. A state agency which implements a suggestion made by an employee which results in direct cost savings to the agency of Five Thousand Dollars (\$5,000.00) or more may financially reward the employee. The amount of any such award shall not exceed twenty percent (20%) of the cost savings to the agency. No state employee shall be eligible to receive more than one award payment in any single fiscal year. Each agency shall be responsible for implementing a State Employee Suggestion Program as it deems appropriate in accordance with the provisions of this section.

C. Suggestions pertaining to the following areas shall not be eligible for awards: grievances; classification and pay; matters already recommended for study, review or summary; matters which are



the result of assigned or contracted audits, budget and fiscal preparations studies, surveys, reviews or research; and matters requiring the enactment of legislation. A suggester who applies for patent rights to his or her suggestion shall not be eligible for an award.

D. The Office of Management and Enterprise Services shall promulgate rules and establish policies as necessary to implement the State Employee Suggestion Program.

Added by Laws 2015, c. 289, § 1. Amended by Laws 2016, c. 49, § 1, eff. Nov. 1, 2016.

§74-1701. State and political subdivision employees and employees of duly constituted authorities or instrumentalities - Participation in plan - Time limit for transfers of investment options.

A. The State of Oklahoma, its agencies and the political subdivisions thereof and the employees of a duly constituted authority or instrumentality of the State of Oklahoma, its agencies and the political subdivisions thereof, municipalities and any local governmental entity may enter into a written agreement to defer a portion of any employee's compensation which is derived from a state or local government. The compensation to be deferred shall be subject to any federal limitations imposed by the Internal Revenue Code, Sections 1 et seq. of Title 26 of the United States Code. The state or local governments may, under a written agreement, invest the deferred compensation in life insurance, annuities, United States Agency or Treasury Bills, Notes or Bonds, savings accounts and/or mutual funds with a company licensed or eligible to do business in the state or in a contract or commingled trust or program. Deferred compensation programs shall exist and be in addition to, and not be a part of, any existing retirement, pension or Social Security system provided for the benefit of state and local government employees.

B. The Oklahoma Public Employees Retirement System Board shall offer a deferred compensation program and shall be responsible for establishing rules and regulations and participation agreement forms for said program. The Oklahoma State Employee Benefits Council shall communicate this program with eligible participants.

C. The Office of the Attorney General of this state shall be responsible for interpreting all applicable laws and fiduciary responsibilities for the deferred compensation programs of state and local governments if the programs do not maintain in-house counsel.

D. Prior to January 1, 1991, the Board of Trustees of the Oklahoma Public Employees Retirement System, the Plan Administrator, and the Office of Management and Enterprise Services shall jointly develop a system that provides for state employee participation amounts in the deferred compensation plan be posted and transferred to the investment option selected by the state employee within ten

(10) business days of the payday, the end of the payroll period, or the process date for supplemental payrolls, whichever is later. Added by Laws 1972, c. 64, § 2, emerg. eff. March 28, 1972. Amended by Laws 1974, c. 23, § 1, emerg. eff. April 8, 1974; Laws 1975, c. 138, § 1, emerg. eff. May 19, 1975; Laws 1977, c. 186, § 1; Laws 1978, c. 297, § 3, emerg. eff. May 10, 1978; Laws 1979, c. 133, § 1, emerg. eff. May 3, 1979; Laws 1979, c. 241, § 15, operative July 1, 1979; Laws 1979, c. 290, § 1, emerg. eff. July 5, 1979; Laws 1990, c. 291, § 1, eff. Sept. 1, 1990; Laws 1993, c. 359, § 12, eff. July 1, 1993; Laws 2001, c. 192, § 3, eff. July 1, 2001; Laws 2012, c. 304, § 984.

§74-1701.1. Repealed by Laws 2011, c. 75, § 3.

§74-1705. The Oklahoma State Employees Deferred Compensation Plan Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma State Employees Deferred Compensation Plan. The fund shall be designated "The Oklahoma State Employees Deferred Compensation Plan Fund". The revolving fund shall be a continuing fund and shall consist of all monies other than appropriated funds received by the Oklahoma State Employees Deferred Compensation Plan pursuant to statutory authority. Monies accruing to the fund may be expended by the Oklahoma Public Employees Retirement System pursuant to the laws of this state. Disbursements from the fund created herein shall be made on warrants issued by the State Treasurer against claims submitted to the Director of the Office of Management and Enterprise Services for payment.

Added by Laws 1976, c. 52, § 3, emerg. eff. April 13, 1976. Amended by Laws 1979, c. 47, § 102, emerg. eff. April 9, 1979; Laws 2012, c. 304, § 985.

§74-1706. Separate employee pension plans.

Any agency of the state and any county, county hospital, city or town, substate planning district and any public or private trust in which the state or a county, city or town participates or is the primary beneficiary and which is not funded by state appropriations or eligible for participation or participating in any state retirement system, by action of its governing body, may agree to provide for discretionary contributions in each calendar year to the Individual Retirement Accounts or Individual Retirement Annuities (IRA) of all eligible employees as such standards of eligibility may be determined by the governing body. The standards of eligibility and other characteristics of the Separate Employee Pension Plan (SEP) adopted or to be adopted by the governing body shall conform to the requirements of the Federal Internal Revenue Code and the rules and regulations promulgated thereunder, all as interpreted and

administered both now and in the future, by the Internal Revenue Service, which pertain to Simplified Employee Pension Plans and Individual Retirement Accounts Contribution Agreements as previously provided for under Section 308(k) of the Internal Revenue Code, and all future amendments, supplements, and substitutions thereto. Added by Laws 1986, c. 238, § 9, operative July 1, 1986.

§74-1707. Oklahoma State Employees Deferred Savings Incentive Plan.

A. Effective January 1, 1998, for each qualified participant as defined in this section who is a state employee as defined in this section, the Oklahoma Public Employees Retirement System shall pay each month from funds appropriated or deposited to the Oklahoma State Employees Deferred Savings Incentive Plan Fund created pursuant to this section the sum of Twenty-five Dollars (\$25.00) to a plan established pursuant to the Internal Revenue Code, Section 401(a), for the benefit of the employee; provided, if monies in the fund are insufficient to fully fund the contributions in any month, payments shall be suspended until such time as sufficient monies are available. Employees receiving payroll other than monthly shall have an amount contributed which is equivalent to Twenty-five Dollars (\$25.00) per month.

B. For the purposes of this section, "qualified participant" means a state employee as defined in this section who is an active participant in the Oklahoma State Employees Deferred Compensation Plan making deferrals of at least Twenty-five Dollars (\$25.00) per month. A qualified participant shall not include an employee who participates in the defined contribution system administered by the Oklahoma Public Employees Retirement System on or after November 1, 2015. Effective July 1, 2000, each qualified participant shall be eligible for a contribution of Twenty-five Dollars (\$25.00) to the Oklahoma State Employees Deferred Savings Incentive Plan beginning with the first employee deferral into the Oklahoma State Employees Deferred Compensation Plan. The Director of the Office of Management and Enterprise Services shall be responsible for the provision of such information and assistance as may be necessary to determine which employees are qualified participants and shall provide for appropriate payroll transactions to accomplish contributions to the Oklahoma State Employees Deferred Savings Incentive Plan and the Oklahoma State Employees Deferred Compensation Plan. The Oklahoma Public Employees Retirement System shall be responsible for establishing rules and plan documents for administration of such contributions. Funds so credited shall be held and invested in the same manner as the Oklahoma State Employees Deferred Compensation Plan, as provided in Section 1701 of this title.

C. For the purposes of this section, "state employee" means any officer or employee of the executive, legislative, or judicial

branches of the government of this state who is an active member of a public retirement system of this state, but does not include:

1. Employees of the public elementary, secondary, or area vocational school districts;

2. Employees of The Oklahoma State System of Higher Education except employees of the Oklahoma State Regents of Higher Education, employees of the governing boards and employees of the Board of Regents of the University of Oklahoma who are participating members of the Oklahoma Public Employees Retirement System;

3. Persons on temporary, student, internship, or other limited-term appointments except for Executive Fellows in the Carl Albert Public Internship Program created in Section 840-3.4 of this title; or

4. Persons employed pursuant to Section 1.6a of Title 53 of the Oklahoma Statutes.

D. No public official shall be able to make contributions to the Section 401(a) plan described by this section during a term of office which commenced prior to July 1, 1997. A public official may make contributions to the Section 401(a) plan described by this section during a term of office which commences after July 1, 1997. No legislator shall be eligible to make contributions to the Section 401(a) plan described by this section until such contributions have been approved by the Board on Legislative Compensation. The provisions of this subsection shall be applicable only in the event that the Plan permits employee contributions.

E. There is hereby created in the State Treasury a revolving fund to be designated the "Oklahoma State Employees Deferred Savings Incentive Plan Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies the Legislature may appropriate or transfer to the fund and any monies contributed for the fund from any other sources, public or private. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Public Employees Retirement System for the matching of deferred compensation contributions pursuant to this section and in accordance with rules promulgated by the Oklahoma Public Employees Retirement System and for reimbursement of expenses for administration of the Deferred Savings Incentive Plan and the Oklahoma State Employees Deferred Compensation Plan. Expenditures from the fund shall be made by warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

F. Effective July 1, 2000, every employer which has state employees participating in the Oklahoma State Employees Deferred Savings Incentive Plan shall pay to the Fund an amount equal to Twenty-five Dollars (\$25.00) each month for each qualified

participant as defined in this section, along with an amount to reimburse the cost of administration of the Oklahoma State Employees Deferred Savings Incentive Plan and the Oklahoma State Employees Deferred Compensation Plan for each qualified participant, as determined by the Board.

1. The Board shall certify each year to the Office of Management and Enterprise Services the determined amount for the administrative cost of the Oklahoma State Deferred Savings Incentive Plan and the Oklahoma State Employees Deferred Compensation Plan which will be required to be paid for each qualified participant. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection and provide the methodology for the determination.

2. Each employer shall pay at least monthly to the Fund the sum sufficient to satisfy the obligation under this section as certified by the Board.

3. Each employer is hereby authorized to pay the employer's contribution from the same fund that the compensation for which said contribution is paid from or from any other funds available to it for such purpose.

Added by Laws 1997, c. 384, § 15, eff. July 1, 1997. Amended by Laws 1998, c. 96, § 1, eff. July 1, 1998; Laws 1999, c. 376, § 1, eff. Sept. 1, 1999; Laws 2000, c. 359, § 1, eff. July 1, 2000; Laws 2002, c. 438, § 10, eff. July 1, 2002; Laws 2012, c. 304, § 986; Laws 2014, c. 375, § 14, eff. Nov. 1, 2014.

NOTE: Laws 1999, c. 257, § 45 repealed by Laws 2000, c. 313, § 5, emerg. eff. June 5, 2000, and Laws 2000, c. 359, § 2, eff. July 1, 2000. Laws 2000, c. 313, § 4 repealed by Laws 2001, c. 5, § 63, emerg. eff. March 21, 2001.

#### §74-1731. Short title.

This act shall be known and may be cited as the "Financial Reimbursement for Educational Expenses Act of 2007".

Added by Laws 2007, c. 207, § 2, eff. July 1, 2007.

#### §74-1732. Definitions.

As used in this act:

1. "Agency" means any executive branch entity of state government, including agencies that do not receive direct appropriations from the Oklahoma Legislature;

2. "Eligible employee" means a person who is a full-time employee of an agency and who incurred a debt pursuant to the obligations under a qualified education loan;

3. "Qualified education loan" means a debt owed by the employee to any private or public entity for which repayment is legally required over a period greater than one (1) year; the proceeds from which were used by the employee to make payment of tuition, fees, or

other education expenses, such as books and materials, to an institution of higher learning, including any private college or university for course work to obtain an undergraduate or graduate degree; and

4. "Required payback period" means two thousand (2,000) hours of full-time employment with the payor agency for each Five Thousand Dollars (\$5,000.00) of qualified education loan expense paid for by the agency.

Added by Laws 2007, c. 207, § 3, eff. July 1, 2007.

§74-1733. Payments.

A. An agency may make direct payments not to exceed Five Thousand Dollars (\$5,000.00) in any twelve-month period, on behalf of an eligible employee to any private or public entity for which a qualified education loan expense is owed by the employee.

B. With regard to payments made under this act, an agency shall not make cumulative payments on behalf of any single employee that total an amount greater than Fifteen Thousand Dollars (\$15,000.00).

C. The provisions of this act shall only be applicable to qualified education loan obligations incurred prior to employment with the agency or qualified education loan obligations associated with education directly related to employment incurred during employment.

Added by Laws 2007, c. 207, § 4, eff. July 1, 2007.

§74-1734. Reimbursement due to termination of service or fewer than required hours of service.

If an eligible employee on whose behalf payment has been made pursuant to Section 4 of this act terminates service with the payor agency prior to the expiration of the required payback period, the employee shall be required to reimburse the agency for the amount of the qualified education loan expense. If the employee performs less than the number of hours of service required for the full amount of the expense paid, the agency shall be reimbursed on a pro rata basis based upon the actual number of hours of service performed by the employee.

Added by Laws 2007, c. 207, § 5, eff. July 1, 2007.

§74-1735. Short title - Quality Workforce for Oklahoma's Heroes Act.

This act shall be known and may be cited as the "Quality Workforce for Oklahoma's Heroes Act".

Added by Laws 2013, c. 211, § 1, eff. Nov. 1, 2013.

§74-1735.1. Education and training programs - Repayment.

Beginning November 1, 2013, the Oklahoma Department of Veterans Affairs is authorized to establish education and training programs

for positions critical to the quality care of veterans residing within Department institutions. The Department may contract with accredited institutions necessary to provide this education and training. Funds of the Department or its institutions may be used to pay salaries or tuition and subsistence for employees in these training programs, pursuant to the provisions of paragraph 2 of this section. Employees may be in work status while engaging in training and education programs provided for in this section.

1. An employee of the Department, who has achieved a "meets" or "exceeds" standards on his or her performance evaluation and meets the standards as established in rules promulgated pursuant to this act, shall be eligible for additional education and/or training provided by the Department.

2. An employee of the Department who participates in the education and training program outlined in this act shall execute a promissory note for expenses payable to the Department whereby the employee promises to repay the note by remaining in employment with the Department. The duration of the loan repayment will correspond with the program in which the employee participated as set forth in rules promulgated for the implementation of this act.

- a. The amount due pursuant to this act shall be reduced at a rate of Thirteen Dollars (\$13.00) per calendar day beginning the first day after graduation from the education or training program. If for any reason the employee leaves the employment of the Department, the obligation will be considered due.
- b. Violation of the provisions of the terms of the promissory note for training expenses entered into pursuant to this section shall give rise to a cause of action and suit may be commenced by the Department for and on behalf of the State of Oklahoma for restitution of any and all sums plus interest at the statutory rate, costs, and reasonable attorney fees. The provisions of this section shall not apply to persons who volunteer or are drafted into active military service subsequent to receiving training at state expense.

Added by Laws 2013, c. 211, § 2, eff. Nov. 1, 2013.

#### §74-1735.2. Reimbursement of license fees.

The Oklahoma Department of Veterans Affairs may pay fees for employees to maintain licenses and certification required to provide quality care and maintain accreditation at Department institutions. The Department may require repayment of such fees pursuant to paragraph 2 of Section 2 of this act.

Added by Laws 2013, c. 211, § 3, eff. Nov. 1, 2013.

§74-1735.3. Implementation.

The War Veterans Commission of Oklahoma, in cooperation with the Office of Management and Enterprise Services, shall promulgate rules pursuant to the implementation of this act.

Added by Laws 2013, c. 211, § 4, eff. Nov. 1, 2013.

§74-1801. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1802. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1803. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1803.1. Repealed by Laws 2001, c. 347, § 7, eff. Jan. 1, 2002.

§74-1803.1a. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1803.1b. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1803.2. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1803.3. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1804. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1805. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1805.1. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1806. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1806.1. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1807. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1808. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1808.1. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1809. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1810. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1810.2. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1810.3. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.



§74-1811. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1811.1. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1811.1a. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1811.1b. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1811.2. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1811.3. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1811.4. State Capitol Park - Definition - Maintenance and operation.

A. "State Capitol Park" shall consist of all portions of the State Capitol grounds and within such boundaries as are located in the State Capitol Complex, including the Governor's Mansion and all properties within the public right-of-way along Lincoln Boulevard north from the north boundary line of Northeast 13th Street to the south boundary line of Northeast 28th Street and along Business Route 66, known as Northeast 23rd Street, from the east edge of Santa Fe Street east to the west edge of Kelley Avenue in Oklahoma City, Oklahoma, as designated on the amended plat filed in the office of the Secretary of State as File Number 155 in the State Property Records.

B. The Department of Central Services shall be responsible for the maintenance and operation of the State Capitol Park.

C. The Department of Central Services may contract with the Oklahoma Capitol Improvement Authority, the Oklahoma Department of Transportation, the City of Oklahoma City, or any other entity for the purpose of landscaping, beautification, capital improvement, operation, and maintenance of the State Capitol Park.

Added by Laws 1976, c. 247, § 23, emerg. eff. June 17, 1976.

Amended by Laws 1981, c. 280, § 3, emerg. eff. June 26, 1981; Laws 1983, c. 304, § 148, eff. July 1, 1983; Laws 1984, c. 1, § 212, emerg. eff. Jan. 30, 1984; Laws 2001, c. 347, § 4, eff. July 1, 2001.

§74-1811.4A. Cowboy Hall of Fame Park - Acquisition of land - Designation - Operation and maintenance.

A. The Oklahoma Tourism and Recreation Commission is hereby authorized to lease, purchase, or otherwise acquire the land between Kelley Avenue and Eastern Avenue within the boundary of Northeast 63rd Street on the north and Deep Fork Creek on the south and

extending along the public right-of-way of Interstate Highway Number 240 to the junction of Interstate Highway Number 35, three-quarters (3/4) of a mile east of Eastern Avenue in Oklahoma City, Oklahoma. Such land shall be used to establish a state park to be designated and known as the "Cowboy Hall of Fame Park". The Commission shall be responsible for the establishment, operation, and maintenance of such park.

B. The Commission may contract with the Oklahoma Capitol Improvement Authority, the Oklahoma Department of Transportation, the Office of Management and Enterprise Services, the City of Oklahoma City, the National Cowboy Hall of Fame Foundation, or any other entity for the purpose of landscaping, beautification, capital improvement, operation, and maintenance of the "State Capitol Park" and the "Cowboy Hall of Fame Park".

Added by Laws 1981, c. 280, § 4, emerg. eff. June 26, 1981. Amended by Laws 1983, c. 304, § 149, eff. July 1, 1983; Laws 2012, c. 304, § 987.

§74-1811.4B. Repealed by Laws 2002, c. 481, § 5.

§74-1811.4C. State Capitol Park and State Capitol Complex - Provisions of Title 47 applicable to streets and highways - Primary law enforcement agency - Application of administrative rules.

A. The provisions of Title 47 of the Oklahoma Statutes shall be applicable to all streets and highways within the State Capitol Park in Oklahoma City and the State Capitol Complex in Tulsa. The Department of Public Safety shall be the primary law enforcement agency within the State Capitol Park and within the State Capitol Complex, upon its establishment, and shall enforce and supervise the enforcement of all parking, traffic and criminal laws therein.

B. The rules for the "Use of the Public Areas of the Capitol and Plazas" and for the "Use of the State Capitol Park", as promulgated by the Office of Management and Enterprise Services and set out in Subchapters 5 and 7 of Chapter 10 of Title 580 of the Oklahoma Administrative Code, are applicable to the State Capitol Park and State Capitol Complex. The Department of Public Safety shall have the exclusive authority to enforce these rules. A violation of a rule shall be a misdemeanor and, upon conviction, shall be punishable by imprisonment in the county jail not exceeding one (1) year, or by a fine not exceeding Five Hundred Dollars (\$500.00), or by both such fine and imprisonment.

C. This section shall not be construed to divest the Cities of Oklahoma City or Tulsa of jurisdiction relating to the enforcement of any law or ordinance within said parks except the enforcement of laws regarding vehicle parking which shall be vested exclusively in the Department of Public Safety.

Added by Laws 1981, c. 280, § 6, emerg. eff. June 26, 1981. Amended by Laws 1982, c. 117, § 3, eff. July 1, 1982; Laws 2003, c. 279, § 12, emerg. eff. May 26, 2003; Laws 2007, c. 62, § 22, emerg. eff. April 30, 2007; Laws 2012, c. 304, § 988.

§74-1811.4E. Renumbered as § 2-140 of Title 47 by Laws 1998, c. 32, § 4, emerg. eff. April 1, 1998 and Repealed by Laws 1998, c. 245, § 11, eff. Jan. 1, 1999.

§74-1811.5A. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1811.6. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1811.7. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1181.8. Repealed by Laws 2001, c. 355, § 22, emerg. eff. June 1, 2001.

§74-1811.9. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1811.10. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1812. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1813. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1813.2. Repealed by Laws 1992, c. 259, § 5, emerg. eff. May 22, 1992.

§74-1813.3. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1813.4. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1813.5. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1816. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1817. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1820. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1822. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1823. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1824. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1824.1. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1825. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1825.1. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1826. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1827. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1828. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1829.1. Repealed by Laws 1991, c. 303, § 6, operative July 1, 1991.

§74-1829.2. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1830. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1830.1. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1831. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1832. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1833. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1834. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1836. Repealed by Laws 2001, c. 355, § 23, emerg. eff. June 1, 2001.

§74-1837. Renumbered as § 47.8 of Title 53 by Laws 2005, c. 363, § 88, eff. Nov. 1, 2005.

§74-1838. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1839. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1840. Renumbered as § 3315 of this title by Laws 2002, c. 199, § 5, emerg. eff. May 6, 2002.

§74-1841. Renumbered as § 3315.1 of this title by Laws 2002, c. 199, § 5, emerg. eff. May 6, 2002.

§74-1842. Repealed by Laws 1993, c. 155, § 4, eff. July 1, 1993.

§74-1843. Renumbered as § 3315.2 of this title by Laws 2002, c. 199, § 5, emerg. eff. May 6, 2002.

§74-1844. Renumbered as § 3315.3 of this title by Laws 2002, c. 199, § 5, emerg. eff. May 6, 2002.

§74-1845. Renumbered as § 3315.4 of this title by Laws 2002, c. 199, § 5, emerg. eff. May 6, 2002.

§74-1846. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1846.1. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1846.2. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1846.3. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1846.4. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1847. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1847.1. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1847.2. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1847.3. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1847.4. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1847.5. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1847.6. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1847.7. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1847.8. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1848. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1848.1. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1848.2. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1848.3. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1849. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1849.1. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1849.2. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1849.3. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1849.4. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1849.5. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1849.6. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1849.7. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1849.8. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1849.9. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1849.10. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1849.11. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1849.12. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1849.13. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1849.14. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1849.15. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1849.16. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1850. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1850.1. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1851. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1851.1. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1851.2. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1852. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1852.1. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1852.2. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1852.3. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1853. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1854. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1855. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1856. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1857. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1858. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1859. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1860. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1861. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1861.1. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1861.2. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1861.2A. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1861.3. Repealed by Laws 1995, c. 334, § 10, emerg. eff. June 8, 1995.

§74-1862. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1863. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1864. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1865. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1867. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1868. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1869. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1870. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1871. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1872. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1873. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1874. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1875. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1881. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1882. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1883. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1884. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1885. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1886. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1891. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1892. Repealed by Laws 2005, c. 363, § 90, eff. Nov. 1, 2005.

§74-1901. Renumbered as § 2286 of Title 74 by Laws 2005, c. 363, § 89, eff. Nov. 1, 2005.

§74-1902. Renumbered as § 2287 of Title 74 by Laws 2005, c. 363, § 89, eff. Nov. 1, 2005.

§74-1903. Renumbered as § 2288 of Title 74 by Laws 2005, c. 363, § 89, eff. Nov. 1, 2005.

§74-1904. Renumbered as § 2289 of Title 74 by Laws 2005, c. 363, § 89, eff. Nov. 1, 2005.



§74-1905. Renumbered as § 2290 of Title 74 by Laws 2005, c. 363, § 89, eff. Nov. 1, 2005.

§74-1906. Renumbered as § 2291 of Title 74 by Laws 2005, c. 363, § 89, eff. Nov. 1, 2005.

§74-1907. Renumbered as § 2292 of Title 74 by Laws 2005, c. 363, § 89, eff. Nov. 1, 2005.

§74-1908. Renumbered as § 2293 of Title 74 by Laws 2005, c. 363, § 89, eff. Nov. 1, 2005.

§74-1910. Oklahoma Jazz Hall of Fame Board of Directors.

A. There is hereby created the Oklahoma Jazz Hall of Fame Board of Directors. The Board shall be permanently housed in the Greenwood Cultural Center located in Tulsa. The Oklahoma Jazz Hall of Fame will be governed by the Oklahoma Jazz Hall of Fame Board of Directors as it is constituted on the effective date of this act. The facility and properties shall be managed by the Greenwood Cultural Center Board of Directors, except those under the jurisdiction of the Oklahoma Jazz Hall of Fame.

B. The Oklahoma Tourism and Recreation Department is hereby directed to include the Oklahoma Jazz Hall of Fame and the Greenwood Cultural Center in their various promotions of cultural activities in Oklahoma.

Added by Laws 2000, c. 362, § 1, emerg. eff. June 6, 2000.

§74-2007.2. Supervision of international activities of state agencies.

The Governor is hereby authorized to supervise the international activities of all state agencies.

Added by Laws 1985, c. 254, § 3, emerg. eff. July 15, 1985.

§74-2007.3. Lieutenant Governor - Participation in international activities.

A. The Lieutenant Governor is hereby authorized to participate in international activities related to the economic development of this state.

B. The Lieutenant Governor may negotiate contracts related to international activities, subject to the approval of the Governor. Added by Laws 1985, c. 254, § 4, emerg. eff. July 15, 1985. Amended by Laws 1986, c. 207, § 72, operative July 1, 1986.

§74-2009.1. International development - Travel expenses.

The Governor, Lieutenant Governor and their staffs shall be reimbursed for actual and necessary travel expenses when incurred in

implementing duties relating to international development. Employees of other state agencies designated by the Governor shall be reimbursed for actual and necessary travel expenses as authorized by the Governor, when incurred in implementing duties relating to international development.

Added by Laws 1985, c. 254, § 5, emerg. eff. July 15, 1985.

§74-2050. Repealed by Laws 1992, c. 313, § 8, emerg. eff. May 27, 1992.

§74-2051. Repealed by Laws 1992, c. 313, § 8, emerg. eff. May 27, 1992.

§74-2052. Repealed by Laws 1992, c. 313, § 8, emerg. eff. May 27, 1992.

§74-2053. Repealed by Laws 1992, c. 313, § 8, emerg. eff. May 27, 1992.

§74-2054. Board of Directors.

A. The governing and administrative powers of the Oklahoma World Trade Development Authority shall be vested in a Board of Directors consisting of nine (9) members, four of whom shall be appointed by the Governor, two of whom shall be appointed by the Speaker of the House of Representatives, and two of whom shall be appointed by the President Pro Tempore of the Senate, with the advice and consent of the Senate. At least one member shall be appointed from each congressional district. The remaining member, who shall be chairman of the Authority, shall be the Governor of the State of Oklahoma. Members shall be qualified electors of the state and actual residents of the congressional district from which they are appointed. Members shall annually elect a secretary, a treasurer and a vice-chairman. Should a vacancy occur within the Office of the Governor of this state, the vice-chairman shall serve as acting chairman of the Authority. The Board may elect such other officers as it deems proper. Appointments to fill a vacancy of one of the appointed members shall be made in the same manner as the original appointment.

B. Each member of the Board shall be a person of recognized ability and experience in one of the following areas: finance; international trade; business management; economics; agriculture; livestock management; and Oklahoma international organization leadership.

C. The Governor shall appoint two members of the Board who shall hold office until the third Monday in June, 1988; the Governor, the Speaker, and the President Pro Tempore shall each appoint one member of the Board who shall hold office until the

third Monday in June, 1989; and the Governor, the Speaker, and the President Pro Tempore shall each appoint one member of the Board who shall hold office until the third Monday in June, 1990. Their respective successors shall be appointed for terms of three (3) years from the third Monday in June of the year of appointment. Members shall serve until successors are appointed, confirmed and qualified.

D. Each member before entering upon his duties shall take and subscribe to the oath or affirmation required by the Oklahoma Constitution. A record of each such oath or affirmation shall be filed in the office of the Secretary of State.

E. No member shall receive compensation for his service on the Board directly or indirectly; provided that each appointive member may receive reimbursement for travel expense pursuant to the procedures established by the Board of Directors of the Authority.

F. Five members of the Board shall constitute a quorum and the affirmative vote of the majority of members present at a meeting of the Board shall be necessary and sufficient for any action taken by the Board, except that the affirmative vote of at least five members shall be required for the approval of any resolution authorizing the issuance of any bonds pursuant to this act.

G. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all rights and perform all the duties of the Board. Any action taken by the Board may be authorized by resolution at any regular or special meeting and shall take effect upon the date the chairman certifies the action of the Authority by affixing his signature to the resolution unless some other date is otherwise provided in the resolution.

H. The Board may delegate to one or more of its members or to its officials, agents, or employees such powers and duties as it may deem proper; however, the officials, agents, or employees of the Authority shall not be considered employees of the state for any reason.

Added by Laws 1986, p. 1595, H.J.R. No. 1050, § 5, operative Jan. 1, 1987. Amended by Laws 1992, c. 364, § 11, emerg. eff. June 4, 1992.

§74-2055. Repealed by Laws 1992, c. 313, § 8, emerg. eff. May 27, 1992.

§74-2056. Renumbered as § 5008.1 of this title by Laws 1992, c. 313, § 7, emerg. eff. May 27, 1992.

§74-2056.1. Renumbered as § 5008.2 of this title by Laws 1992, c. 313, § 7, emerg. eff. May 27, 1992.

§74-2057. Repealed by Laws 1992, c. 313, § 8, emerg. eff. May 27, 1992.

§74-2058. Repealed by Laws 1992, c. 313, § 8, emerg. eff. May 27, 1992.

§74-2059. Repealed by Laws 1992, c. 313, § 8, emerg. eff. May 27, 1992.

§74-2060. Repealed by Laws 1992, c. 313, § 8, emerg. eff. May 27, 1992.

§74-2061. Repealed by Laws 1992, c. 313, § 8, emerg. eff. May 27, 1992.

§74-2062. Repealed by Laws 1992, c. 313, § 8, emerg. eff. May 27, 1992.

§74-2063. Repealed by Laws 1992, c. 313, § 8, emerg. eff. May 27, 1992.

§74-2064. Repealed by Laws 1992, c. 313, § 8, emerg. eff. May 27, 1992.

§74-2065. Repealed by Laws 1992, c. 313, § 8, emerg. eff. May 27, 1992.

§74-2066. Repealed by Laws 1992, c. 313, § 8, emerg. eff. May 27, 1992.

§74-2067. Repealed by Laws 1992, c. 313, § 8, emerg. eff. May 27, 1992.

§74-2068. Repealed by Laws 1992, c. 313, § 8, emerg. eff. May 27, 1992.

§74-2101. Short title.

Sections 1 through 9 of this act shall be known and may be cited as the "Export Trading Company Act".

Added by Laws 1987, c. 214, § 1, eff. Nov. 1, 1987.

§74-2102. Purposes of act.

The purposes of the Export Trading Company Act shall be:

1. to provide an incentive for creating new companies and transactions to export Oklahoma goods and services to foreign markets; and

2. to promote, encourage and advance economic prosperity and employment throughout the state by fostering the expansion of

exports of Oklahoma manufactured goods and services to foreign purchasers; and

3. to create a more favorable regulatory and tax climate for businesses which qualify as export trading companies in Oklahoma. Added by Laws 1987, c. 214, § 2, eff. Nov. 1, 1987.

§74-2103. Definitions.

As used in the Export Trading Company Act:

1. "Export trade" means trade or commerce in goods or services produced in the United States which are exported, or in the course of being exported, from the United States to any other country;

2. "Goods" include, but are not limited to, manufactured products, natural resources, and agricultural products;

3. "Services" include, but are not limited to, accounting, amusement, architectural, automatic data processing, business, communications, construction, franchising and licensing, consulting, engineering, financial, insurance, legal, management, repair, tourism, training, and transportation services;

4. The term "export trade services" includes, but is not limited to, consulting, international market research, advertising, marketing, insurance, product research and design, legal assistance, transportation, including trade documentation and freight forwarding, communication and processing of foreign orders to and for exporters and foreign purchasers, warehousing, foreign exchange, and financing, when provided in order to facilitate the export of goods or services produced in the United States;

5. "Export trading company" means a corporation, whether operated for profit or as a nonprofit organization, which does business under the laws of this state and which is organized and operated principally for purposes of facilitating the export of goods or services produced in the United States by unaffiliated persons by providing one or more export trade services. Any company with a significant portion of their business involving domestic sales or services shall not be construed to be an export trading company within the provisions of the Export Trading Company Act;

6. "Bank" means any bank authorized by the laws of this state to engage in the banking business;

7. "Director" means the Director of the Oklahoma Department of Commerce; and

8. "Commission" means the Oklahoma Tax Commission.

Added by Laws 1987, c. 214, § 3, eff. Nov. 1, 1987. Amended by Laws 1992, c. 313, § 2, emerg. eff. May 27, 1992.

§74-2104. Director - Powers and duties.

The Director may:

1. establish a network of contacts among those public and private organizations which provide information, technical assistance and financial support for exporting;

2. assemble, publish and disseminate information to exporters, located within this state, regarding export opportunities, techniques of exporting, sources of public and private export assistance and sources of export related financing;

3. organize, host and participate in seminars and other forums designed to disseminate information and technical assistance regarding exporting and export related financing to exporters located within this state; and

4. provide individual firms and agricultural enterprises with information and technical assistance related to exporting and export financing.

Added by Laws 1987, c. 214, § 4, eff. Nov. 1, 1987. Amended by Laws 1992, c. 313, § 3, emerg. eff. May 27, 1992.

§74-2105. Investments and participation by banks.

Banks may invest or otherwise participate in the capital development and financing of, management, direction and advising of export trading companies as defined and to the extent permitted by federal law in Sections 4001 through 4053 of Title 17 of the United States Code, as hereafter amended.

Added by Laws 1987, c. 214, § 5, eff. Nov. 1, 1987.

§74-2106. Tax exemptions.

A. An export trading company, with a registered office or other office in this state, shall be exempt from state corporate income tax and franchise tax for a period of two (2) years from the date the Commission certifies the export trading company as a qualified export trading company. A copy of such certificate shall be filed with the Oklahoma Tax Commission which shall verify compliance with this act prior to allowing the tax exemption provided for herein. For purposes of the Export Trading Company Act, an export trading company shall be deemed to have an office in Oklahoma if it performs export trade services in this state.

B. Export trading companies shall not qualify for the tax exemptions of this section for sales made within the United States.

C. A subsidiary or affiliate of a qualified export trading company shall not be entitled to the tax exemptions provided for in this section unless such subsidiary or affiliate is certified as a qualified export trading company pursuant to Section 2107 of this title.

Added by Laws 1987, c. 214, § 6, eff. Nov. 1, 1987. Amended by Laws 1992, c. 313, § 4, emerg. eff. May 27, 1992.

§74-2107. Qualification as expert trading company - Procedure - Rules and regulations - Orders - Violation of act.

A. Any corporation proposing to qualify as an export trading company pursuant to the provisions of the Export Trading Company Act shall file an application for approval with the Commission. The application shall contain the names of the shareholders and principal officers of the applicant and such other information as the Commission may by regulation require, and shall specifically acknowledge the applicant's agreement to be bound by the conditions set forth in the rules and regulations issued pursuant to this section.

B. 1. In determining whether to approve an application for qualification as an export trading company and to certify such export trading company as a qualified export trading company, the Commission shall consider whether:

- a. the stated purposes of the corporation satisfy the basic aim of encouraging and expanding export trade;
- b. the activities undertaken in this state will be a significant factor in, or contribute significantly to encouraging export trade;
- c. the tax exemptions provided for in Section 6 of this act will serve as a significant incentive and aid to encouraging export trade; and
- d. export trade opportunities will be improved and initiated, particularly for small and medium-sized producers, by creation of an export trading company.

2. No successor corporation of a qualified export trading company shall be certified as a qualified export trading company if the names of the shareholders and the principal officers of such successor corporation are the same as those of the qualified export trading company.

C. 1. The Oklahoma Tax Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of the Export Trading Company Act and to safeguard against abuses of the Export Trading Company Act. Such rules and regulations shall include a prohibition against the stacking of tax exemptions provided for in Section 2106 of this title.

2. The Commission may issue orders pursuant to the provisions of the Export Trading Company Act in order to:

- a. prescribe information or forms required in connection with an application; and
- b. establish procedures in connection with approvals and the filing of required reports.

D. The Commission, upon the determination that any export trading company is in violation of any provisions of the Export Trading Company Act or regulations, rules, or orders issued pursuant to the Export Trading Company Act, may order the export trading

company to take steps to remedy such violation or disqualify said company as an export trading company.

Added by Laws 1987, c. 214, § 7, eff. Nov. 1, 1987. Amended by Laws 1992, c. 313, § 5, emerg. eff. May 27, 1992.

§74-2108. Federal remedies.

The remedies and causes of action provided pursuant to the laws of the United States, to the exclusion of any remedies provided pursuant to Sections 1 through 36 of Title 79 of the Oklahoma Statutes concerning restraint of trade, shall apply to any export trade-related conduct or activity of an export trading company.

Added by Laws 1987, c. 214, § 8, eff. Nov. 1, 1987.

§74-2109. Reports.

On or before March 1 of each year, the Commission shall provide a report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate which shall include, but not be limited to:

1. the number of applications for export trading companies submitted;

2. the number of applications for export trading companies approved; and

3. the number of jobs created by each export trading company and the dollar value of export trade generated by each export trading company.

Added by Laws 1987, c. 214, § 9, eff. Nov. 1, 1987. Amended by Laws 1992, c. 313, § 6, emerg. eff. May 27, 1992.

§74-2118. Renumbered as § 5008.3 of this title by Laws 1992, c. 313, § 7, emerg. eff. May 27, 1992.

§74-2121. International trade processing - Definitions.

As used in this act:

1. "International trade processing authority" means a public trust heretofore created pursuant to Section 176 of Title 60 of the Oklahoma Statutes with powers to construct, acquire, equip and operate an international trade processing center;

2. "International trade processing center" means a facility constructed and operated for the purpose of facilitating the export of goods or services produced in the United States and the import of goods or services to the United States that are produced in other countries;

3. "Other governmental entities" means the State of Oklahoma, its agencies and political subdivisions, public trusts other than an international trade processing authority, other states and their agencies and political subdivisions, and the federal government and agencies thereof; and



4. "Project" or "projects" means any facility constructed or improvements made under the provisions of this act by an international trade processing authority for the purpose of acquiring, constructing, equipping and operating an international trade processing center, including rail, water, air, highway intermodal facilities, and commercial support facilities, and shall include all buildings, structures, landscaping, infrastructure, utilities, roadways, railways, parking structures, parking lots, sidewalks, personal property and fixtures, equipment and machinery, and other improvements which an international trade processing authority may deem necessary for the operation of such project, together with all property, rights, easements and interests which may be acquired by an international trade processing authority for the construction or operation of such.

Added by Laws 2003, c. 386, § 1, eff. July 1, 2003.

§74-2122. International trade processing authority - Exercise of powers an essential government function.

The exercise of powers by an international trade processing authority under the provisions of this act are hereby authorized and shall be deemed and held to be the performance of an essential governmental function.

Added by Laws 2003, c. 386, § 2, eff. July 1, 2003.

§74-2123. Lease, loan, grant, or conveyance of property to international trade processing authority - Development of international trade processing center.

A. Notwithstanding any other provision of law, other governmental entities are hereby authorized and empowered to lease, lend, grant, or convey to an international trade processing authority at its request, upon such terms and conditions as the proper authorities of such other governmental entities may deem reasonable and fair, and without the necessity for any other action or formality other than the regular and formal action of authorities concerned, any property which may be necessary or convenient to the effectuation of the authorized purposes of the international trade processing authority, including property already devoted to public use.

B. Each project, when constructed, shall be maintained and kept in good condition and repair by the international trade processing authority.

C. The Oklahoma Department of Commerce is authorized to aid an international trade processing authority in developing an international trade processing center.

Added by Laws 2003, c. 386, § 3, eff. July 1, 2003.

§74-2200. Short title.

This act shall be known and may be cited as the "Oklahoma Tourism, Parks and Recreation Enhancement Act".  
Added by Laws 2005, c. 363, § 1, eff. Nov. 1, 2005.

§74-2201. Creation of Commission and Department.

There is hereby created the Oklahoma Tourism and Recreation Commission, hereinafter referred to as the "Commission," and the Oklahoma Tourism and Recreation Department, hereinafter referred to as the "Department". Whenever, in the Oklahoma State Statutes reference is made to the Governor's Economic Development Commission, the State Department of Commerce and Industry, the Oklahoma Planning and Resources Board, the Oklahoma Industrial Development and Park Commission or the Oklahoma Industrial Development and Park Department, it shall mean hereafter the Oklahoma Tourism and Recreation Commission created by this act, or the Oklahoma Department of Commerce, as the context may require.  
Added by Laws 2005, c. 363, § 2, eff. Nov. 1, 2005.

§74-2202. Purpose of Commission and Department.

A. It shall be the purpose of the Commission and the Department to:

1. Conserve and protect the parkland under the control of the Commission;
2. Oversee the operation and maintenance of the state's lodges and golf courses;
3. Promote tourism by publicity and dissemination of information;
4. Assist in promotion of events sponsored by municipalities, associations, and organizations commemorating special events of local or historical interest;
5. Educate the public on the people, places, events, culture, and history of Oklahoma; and
6. Function in an advisory capacity to the Governor, State Legislature, state agencies, municipalities, and to private organizations on matters pertaining to tourism and recreation.

B. The Commission shall determine or set policy for the Department and shall determine the broad plans and programs necessary to accomplish the duties and responsibilities in the Commission.

Added by Laws 2005, c. 363, § 3, eff. Nov. 1, 2005.

§74-2203. Commission membership - Appointment and tenure.

A. The Oklahoma Tourism and Recreation Commission shall be an advisory body to the Executive Director of the Oklahoma Tourism and Recreation Department and shall consist of eight (8) members who shall serve a term of six (6) years. Effective January 14, 2019, all duties and powers of the Commission shall be transferred to the

Executive Director. Any provision in statute that provides to the Commission authority that is not advisory in nature shall be deemed to grant the duty or power to the Executive Director. No more than one Commission member shall be from any one county. The Lieutenant Governor shall serve as an ex officio voting member of the Commission.

B. One member shall be appointed from each congressional district, who shall be a resident and a qualified elector in the district from which appointed, and the remaining members shall be appointed from the state at large. If congressional districts are redrawn each member appointed shall complete the current term of office at which time a new appointment shall be made in compliance with the redrawn congressional district.

C. Commission members shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve at the pleasure of the Governor. Whenever a vacancy on the Commission occurs by death, resignation, or otherwise, the Governor shall fill the same by appointment, with the advice and consent of the Senate, and the appointee shall hold office during the unexpired term. Each member shall hold office until a successor has been appointed and qualified.

D. With the exception of the ex officio, no member of the Commission shall seek election to a federal, state, or county office while serving on the Commission.

Added by Laws 2005, c. 363, § 4, eff. Nov. 1, 2005. Amended by Laws 2008, c. 112, § 1, eff. July 1, 2008; Laws 2018, c. 187, § 1, eff. Jan. 14, 2019.

#### §74-2204. Powers, rights and duties of Department.

There are hereby granted to and imposed in the Oklahoma Tourism and Recreation Department the following additional powers, rights and duties:

1. Sue and be sued;
2. Adopt, use, and alter an official seal;
3. Make bylaws for the management and regulation of its affairs;
4. Appoint, prescribe the duties, and fix the compensation for officers, agents, and employees;
5. Make contracts and execute instruments as in the judgment of the Department are necessary or convenient to the exercise of the powers conferred upon it by law; and
6. Promulgate rules and policies necessary and convenient to the exercise of the powers conferred upon it by law.

Added by Laws 2005, c. 363, § 5, eff. Nov. 1, 2005. Amended by Laws 2018, c. 187, § 2, eff. Jan. 14, 2019.

#### §74-2205. Report on activities of Department.

The Commission shall prepare and submit to the Governor and to the Legislature on the first day of each legislative session a report of the activities of the Department, together with all information and data in the possession of the Department as the Commission shall deem of value to the Governor, the Legislature and the people of the State of Oklahoma. Each report may contain recommendations for legislation as the Commission may deem necessary to give full effect to all the provisions of the Oklahoma Tourism, Parks and Recreation Enhancement Act.

Added by Laws 2005, c. 363, § 6, eff. Nov. 1, 2005.

§74-2206. Executive Director as chief executive officer.

The chief executive officer of the Oklahoma Tourism and Recreation Department shall be the Executive Director, who shall be appointed by the Governor, with the advice and consent of the Senate, and who shall serve at the pleasure of the Governor and may be removed or replaced without cause. The Executive Director shall be chosen with regard to knowledge, training, experience, and ability to administer the functions of the Department. Compensation for the Executive Director shall be determined pursuant to Section 3601.2 of this title.

Added by Laws 2005, c. 363, § 7, eff. Nov. 1, 2005. Amended by Laws 2018, c. 187, § 3, eff. Jan. 14, 2019.

§74-2207. Duties of Executive Director.

Subject to the policies and rules of the Commission, the Executive Director shall:

1. Organize the Department in a manner to efficiently achieve the objectives of the Commission;

2. Prepare and submit plans for administering the programs of the Commission;

3. Prepare a personnel schedule, employ personnel, define duties, appoint technicians and consultants, and fix salaries or compensation;

4. Administer all policies formulated and adopted by the Commission;

5. Enter into leases, grant easements and execute such instruments as in the judgment of the Commission are necessary or convenient to the exercise of those powers and duties of the Commission pursuant to the Oklahoma Tourism, Parks and Recreation Enhancement Act. The Executive Director shall provide a monthly report to the Commission of actions taken as a result of such delegation;

6. Develop and implement a pay incentive plan for employees of the Department. Incentive pay shall not be included in the base salary of an employee, and shall be based on the goals and eligibility established by the Commission on an annual basis.

Incentive pay shall not exceed ten percent (10%) of the salary of each eligible employee or the total change in improved financial performance for each facility over the previous fiscal year. Such compensation shall not be subject to the requirements of Section 840-2.17 of Title 74 of the Oklahoma Statutes. The Commission shall promulgate rules for the implementation of the plan; and

7. Authorize any division of the Department to sell advertising in any of the publications of the division, on division property on which advertising is sold in the tourism industry, or on its web site, provided that such advertising shall be approved by the Division Director or designee prior to acceptance for publication. The sale of advertising and negotiation of rates for the advertising shall not be subject to the Central Purchasing Act or the Administrative Procedures Act.

Added by Laws 2005, c. 363, § 8, eff. Nov. 1, 2005.

§74-2208. Use of revolving fund.

The Executive Director may authorize the use of revolving fund income for entertainment and promotion expenses of the Department, provided that the expenses are directly related to business development for state-operated or state-owned facilities and the furtherance of tourism in Oklahoma. In all cases, the expenses shall be approved in advance by the Executive Director, be audited by the fiscal officer for the Department on a monthly basis, and submitted to the Commission as an item for information.

Added by Laws 2005, c. 363, § 9, eff. Nov. 1, 2005.

§74-2209. Aid and assistance for development of community recreation programs.

The Executive Director may authorize the provision of aid and assistance to the governmental units of Oklahoma or to any nongovernmental agency or organization in planning for the development of community recreation programs. The Department may act jointly with other state agencies, institutions, departments, boards or commissions, to coordinate the park and recreational functions at the state level of government.

Added by Laws 2005, c. 363, § 10, eff. Nov. 1, 2005.

§74-2210. Employment of attorney - Duty of Attorney General.

The Executive Director is hereby authorized to employ an attorney as needed, within the total employee limit authorized for the operation of the Department, on a full- or part-time basis, to advise the Commission, the Executive Director and other department personnel on legal matters and to appear for and represent the Commission and the Executive Director in administrative hearings and other legal actions and procedures related to their official duties. Upon the request of the Commission or the Executive Director, it

shall be the duty of the Office of the Attorney General to give an official opinion, prosecute, and defend actions of the Commission or Department.

Added by Laws 2005, c. 363, § 11, eff. Nov. 1, 2005.

§74-2211. Divisions created.

There are hereby created within the Oklahoma Tourism and Recreation Department the Division of State Parks, the Travel Promotion Division, "Oklahoma Today Magazine", and the Division of Administrative Services; provided, however, the Commission shall have authority, by resolution, to create other divisions and may, by resolution, combine or abolish any or all such divisions, as deemed to be necessary to carry out its duties under the Oklahoma Tourism, Parks and Recreation Enhancement Act.

Added by Laws 2005, c. 363, § 12, eff. Nov. 1, 2005. Amended by Laws 2010, c. 249, § 2, eff. July 1, 2010.

§74-2212. Powers, rights and privileges of Commission.

The Commission shall have the authority to exercise the following powers, rights and privileges related to state parks:

1. Have the exclusive possession and control of, and to operate and maintain for the benefit of the people of the State of Oklahoma all state parks and all lands and other properties now or hereafter owned or leased by the state or Commission for park or recreational purposes;

2. Acquire by purchase, exchange, lease, gift, condemnation, or in any other manner and to maintain, use and operate any and all property, real, personal or mixed, necessary or convenient to the exercise of the powers, rights, privileges and functions conferred upon it by the Oklahoma Tourism, Parks and Recreation Enhancement Act. Title to all such property shall be vested in the State of Oklahoma, although such property is sometimes herein referred to as property "of the Commission". The power of condemnation herein granted shall be exercised in the manner provided by the general laws of the state for the condemnation of property by the state;

3. Subject to the provisions of the Oklahoma Tourism, Parks and Recreation Enhancement Act, from time to time lease, without restriction as to term, any property which the Commission shall determine to be necessary or convenient to more fully carry into effect the duties and powers of said Commission; and

4. Acquire, conserve, protect, construct, extend, reduce, improve, maintain and operate any and all facilities of all kinds which in the judgment of the Commission will provide recreational or other facilities for the benefit of the public, or which are necessary or convenient to the exercise of the powers of the Commission.

Added by Laws 2005, c. 363, § 13, eff. Nov. 1, 2005.

§74-2213. Contracts for feasibility study regarding property.

The Commission may contract for the study, analysis, and planning as reasonably necessary to aid in determining the feasibility of leasing, selling or privately managing or developing the property or facilities under the control of the Commission. The Commission shall be exempt from the competitive bidding requirements of the Oklahoma Central Purchasing Act for the purpose of soliciting, negotiating, and effectuating such a contract or contracts.

Added by Laws 2005, c. 363, § 14, eff. Nov. 1, 2005. Amended by Laws 2006, c. 90, § 1, emerg. eff. April 24, 2006.

§74-2214. Contractors - Lessees - Performance bonds.

A. Any person, natural or corporate, who submits a bid on a contract for work or services, or for the furnishing of materials, equipment, or supplies, or for the sale of any other thing of value where a contract is involved, shall submit, at the time of contract execution, a performance bond in such form and amount as may be required by the Commission, or any existing statutory provision. Any lessee leasing any portion of a state park, lake, or recreation area under the authority of any law shall submit a performance bond in such form and amount as may be required by the Commission. All such bonds shall be in such form as is approved by law for other performance bonds made to the State of Oklahoma, and shall be deposited with the Secretary of State. This section is cumulative to existing law, and is intended to require performance security for contracts and leases involving state parks, lakes, and recreation areas in those instances where no such bonds or other securities are presently required by law.

B. For the purpose of this section, performance bonds shall include, but not be limited to, cash payments, cashier's checks and irrevocable letters of credit.

Added by Laws 2005, c. 363, § 15, eff. Nov. 1, 2005.

§74-2215. Division of State Parks - Duties.

The Division of State Parks shall, subject to the policies and rules of the Commission:

1. Conserve, preserve, plan, supervise, construct, enlarge, reduce, improve, maintain, equip and operate parkland and public recreation facilities including, but not limited to, lodges, cabins, camping sites, scenic trails, picnic sites, golf courses, boating, and swimming facilities under the jurisdiction and control of the Commission. All facilities in state parks shall be reasonably necessary and useful in promoting the public use of state parks and shall be in accord with the resource management plan for the respective park;

2. Supervise the management and use of state properties and facilities under the jurisdiction of the Commission, with an emphasis on conserving, protecting, and enhancing the natural, ecological, historic, cultural, and other resources contained in each park and to provide for the public enjoyment of and access to these resources in a manner which will protect them for future generations;

3. Formulate, establish, maintain, and periodically review with public participation a resource management plan for each state park. The resource management plan, upon approval by the Commission, shall be considered a guide for the development, utilization, protection, and management of the state park and its natural, cultural, historic, and recreational resources;

4. Authorize those employees in the Park Manager job family classification series, as established by the Office of Management and Enterprise Services, to maintain administrative control over all facilities, programs, operations, services, and employees in the park to which they are assigned; and

5. Enforce the rules and policies governing the use of and conduct of patrons in all recreational facilities and properties of the Commission. The Commission may adopt rules to lease concessions in any state-owned facility if the Commission deems it feasible. Added by Laws 2005, c. 363, § 16, eff. Nov. 1, 2005. Amended by Laws 2012, c. 304, § 989.

#### §74-2216. Park rangers - Duties.

Park Rangers, subject to the policies of the Commission, shall:

1. Obtain a commission as an officer or employee pursuant to the certification specified in Section 3311 of Title 70 of the Oklahoma Statutes and by the Division of State Parks;

2. Secure the parks and property of the Department and maintain law and order therein;

3. Maintain the powers of peace officers except the serving or execution of civil process, have in all parts of the state the same powers with respect to criminal matters and enforcement of the laws relating thereto as sheriffs, highway patrolmen and police officers in their respective jurisdictions and possess all immunities and matters of defense now available or hereafter made available to sheriffs, the highway patrol, and police officers in any suit brought against them resulting from acts done in the course of their employment;

4. Possess law enforcement jurisdiction over state parks, including all facilities located therein;

5. Serve a probationary period of twelve (12) months. The Division of State Parks Director may extend the probationary period for up to three (3) additional months provided that the employee and the Office of Management and Enterprise Services are notified in



writing as to such action and the reasons therefor. At any time during a probationary period the employment of a park ranger may be terminated in accordance with Department procedure and at the discretion of the Director of State Parks. Retention of the employee, after expiration of the probationary period, shall entitle the employee to be classified as a permanent employee;

6. Provide law enforcement protection and enforcement pursuant to the terms of interlocal agreements authorized by the Commission with other entities of government or federally recognized tribes in the state; and

7. Remain in the Oklahoma Law Enforcement Retirement System if promoted to the Park Manager job family classification series, provided they maintain their certification specified in Section 3311 of Title 70 of the Oklahoma Statutes, perform the requisite training required by the Chief Park Ranger, and meet all other requirements, policies, and rules of the Department and laws of the state.

Added by Laws 2005, c. 363, § 17, eff. Nov. 1, 2005. Amended by Laws 2012, c. 304, § 990.

#### §74-2217. Public access and use of state parks - Prohibitions.

The public shall have the right to access and use the facilities, services, and programs provided within state parks.

1. Notwithstanding any other provision of law, no person may:
  - a. discharge fireworks in any area of a state park unless specified otherwise by the Division of State Parks Director,
  - b. possess any glass container in a designated and posted swim or beach area within a state park,
  - c. build a fire within a state park in areas posted as prohibited by the Department,
  - d. solicit or demand gifts, money, goods or services within a state park,
  - e. enter a state park with a dog, unless the dog is on a leash, or permit any dog to enter a state park or recreation area under the jurisdiction of the Commission. It is further provided that any authorized member of the Department or any authorized employee of the Oklahoma Department of Wildlife Conservation may kill any vicious dog found running loose in any state park which poses imminent threat to humans or other animals, or which may be chasing or running any game in the state park. Any such authorized employees of the Departments shall not be held liable for the killing of said dog,
  - f. injure, destroy, mutilate or deface any building, structure, sign, rock, tree, shrub, vine, or property, or dispose of any matter which will likely contaminate

any swimming pool or other waters on the state park, or take, kill, injure, pursue, hunt, or molest, any wild game animal, or mar or rifle the nest of any bird or the den or nest or abode of any wild animal within any of the state parks, recreational grounds or state monuments now created or which may be hereafter acquired or designated,

- g. use or operate motor vehicles, including motorcycles, motorbikes or motor scooters, in areas not specifically posted by the Department, or
- h. sell, hawk, or peddle within a state park any goods, wares, merchandise, liquids, edibles, or any item of value, without having a contract or lease agreement approved by the Commission.

2. Any such violation of the provisions of this section shall be punishable as a misdemeanor, and subject to a fine of not less than Fifty Dollars (\$50.00) and no more than Five Hundred Dollars (\$500.00), or imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

3. Fifty percent (50%) of all monies collected pursuant to this section shall be deposited in the Oklahoma Tourism and Recreation Department Revolving Fund and fifty percent (50%) shall be remitted to the county in which the violation is made.

Added by Laws 2005, c. 363, § 18, eff. Nov. 1, 2005.

§74-2217.1. Boat rental businesses operating in a state park.

A. Any boat rental business operating in a state park:

1. Shall have a current valid written contract with the Oklahoma Tourism and Recreation Department or the agency which owns the lake;

2. Shall be required to obtain a business license from the state;

3. Shall have a visible, commercially accessible public location; and

4. Shall be properly licensed with a tax permit and any other required local permits.

B. Any person found guilty of violating the provisions of this section shall be guilty of a misdemeanor punishable by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for a term not exceeding thirty (30) days or by both such fine and imprisonment.

C. As used in this section, "boat rental business" means a short-term lease or rental of any boat, including the completion of paperwork or documents, and the loading and delivery of the boat.

Added by Laws 2013, c. 257, § 1, eff. Nov. 1, 2013.

§74-2218. Regulation of waterways.

Authorized park personnel are authorized to inspect boats, issue permits for the operation of watercraft of all kinds, charge and collect fees for the inspection and for the operation of such craft, prescribing the type, style, location and equipment of all wharves, docks and anchorages, pavilions, restaurants and other structures or buildings which may be constructed along shores or upon the waters of any body of water or upon other property controlled by the Commission and providing for the licensing, inspection and supervision of same, and granting and imposing charges for permits and for all commercial uses or purposes to which any of the properties of the Commission or any structures or buildings located on property of the Commission may be used.  
Added by Laws 2005, c. 363, § 19, eff. Nov. 1, 2005.

§74-2219. Oil and gas leases - Mining leases - Sale and execution.

A. The Commission may offer for sale, sell and execute oil and gas leases, and other mineral and mining leases, on any of the lands of the state under the control and supervision of the Commission, provided, the development of land for the purpose leased shall not unduly interfere with the purpose for which the land is being used by the state.

B. The Commission may promulgate additional rules, as are necessary and for the best interest of the state to facilitate the sale of the leases. The Chair of the Commission shall execute the leases for and on behalf of the Commission, and the Chair shall be liable on the official bond for failure to faithfully discharge such duties. The sale of leases shall be made upon the basis of a retained royalty of not less than one-eighth (1/8) of all oil, gas, casinghead gas, and other minerals produced from the lands covered by the leases and any additional cash bonus procured. Provided, however, if the state owns less than one hundred percent (100%) of the oil, gas, casinghead gas and other minerals covered by any such lease, the royalty retained shall not be less than one-eighth (1/8) of the mineral interest.

C. All leases shall contain a provision that in the event of the discovery of natural gas, the gas shall be furnished free of charge to any state institution now or hereafter located upon the lands covered by the lease. Leases shall be sold only after advertisement for a period of three (3) weeks in a legal newspaper published and of general circulation in the county in which the lands are located. A sale shall be made to the highest and best bidder and all bids shall be in sealed envelopes which shall be opened and considered at the same time. The Commission may reject any and all bids and readvertise any leases for sale.

D. Revenues derived from the sale of oil and gas leases and other mineral leases shall be dedicated to the improvement of state park facilities and property to include, but not limited to, the

conservation, protection, and rehabilitation of state parkland, the preservation of historic properties under the jurisdiction of the Commission, and master planning of state park properties.

Added by Laws 2005, c. 363, § 20, eff. Nov. 1, 2005.

§74-2220. Rates and fees for services, facilities and commodities.

A. The Commission may prescribe and collect reasonable rates and fees pursuant to the provisions of this section for the services, facilities and commodities rendered by all property of the Commission.

1. The Commission may establish maximum rates for rooms at the state lodges and cabins, for recreational activities, for recreational vehicles and camping sites, and for community facilities under control of the Commission. The method whereby the rates are determined shall be promulgated pursuant to Article I of the Administrative Procedures Act. At least twenty (20) days prior to the adoption or approval of any rate changes by the Commission, the Department shall submit a copy of the proposed rates, for informational purposes, to the Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate. Any change in the rates during the year when the Legislature is not in session shall be reported in writing to the Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate within five (5) business days of such Commission action.

2. The Commission may establish maximum charges for all activities at state-owned golf courses. The charges may vary among the different golf courses according to the practices of the golf industry. The method whereby the maximum charges are determined shall be in accordance with rules promulgated pursuant to Article I of the Administrative Procedures Act. At least twenty (20) days prior to the adoption or approval of any rate changes by the Commission, the Department shall submit a copy of such proposed charges, for informational purposes, to the Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate.

3. The Commission may establish entrance or day-use charges for the state park system. All monies collected from entrance or day-use charges shall be used at the state parks where the charges were collected. The Commission may establish an annual pass, or other varied passes as appropriate to that park, for visitors. The method whereby the maximum charges are determined, sold, and collected shall be in accordance with rules promulgated pursuant to Article I of the Administrative Procedures Act. At least twenty (20) days prior to the adoption or approval of any rate changes by the Commission, the Department shall submit a copy of such proposed charges, for informational purposes, to the Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate.

4. Fees shall be promulgated pursuant to Article I of the Administrative Procedures Act.

5. Fees may reflect the seasonal usage of the parks and facilities and for promotional purposes and goals.

B. All fees, licenses and other charges shall be posted in a convenient place in each park. Every person using any of the facilities in a park shall be charged the same fees, licenses and every other charge except:

1. Residents of this state sixty-two (62) years of age and over and their spouses shall not be charged any admission fees for entrance into any state-owned and -operated park. The Commission may promulgate rules establishing different fees for residents and nonresidents sixty-two (62) years of age and over. Identification may be established by presentation of proof of age, residency, a state driver license, a state license for identification only, birth certificate or any other form of identification authorized by the Commission;

2. Individuals who have been certified as totally disabled under state or federal law and their spouses shall be entitled to a fifty percent (50%) reduction of fees which apply to recreational-use facilities;

3. Children's groups, volunteer groups as specified by the Commission, or governmental entities that provide beneficial services at the facility for which the fee may be reduced or waived; and

4. Special discount rates as authorized in this section may be waived for individuals who are members of a group being provided a special group rate as allowed by law.

C. The failure to collect such fees, licenses and other charges shall subject an employee of the Commission to a fine of Twenty-five Dollars (\$25.00) for each and every violation.

Added by Laws 2005, c. 363, § 21, eff. Nov. 1, 2005. Amended by Laws 2007, c. 334, § 1, eff. July 1, 2007; Laws 2017, c. 243, § 1, eff. Nov. 1, 2017.

#### §74-2221. Promotion of state facilities.

A. The Commission, through the Department, is authorized to promote state-owned, leased, or operated facilities. The Department may utilize specific promotion programs such as the provision of complimentary rooms, package-rate plans, group rates, guest incentive sales programs, entertainment of prospective guests, employee-information programs, golf promotional programs as well as other sales and promotion programs considered acceptable in the hospitality industry, in the travel industry, or the regional magazine industry are approved as necessary advertising and promotion expenses.

B. In order to best carry out the duties and responsibilities of the Department and to serve the people of the state in the promotion of tourism and tourism economic development, the Department may enter into partnerships for promotional programs and projects with a private person, firm, corporation, organization or association. The Department may enter into contracts or agreements under terms to be mutually agreed upon to carry out the promotional programs and projects, excluding the advertising contract by the Department which utilizes the Tourism Promotion Tax or acquisition of land or buildings. The contracts or agreements may be negotiated and shall not be subject to the provisions of the Oklahoma Central Purchasing Act or the Public Competitive Bidding Act of 1974.

C. All contracts or agreements entered into as partnerships for promotional projects or programs by the Department shall be approved by the Commission.

Added by Laws 2005, c. 363, § 22, eff. Nov. 1, 2005.

§74-2222. Sale of surplus real estate within Cedar Creek area of Hochatown State Park.

A. The Commission may sell real estate owned by the State of Oklahoma or the Department that is surplus to its use and under the jurisdiction of the Commission located within McCurtain County and situated within the Cedar Creek area of Hochatown State Park.

B. The Commission and Department shall not be subject to the provisions of Section 129.4 of Title 74 of the Oklahoma Statutes for the sale. All monies received from the sale of the property, except those monies necessary to pay the expenses incurred pursuant to the sale, shall be deposited in the Oklahoma Tourism and Recreation Department Revolving Fund 215 ("215 Fund"). Revenue derived from such real estate sale deposited to the fund shall be utilized for the benefit of Hochatown State Park or Beavers Bend State Park. Such real estate sale shall not be subject to the provisions of Section 456.7 of Title 74 of the Oklahoma Statutes.

Added by Laws 2005, c. 363, § 23, eff. Nov. 1, 2005.

§74-2223. Sale of property within Texoma State Park - Replacement of campground land.

A. The Commission may sell real estate and personal property owned or acquired by the State of Oklahoma or the Department, now or in the future, and under the jurisdiction of the Commission located within Marshall County and situated within Texoma State Park.

B. The sale of real estate and personal property authorized pursuant to subsection A of this section shall be subject to all existing easements and reservations of record. The Commission or Department shall transfer any interests held including, but not limited to licenses, operating permits and leasehold interests to a subsequent purchaser.

C. The Commission and Department shall not be subject to the provisions of Section 129.4 of Title 74 of the Oklahoma Statutes for such sale. All monies received from the sale of these properties, except those monies necessary to pay the expenses incurred pursuant to the sale, shall be deposited in the Oklahoma Tourism and Recreation Department Revolving Fund 215 ("215 Fund"). Revenue derived from such real estate and personal property sale deposited to the fund shall be utilized for the benefit of the state park system. Such real estate and personal property sale shall not be subject to the provisions of Section 456.7 of Title 74 of the Oklahoma Statutes.

D. For every developed acre of land containing recreational vehicle campgrounds and other campgrounds that is sold pursuant to this section, an equivalent amount of replacement land shall be selected by the Oklahoma Tourism and Recreation Department in a suitable area at Lake Texoma or in the vicinity, and developed to provide comparable outdoor public recreation facilities for operation as part of the Oklahoma state park system.  
Added by Laws 2005, c. 363, § 24, eff. Nov. 1, 2005.

§74-2224. Transfer of property to cities, counties or agencies.

The Commission may transfer to any city, county, or other agency of government, which is a willing recipient, its interest in real and personal property owned by the State of Oklahoma or the Department and operated and maintained under the jurisdiction of the Commission. Such real estate transfers shall not be subject to Section 456.7 or 129.4 of Title 74 of the Oklahoma Statutes or any provision of state law relative to disposition of real estate. Such real estate transfers shall be subject to the following provisions:

1. The city, county or other agency recipient shall agree to accept the interest transferred by the state, accept responsibility for the property, and use the real estate for public recreation purposes in accordance with the Land and Water Conservation Fund Act of 1965, Public Law 88-578, 78 U.S.C., Section 897;

2. The city, county or other agency recipient shall not dispose of the property unless substitute property is provided that is equivalent in value and usefulness;

3. The Commission shall transfer the property to the recipient by quit claim deed or other instrument as may be appropriate;

4. The consideration for the property transfer shall be the agreement of the recipient to continue public recreation use of the property and to manage the property without an operating subsidy from the Department or Commission;

5. The real estate transfer shall be subject to all existing easements and reservations of record; and

6. The Commission shall provide written notice to the President Pro Tempore of the Senate and the Speaker of the House of

Representatives detailing any such proposed transfer agreement to be entered into pursuant to this section no later than thirty (30) days prior to the first day of the legislative session. The Commission shall approve such proposed transfer during the legislative session to be effective at the beginning of the next fiscal year, contingent upon the approval of the proposed transfer by the Legislature. Added by Laws 2005, c. 363, § 25, eff. Nov. 1, 2005.

§74-2225. Not-for-profit foundations - Support of state parks.

A. The Oklahoma Tourism and Recreation Commission is encouraged to explore the potential benefits of not-for-profit foundations for support of state parks. Such support from a not-for-profit foundation shall not substitute for the obligation of the state to support the natural resources infrastructure of the state, but shall serve only as a supplement to state funding and as a means to further assist the Oklahoma Tourism and Recreation Department in preserving the natural resources and historical, educational, and cultural facilities of significance in the state.

B. There is hereby authorized the establishment of a not-for-profit state park foundation for the purpose of encouraging contributions by private individuals, companies, foundations, corporations, and others in the private and public sectors. Contributions shall be utilized for the support, preservation, and development of state park properties. This support, preservation, and development shall include, but is not limited to, preservation of historic facilities, development of educational and interpretive programs, materials, and other means of support.

C. As used in this section, a "state park foundation" means any company, trust, corporation, or association:

1. That solicits money or property in the name of any state park under the jurisdiction of the Commission; and
2. Which is exempt from federal income taxes.

D. The Commission may refuse to accept any grant, award, or donation of real or personal property offered by or through a state park foundation.

E. No employee of the Department shall be a voting member of a state park foundation board. Members of the Commission may serve on the board of a state park foundation, but shall not constitute a majority of the members of the board of the foundation. No member of the Commission serving on the board or an employee of the Department serving as an ex officio member of the board shall be compensated by the foundation for service as a member of the foundation board.

F. A state park foundation created pursuant to this section shall not be an entity of state government. No state funds shall be deposited in any account owned or controlled by a state park foundation.



Added by Laws 2005, c. 363, § 26, eff. Nov. 1, 2005.

§74-2226. Roads and parking areas.

The Oklahoma Transportation Commission shall construct, maintain and repair those roads and parking areas in state parks as specified by the Commission.

Added by Laws 2005, c. 363, § 27, eff. Nov. 1, 2005.

§74-2227. State parks as state game refuges.

All state parks are hereby declared to be a state game refuge and the Oklahoma Wildlife Conservation Commission shall stock all state parks with game and fish in the same manner as other state game refuges.

Added by Laws 2005, c. 363, § 28, eff. Nov. 1, 2005.

§74-2228. Hunting in designated state parks.

The Oklahoma Wildlife Conservation Commission and the Oklahoma Tourism and Recreation Commission may authorize, by written agreement or agreements between the Commissions, hunting in designated state parks or designated portions of state parks under the administrative control of the Oklahoma Tourism and Recreation Commission, excluding Lake Murray State Park. The agreement or agreements shall be made with the advice of the Attorney General's office and shall contain the duration, terms and conditions of the hunting authorization, a list of species to be hunted and permitted firearms, a map designating the specific land areas to be open to hunting and shall provide for the administration of the designated area or areas by the Oklahoma Wildlife Conservation Commission for so long as hunting is authorized under the provisions of the agreement or agreements. All areas to be open to hunting shall be clearly marked by signs to designate the open and closed areas.

Added by Laws 2005, c. 363, § 29, eff. Nov. 1, 2005.

§74-2229. Turner Falls State Park.

The Commission is authorized to negotiate with the duly constituted authorities of the municipal corporation of Davis, in Murray County, to purchase from the municipal corporation the property now owned by it and known as Turner Falls, and other contiguous properties in Murray County, for a state park, provided that said municipal authorities shall, by resolution, declare said property no longer suitable for municipal park purposes and beyond the fiscal means of the corporation properly to maintain as such. In the event of said purchase, the property shall be known as Turner Falls State Park.

Added by Laws 2005, c. 363, § 30, eff. Nov. 1, 2005.

§74-2230. Travel Promotion Division.

A. The Travel Promotion Division shall:

1. Encourage the orderly growth and development of tourism to and within the state by preparing and maintaining a comprehensive five-year travel development master plan and supporting marketing plan jointly with the private sector;

2. Create and convey an accurate, responsible, and elevated image of the state and its natural, cultural, historical, and recreational attractions and events;

3. Organize, coordinate, and conduct state, regional, national, and international marketing programs to increase the number of domestic and international travelers to Oklahoma;

4. Create, develop, produce, distribute, implement, and evaluate the effectiveness of public information programs, including publicity, brochures, public relations activities, film and slide production, still and audio visual photography, digital and electronic media, public service programs, advertising, and other informational aids for the promotion of tourism to the general public and the media;

5. Coordinate, advise and provide technical assistance to cities, counties, and regional tourism organizations in the state in the planning, development, and execution of tourism programs;

6. Cooperate and participate with neighboring states and the federal government to promote travel from domestic and international markets;

7. Develop and partner with other entities of government and private entities to obtain timely research data to measure traveler volume and economic impact, determine traveler profiles, evaluate, and analyze market and advertising effectiveness;

8. Plan, coordinate, and conduct statewide conferences, seminars, and workshops to inform and educate representatives from the public and private sector in the state about programs and travel trends which affect the tourism industry;

9. Provide organization and coordination assistance to public and private tourism promotion organizations for participation in cooperative advertising and promotion opportunities with the Department, including travel trade marketplaces, consumer sport, travel, and recreation shows within and outside the state;

10. Administer matching grant programs to multicounty organizations which promote travel and tourism to their areas of the state that are consistent and coordinated with the statewide travel marketing plan; and

11. Assist other state agencies with special tourism promotion projects, development of professional training opportunities and other projects which provide services to travelers.

B. The Division may facilitate travel to and within the state by encouraging development of a tourism industry infrastructure

which provides investment incentives to tourism businesses and tourism product development.

C. The Division may contract with professionally qualified companies or individuals for services to assist in the development and production of advertising, promotion, publicity, and public relations programs, primary and secondary research data collection including analysis of state travel marketing programs and economic impact information.

D. The Division may plan, construct, lease, operate, and maintain state-of-the-art tourism information centers and a central fulfillment warehouse. The centers shall be utilized for the purpose of providing services, selling merchandise, and distributing information to travelers on the tourism facilities and opportunities in the state.

E. The Division may, upon approval of the Commission, lease for a reasonable rate, retail and advertising space in state-operated tourism information centers. A performance bond, certificate of deposit, letter of credit, or cash equivalent, may be required by the Commission on any such lease.

F. Photographs, film recordings, video recordings, digital records and like recordings or records produced by or for the Division shall be available for public inspection during Division business hours; however, the Division shall not be required to provide copies or allow copying of the materials.

Added by Laws 2005, c. 363, § 31, eff. Nov. 1, 2005. Amended by Laws 2006, c. 90, § 2, emerg. eff. April 24, 2006; Laws 2010, c. 249, § 4, eff. July 1, 2010.

§74-2230.1. Henry J. Heflin Pavilion.

The pavilion located at the Victor Camping Area at Lake Wister shall be named the "Henry J. Heflin Pavilion".

Added by Laws 2013, c. 31, § 1, eff. July 1, 2013.

§74-2231. Confidential lists and information.

The Department may keep confidential:

1. Prospect lists, booking lists, subscriber lists, permission marketing lists, or personal information provided to the Department; and

2. Business plans, feasibility studies, financing proposals, marketing plans, financial statements, or trade secrets submitted by a person or entity seeking economic advice from the Department and any information compiled by the Department in response to the submissions.

Added by Laws 2005, c. 363, § 32, eff. Nov. 1, 2005. Amended by Laws 2007, c. 106, § 1, eff. July 1, 2007.

§74-2232. Annual statewide tourism and recreation industry conference.

The Commission, through the Department, may sponsor, promote and implement an annual statewide tourism and recreation industry conference to promote the tourism and recreation industry. The Department is authorized to partner with private entities for the administration and execution of the conference. The Department is hereby authorized to charge registration and exhibit space fees necessary to cover the costs of the conference and shall deposit the fees plus any other conference proceeds, including donated funds, into an agency special account to be created by the Special Agency Account Board. Expenditure of monies from the agency special account shall be for purposes incidental to the tourism and recreation industry conference, and be approved by the Commission. Added by Laws 2005, c. 363, § 33, eff. Nov. 1, 2005.

§74-2233. Preparation and distribution of publicity, advertising and informational materials.

All state agencies and state-owned information centers may:

1. Distribute publicity, advertising and informational materials about state-owned, local government-owned, tribally owned, or privately owned museums, buildings, sites, attractions and points of interest within the State of Oklahoma, whether agencies be industrial, commercial, governmental, educational, cultural, recreational, agricultural or business in nature; and

2. Assist public and private agencies in the preparation of informational and publicity programs designed to inform and attract business, industry and tourism to the state.

Added by Laws 2005, c. 363, § 34, eff. Nov. 1, 2005.

§74-2234. Administration of matching funds for allowable expenses of multicounty organizations.

A. The Department, with the approval of the Commission, shall develop rules to administer any of the matching funds derived from the Department for the allowable expenditures of multicounty organizations. The rules shall be developed in accordance with this section and shall be adopted by the Commission. As used in the Oklahoma Tourism, Parks and Recreation Enhancement Act:

1. "Multicounty organization" means a nonprofit organization which satisfies the following requirements:

- a. its primary purpose is to promote the tourism attributes of a multiple-county region which is identified as a tourism "country" or "lake" area, or any other organization participating in the matching funds program on July 1, 2001,
- b. it is governed by a board of directors elected by the membership of the organization,

- c. it is governed by a board of directors which equitably represents the counties within the multiple-county region,
- d. it has an administrator of operations position who is not an elected director,
- e. it utilizes income from private sector sources as the basis for funding its administrative and promotion expenses, and
- f. it has provided to the Department an independent and certified financial audit for the preceding fiscal year;

2. "Administrative expenditure" means expenditures for the administration of fund raising and tourism promotion. Administrative expenditures shall include salaries, payroll taxes, insurance, personal services contracts, travel expenses not to exceed the amounts provided in the State Travel Reimbursement Act, rent, lease or purchase of facilities, office supplies, telephone and electronic communications and multicounty organization audit costs;

3. "Allowable expenditures" means expenditures by a multicounty organization submitted to the Department for matching funds in accordance with the provisions of this section and the rules promulgated by the Commission;

4. "Discretionary expenditure" means those expenditures by multicounty organizations for which matching funds are not requested. Discretionary expenditures are not subject to the limiting provisions of this section and the rules promulgated by the Commission;

5. "Independent and certified audit" means a financial audit performed in accordance with Generally Accepted Government Auditing Standards, issued by the Comptroller General of the United States. The scope of the audit shall, at a minimum, consist of a statement of revenue and expenditures and shall include the specific requirements identified in this section and the rules promulgated by the Commission; and

6. "Tourism promotion expenditure" means an expenditure for the preparation, printing, publication and distribution of media advertising in brochures, news and publicity materials, travel posters, mailing pieces, newspapers, magazines, television, radio, billboards, advertising and promotional specialties, exhibit space and displays at trade shows and conventions and the expenses for operating such exhibits, including travel expenses, not to exceed amounts provided for in the State Travel Reimbursement Act, the cost of a travel writer, travel agent, tour broker and tour operator familiarization tours into the State of Oklahoma, and registration fees for an annual tourism and recreation industry conference with the purpose of attracting tourists or generating travel or tourism

activity within the state or multicounty organization areas. The amount expended within the multicounty organization area for tourism promotion shall not exceed fifty percent (50%) of the total of allowable expenditures and allocated matching funds.

B. It is the intent of the Legislature to encourage the promotion of tourism by multicounty organizations in cooperation with the statewide program of the Department. Allowable administrative expenditures by multicounty organizations shall not exceed forty percent (40%) of the lesser of either the total amount allocated, including reallocations, to the organization from appropriations made by the Legislature or the total of the matched expenditures. The limitation on administrative expenditures applies only to those expenditures submitted for matching with state-appropriated funds.

C. With the exception of those organizations identified as "country" or "lake" associations participating in the matching funds program on July 1, 2001, not more than one organization representing a recognized "country" or "lake" area shall be eligible to receive matching funds.

D. Matching funds for the allowable expenditures shall be based upon actual expenditures by the multicounty organization less any discount, refund, or rebate to the multicounty organization. Multicounty organizations shall use a State of Oklahoma Notarized Claim Form with all applicable statements and affidavits to request matching funds for the allowable expenditures.

E. In order for a multicounty organization to receive matching funds for expenditures incurred to publish and distribute a promotional periodical emphasizing the attractions, landmarks, activities, geographical features and other characteristics of counties within the multicounty organization's area of responsibility, the multicounty organization shall be subject to the following requirements:

1. Maintain an account with a financial institution subject to the regulatory control of a state or federal financial regulatory entity for the deposit and withdrawal of all funds collected by or on behalf of the multicounty organization;

2. Prepare an annual Statement of Income and Expense showing all deposits to the account maintained with the financial institution and all withdrawals from the account with the financial institution for the period covered by the annual income and expense statement;

3. May enter into a contract with a person or legally organized business entity for the solicitation of advertising revenue in a promotional periodical publication and for the publication and distribution of the periodical emphasizing the attributes of sites, scenes, businesses and attractions located within the area for which the multicounty organization is responsible if:

- a. the person or legally organized business entity provides a detailed written disclosure to the multicounty organization of its actual costs incurred in performance of the contract on a periodic basis during the period prescribed in the contract for performance which disclosure shall be at least quarterly,
- b. the multicounty organization ensures that the actual cost of publication for the promotional periodical is printed in at least 10-point type somewhere in the body of the publication,
- c. the multicounty organization ensures that the person or legally organized business entity performing services on behalf of the multicounty organization identifies to the multicounty organization each purchaser of advertising in the multicounty organization promotional periodical, the amount of money paid for advertising in the promotional periodical, and the size or other relevant characteristics of the material purchased for publication in the promotional periodical,
- d. the person or legally organized business entity soliciting advertising revenue may not advance or deposit their own funds as a means of securing matching state funds, and such acts shall be deemed as fraud, subject to prosecution, and
- e. the multicounty organization and the person or legally organized business entity acting on behalf of the multicounty organization both execute a statement, upon a form to be prescribed by the State Auditor and Inspector, under oath, that any funds being requested from the Department for matching of an allowable expenditure as authorized by this section represent an amount of money equal to an amount of money that has previously been deposited into the account maintained by the multicounty organization as of the date the request for matching funds is made. The statement shall include the identity of each purchaser of advertising in the multicounty organization promotional periodical and the amount of money paid for advertising in the periodical together with the other information required by subparagraph c of this paragraph. The statement shall also include a verification that the funds collected by or on behalf of the multicounty organization were expended for:
  - (1) a legitimate operational expense of the multicounty organization,

- (2) the purpose of obtaining matching funds as authorized by this section, or
- (3) a promotional event sponsored, conducted or organized by the multicounty organization for attracting attention to a specific location or occasion in furtherance of a purpose of the multicounty organization.

F. 1. Each multicounty organization shall prepare and submit appropriate plans, including a budget work program, for the ensuing fiscal year to the Commission. Expenditures for obligations incurred before the Commission approves the multicounty organizations' plans and budget work programs and any changes thereto, and expenditures not in accordance with the multicounty organizations' plans and budget work programs, shall not be allowable expenditures. The approval by the Commission of a multicounty organization budget work program constitutes a firm commitment of the multicounty organization's appropriated funds, subject to any fiscal year limitation, except that the Commission may reallocate unobligated funds as provided by law.

2. Any funds collected on behalf of the multicounty organization for advertisements in the promotional periodical shall be paid to the multicounty organization within twenty (20) working days after collection by any entity acting on behalf of the multicounty organization for solicitation of advertising revenue. The multicounty organization shall deposit any funds paid to it within five (5) working days of receipt.

G. Each multicounty organization shall be required to submit an annual independent and certified audit of the multicounty organization. The audits shall encompass all funds available to the multicounty organization. The audit report shall include a statement of Income and Expense and, at a minimum, encompass all monies received by the multicounty organization and all matched expenditures reimbursed to the multicounty organization. Revenue reported shall include all advertising revenue received and define all other individual sources of revenue. The names and addresses of and amounts received from each advertiser shall be included as an unaudited supplemental schedule to the audit report.

H. The person or entity engaged to perform the audit required by subsection G of this section shall:

1. Not be the same person or entity that performs bookkeeping, controllership or management functions, or other accounting services for the multicounty organization;

2. Be registered with the Oklahoma Accountancy Board and possess a license to practice; and

3. File a copy of the audit performed on behalf of a multicounty organization with the State Auditor and Inspector.



I. Failure to submit an audit report shall be cause for withholding of matching funds to a multicounty organization. Audit reports showing matching by any amount in excess of the allowable expenditures, matching for unallowable expenditures, or noncompliance with statutes, procedures prescribed herein, or in rules promulgated by the Commission shall be cause for withholding of matching funds until such time as restitution is made to the Department.

J. The State Auditor and Inspector shall conduct an office examination of the audits filed pursuant to paragraph 3 of subsection H of this section on an annual basis. The examination shall include analysis of the quality of the audit performed and shall include written recommendations for modifications in future audits conducted on behalf of a multicounty organization. Added by Laws 2005, c. 363, § 35, eff. Nov. 1, 2005. Amended by Laws 2006, c. 90, § 3, emerg. eff. April 24, 2006.

§74-2235. Deduction of obligations to state from multicounty organization matching funds.

Prior to the expenditure of matching funds to any multicounty organization pursuant to the Oklahoma Tourism, Parks and Recreation Enhancement Act, the Department shall deduct from the matching funds the amount of any and all obligations due and owing to the state by the multicounty organization.

Added by Laws 2005, c. 363, § 36, eff. Nov. 1, 2005.

§74-2236. Oklahoma Film and Music Office.

A. There is hereby created within the Department, the Oklahoma Film and Music Office. The Office shall have the primary responsibility in state government for promoting the state as a location for producing motion pictures, television programs, videos and recording or performing music. The Office shall assist the motion picture, television and video film and music industries by providing production contacts in the state, suggesting possible filming, performing, publishing, and recording locations, and other activities that may be required to promote the state as a filming and music center. The Office shall develop resource guides, a database, and a web site. The Office shall develop listings of music festivals and music events being held in Oklahoma.

B. The Oklahoma Film and Music Office shall cooperate with other state and local offices as required to promote the film and music industries in this state.

C. The Oklahoma Film and Music Office shall establish a film production registration program. Under the program, film production companies shall be required to register with the Office prior to starting production on a film located in the state. The Office shall not require production companies to pay a fee for

registration. The purpose of the program shall be to allow the Office to accurately track the number of filming productions occurring in the state and the economic impact of those productions.

D. The Oklahoma Film and Music Office shall submit an annual report to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate prior to July 1 of each year regarding the activities of the Office. The report shall state the number of filming productions that the Office has helped bring to the state and the economic impact of those productions, and provide similar information concerning the efforts of the Office to promote the music industry in this state.

Added by Laws 2005, c. 363, § 37, eff. Nov. 1, 2005. Amended by Laws 2006, c. 29, § 3, eff. July 1, 2006; Laws 2013, c. 227, § 33, eff. Nov. 1, 2013.

§74-2237. Creation of division - Sale of advertising - Public inspection of articles and photographs.

A. There is hereby created within the Oklahoma Tourism and Recreation Department, the "Oklahoma Today Magazine" Division. The Division shall be responsible for the publication of the "Oklahoma Today Magazine" a minimum of six times per year.

B. "Oklahoma Today Magazine" is hereby authorized to sell advertising. All advertising shall be approved by the appropriate division director prior to acceptance for publication.

C. In addition to a regular salary, any employee of the "Oklahoma Today Magazine" who obtains advertising, bulk subscription, newsstand, or ancillary product sales, for "Oklahoma Today Magazine", at the discretion of the Executive Director, may be awarded additional compensation in the form of a commission on net sales by the employee. The commission shall not exceed twenty-five percent (25%), with the commission percentage to be determined by the Executive Director. In no case shall the additional compensation, when combined with the salary of the employee, exceed ninety-five percent (95%) of the salary of the Executive Director. Commission payments shall be paid monthly, based on collected revenues from sales by the employee.

D. The sale of advertising and negotiation of rates for the advertising shall not be subject to The Oklahoma Central Purchasing Act of 1974 or the Administrative Procedures Act.

E. "Oklahoma Today Magazine" articles, and photographs produced by or for "Oklahoma Today Magazine", shall be available for public inspection during Department business hours. The Department shall not be required to provide copies or allow copying of the magazine, articles, or photographs other than as the Department provides copies of "Oklahoma Today Magazine" for newsstand and subscription sales.

Added by Laws 2005, c. 363, § 38, eff. Nov. 1, 2005. Amended by Laws 2006, c. 90, § 4, emerg. eff. April 24, 2006; Laws 2008, c. 112, § 2, eff. July 1, 2008.

§74-2238. Oklahoma Today Magazine Foundation.

A. The Oklahoma Today Magazine Foundation is hereby created to encourage contributions by private individuals, companies, foundations, corporations and others in the private and public sectors by cooperating with a public, nonprofit foundation. The foundation shall operate for the exclusive purpose of receiving, investing and expending privately donated nonstate funds for educational, cultural, historical and eleemosynary activities and functions which relate to the support, promotion, development and growth of literacy and awareness of Oklahoma history and culture through "Oklahoma Today Magazine" and its ancillary products and activities.

B. The Foundation shall make all its financial records and documents, including work papers, except for the names of donors, available to auditors who are performing audits of the Department. Added by Laws 2005, c. 363, § 39, eff. Nov. 1, 2005.

§74-2239. Exemptions from Central Purchasing Act.

Merchandise for resale purchased for and sold through "Oklahoma Today Magazine" or in Department retail outlets, such as golf course pro shops, marinas, restaurants, and other support facilities which are necessary for the efficient and economical operation of Department-operated facilities and programs and production of merchandise for resale, are exempt from The Oklahoma Central Purchasing Act. Payment for services of writers, artists, photographers or others such as designers, prepress houses, and shippers of artistic and resale merchandise involved in the artistic production of "Oklahoma Today Magazine" and other products produced by the magazine shall also be exempt from The Oklahoma Central Purchasing Act. Production and mailing of revenue-generating materials such as monthly renewals and direct mail efforts which are necessary to the ongoing operation of "Oklahoma Today Magazine" shall also be exempt from The Oklahoma Central Purchasing Act. Added by Laws 2005, c. 363, § 40, eff. Nov. 1, 2005. Amended by Laws 2008, c. 112, § 3, eff. July 1, 2008.

§74-2240. Cost and revenue reporting system - Department audit - Prohibited acts and penalties.

A. The Oklahoma Tourism and Recreation Department shall establish a cost and revenue reporting system for all budget activities and subactivities of the Department.

B. 1. The State Auditor and Inspector or a designated agent of the State Auditor and Inspector shall perform an independent audit

of the Department annually. The audit shall be conducted in accordance with the Generally Accepted Government Auditing Standards as issued by the Comptroller General of the United States. The cost of the audit shall be borne by the Department.

2. Matters to be considered in determining the types of activities to be audited and the scope of the audit shall be based on an analysis of:

- a. the date and results of prior audits, reviews, and/or independent studies,
- b. financial exposure,
- c. potential loss and risk,
- d. requests by the Commission and/or executive management of the Department,
- e. major changes in operations, programs, systems, and controls, and
- f. opportunities to achieve operating benefits.

The audit may be conducted in accordance with Section 213.2 of Title 74 of the Oklahoma Statutes.

3. The internal auditors of the Department shall conduct internal audits of Department facilities and programs pursuant to the provisions of Section 228 of Title 74 of the Oklahoma Statutes.

4. The audits required by this section shall be completed on or before December 31 of each year and shall, upon distribution, become public record.

C. Any person who intentionally alters or destroys records needed for the performance of an audit as provided for in this section or intentionally causes or directs a subordinate to do such acts, shall be subject to immediate removal from office or employment.

D. The Commission shall provide notice to Department employees affected by this section of the prohibited acts and the penalties pursuant to the provisions of this section.

Added by Laws 2005, c. 363, § 41, eff. Nov. 1, 2005.

§74-2241. Seasonal employees.

A. For the purposes of the Oklahoma Tourism, Parks and Recreation Enhancement Act, seasonal employees shall be unclassified employees employed by the Oklahoma Tourism and Recreation Department who work less than one thousand six hundred (1,600) hours in any twelve-month period.

B. The Department may employ seasonal employees throughout the calendar year. Project labor employed by the Department for a period of time necessary to complete a project shall be in the unclassified service of the state as provided by the Oklahoma Personnel Act of the Oklahoma Statutes. Such employees shall not be entitled to paid leave, paid holidays, retirement, health, dental or

life insurance, and shall be exempt from any laws, rules or practices providing for such benefits.

C. The Department, in its annual budget request, shall include a summary of the use of project labor, which shall include the number of workers employed under the provisions of this section and the total wages paid to these employees.

Added by Laws 2005, c. 363, § 42, eff. Nov. 1, 2005. Amended by Laws 2006, c. 189, § 2, eff. July 1, 2006; Laws 2007, c. 208, § 4, eff. July 1, 2007.

§74-2242. Positions in unclassified service.

The following offices and positions in the Oklahoma Tourism and Recreation Department shall be in the unclassified service and shall not be subject to the Merit System of Personnel Administration:

1. The Executive Director, the Deputy Director, directors of the divisions of the Department and administrative assistant of each, and not more than four positions involved in the executive management of the Department;

2. All positions in the Traveler Response Information Program;

3. All professional or managerial positions whose principal function is one of the following:

- a. marketing and promotion of travel and tourism to and within the state,
- b. promoting the state as a viable location for producing motion pictures and television programs and for recording music,
- c. developing, producing, and on-air broadcasting of "Discover Oklahoma", the weekly promotional television program,
- d. not more than fifteen positions performing financial management functions for the Department,
- e. not more than five positions performing human resources functions for the Department, and
- f. not more than two positions performing information services functions for the Department;

4. Any position associated with the development and production of "Oklahoma Today" magazine; and

5. Any position in the Division of State Parks utilized in the operation and administration of state resorts, cabins, lodges, and golf courses.

Added by Laws 2005, c. 363, § 43, eff. Nov. 1, 2005. Amended by Laws 2006, c. 90, § 5, emerg. eff. April 24, 2006; Laws 2008, c. 112, § 4, eff. July 1, 2008.

§74-2242.1. Employees of Murray State Park or Lake Murray Lodge - Employment with successor operator - Severance package.

Each employee at Murray State Park or Lake Murray Lodge who has a minimum of two (2) years' continuous service with the Oklahoma Tourism and Recreation Department at Murray State Park or Lake Murray Lodge on the date of closure of the facility shall have the opportunity to obtain employment with any successor operator of a resort or park facility located on the lands held by the Oklahoma Tourism and Recreation Department, provided the employee is qualified and eligible for any such employment. Further, the Oklahoma Tourism and Recreation Department is hereby directed to develop a severance package for all employees of the Department affected by the closure of any state lodge or park facility owned by the Department.

Added by Laws 2006, c. 67, § 1, emerg. eff. April 20, 2006.

§74-2243. Limitation on fund expenditures.

Expenditure of funds for all purchases in excess of Fifty Thousand Dollars (\$50,000.00) shall not be contracted except upon approval of a majority of the Oklahoma Tourism and Recreation Commission. The amount exempted by paragraph 1 of subsection A of Section 85.7 of this title shall apply to each separate department facility as identified by the annual budget submitted to the Office of Management and Enterprise Services pursuant to Section 34.42 of Title 62 of the Oklahoma Statutes.

Added by Laws 2005, c. 363, § 44, eff. Nov. 1, 2005. Amended by Laws 2010, c. 249, § 3, eff. July 1, 2010; Laws 2012, c. 304, § 991.

§74-2244. Purchases exempt from statewide contract requirement.

A. The Department shall be exempt from any provision of Sections 85.1 through 85.45k of this title requiring purchases to be made pursuant to a statewide contract for individual purchases of less than Two Thousand Five Hundred Dollars (\$2,500.00) when the following conditions are met:

1. The Department documents a cost savings to the state resulting from the purchase of the item(s) from a vendor not on the statewide contract;

2. The exempted purchase is made in the county where the purchasing facility, as identified in subsection B of this section, is located or in an adjacent county; and

3. The exempted purchase is approved by the Executive Director or a designee prior to the purchase.

B. The Commission shall promulgate rules, procedures, and forms necessary to adequately document the dollar savings resulting from the application of this section.

C. The exemption provided for in this section shall apply to individual department entities identified by the annual budget submitted to the Office of Management and Enterprise Services.

D. The Department shall not be required to purchase furniture, fixtures and equipment, and soft goods associated with the decor of the state parks, lodges, golf, and tourism information center facilities from Oklahoma prisons or reformatories.

E. Nothing in this section shall be construed to authorize bid splitting as prohibited by The Oklahoma Central Purchasing Act. Added by Laws 2005, c. 363, § 45, eff. Nov. 1, 2005. Amended by Laws 2012, c. 304, § 992.

§74-2245. Uncollectible accounts receivable.

A. The Department may place uncollectible accounts receivable in a special account for accounting and budgetary purposes. An "uncollectible account receivable" shall have been uncollectible or due for at least one (1) year and possess at least one of the following characteristics:

1. The debtor has been discharged from bankruptcy or is insolvent;
2. The debtor cannot be found or is deceased; or
3. A collection agency has indicated its inability to collect the debt.

B. If uncollectible accounts receivable are placed in a special account, the following procedures shall be observed:

1. The proposed uncollectible accounts shall be forwarded to the Department by the appropriate divisions. The Department shall then submit the accounts to the Commission and to the State Auditor and Inspector once each fiscal year for placement into the special uncollectible account; and

2. The Commission and the State Auditor and Inspector shall certify those accounts which meet the requirements of this section as "uncollectible accounts receivable" and shall place those accounts in the special account created by this section.

C. The special uncollectible accounts receivable account shall not be used for budgetary purposes in determining the assets of the Department or any of its divisions. The Department shall take all reasonable steps to collect all accounts, including those placed in the special account by operation of this section.

Added by Laws 2005, c. 363, § 46, eff. Nov. 1, 2005.

§74-2246. Liability insurance.

The Department may purchase, with public funds, insurance to protect against civil liability on the part of the Department, officers, employees and administrators of the Department. This section shall not be construed as waiving the governmental immunity of the state.

Added by Laws 2005, c. 363, § 47, eff. Nov. 1, 2005.

§74-2247. Lessee contract performance bond - Waiver.

The contract performance bond requirement for lessees of Department facilities, wherein the estimated obligation of the lessee for a one-year period is less than Five Thousand Dollars (\$5,000.00), is hereby waived.

Added by Laws 2005, c. 363, § 48, eff. Nov. 1, 2005.

§74-2248. Treasurer - Resolutions.

The State Treasurer of Oklahoma shall be ex officio Treasurer of the Commission for all purposes of the Oklahoma Tourism, Parks and Recreation Enhancement Act. All official action taken by the Commission shall be taken through the adoption of appropriate resolutions.

Added by Laws 2005, c. 363, § 49, eff. Nov. 1, 2005.

§74-2249. Disbursement of monies - Bond of officers, agents and employees.

The monies of the Commission, except monies appropriated by the Legislature, shall be disbursed only by checks, drafts, orders or other instruments signed by such persons as shall be authorized to sign the same by the bylaws or by appropriate resolution. The general manager, if any, and all other officers, agents and employees of the Commission who shall be charged with the collection, custody, or payment of any funds of the Commission shall give bond conditioned on the faithful performance of their duties and an accounting for all funds and properties of the Commission coming into their respective hands. Each bond, or if a blanket bond shall be prescribed, shall be in a form, amount, and with a surety approved by the Commission, and the premiums on the bonds shall be paid by the Commission and charged as an operating expense.

Added by Laws 2005, c. 363, § 50, eff. Nov. 1, 2005.

§74-2250. Contracts, documents and records - Public inspection.

The Commission shall keep complete and accurate accounts of all transactions and affairs of the Commission, conforming to approved methods of bookkeeping. Such accounts and the contracts, documents and records of the Commission shall be kept at its principal office and shall be open to public inspection at all reasonable times.

Added by Laws 2005, c. 363, § 51, eff. Nov. 1, 2005.

§74-2250.1. Repealed by Laws 2007, c.106, § 11, eff. July 1, 2007.

§74-2251. Oklahoma Tourism and Recreation Department Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Department to be designated the "Oklahoma Tourism and Recreation Department Revolving Fund". The fund shall consist of all monies received by the Department pursuant to the provisions of



this act, monies derived from the sale or conveyance of real property under the jurisdiction of the Commission, and interest attributable to investment of money in the fund. The revolving fund shall be a continuing fund not subject to fiscal year limitations and shall be under the administrative direction of the Department. Expenditures from the fund created by this section shall be for the administration, operation, and maintenance expenses of the Department, for purchase of real property, and shall be made pursuant to the laws of this state and the statutes relating to the Department. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2005, c. 363, § 52, eff. Nov. 1, 2005. Amended by Laws 2012, c. 304, § 993.

§74-2252. Oklahoma Today Magazine Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Department to be designated the "Oklahoma Today Magazine Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department from donations, gifts and bequests by individuals, corporations, organizations, associations and foundations specifying that such monies be expended on "Oklahoma Today Magazine" and its ancillary products and activities. No state monies shall be deposited in this fund. From monies deposited in this fund, the Executive Director may reimburse the publisher of "Oklahoma Today Magazine" and its staff for all actual and necessary expenses for travel, subsistence and entertainment in order to gain advertising and promotion for "Oklahoma Today Magazine", pursuant to Section 500.18 of this title. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department for the purpose of supporting and promoting "Oklahoma Today Magazine" and its ancillary products and activities, and for soliciting contributions for other expenses for "Oklahoma Today Magazine", so that the magazine can become self-supporting and not dependent on state-appropriated funds in the future. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2005, c. 363, § 53, eff. Nov. 1, 2005. Amended by Laws 2012, c. 304, § 994.

§74-2253. Tourism and Recreation Environmental Loan Proceeds Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Tourism and Recreation Department to be designated the "Tourism and Recreation Environmental Loan Proceeds Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received from the State Revolving Fund loan programs as administered by the Oklahoma Water Resources Board designated specifically for the purposes of reimbursements, construction, repair, remediation, or improvement of eligible facilities under the jurisdiction of the Oklahoma Tourism and Recreation Commission. The fund shall be under the administrative direction of the Oklahoma Tourism and Recreation Department. All monies accruing to the credit of the fund may be budgeted and expended by the Oklahoma Tourism and Recreation Department for the purpose of constructing, repairing, remediating, improving loan eligible projects, reimbursing the Department for eligible planning and design expenses, or paying for associated loan financing requirements. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment. Added by Laws 2005, c. 363, § 54, eff. Nov. 1, 2005. Amended by Laws 2012, c. 304, § 995.

§74-2254. State Park System Improvement Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Tourism and Recreation Department to be designated the "State Park System Improvement Revolving Fund". The fund shall be a continuing fund not subject to fiscal year limitations. The fund shall consist of all monies that are received by the Department, from all entrance or day-use charges for the state park system, including charges for an annual pass for visitors to the state parks. All monies accruing to the fund are hereby appropriated and may be expended by the Department for the exclusive purpose of capital improvements at the state park where the charges were collected. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment. Added by Laws 2005, c. 363, § 55, eff. Nov. 1, 2005. Amended by Laws 2012, c. 304, § 996.

§74-2254.1. Oklahoma Tourism and Recreation Department Capital Expenditure Revolving Fund

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Tourism and Recreation Department to be designated the "Oklahoma Tourism and Recreation Department Capital Expenditure Revolving Fund".

B. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Tourism and Recreation Department from the apportionment of gross production tax revenues as prescribed by Section 1004 of Title 68 of the Oklahoma Statutes.

C. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Tourism and Recreation Department for the purpose of one-time capital expenditures for capital assets owned, managed or controlled by the Oklahoma Tourism and Recreation Department.

D. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

E. No monies in the fund shall be used for the payment of administrative expenses, salary or any other continuing obligation of the Oklahoma Tourism and Recreation Department.

Added by Laws 2006, 2nd Ex.Sess., c. 43, § 2, eff. July 1, 2006.  
Amended by Laws 2009, c. 305, § 2, eff. July 1, 2009; Laws 2012, c. 304, § 997; Laws 2014, c. 166, § 1, eff. Nov. 1, 2014; Laws 2016, c. 226, § 2.

#### §74-2254.2. Oklahoma Tourism and Recreation Department Reimbursement and Donation Fund.

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Tourism and Recreation Department to be designated the "Oklahoma Tourism and Recreation Department Reimbursement and Donation Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of donations, insurance reimbursements, Federal Emergency Management Agency (FEMA) payments and other reimbursement monies received by the Oklahoma Tourism and Recreation Department.

B. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Tourism and Recreation Department.

C. No monies from this revolving fund shall be transferred for any purpose to any other state agency. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.  
Added by Laws 2018, c. 216, § 1, eff. July 1, 2018.

#### §74-2255. Petty cash funds.

A. There is hereby created a petty cash fund in the revolving fund of each of the properties or activities with sales under the control of the Department. The petty cash funds shall be such amounts as are determined to be necessary by the Director of the

Office of Management and Enterprise Services and the Executive Director of the Department. Petty cash funds may be expended for the payment of emergency purchases, for postage due, for bank charges, for resale merchandise and firewood purchases under One Hundred Dollars (\$100.00), for refund of charges for returned merchandise, for refund of advance deposits, to reimburse lease concessions, for purchases charged to guests' statement of account, to reimburse employees for gratuities charged to guests' statement of accounts, to pay artisans the net proceeds resulting from the sale of consignment arts and crafts products, to purchase beverage and vending licenses, and to purchase low-point beer.

B. The petty cash funds may be reimbursed by the State Treasurer upon the filing of a claim with the proper receipts or from the agency clearing account if the petty cash disbursement was a refund of erroneous or excessive collections or credits. Petty cash funds may be reimbursed from the agency clearing account for shortages accruing to the account. Reimbursements are to be made from the revolving fund. The Director of the Office of Management and Enterprise Services shall prescribe all forms, systems and procedures for administering the petty cash funds of the various properties or activities with sales of the Department. Added by Laws 2005, c. 363, § 56, eff. Nov. 1, 2005. Amended by Laws 2012, c. 304, § 998.

§74-2256. Authority to issue negotiable bonds - Resolution - Interest rate - Covenants - Trust indentures - Monies deemed trust funds.

A. The Commission shall have the power and is authorized to issue negotiable bonds in anticipation of the collection of all or any part of its revenues, not to exceed Five Million Dollars (\$5,000,000.00), for the purpose of constructing, reconstructing, improving, bettering or extending any properties which it is authorized to maintain or operate hereunder. The Commission shall pledge all or any part of the revenues derived from the operation of the parks controlled and operated by the Commission to the payment of the interest and principal of such bonds.

B. The bonds authorized by this section shall be authorized by resolution of the Commission and may, as provided in such resolution:

1. Be issued in one or more series;
2. Bear such date or dates and may mature at such time not exceeding twenty-five (25) years from their respective dates;
3. Bear interest at a rate or rates not exceeding ten percent (10%) per annum; and
4. Contain such terms, covenants and conditions.

C. The bonds authorized by this section may be sold in a manner and upon terms as determined by the Commission. The interest cost

yield to maturity of any issue of bonds shall not exceed ten percent (10%) per annum, payable semiannually.

D. Any resolution authorizing the issuance of bonds under this act may contain covenants including, but not limited to:

1. The purpose or purposes to which the proceeds of the sale of bonds may be applied, and the deposit, use, and disposition thereof;

2. The use, deposit, securing of deposits, and disposition of the revenues of the Commission, including the creating and maintenance of reserves;

3. The issuance of additional bonds payable from revenues of the Commission;

4. The operation and maintenance of properties of the Commission;

5. The insurance to be carried thereon, and the use, deposit and disposition of insurance monies;

6. Books of account and the inspection and audit thereof and the accounting methods of the Commission;

7. The nonrendering of any free service by the Commission except for promotional activities as deemed in this act; and

8. The preservation of the properties of the Commission so long as any of the bonds remain outstanding, from any mortgage, sale, lease or other encumbrances not specifically permitted by the terms of the resolution.

E. At the discretion of the Commission, any bonds issued under the provisions of this act may be secured by a trust indenture by and between the Commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the state. Any trust indenture may pledge or assign the revenues from the operation of properties of the Commission, but shall not convey or mortgage any properties, except such revenues. Any trust indenture or any resolution providing for the issuance of such bonds may contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Commission in relation to:

1. The construction, improvement, maintenance, repair, operation and insurance of the improvements in connection with which such bonds shall have been authorized;

2. The custody, safeguarding and application of all monies; and

3. The employment of consulting engineers in connection with the construction or operation of such improvements.

F. It shall be lawful for any bank or trust company incorporated under the laws of the state, which may act as depository of the proceeds of bonds or of revenues, to furnish indemnifying bonds or to pledge securities as may be required by the Commission. Any trust indenture may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the

individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds and debentures of corporations. In addition to the foregoing, any trust indenture may contain other provisions as the Commission may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of any trust indenture may be treated as a part of the cost of operation of the improvements for which the bonds are authorized.

G. Monies received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues from the operations of the properties which have been identified for bond repayment purposes, shall be deemed to be trust funds, to be held and applied solely as provided in this act. The resolution authorizing the issuance of bonds of any issue, or the trust indenture securing such bonds, shall provide that any officer to whom, or any bank or trust company to which, the monies shall be paid, shall act as trustee of the monies and shall hold and apply the same for the purpose hereof, subject to such regulations as this act and such resolution or trust indenture may provide.  
Added by Laws 2005, c. 363, § 57, eff. Nov. 1, 2005.

§74-2257. Refund of outstanding series of revenue bonds.

The Commission shall have the power and is authorized to refund the outstanding series of the revenue bonds authorized by this act. The Commission shall pledge to the payment of the principal and interest of the refunded bonds all or any part of the revenues derived from the operation of the parks and lodges controlled and operated by the Commission. If not prohibited by the terms of the revenue bonds, interest earnings on construction funds may be utilized by the Commission as provided by law.  
Added by Laws 2005, c. 363, § 58, eff. Nov. 1, 2005.

§74-2258. Validity of bonds - Signatures.

Bonds bearing the signatures of Commission officers on the date of the signing thereof shall be valid and binding obligations, notwithstanding that before the delivery of the bonds, any or all the persons whose signatures appear thereon shall have ceased to be officers of the Commission. The validity of the bonds shall not be dependent upon nor affected by the validity or regularity of any proceedings relating to the construction, reconstruction, improvement, betterment or extension of the properties for which the bonds are issued. The resolution authorizing the bonds may provide that the bonds shall contain a recital that they are issued pursuant to this act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.  
Added by Laws 2005, c. 363, § 59, eff. Nov. 1, 2005.

§74-2259. Revenues for payment of bonds - Improvement bonds - Tourism information center bonds.

A. The Commission shall prescribe and collect reasonable rates, fees, tolls or charges for the services, facilities and commodities rendered by all property of the Commission, a portion of which, may be pledged to the payment of bonds issued pursuant to this act. The Commission shall revise the rates, fees, tolls or charges from time to time whenever necessary to ensure that the revenues to be derived therefrom shall be fully sufficient to pay principal of and interest on such bonds. The gross revenues derived by the Commission from the operation of any part or parts of the properties of the Commission, but no revenues derived by the Commission through legislative appropriation or from sources other than operation of the properties of the Commission, may be pledged to the payment of principal and interest. Notwithstanding any other provisions of law, the Commission may use money derived from annual legislative appropriations on a year-to-year basis, as authorized by the Legislature, to repay any obligations to the Oklahoma Water Resources Board pursuant to Sections 1085.51 and 1085.71 et seq. of Title 82 of the Oklahoma Statutes.

B. The Commission is hereby authorized to construct improvements in several parks and authorize the issuance of bonds for all such improvements, and to pledge for the payment of the bonds and the interest thereon, revenues derived by the Commission from the operation of any or all of the parks in which any consolidated bond issue has been authorized.

C. The Commission is further authorized to construct state-of-the-art tourism information centers on interstate highways including, but not limited to, entry points near the borders of the state and major metropolitan areas, and authorize the issuance of bonds for all construction projects, and to pledge for the payment of such bonds and the interest thereon, revenues derived by the Commission from the lease or operation of any or all of the tourism information centers for which any such consolidated bond issue has been authorized.

D. Any revenues which may be received by the Commission for the use of such buildings or improvements, in whole or in part, shall be regarded as all other revenues of the Commission and shall be subject to be pledged to the payment of bonds issued hereunder. Each bond shall recite in substance that such bond and the interest thereon is payable solely from the revenues pledged to the payment thereof, and that such bond does not constitute a debt of the Commission or of the state within the meaning of any constitutional or statutory limitation.

Added by Laws 2005, c. 363, § 60, eff. Nov. 1, 2005.

§74-2260. Default - Remedies - Jurisdiction of courts.

A. It may be provided in any resolution authorizing bonds under this act that, in the event of a default in the payment of principal or interest on the bonds or in the performance of any agreement or covenant contained in the resolution, and if such default shall have continued for a prescribed period, then the holders of a specified percentage of the outstanding bonds, or a trustee acting in their behalf, may for the equal and proportional benefit of the holders of all of the bonds and with or without possession thereof:

1. By mandamus or other suit, action or proceeding at law or in equity, enforce all rights of the holders of the bonds;

2. Bring suit upon the defaulted bonds or coupons;

3. By action or suit in equity to require the Commission to act as if it were the trustee or an express trust for the bondholders;

4. By action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of the holders of the bonds;

5. After notice to the Commission as the resolution may provide, declare the principal of all of the bonds due and payable; or

6. Apply as a matter of right for the appointment of a receiver who may enter and take possession of all or any part of the properties of the Commission and operate and maintain the same and fix, collect and receive fees and charges for the use thereof and services rendered thereby sufficient to provide revenues adequate to carry out all of the provisions of the bond resolution and the costs and disbursements of the proceeding and of the receiver.

B. Subject to the provisions of the Constitution of the State of Oklahoma, the courts of the county in which any of the real estate controlled and operated by the Commission may be located and the courts of Oklahoma County shall have jurisdiction of any suit, action or proceeding and of all property involved therein.

Added by Laws 2005, c. 363, § 61, eff. Nov. 1, 2005.

§74-2261. Issuance of bonds - Attorney General approval and certificate.

Unless an action shall be filed in the Supreme Court for validation of the bonds in the manner hereinafter provided, no bonds shall be issued hereunder until a certified copy of the proceedings authorizing the issuance thereof, together with any other information which the Attorney General may require, shall be submitted to the Attorney General. If the Attorney General finds that such bonds have been authorized in accordance with law, the Attorney General shall approve the bonds and shall execute a certificate to that effect, which shall be filed in the office of the State Auditor and Inspector. All bonds so approved by the Attorney General, registered by the State Auditor and Inspector, and issued in accordance with the approved proceedings shall be valid



and binding obligations of the Commission, and the bonds and all of the provisions securing the bonds shall be incontestable for any cause in any court in Oklahoma unless suit thereon shall be brought in a court having jurisdiction within thirty (30) days from the date of the approval.

Added by Laws 2005, c. 363, § 62, eff. Nov. 1, 2005.

§74-2262. Mortgages and encumbrances not authorized.

Nothing in this act shall be construed to authorize the Commission to mortgage or otherwise encumber any of its property of any kind, except that the revenues thereof may be pledged as herein provided.

Added by Laws 2005, c. 363, § 63, eff. Nov. 1, 2005.

§74-2263. Commission property - Exemption from forced sale.

All property controlled and operated by the Commission shall at all times be exempted from forced sale and nothing in this act shall authorize the sale of any property under any judgment rendered in any suit, and such sales are hereby prohibited.

Added by Laws 2005, c. 363, § 64, eff. Nov. 1, 2005.

§74-2264. Exemption from taxation.

All of the property controlled and operated by the Commission and all bonds issued hereunder and the interest thereon shall be exempt from taxation by the State of Oklahoma or by any municipal corporation, county or other political subdivision or taxing district of the state, except that the bonds shall be subject to the payment of inheritance taxes.

Added by Laws 2005, c. 363, § 65, eff. Nov. 1, 2005.

§74-2265. Bond certificate.

All bonds issued hereunder shall have on the backs the certificate required by Section 29 of Article X of the Constitution of the State of Oklahoma.

Added by Laws 2005, c. 363, § 66, eff. Nov. 1, 2005.

§74-2266. Institutions permitted to invest in bonds - Bonds as collateral security.

Any bank, trust or insurance company organized under the laws of Oklahoma may invest its capital, and surplus and reserves in bonds issued under the provisions of this act. Such bonds are also approved as collateral security for the deposit of any public funds and for the investment of trust funds.

Added by Laws 2005, c. 363, § 67, eff. Nov. 1, 2005.

§74-2267. Refunding bonds.

The Commission may issue bonds under this act for the purpose of refunding any obligations of the Commission previously issued under this act, or may authorize and deliver a single issue of bonds hereunder, in part for the purpose of refunding such obligations and in part for the acquisition of additional properties or improvements. Where bonds are issued under this section solely for refunding purposes, such bonds may either be sold as above provided or delivered in exchange for the outstanding obligations. If sold, the proceeds may be either applied to the payment of the obligations, refunded or deposited in escrow for the retirement of the bond obligations. Nothing contained in this act shall be construed to authorize the refunding of any outstanding obligations which are not either maturing, callable for redemption under their terms or voluntarily surrendered by their holders for cancellation. All bonds issued under this section shall in all respects be authorized, issued, and secured in the manner provided for other bonds issued under this act and shall have all of the attributes of such bonds. The Commission may provide that any refunding bonds shall have the same priority of lien on the revenues pledged for their payment as was enjoyed by the obligations which are refunded. Added by Laws 2005, c. 363, § 68, eff. Nov. 1, 2005.

§74-2268. Application for approval of bonds - Jurisdiction of Supreme Court - Notice and hearing - Incontestability.

The Commission is authorized in its discretion to file an application with the Supreme Court of Oklahoma for the approval of any series of bonds to be issued hereunder, and exclusive original jurisdiction is hereby conferred upon the Supreme Court to hear and determine each such application. It shall be the duty of the Court to give such applications precedence over the other business of the Court and to consider and pass upon the applications any protests which may be filed thereto as speedily as possible. Notice of the hearing on each application shall be given by a notice published in a newspaper of general circulation in the state informing that, on a day named, the Commission will ask the Court to hear its application and approve bonds. Such notice shall inform all persons interested that they may file protest against the issuance of the bonds and be present at the hearing and contest the legality thereof. Such notice shall be published one time not less than ten (10) days prior to the date named for the hearing, and the hearing may be adjourned from time to time in the discretion of the Court. If the Court shall be satisfied that the bonds have been properly authorized in accordance with this act and that when issued they will constitute valid obligations in accordance with their terms, the Court shall render its written opinion approving the bonds and shall fix the time within which a petition for rehearing may be filed. The decision of the Court shall be a judicial determination of the

validity of the bonds and shall be conclusive as to the Commission, its officers and agents. Thereafter, the bonds so approved and the revenue pledged to their payment and the provision and agreements contained in the bond resolution for the security of such bonds shall be incontestable in any court in the State of Oklahoma. Added by Laws 2005, c. 363, § 69, eff. Nov. 1, 2005.

§74-2269. Deposit of revenues - Separate fund.

All revenues collected or received by the Commission under the provisions hereof shall be held in a separate fund or funds and deposited in a bank or banks as the Commission may direct, from time to time, and need not be paid into the Oklahoma Tourism and Recreation Department Revolving Fund. All revenues shall be subjected to payment out of such fund or funds from time to time as the Commission may direct.

Added by Laws 2005, c. 363, § 70, eff. Nov. 1, 2005.

§74-2270. Repealed by Laws 2010, c. 413, § 30, eff. July 1, 2010.

§74-2271. Authority to issue revenue notes and bonds - Guaranties and insurance.

The Commission is hereby authorized to:

1. Make and issue notes and bonds, and pledge revenues of the Commission subject to the Oklahoma Bond Oversight and Reform Act. The Commission revenue notes and bonds issued under the provisions of this act shall not at any time be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any political subdivision. Such notes and bonds shall be payable solely from the revenues of the Department and any other funds as may be provided by law for such payments and shall contain on their face a statement to that effect; and

2. Arrange for guaranties or insurance of its notes and bonds by the federal government or by any private insurer, and to pay any premiums therefrom.

Added by Laws 2005, c. 363, § 72, eff. Nov. 1, 2005.

§74-2272. Issuance of revenue notes and bonds - Credit enhancement - Interest rate and maturity - Form - Signatures - Sale - Issuance of refunding notes and bonds.

A. The Commission may provide by resolution, from time to time, for the issuance of revenue notes and bonds for its lawful purposes, in such amount or amounts as are necessary, incidental, or convenient to the exercise of powers, rights, privileges, and functions conferred upon it by this act or other law. The principal of and interest on any indebtedness shall be payable solely from the revenues of the Department and such other funds as may be provided

by law for such payments. The Commission may provide for credit enhancement as additional security or liquidity for its notes and bonds and enter into such agreements as may be necessary or appropriate to provide for the repayment of any funds advanced by the provider of any such credit enhancement including the payment of any fees and expenses incurred in connection therewith. The notes and bonds of each issue shall bear interest at fixed or variable rates and shall bear an average interest rate comparable to other revenue notes and bonds of like credit quality and maturity as prescribed by the State Bond Advisor and shall mature at such time or times not exceeding thirty (30) years from the date or dates of issue, as may be determined by the Commission. The notes and bonds may be made redeemable before maturity at the option of the Commission, at such time or times and at such price or prices and pursuant to such terms and conditions as may be fixed by the Commission prior to the issuance of the notes and bonds. The Commission shall determine the form of the notes and bonds and the manner of execution thereof and shall fix the denominations of the notes and bonds and the place or places of payment of principal and interest. If any officer whose signature or facsimile of whose signature appears on any notes and bonds shall cease to hold the office before the delivery of the notes and bonds, the signature or the facsimile shall nevertheless be valid and sufficient for all purposes, the same as if the person had remained in the office until delivery. All notes and bonds issued pursuant to the provisions of this act shall have all the qualities and incidences of negotiable instruments subject to the laws of this state. The Commission may sell the notes and bonds in such amounts and in such manner, either at public or private sale, and for such price, as it may determine to be in the best interests of the state. If the notes and bonds are not sold by competitive bid, the sale must be approved by the State Bond Advisor.

B. The Commission may, by resolution, provide for the issuance of notes and bonds for the purpose of refunding notes and bonds then outstanding, including the payment of any redemption premium, any interest accrued to the date of redemption of the notes and bonds, and for incurring additional indebtedness for its lawful purposes. The issuance of such notes and bonds shall be governed by the provisions of this act and the Oklahoma Bond Oversight and Reform Act.

C. The Commission shall promulgate rules governing the issuance of revenue bonds authorized pursuant to this act.  
Added by Laws 2005, c. 363, § 73, eff. Nov. 1, 2005.

§74-2273. Certified copy of issuance proceedings to be submitted to Attorney General.

Before any bond shall be issued and delivered by the Commission, a certified copy of the proceedings for the issuance thereof, together with any other information which the Attorney General of the State of Oklahoma may require shall be submitted to the Attorney General. If the Attorney General shall find that the notes and bonds have been issued in accordance with the law, the Attorney General shall approve the notes and bonds and execute a certificate to that effect. The Attorney General shall file the certificates in the Office of the State Auditor and Inspector, and the certificates shall be recorded in a record kept for that purpose. All notes and bonds approved by the Attorney General and issued in accordance with the approved proceedings shall be valid and binding obligations of the Commission and shall be incontestable from and after the date of such approval.

Added by Laws 2005, c. 363, § 74, eff. Nov. 1, 2005.

§74-2274. Notes and bonds not to be debt of state or any political subdivision.

Revenue notes and bonds of the Commission issued pursuant to the provisions of this act shall not constitute a debt of the state or of any political subdivision thereof, or a pledge of the full faith and credit of the state, or of any political subdivision thereof, but such notes and bonds shall be payable solely from the funds provided therefrom. The forms of the notes and bonds so issued shall contain on the face thereof a statement to the effect that neither the state nor the Commission shall be obligated to pay the same or the interest thereon except from the revenues of the Department pledged to the payment of such notes and bonds and that neither the faith and credit nor the taxing power of the state or any political subdivision thereof is pledged, or may hereafter be pledged, to the payment of the principal of or interest on the notes and bonds. The notes and bonds so issued shall be exempt from taxation by the State of Oklahoma and any political subdivision thereof, including the income therefrom, and any gain from the sale thereof. Notwithstanding any other provisions of law, the Commission may use money derived from annual legislative appropriations on a year-to-year basis, as authorized by the Legislature, to repay any obligations to the Oklahoma Water Resources Board pursuant to Sections 1085.51 and 1085.71 et seq. of Title 82 of the Oklahoma Statutes.

Added by Laws 2005, c. 363, § 75, eff. Nov. 1, 2005.

§74-2275. Notes and bonds as investment securities - Collateral security.

Notes and bonds issued pursuant to provisions of this act are hereby made securities in which all public officers and public boards, agencies and instrumentalities of the state and its

political subdivisions, all banks, trust companies, trust and loan associations, investment companies and others carrying on a banking business, and all insurance companies and insurance associations, and others carrying on an insurance business may legally and properly invest. These notes and bonds are also approved as collateral security for the deposit of any public funds and for the investment of trust funds.

Added by Laws 2005, c. 363, § 76, eff. Nov. 1, 2005.

§74-2276. Blanket bond coverage.

The Commission shall be subject to blanket bond coverage as provided in Sections 85.26 through 85.31 of Title 74 of the Oklahoma Statutes; provided, the Commission shall be authorized to purchase increased amounts of fidelity bond coverage for those employees deemed necessary by the Commission. When the amount listed in Section 85.29 of Title 74 of the Oklahoma Statutes is deemed inadequate, the cost of increased coverage shall be borne by the Department.

Added by Laws 2005, c. 363, § 77, eff. Nov. 1, 2005.

§74-2276.1. Oklahoma State Park Trust Fund.

A. There is hereby created a trust fund to be known as the "Oklahoma State Park Trust Fund". The Oklahoma Tourism and Recreation Commission shall be the trustees of the Trust Fund.

B. 1. The Commission may utilize five percent (5%) of the principal of the Trust Fund annually to:

- a. protect and conserve state park lands, but shall not include routine maintenance expenses of the state parks,
- b. preserve historic properties under the jurisdiction of the Commission,
- c. provide for one-time capital upgrades and improvements of state park resources, and
- d. pay fees and expenses associated with the services of a custodian of the Trust Fund.

2. Beginning July 1, 2012, and ending June 30, 2020, the Commission may utilize funds not to exceed Fifteen Million Dollars (\$15,000,000.00) from the principal of the Trust Fund to construct and maintain a lodge and any associated facilities deemed necessary by the Commission at the Lake Murray State Park.

C. The Commission shall give priority for funding to the state park from which the revenues were initially derived.

D. The Trust Fund principal shall consist of monies from any and all mineral lease payments, seismograph fees, royalty payments, or other payments associated with oil and gas mineral operations at state parks that are managed by the Oklahoma Tourism and Recreation Department, any funds appropriated or transferred to the Trust Fund

by the Legislature, and any monies or assets contributed to the Trust Fund from any other source, public or private.

E. Notwithstanding other provisions of law, income and investment return on Trust Fund principal shall accrue to the Trust Fund for use as provided by authorization of the trustees for the purposes listed in subsection B of this section. Except as provided for in subsection B of this section, no income or investment return or principal shall be used for administrative expenses of the Oklahoma Tourism and Recreation Department or expenses incurred by the Commission in the administration of the Trust Fund.

Added by Laws 2006, c. 67, § 2, emerg. eff. April 20, 2006. Amended by Laws 2007, c. 106, § 3, eff. July 1, 2007; Laws 2012, c. 178, § 1, eff. July 1, 2012.

§74-2276.2. Oklahoma Tourism and Recreation Commission - Duties as trustees of Oklahoma State Park Trust Fund - Use of funds - Custodian - Investment plan and reports.

A. The Oklahoma Tourism and Recreation Commission shall discharge their duties as trustees of the Oklahoma State Park Trust Fund created in Section 2276.1 of this title, hereafter referred to as the "Trust Fund":

1. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

2. By diversifying the investments of the Trust Fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

3. In accordance with the laws, documents and instruments governing the Trust Fund.

B. The Commission may procure insurance indemnifying the members of the Commission from personal loss or accountability from liability resulting from the action or inaction of a member as a trustee.

C. The Commission may utilize the written investment policy developed by the State Treasurer for the investment of public funds for the investment and management of the Trust Fund. Investments of the Trust Fund may be consistent with the guidelines set forth in Section 89.2 of Title 62 of the Oklahoma Statutes which establishes the investment requirements for public funds by the State Treasurer.

D. Funds and revenues for investment by the Commission shall be placed with a custodian selected by the Commission. Payment of any fees for the services of a custodian may be paid from the income and investment return on the Trust Fund. The custodian may be the State Treasurer or a bank or trust company offering pension fund master trustee and master custodial services. If other than the State Treasurer is utilized, the custodian shall be chosen by a

solicitation of proposals on a competitive bid basis pursuant to standards set by the Commission. In compliance with the investment policy guidelines of the Commission, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of the Trust Fund are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the Commission as to the investment of the monies of the Trust Fund in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the Commission for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles. If the State Treasurer is utilized as the custodian and has not received direction from the Commission as to the investment of the monies of the Trust Fund in specific investment vehicles, the State Treasurer shall invest the monies in accordance with the investment policy developed by the State Treasurer for investment of public funds and in a manner consistent with the guidelines for the investment of public funds set forth in Section 89.2 of Title 62 of the Oklahoma Statutes.

E. By November 1, 2006, and prior to August 1 of each year thereafter, the Commission shall develop a written investment plan for the Trust Fund.

F. The Commission shall compile quarterly financial reports of all the funds and accounts of the Trust Fund on a fiscal year basis. The reports shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall be distributed to the Director of the Legislative Service Bureau.

G. After July 1 and before October 1 of each year, the Commission shall publish an annual report presented in simple and easily understood language. The report shall be submitted to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Director of the Legislative Service Bureau. The annual report shall cover the operation of the Trust Fund during the past fiscal year, including income, disbursements, and the financial condition of the Trust Fund at the end of the fiscal year. The annual report shall also contain the information issued in the quarterly reports required pursuant to subsection F of this section as well as a summary of the results of the most recent actuarial valuation to include total assets, total liabilities, unfunded liability or over-funded status, contributions and any other information deemed relevant by the Commission. Added by Laws 2006, c. 67, § 4, emerg. eff. April 20, 2006. Amended by Laws 2007, c. 106, § 4, eff. July 1, 2007.

§74-2276.3. Fiduciaries - Prohibited acts.



A. A fiduciary with respect to the Oklahoma State Park Trust Fund created in Section 2 of this act, shall not cause the Trust Fund to engage in a transaction if the fiduciary knows or should know that the transaction constitutes a direct or indirect:

1. Sale or exchange, or leasing of any property from the Trust Fund to a party in interest;
2. Lending of money or other extension of credit from the Trust Fund to a party in interest;
3. Furnishing of goods, services, or facilities from the Trust Fund to a party in interest; or
4. Transfer to, or use by or for the benefit of, a party in interest of any assets of the Trust Fund.

B. A fiduciary with respect to the Trust Fund shall not:

1. Deal with the assets of the Trust Fund in the interest of or for the account of the fiduciary;
2. In the individual or any other capacity of the fiduciary act in any transaction involving the Trust Fund on behalf of a party whose interests are adverse to the interests of the Trust Fund; or
3. Receive any consideration for the personal account of the fiduciary from any party dealing with the Trust Fund in connection with a transaction involving the assets of the Trust Fund.

C. A fiduciary with respect to the Trust Fund may:

1. Invest all or part of the assets of the Trust Fund in deposits which bear the highest interest rate available for funds with the necessary degree of availability in a bank or similar financial institution supervised by the United States or a state, if the bank or other institution is a fiduciary of the plan; or
2. Provide any ancillary service by a bank or similar financial institution supervised by the United States or a state, if the bank or other institution is a fiduciary of the plan.

D. A person or a financial institution is a fiduciary with respect to the Trust Fund to the extent that the person or the financial institution:

1. Exercises any discretionary authority or discretionary control respecting management of the Trust Fund or exercises any authority or control respecting management or disposition of the assets of the Trust Fund;
  2. Renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or other property of the Trust Fund, or has any authority or responsibility to do so; or
  3. Has any discretionary authority or discretionary responsibility in the administration of the Trust Fund.
- Added by Laws 2006, c. 67, § 5, emerg. eff. April 20, 2006.

§74-2277. Short title.

Sections 79 through 84 of this act shall be known and may be cited as the "Oklahoma Trails System Act".

Added by Laws 2005, c. 363, § 78, eff. Nov. 1, 2005.

§74-2278. Definitions.

As used in the Oklahoma Trails System Act:

1. "Commission" means the Oklahoma Tourism and Recreation Commission; and
2. "Political subdivision" means any county, municipality or other subdivision of state or local government.

Added by Laws 2005, c. 363, § 79, eff. Nov. 1, 2005.

§74-2279. Purpose.

The purpose of the Oklahoma Trails System Act is to provide public access to, and enjoyment and appreciation of, the Oklahoma outdoors in order to foster the conservation, development and wise use of the natural and historic resources of the state. It is the intent and purpose of the Oklahoma Trails System Act to encourage hiking, bicycling, horseback riding and other recreational activities and, because trail use by motorized vehicles is incompatible with some other trail uses, it is intended to provide separate trails and facilities for motorized vehicles whenever necessary and feasible.

Added by Laws 2005, c. 363, § 80, eff. Nov. 1, 2005.

§74-2280. State trails system - Uniform marker - Planning and designation.

A. There is hereby created a state trails system composed of:

1. State nature trails, which shall be trails designed to deepen the public's awareness and understanding of various ecological, geological or cultural qualities within the state by means of an interpretive service program;
2. State hiking trails, which shall be extensive trails and will serve to connect parks, scenic areas, historical points and neighboring communities;
3. State special-use trails, which shall be trails designed to provide for those trail activities which require special trail definition and will include trails for bicycling, public riding and motorcycle and minibike activities, as well as trails designed to meet the needs of the handicapped, the blind and the elderly; and
4. State heritage trails, which shall be trails designed to promote the identification and interpretation of significant cultural and historic sites throughout the state.

B. The Commission, in accordance with appropriate federal, state and local governmental organizations, shall establish a uniform marker for the trails system.

C. In the planning and designation of trails, the Commission shall give due regard to the interest of federal or state agencies, all political subdivisions, private land owners, interested

individuals and citizen groups. Furthermore, the Commission encourages citizen participation in trail acquisition, construction, development and maintenance where such activities will not conflict with the purposes of the Oklahoma Trails System Act.  
Added by Laws 2005, c. 363, § 81, eff. Nov. 1, 2005.

§74-2281. Duties and powers of Commission.

A. The Commission shall be vested with the responsibility and authority to:

1. Plan, purchase, develop, construct, maintain, operate and protect the state trails system and shall prescribe the uses and limits of each designated trail; and

2. Acquire, by lease, deed or contract, rights-of-way or easements of trails across private, municipal, county, state or federal lands. In selecting the rights-of-way, every effort will be made to minimize any adverse effects on the adjacent landowner or user and his operations. Acquisition shall be, whenever possible, in the form of an easement obtained by gift, exchange or purchase with donated funds. In cases where these attempts fail, the Commission may authorize the expenditure of state trail funds for acquisition in fee. Any agreement for acquisition of rights in land shall be for terms of not less than twenty-five (25) years whenever possible.

B. The Commission may abandon any portion or all of a trail or easement acquired for trail purposes; or it may transfer any trail or easement to a local government having jurisdiction over the area in which the trail or easement is located, provided that such local government agrees to maintain and operate the trail.

C. The Commission shall notify the owner of the land, through which any trail or easement passes, prior to entering into any agreement with local government for the operation of a trail and shall secure the consent of the landowner prior to the transfer of any trail or easement to a local government.

D. The Commission shall review all formal declarations of railroad rights-of-way abandonment for possible inclusion into the state trails system.

E. Within the boundaries of a right-of-way, the Commission may acquire, on behalf of the state, lands in fee title, any interest in lands in the form of scenic or other easements or any interest in lands under cooperative or other agreement. Acquisition of land or of any interest in land may be by gift, purchase or exchange. Acquisition may be through the use of funds obtained by donation, federal grants, legislative appropriation or otherwise. In acquiring real property or any interest therein, the power of eminent domain shall not be used.

F. 1. The Commission shall encourage the provision of bicycle routes within the rights-of-way of federal aid system highways and

on or along county and city roadways. These bicycle routes shall be composed of three types of pathways: bicycle trails, bicycle lanes and bicycle routes. Bicycle trails shall be distinct pathways which separate bicycles from motorized vehicular traffic by means of an open space or barrier. Bicycle lanes shall use designated portions of existing roadways and will be clearly marked and separated from automobile lanes. Bicycle routes shall be existing, low-volume roads and will be designated by clearly marked signs.

2. Prior to the designation and construction of the bicycle pathway system, the Commission shall authorize the development of a bicycle master plan. The plan shall be comprised of a set of clearly defined goals, a statement of current and projected demands, a proposed layout of routes, construction specifications, cost projections and the scheduling of implementation. The plan shall likewise devote serious consideration to those design criteria which will help to ensure the safety of bicyclist, pedestrian and motorist alike.

3. Funds received for this pathway program shall be expended in amounts deemed reasonable and necessary by the Commission for the establishment of the bicycle pathway system.

Added by Laws 2005, c. 363, § 82, eff. Nov. 1, 2005.

§74-2282. State trails on federal lands - Coordination with National Trails System.

A. The Commission may establish and designate state trails on lands under the jurisdiction of a federal agency when, in the opinion of the federal agency, such lands may be so developed under the provisions of federal law.

B. Nothing in the Oklahoma Trails System Act shall prevent a segment of the state trails system from being a part of the National Scenic or Recreation Trails System. The Commission shall coordinate the state trails system with the National Trails System and will encourage and assist any federal studies for inclusion of state trails into the National Trails System.

Added by Laws 2005, c. 363, § 83, eff. Nov. 1, 2005.

§74-2283. Prohibitions and restrictions - Penalties.

A. No hunting of wild game or the shooting of firearms shall be permitted along the trail, with the exception of those portions of the trail which traverse public hunting areas. Such portions of the trail shall be closed to trail use, as listed in the Oklahoma Trails System Act, during hunting season.

B. All horseback riding and motorcycling activities shall be restricted to their designated special-use trails. Foot travel on special-use trails shall be permitted; however, the special-use activities shall have the right-of-way on the trails.

C. Each person is guilty of a misdemeanor, who shall:

1. Willfully mutilate, deface or destroy any guidepost, notice, tablet or other work for the protection or ornamentation of any state trail;

2. Place along any trail or affix to any object in the right-of-way, without a written license from the Commission, any word, character or device designed to advertise any business, trade, profession, article, thing, matter or event; or

3. Willfully cause any damage to lands within or adjacent to the state trails system.

Added by Laws 2005, c. 363, § 84, eff. Nov. 1, 2005.

§74-2284. Oklahoma Tourism Signage Advisory Task Force.

A. There is hereby established the Oklahoma Tourism Signage Advisory Task Force for the purpose of screening and issuing recommendations to the Department of Transportation concerning directional signs for tourist and traveler-related attractions and enterprises in this state.

B. The task force shall be composed of eleven (11) members as follows:

1. One person appointed by the Governor;

2. The Chairman of the Senate Tourism and Wildlife Committee or designee;

3. The Chairman of the House of Representatives Tourism and Recreation Committee or designee;

4. A representative from each of the following organizations or state agencies to be selected by the organization or agency:

a. Oklahoma Department of Transportation,

b. Oklahoma Tourism and Recreation Department,

c. Oklahoma Historical Society,

d. Oklahoma Museums Association,

e. Oklahoma Lakes and Countries Association,

f. Oklahoma Travel Industry Association, and

g. Oklahoma Department of Agriculture, Food, and Forestry; and

5. The Director of the Oklahoma Arts Council or designee.

Added by Laws 2005, c. 363, § 85, eff. Nov. 1, 2005. Amended by Laws 2006, c. 113, § 1, eff. Nov. 1, 2006.

§74-2285. Design, construction, erection and location of guide signs - Jurisdiction of Department of Transportation - Recommendations for tourist-oriented directional sign program.

The Department of Transportation, acting on the recommendations of the Oklahoma Tourism Signage Advisory Task Force, established in Section 2284 of this title, may design, construct, erect and select the location of guide signs along the highways in this state.

However, each person, firm, organization or entity approved for a guide sign shall be responsible for furnishing all materials for

said signs in accordance with a general design and guidelines to be issued by the Oklahoma Department of Transportation. All signs shall be uniform in structure, style and design. All signs shall comply with the Manual on Uniform Traffic Control Devices, as published by the Federal Highway Administration Division of the U.S. Department of Transportation.

All signs will be under the jurisdiction of the Oklahoma Department of Transportation. Maintenance and replacement of all signs, for whatever reason, shall be the sole responsibility of the entity sponsoring the sign.

The Oklahoma Tourism Signage Advisory Task Force shall review any administrative rules regulating tourist-oriented directional signs and recommend, and the rule-making entity shall promulgate, an expansion of attractions and points of interest that, in addition to those specified as historic or cultural, a lake, a park, or as a site of natural scenic beauty or suited for outdoor recreation, are directed to the touring public for promoting economic development to local areas and provide for eligibility for qualification for any such person, firm, organization or entity to the sign program.

The task force shall meet to develop such recommendation prior to January 1, 2007. The task force shall meet at least once a year thereafter for purposes of reviewing the functions and effectiveness of the tourist-oriented directional sign program.

Added by Laws 2005, c. 363, § 86, eff. Nov. 1, 2005. Amended by Laws 2006, c. 113, § 2, eff. Nov. 1, 2006.

§74-2286. Repealed by Laws 2013, c. 227, § 34, eff. Nov. 1, 2013.

§74-2287. Repealed by Laws 2013, c. 227, § 34, eff. Nov. 1, 2013.

§74-2288. Repealed by Laws 2013, c. 227, § 34, eff. Nov. 1, 2013.

§74-2289. Repealed by Laws 2013, c. 227, § 34, eff. Nov. 1, 2013.

§74-2290. Repealed by Laws 2013, c. 227, § 34, eff. Nov. 1, 2013.

§74-2291. Repealed by Laws 2013, c. 227, § 34, eff. Nov. 1, 2013.

§74-2292. Repealed by Laws 2013, c. 227, § 34, eff. Nov. 1, 2013.

§74-2293. Repealed by Laws 2013, c. 227, § 34, eff. Nov. 1, 2013.

§74-2294. Oklahoma Museum of Popular Culture.

There is hereby created the Oklahoma Museum of Popular Culture to be under the supervision of the Oklahoma Historical Society. The Oklahoma Historical Society is authorized to construct, maintain,

repair, and operate the Oklahoma Museum of Popular Culture and its facilities.

Added by Laws 2015, c. 342, § 1, eff. Nov. 1, 2015.

§74-2301. Oklahoma Tourism and Recreation Department - Water Quality Disclosure Duties.

A. The Oklahoma Tourism and Recreation Department shall develop and maintain a website and provide written information for the public available on location that allows the public to check the water quality, as it adversely affects human and mammalian animal health, of recreational bodies of water in this state which are managed by state or federal agencies or entities. The website and written information shall be made available to the public on or before December 31, 2012, and shall provide internet links and other points of contacts for relevant state agencies.

B. Any state or municipal agency with authority to manage a recreational lake or reservoir in this state shall post signs at major access points for the body of water stating that information on water quality is available on the website or in the written information specified in subsection A of this section. The Oklahoma Tourism and Recreation Department shall develop and provide the language for the signs required by this subsection.

C. The State Department of Health shall provide to physicians, hospital personnel, and local health departments educational material and information on the effects and symptoms of exposure to blue-green algae.

D. 1. Any state or municipal agency with authority to manage a recreational lake or reservoir in this state, to regulate water quality or regulate public health shall:

- a. issue advisories for blue-green algae for recreational lakes or reservoirs only when both the blue-green algae cell count and toxicity testing results exceed the World Health Organization guidelines for moderate probability of adverse health effects of one hundred thousand (100,000) cells per milliliter for cell count and twenty (20) micrograms per liter for microcystin toxin levels. The blue-green algae testing shall be conducted at predetermined locations which are published along with the testing results, and
- b. lift advisories for blue-green algae for recreational lakes or reservoirs if the blue-green algae cell count and toxicity testing results are below guidelines as set forth in subparagraph a of this paragraph for two consecutive tests taken at weekly intervals within thirty (30) calendar days of each other.

2. The blue-green algae cell count and toxicity testing results as described in this subsection may be provided by a public or private entity.

E. Any state or municipal agency with authority to manage a recreational body of water in this state, to regulate water quality or regulate public health and which may issue blue-green algae lake advisories shall recognize publicly and privately funded research if the research is scientifically verifiable and it will ensure that the public is more informed about water quality and safety. The Oklahoma Tourism and Recreation Department may publish the findings of the research on the website or in written information specified in subsection A of this section.

F. For purposes of this section:

1. "State or municipal agency" means any agency, board, commission, department, authority, office, subdivision or instrumentality of the state or a municipality located in the state; and

2. "Recreational lake or reservoir" means a lake or reservoir on which the public is allowed to fish, boat or swim.

G. Nothing in this section shall be construed to amend, modify, or repeal any state or federal requirements related to water testing.

Added by Laws 2012, c. 284, § 1, emerg. eff. May 24, 2012.

§74-2302. Educational programs for schools.

The Oklahoma Tourism and Recreation Department may coordinate with the Oklahoma Historical Society and the State Department of Education to develop educational programs and materials for Oklahoma schools that promote learning both by reading about and visiting historical sites throughout the State of Oklahoma, and to promote tourism and heritage preservation throughout this state. The Department of Transportation may participate in this project by developing and placing markers along the highways of this state to recognize various historical sites incorporated into the materials developed for this project.

The implementation of the provisions of this act shall be contingent upon, and subject to, the availability of funding.

The Oklahoma Tourism and Recreation Department, the Oklahoma Historical Society, the State Department of Education, and the Department of Transportation are hereby granted authority to seek, solicit, collect, and use public and/or private funding, donations, grants, and gifts from any available source in implementing and maintaining this project. Any funds received and collected for this project may be deposited into the Heritage Preservation Revolving Fund. In its discretion, each participating agency in this project may use some of its state-appropriated funds when such agency deems



the amount of its funding appropriate for this project in the normal course of such agency's responsibilities and duties.

Added by Laws 2018, c. 243, § 1, eff. Nov. 1, 2018.

§74-2900. Short title.

This act shall be known and may be cited as the "Oklahoma Homeless Prevention Act".

Added by Laws 1990, c. 129, § 1, emerg. eff. April 25, 1990.

§74-2900.1. Definitions - Cooperation of state housing agencies with federal government - Leasing of vacant housing units.

A. As used in the Oklahoma Homeless Prevention Act:

1. "Comprehensive case management" means:

- a. the assessment of the needs of an individual or family,
- b. the development and implementation of an employability plan for the individual that accounts for family circumstances,
- c. the coordination and monitoring of service delivery,
- d. the evaluation of service effectiveness, and
- e. the reassessment of the needs of the individual or the family.

2. "Homeless individual or family" means any person or family who:

- a. lacks a fixed, regular and adequate nighttime residence, or
- b. has as a primary nighttime residence a publicly or privately operated shelter designed to provide temporary living accommodations, or
- c. has as a primary nighttime residence a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. The term includes those families and persons who do not have access to normal accommodations as a result of violence or the threat of violence from a cohabitant, or
- d. is in imminent danger of becoming homeless.

3. "Mentally ill person" means a mentally ill person as defined by Section 1-103 of Title 43A of the Oklahoma Statutes.

4. "Self-sufficiency program" means a job opportunity and basic skills training program designed to ensure that persons receiving housing assistance obtain the education, training, and employment that will help such persons avoid long-term dependency on such assistance.

5. "Committee" means the Oklahoma Homeless Prevention Committee, created in Section 2 of this act.

B. The Department of Human Services, the Department of Mental Health and Substance Abuse Services, the Oklahoma Department of Commerce, the Oklahoma Housing Finance Agency and any state agency with housing services may cooperate with federal government programs or any other public or private entity or person in providing housing or assistance for housing to homeless individuals or families, and mentally ill persons who are in need of housing.

C. As funds are available, all state agencies specified in this section and any other state agency with housing services, in accordance with state and federal law, may provide resources to local government agencies, local housing authorities or nonprofit agencies to lease vacant housing units which are subject to government control or which have been donated by any public or private entity for use by homeless individuals or families and mentally ill persons who are in need of housing. Funds available pursuant to this section shall be used to guarantee coverage of utility costs, repairs, insurance, and building and yard maintenance of leased properties. Homes which have been temporarily donated by private entities shall not be eligible for any monies so received for repairs to such homes.

D. Any agreement entered into pursuant to this section between a state agency and a local public or private nonprofit agency or housing authority shall require the local agency or authority to supervise the person to be served and secure an enforceable agreement requiring the person to be served to maintain the leased property. A violation of this agreement may result in termination of the agreement and eviction from such leased property pursuant to Section 132 of Title 41 of the Oklahoma Statutes.

E. In accordance with state and federal law, state agencies specified in this section and any other state agency with housing services may solicit government funds and grants, seek private resources, and receive and distribute private, state and federal funds to local public or private nonprofit agencies or housing authorities to provide housing or assistance for housing or housing services as provided for in this section. The local agency or authority may require the person residing in the leased property to participate in the payment of utilities, repair and maintenance to the extent possible.

F. The State of Oklahoma, or any agency or subdivision thereof, shall not be liable for utility costs, repairs, insurance, building or yard maintenance, or other costs associated with any house to which this section pertains, in excess of the amount specifically appropriated therefore, allocated thereto by the agency or subdivision, and not encumbered for any other purpose.

Added by Laws 1989, c. 307, § 1, emerg. eff. May 25, 1989. Amended by Laws 1990, c. 129, § 2, emerg. eff. April 25, 1990; Laws 1990, c. 337, § 25; Laws 1994, c. 230, § 1, eff. July 1, 1994.

NOTE: Laws 1990, c. 51, § 144 repealed by Laws 1990, c. 337, § 26.

§74-2900.1a. Repealed by Laws 2000, c. 23, § 1, eff. July 1, 2000.

§74-2900.2. Rent assistance programs - Funding.

A. The Department of Human Services, the Department of Mental Health, the Oklahoma Department of Commerce, the Oklahoma Housing Finance Agency and any state agency with housing services may develop, administer, and conduct programs assisting eligible homeless families, homeless individuals, and mentally ill persons who are in need of housing to participate successfully in the private housing market and pay the amount of rent charged by the private sector for providing decent, safe, and sanitary housing. Provided, however, that any rent assistance available under such a program be combined with comprehensive case management and a self-sufficiency program.

B. All state agencies specified in this section and any other state agency with housing services, in accordance with state and federal law, may solicit government funds and grants and seek private resources, to operate programs pursuant to subsection A of this section.

C. As funds are available, all state agencies specified in this section and any other state agency with housing services, in accordance with state and federal law, may provide resources to local government agencies, local housing authorities or nonprofit agencies to operate programs established pursuant to subsection A of this section. The local agency or authority may require the person participating in such a program to participate in the cost of the program to the extent possible.

Added by Laws 1990, c. 129, § 3, emerg. eff. April 25, 1990.

§74-2900.3. Reports.

A. Each member of the Committee shall submit a report as specified in this section to the Chairperson upon request of the Chairperson. The Chairperson shall give notice to each member of the Committee to provide such report at least fifteen (15) days prior to each meeting. The report shall provide all information on any grants, donations, appropriated funds and any other funds received by that agency concerning providing housing services to the homeless. The report shall provide detailed information concerning the expenditure of any of the funds specified in this subsection which were expended on providing housing services to the homeless. The Chairperson shall send a copy of each report to the other members of the Committee. The Chairperson shall also provide a copy of such reports to any member of the public upon written request and the payment of any copying fee authorized by the Oklahoma Open Records Act.

B. On or before February 1 of each year, the Chairperson of the Committee created in Section 2 of this act shall provide a written report to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Governor specifying in detail the assistance provided, the agency or program pursuant to which such assistance was provided, any funds provided to and any expenditures made from such funds provided to each agency specifically for providing housing services to the homeless, any other relevant information related to such programs, and any recommendations for legislation the Committee deems necessary for the best and most efficient housing services for the homeless.

Added by Laws 1990, c. 129, § 4, emerg. eff. April 25, 1990.

Amended by Laws 1994, c. 230, § 3, eff. July 1, 1994.

§74-2901. Repealed by Laws 1994, c. 100, § 5, eff. Sept. 1, 1994.

§74-2901.1. Limited access to safe, decent and affordable housing -  
Legislative finding and declaration.

A. The Legislature finds that current economic conditions, federal housing policies, and declining resources at the federal, state, and local level adversely affect the ability of moderate- and low-income persons to obtain safe, decent, and affordable housing. The Legislature also finds that the lack of affordable housing in rural communities of this state is an impediment to economic development and business expansion in these areas.

B. The Legislature declares that it is therefore in the public interest to provide for a continuously renewable resource known as a housing trust fund to assist moderate- and low-income citizens in meeting their basic housing needs, and that the needs of low-income citizens should be given priority.

Added by Laws 1995, c. 337, § 18, eff. Nov. 1, 1995. Amended by Laws 1998, c. 163, § 1, eff. Nov. 1, 1998.

§74-2901.2. Oklahoma Housing Trust Fund.

There is hereby created the "Oklahoma Housing Trust Fund" to be administered by the Oklahoma Housing Finance Agency. The fund shall be a continuing fund, not subject to fiscal year limitations, and may consist of private monies and federal and state funds. A minimum of sixty-five percent (65%), but not to exceed seventy-five percent (75%) of all annual expenditures from the Oklahoma Housing Trust Fund shall be made for the purpose of providing affordable housing in counties with a population of less than four hundred ninety thousand (490,000) according to the latest federal decennial census.

Added by Laws 1995, c. 337, § 19, eff. Nov. 1, 1995. Amended by Laws 1998, c. 163, § 2, eff. Nov. 1, 1998.

§74-2901.3. Oklahoma Housing Trust Fund - Advisory committee - Rules.

A. The Executive Director of the Oklahoma Housing Finance Agency shall appoint an advisory committee to assist in policy development for administration of the Oklahoma Housing Trust Fund. Members of the advisory committee shall be appointed from the housing development, sales, and finance industries; nonprofit housing development organizations; and economic development agencies or organizations.

B. The Oklahoma Housing Finance Agency shall promulgate rules for the operation of the Oklahoma Housing Trust Fund.

Added by Laws 1998, c. 163, § 3, eff. Nov. 1, 1998.

§74-2901.4. Statewide affordable housing strategy - Annual Reports.

A. 1. The Oklahoma Department of Commerce and the Oklahoma Housing Finance Agency shall develop a statewide affordable housing strategy and update such strategy periodically.

2. The strategy shall include the real-time data collected and analyzed on the current condition of affordable housing in Oklahoma.

3. The strategy shall identify needs for affordable housing particularly in nonmetropolitan areas of the state and in areas experiencing growth.

4. The strategy shall be coordinated with federal, state, and local housing providers to leverage new resources for affordable housing in Oklahoma.

B. An initial report on such housing strategy shall be provided to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Secretary of Commerce no later than January 1, 1999, and shall be updated no later than January 1 of each year.

Added by Laws 1998, c. 163, § 4, eff. Nov. 1, 1998.

§74-2902. Repealed by Laws 2001, c. 277, § 9, eff. July 1, 2001.

§74-3001. Creation - Members - Officers - Terms of private citizen members - Conflict of interest.

A. There is hereby created in the Office of Management and Enterprise Services a committee to be known as the "State Use Committee". The Committee shall consist of seven (7) members and one nonvoting member as follows:

1. A private citizen conversant with the employment needs of people with severe disabilities who shall be appointed by and serve at the pleasure of the Governor to act as an advocate for the employment needs of people with severe disabilities;

2. The Director of the Office of Management and Enterprise Services or designee;

3. The Director of Visual Services, or designee;

4. The past president of Oklahoma Community-Based Providers or designee to serve for a one-year period, who may be reappointed by the succeeding president;

5. An individual or a parent or guardian of an individual with severe disabilities who participates in vocational programming through a sheltered environment facility, to be selected by the Committee;

6. The Director of Human Services, or designee;

7. A certified procurement officer from any state agency appointed by the State Purchasing Director, selected to represent the customer agencies of the State of Oklahoma; and

8. As a nonvoting member, a person employed by the Office of Management and Enterprise Services as a contracting officer in the purchasing division, appointed by the State Purchasing Director with the advice of the Committee and designated specifically to solicit, develop, and negotiate contracts with agencies and individuals.

B. The Committee shall elect from among its membership a Chair and a Vice Chair who shall both serve for a period of one (1) year.

C. The private citizen on the Committee shall serve for a period of two (2) years and may be reappointed by the appointing authority. Any private citizen appointed pursuant to this section to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of the term.

D. Any member of the Committee shall be prohibited from voting on any issue in which the member has an interest.

Added by Laws 1973, c. 20, § 1, operative July 1, 1973. Amended by Laws 1982, c. 29, § 1, operative Oct. 1, 1982; Laws 1983, c. 304, § 151, eff. July 1, 1983; Laws 1987, c. 22, § 1, emerg. eff. April 16, 1987; Laws 1988, c. 225, § 22; Laws 1991, c. 141, § 1, eff. Sept. 1, 1991; Laws 1994, c. 110, § 1, eff. July 1, 1994; Laws 1996, c. 322, § 1, emerg. eff. June 12, 1996; Laws 2000, c. 95, § 1; Laws 2004, c. 93, § 2; Laws 2012, c. 289, § 1; Laws 2013, c. 15, § 117, emerg. eff. April 8, 2013.

NOTE: Laws 2012, c. 304, § 1000 repealed by Laws 2013, c. 15, § 118, emerg. eff. April 8, 2013.

#### §74-3003. Definitions.

As used in this act:

1. "Blind person" means a person having a visual acuity not to exceed 20/200 in the better eye, with correcting lenses, or visual acuity greater than 20/200 but with limitation in the field of vision such that the widest diameter of visual field subtends an angle no greater than twenty (20) degrees;

2. "Committee" means the State Use Committee;

3. "Qualified nonprofit agency for the severely handicapped" means a nonprofit agency which is certified as a sheltered workshop

by the wage and hour division of the U.S. Department of Labor and employing severely disabled persons who constitute at least seventy-five percent (75%) of the personnel engaged in direct production of products or services offered by the agency for procurement by this state;

4. "Severely disabled person" means an individual with a physical or mental disability constituting a substantial handicap to employment and preventing the person from engaging in normal competitive employment and includes any blind person;

5. "Qualified organization" means a blind person, qualified nonprofit agency for the severely handicapped, or severely disabled person contracting to supply goods or services;

6. "Manufactured" means goods made by manual labor;

7. "Produced" means to have brought into existence or created from raw materials;

8. "Processed" means the action of taking something through an established and mostly routine set of procedures or steps to substantially convert a potential product from one form to another. This action involves a sequence of multiple steps each requiring a distinct decision-making process to evolve a potential product to the next step; and

9. "Assemble" means to put or fit together or put together the parts of a potential product.

Added by Laws 1973, c. 20, § 3, operative July 1, 1973. Amended by Laws 1996, c. 322, § 2, emerg. eff. June 12, 1996; Laws 2004, c. 404, § 2, eff. Nov. 1, 2004; Laws 2012, c. 289, § 2.

#### §74-3004. Procurement schedule.

The Committee shall designate by regulation a schedule, hereinafter referred to as the procurement schedule, of the products directly manufactured, produced, processed or assembled or services directly performed, offered or provided by any severely disabled person or qualified nonprofit agency for the severely disabled, as defined by this act, which the Committee determines are suitable for procurement by the state. No state agency shall purchase, pursuant to Section 3007 of this title, products or services purporting to be made by severely disabled persons in workshops which are not certified by the Committee or by severely disabled individuals who are not certified by the Committee.

Added by Laws 1973, c. 20, § 4, operative July 1, 1973. Amended by Laws 1996, c. 322, § 3, emerg. eff. June 12, 1996.

#### §74-3004.1. Contracts for products or services - Assessment.

A one-percent fee of any contract for products or services of the severely disabled shall be assessed against the qualified organization and deposited in the State Use Committee Revolving Fund, as created in Section 3004.2 of this title, for the salary,

administrative costs, and other expenses incurred by the Purchasing Division of the Office of Management and Enterprise Services for promoting goods and services provided by qualified organizations. Added by Laws 1993, c. 175, § 2, emerg. eff. May 10, 1993. Amended by Laws 1996, c. 322, § 4, emerg. eff. June 12, 1996; Laws 2004, c. 404, § 3, eff. Nov. 1, 2004; Laws 2012, c. 304, § 1001.

§74-3004.2. State Use Committee Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services to be designated the "State Use Committee Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all proceeds from the one-percent fee on contracts for purchases of products or services of the severely disabled, as provided in Section 3004.1 of this title. The fund shall be invested in any of the types of instruments in which the State Treasurer is authorized by law to invest. Interest earned shall be retained by the fund. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Office of Management and Enterprise Services for the salary and other administrative expenses of the buyer and clerical and technical support in the Purchasing Division of the Office of Management and Enterprise Services responsible for contracts for the products and services of the severely disabled and expenses the Office incurs to support Committee operations. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1993, c. 175, § 3, emerg. eff. May 10, 1993. Amended by Laws 1996, c. 322, § 5, emerg. eff. June 12, 1996; Laws 2003, c. 372, § 13, eff. July 1, 2003; Laws 2004, c. 404, § 4, eff. Nov. 1, 2004; Laws 2012, c. 304, § 1002.

§74-3005. Determination of fair market price.

The Committee shall determine the fair market price of all products and services included in the procurement schedule and shall revise such prices in accordance with changing market conditions; provided, however, a change in price shall not be effective prior to the expiration of fifteen (15) days from the date on which such change is made by the Committee.

Laws 1973, c. 20, § 5, operative July 1, 1973.

§74-3006. Distribution agency.

The Committee may designate a central nonprofit agency to facilitate the distribution of orders of the state for products or



services on the procurement schedule among qualified nonprofit agencies for people with severe disabilities.

Added by Laws 1973, c. 20, § 6, operative July 1, 1973. Amended by Laws 1996, c. 322, § 6, emerg. eff. June 12, 1996.

§74-3007. State or agency to procure a product or service at fair market price.

A. Whenever the State of Oklahoma or any of its agencies intends to procure any product or service included in the procurement schedule, that entity shall secure the product or service from a qualified nonprofit agency providing employment to people with severe disabilities at the fair market price determined by the Committee if the product or service is available within the period required by the entity.

B. An agency of this state shall not evade the intent and meaning of this section by slight variations from standards adopted by the Office of Management and Enterprise Services.

C. Provided, the requirements of this section shall not apply to the procurement of janitorial services by the Oklahoma State Bureau of Investigation. The Bureau shall conduct background investigations and national criminal history record checks on companies and individuals with which it contracts to provide janitorial services.

D. When the fair market price for a product or service approved by the Committee exceeds a current market price for the same product or service, and such lower market price has been verified by the agency through compliance with the fair market analysis process approved by the Office of Management and Enterprise Services, the state use contracting officer may grant a temporary exception to a requesting agency so that the agency may purchase the product or service from the vendor offering the lower market price. The temporary exception shall automatically expire when a new fair market price is established by the State Use Committee.

Added by Laws 1973, c. 20, § 7, operative July 1, 1973. Amended by Laws 1987, c. 22, § 2, emerg. eff. April 16, 1987; Laws 1996, c. 322, § 7, emerg. eff. June 12, 1996; Laws 1999, c. 277, § 2, eff. Sept. 1, 1999; Laws 2012, c. 289, § 3; Laws 2013, c. 15, § 119, emerg. eff. April 8, 2013.

NOTE: Laws 2012, c. 304, § 1003 repealed by Laws 2013, c. 15, § 120, emerg. eff. April 8, 2013.

§74-3008. Exceptions - Competitive bid requirement not applicable.

Nothing in Sections 3001 et seq. of this title pursuant to purchases of products and services from people with severe disabilities shall be construed to prohibit any department or agency of the state from manufacturing or supplying its own products or services for its own use. Procurements made pursuant to this act

shall not be subject to the competitive bid requirements of the Oklahoma Central Purchasing Act, Section 85.1 et seq. of this title. Added by Laws 1973, c. 20, § 8, operative July 1, 1973. Amended by Laws 1984, c. 159, § 2, eff. Nov. 1, 1984; Laws 1996, c. 322, § 8, emerg. eff. June 12, 1996.

§74-3009. Rules - Requirements - Reporting of violations of intent of laws - Annual Report to Legislature.

A. The State Use Committee shall prescribe rules to carry out the purposes of the provisions of Sections 3001 through 3009 of this title.

B. The rules shall include requirements for:

1. Publishing a catalog listing goods and services and jobs that workshops can provide the state, annually;

2. Conducting a minimum of six meetings per year, in compliance with the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes;

3. Making available to contractors the minutes of all meetings;

4. Notifying contractors at least ten (10) days prior to meeting dates. Meetings shall be called by the Committee Chair; and

5. Establishing guidelines by which a vendor may file a grievance.

C. The Committee shall report any violations of the intent of the laws to the Attorney General's office within thirty (30) days of their determination of such violations.

D. The Committee shall file an Annual Report within sixty (60) days after the close of the legislative year with the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor.

Added by Laws 1973, c. 20, § 9, operative July 1, 1973. Amended by Laws 1983, c. 304, § 152, eff. July 1, 1983; Laws 1991, c. 141, § 2, eff. Sept. 1, 1991; Laws 1996, c. 322, § 9, emerg. eff. June 12, 1996.

§74-3010. Municipalities or county agencies - Purchases from sheltered workshops - Exemption from competitive bid requirements.

Any municipality or county agency of this state is authorized to purchase products and services from any qualified nonprofit agency providing employment to persons with severe disabilities which is certified as a sheltered workshop by the Wage and Hour Division of the United States Department of Labor. Procurements made pursuant to the provisions of this section shall not be subject to competitive bid requirements. To participate, a qualified nonprofit agency for the severely disabled must be able to meet the needs and specifications for the products or services required by the purchasing body at a fair market price.

Added by Laws 1987, c. 22, § 3, emerg. eff. April 16, 1987. Amended by Laws 1991, c. 141, § 3, eff. Sept. 1, 1991; Laws 1996, c. 322, § 10, emerg. eff. June 12, 1996.

§74-3101. Briefing of newly appointed members of governing bodies as to duties and responsibilities.

The chief executive officer of any state agency, board, commission, council or other governing body of any department, system or authority is required, as part of his duties, to brief any newly appointed member of such governing body within two (2) weeks from the date of the member's appointment regarding his duties and responsibilities and those of the body to which he has been appointed, providing the new member with a copy of the statute or Constitutional provision pertaining thereto, a copy of the last twelve (12) monthly operating budgets showing all disbursements and receipts of such department or agency, and a copy of all rules and regulations existing in said agency, and other pertinent information that will assure that the new appointee is advised of such duties and responsibilities. The briefing may be delegated in part to the executive director or other managing officer of any department, system or authority under supervision of the governing body, the responsibility for its accomplishment remaining that of the chief executive officer.

Laws 1973, c. 113, § 1, emerg. eff. May 4, 1973.

§74-3102. Penalty.

Failure of compliance with provisions of Section 1 of this act may be grounds for removal from office of the officer so failing. Laws 1973, c. 113, § 2, emerg. eff. May 4, 1973.

§74-3103. Reports published by State agencies, departments, boards, commissions and institutions - Elimination of unnecessary expense.

That all state agencies, departments, boards, commissions and institutions are instructed to make every effort to use the most inexpensive and brief means of publication of this material.

Laws 1974, p. 717, S.J.R.No.20, § 1, emerg. eff. April 19, 1974.

§74-3104. Filing and distribution of reports.

Every agency, board, department, commission, or institution of this state shall submit its annual, semiannual, or biennial reports as required by the provisions of Section 3-114 of Title 65 of the Oklahoma Statutes. The Publications Clearinghouse shall notify the members of the Legislature of the submission of said reports.

Added by Laws 1974, S.J.R. No. 20, p. 717, § 2, emerg. eff. April 19, 1974. Amended by Laws 1978, c. 165, § 10; Laws 1984, c. 13, § 6, eff. Nov. 1, 1984; Laws 2013, c. 358, § 31, eff. July 1, 2013.

§74-3105. Information to be included in certain reports.

A. Unless otherwise provided by law, every agency, department, board, commission or institution of the State of Oklahoma shall list the following information at a prominent place near the beginning of each publication issued by them:

1. Name of the issuing agency, department, board, commission or institution;

2. Authorization for publication. If such publication is not specifically authorized by statute the name of the person or persons so authorizing shall be stated;

3. The number of copies printed or identification of the website or websites at which the publication is located;

4. If applicable, the name of the printing firm doing the printing; and

5. Assurance of compliance with Section 3-114 of Title 65 of the Oklahoma Statutes.

B. The information shall be set forth in a separate paragraph and shall conform as nearly as practical to the following applicable format:

1. If the publication is printed:

"This publication, printed by (name of printing firm) is issued by (here list the agency, department, board, commission or institution) as authorized by \_\_\_\_\_. \_\_\_\_\_ copies have been prepared and distributed at a cost of \$ \_\_\_\_\_. Copies have been deposited with the Publications Clearinghouse of the Oklahoma Department of Libraries."; or

2. If the publication is located online:

"This publication is issued by (list the agency, department, board, commission or institution) as authorized by \_\_\_\_\_ and is located at the following website(s): \_\_\_\_\_. This publication has been submitted in compliance with Section 3-114 of Title 65 of the Oklahoma Statutes."

C. State promotion and informational publications produced by the Oklahoma Tourism and Recreation Department, Travel Promotion Division, the Commissioners of the Land Office and the Oklahoma Department of Commerce shall be exempt from the provisions of this section.

Added by Laws 1974, p. 717, S.J.R. No. 20, § 3, emerg. eff. April 19, 1974. Amended by Laws 1978, c. 165, § 11; Laws 1985, c. 30, § 1, eff. Nov. 1, 1985; Laws 1987, c. 188, § 23, operative July 1, 1987; Laws 1991, c. 308, § 8, eff. July 1, 1991; Laws 1992, c. 259, § 3, emerg. eff. May 22, 1992; Laws 2010, c. 249, § 5, eff. July 1, 2010; Laws 2013, c. 250, § 5, emerg. eff. May 13, 2013; Laws 2013, c. 358, § 32, eff. July 1, 2013.

§74-3106.1. Publications officers for state agencies.

A. Every state agency shall designate one of its employees as the publications officer for the agency and shall notify the Publications Clearinghouse of the Department of Libraries of the name of the publications officer and of the name of any new publications officer should a change occur.

B. Each publications officer of a state agency shall have the duty to submit publications, upon release, in compliance with Section 3-114 of Title 65 of the Oklahoma Statutes, to compile and forward to the Publications Clearinghouse required lists of the state publications of the agency, and to provide other related information which may be requested by the Publications Clearinghouse for the collection of state publications and the depository library system.

C. The publications officer shall notify the Publications Clearinghouse of the production of audiotapes, videotapes, films, filmstrips, slides, or other audiovisual publications. Every state agency shall preserve one copy of each audiovisual publication or the publications officer shall deposit one copy of each audiovisual publication with the Publications Clearinghouse for preservation.

D. Every state agency including all institutions of higher education shall provide to the Publications Clearinghouse a complete list of its state publications published or submitted online during the prior calendar year in accordance with the rules of the Publications Clearinghouse.

Added by Laws 1978, c. 165, § 7. Amended by Laws 1984, c. 13, § 7, eff. Nov. 1, 1984; Laws 1998, c. 364, § 34, emerg. eff. June 8, 1998; Laws 2013, c. 358, § 33, eff. July 1, 2013.

§74-3106.2. Public meetings - Posting of schedules and agenda on Internet.

A. On or before January 1, 2002, or within six (6) months of the establishment of an Internet website, whichever is later, public bodies shall make available on their Internet website or on a general website if a public body uses a general website, a schedule and information about the regularly scheduled meetings of the public bodies or their governing bodies. The information made available shall include the date, time, place and agenda of each meeting. When reasonably possible, public bodies shall also provide information about the date, time, place and agenda of any special or emergency meetings of the public body.

B. The provisions of subsection A of this section shall not be construed to amend or alter the requirements of the Oklahoma Open Meeting Act.

C. On or before January 1, 2002, or within six (6) months of the establishment of an Internet website, whichever is later, public bodies shall make available on their Internet website the names of

members of their governing bodies and such other information about the members as the public body may choose to include.

D. For purposes of this section, "public body" is defined as provided by paragraph 1 of Section 304 of Title 25 of the Oklahoma Statutes and shall include each institution within The Oklahoma State System of Higher Education.

Added by Laws 2001, c. 125, § 1, eff. Nov. 1, 2001.

§74-3106.3. Oklahoma Government Website Information Act.

This act shall be known and may be cited as the "Oklahoma Government Website Information Act".

Added by Laws 2010, c. 306, § 1, eff. Nov. 1, 2010.

§74-3106.4. Public bodies - Required posting of information on website.

A. On or before January 1, 2011, public bodies shall make available on their Internet website or on a general website if a public body uses a general website, the following:

1. Any administrative rules adopted pursuant to the Administrative Procedures Act, which the public body uses to operate;

2. Any proposed administrative rules submitted by the public body pursuant to the Administrative Procedures Act;

3. Any statutes effecting the public body and its operations; and

4. Any statutes the public may find useful in interacting with the public body.

B. For purposes of this section, "public body" is defined as provided by paragraph 1 of Section 304 of Title 25 of the Oklahoma Statutes.

Added by Laws 2010, c. 306, § 2, eff. Nov. 1, 2010.

§74-3109. Repealed by Laws 2005, c. 472, § 19, eff. July 1, 2005.

§74-3110. Utility bills exempt.

This act shall not apply to monthly billings submitted to the state or any county or local subdivision of the state for public utility companies, electric cooperatives or telephone companies, whose services are regulated by the Oklahoma Corporation Commission nor to said utility companies, electric cooperatives or telephone companies for billings pertaining to installations or changes in service, where tariffs for such charges or billings by said companies are on file with the Oklahoma Corporation Commission.

Added by Laws 1974, c. 133, § 2, emerg. eff. May 3, 1974. Amended by Laws 1975, c. 330, § 2, emerg. eff. June 12, 1975.

§74-3111. Use of Social Security numbers by state or subdivision prohibited - Exceptions.

A. No state agency, board, commission or other unit or subdivision of state government shall request or require, except as otherwise required by law, that any person reveal the Social Security number of such person in order to obtain services or assistance, nor shall any state agency, board, commission or other unit or subdivision of state government use, for any purpose, numbers which correspond to the Social Security number of any person, except as otherwise required by law. Provided that any state agency, board, commission, unit or subdivision of state government using Social Security numbers for a particular purpose prior to January 1, 1974, may continue to use and require Social Security numbers for that purpose only and provided, further, that the provisions of Section 3101 et seq. of this title shall not be construed to prohibit the use or requirement of disclosure of one's Social Security number if the use of the number is related to the Social Security Administration or benefits thereunder, or, subject to the provisions of Section 1-311.1 of Title 63 of the Oklahoma Statutes, to prohibit the use or requirement of disclosure of the Social Security numbers of the mother and father by the Vital Records Section of the State Department of Health in the administration of the issuance of birth records.

B. The provisions of this section shall not be construed to prohibit the Oklahoma Tax Commission from requiring the disclosure by any person of his or her Social Security number in order to administer any state tax law, as defined by Section 202 of Title 68 of the Oklahoma Statutes or in order for the State Treasurer to administer any provision of the Uniform Unclaimed Property Act, if such administration requires the Tax Commission or State Treasurer to obtain the Social Security number of any person.

C. The provisions of this section shall not be construed to prohibit the Oklahoma Employment Security Commission from requiring the disclosure by any person of his or her Social Security number in order to administer any provision of the Employment Security Act of 1980.

D. The provisions of this section shall not prohibit the State Department of Education or a board of education of a school district from requesting any student who wishes to enroll in or is enrolled in any public school in this state to disclose the Social Security number of the student in order for the Department to administer any provision of the Oklahoma School Testing Program Act, for the collection of appropriate and necessary data pursuant to the Oklahoma Educational Indicators Program, for the purpose of determining student enrollment, to establish a mobility rate or for the allocation of State Aid Formula and midyear adjustment in funding for student growth. The State Department of Education or a

board of education of a school district shall not deny to any student any right, benefit, or privilege provided by law because of the refusal by the student to disclose the Social Security number of the student. If the State Department of Education or a board of education of a school district requests a student to disclose the student's Social Security number, the State Department of Education or a board of education of a school district shall inform the student by what statutory or other authority such number is solicited and what uses will be made of the number.

E. The State Board of Education is authorized to develop an alternative accountability system for tracking students to administer any provision of the Oklahoma School Testing Program Act, for the collection of appropriate and necessary data pursuant to the Oklahoma Educational Indicators Program, for the purpose of determining student enrollment, to establish a mobility rate or for the allocation of State Aid Formula and midyear adjustment in funding for student growth. The accountability system shall be developed only if, in the determination of the Board, the provisions of subsection D of this section are not sufficient to allow for the adequate implementation of the provisions of the Oklahoma School Testing Program Act or the Oklahoma Educational Indicators Program. Added by Laws 1974, c. 147, § 1. Amended by Laws 1989, c. 249, § 36, eff. July 1, 1989; Laws 1990, c. 309, § 20, eff. Sept. 1, 1990; Laws 1991, c. 280, § 76, eff. July 1, 1991; Laws 1996, c. 215, § 7, eff. July 1, 1996; Laws 1999, c. 10, § 38, eff. July 1, 1999; Laws 2000, c. 189, § 12, eff. July 1, 2000; Laws 2018, c. 14, § 12, eff. Nov. 1, 2018.

NOTE: Laws 1990, c. 263, § 66 repealed by Laws 1991, c. 280, § 86, eff. July 1, 1991.

§74-3112. Repealed by Laws 2000, c. 189, § 15, eff. July 1, 2000.

§74-3113. Disclosure of information indexed by social security numbers prohibited - Exceptions.

No state agency, board, commission or other unit or subdivision of state government may furnish any information indexed by social security number unless required by law or specifically authorized to do so by the holder of said social security number. Provided that this section shall not apply to a report produced by a state agency of monetary payments made to any state official or employee from State Treasury funds or accounts.

Laws 1974, c. 147, § 3.

§74-3113.1. Disclosure of breach of security of computerized personal information.

A. Any state agency, board, commission or other unit or subdivision of state government that owns or licenses computerized



data that includes personal information shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of Oklahoma whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subsection C of this section, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

B. Any state agency, board, commission or other unit or subdivision of state government that maintains computerized data that includes personal information that the state agency, board, commission or other unit or subdivision of state government does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

C. The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made after the law enforcement agency determines that it will not compromise the investigation.

D. As used in this section:

1. "Breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the state agency, board, commission or other unit or subdivision of state government. Good faith acquisition of personal information by an employee or agent of the state agency, board, commission or other unit or subdivision of state government for the purposes of that entity shall not be a breach of the security of the system, provided that the personal information is not used or subject to further unauthorized disclosure;

2. "Personal information" means the first name or first initial and last name of an individual in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

- a. social security number,
- b. driver license number, or
- c. account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to the financial account of an individual.

Personal information shall not include publicly available information that is lawfully made available to the general public from federal, state, or local public records; and

3. "Notice" means one of the following methods:
- a. written notice,
  - b. electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in Section 7001 of Title 15 of the United States Code, and
  - c. substitute notice, if the agency demonstrates that the cost of providing notice would exceed Two Hundred Fifty Thousand Dollars (\$250,000.00), or that the affected class of subject persons to be notified exceeds five hundred thousand (500,000), or the agency does not have sufficient contact information. Substitute notice shall consist of all of the following:
    - (1) e-mail notice when the agency has an e-mail address for the subject persons,
    - (2) conspicuous posting of the notice on the agency's web site page, if the agency maintains one, and
    - (3) notification to major statewide media.

E. Notwithstanding paragraph 3 of subsection D of this section, a state agency, board, commission or other unit or subdivision of state government that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this section shall be deemed to be in compliance with the notification requirements of this section if it notifies subject persons in accordance with its policies in the event of a breach of security of the system.

Added by Laws 2006, c. 298, § 1, emerg. eff. June 8, 2006.

§74-3114. State officials and employees prohibited from soliciting or accepting contributions for candidates.

No elected or appointed state official, his employees or others in behalf and for said elected or appointed state official, shall, directly or indirectly, solicit or accept contributions from employees in said department or agency for the benefit of or in behalf of any person who is a candidate for other political office.

(a) Violation of this section, upon resolution of the Legislature or either house thereof, shall be prosecuted by the appropriate district attorney, provided the appropriate district attorney shall have authority on his own motion to prosecute said violation in the absence of legislative resolution.

Upon conviction for violation of this section, the state official or any employee adjudged guilty, shall be immediately removed from office or position and shall be subject to bond forfeiture or so much thereof as necessary to reimburse the State of Oklahoma for monies wrongfully expended because of said violation.

In event the Legislature or the appropriate District Attorney fails to act within a reasonable time, then any citizen taxpayer may institute suit and upon successful prosecution of the violation, like penalties are to attach.

Laws 1974, c. 293, § 5, emerg. eff. May 29, 1974.

§74-3116. Heroic Oklahoman Award.

There is hereby established the Heroic Oklahoman Award to recognize any citizen of the State of Oklahoma who distinguishes himself by conspicuous and extraordinary heroism which may have involved personal hazard or danger and the voluntary risk of life. The Heroic Oklahoman Award shall not be made solely on the basis of having saved a life. Said award shall be presented by the Governor of the State of Oklahoma upon recommendation from a member of the Senate or House of Representatives.

The Heroic Oklahoman Award shall take the form of a public recognition of the heroic efforts of the recipient, but shall not be monetary in nature. The design of the award shall be left to the discretion of the Governor.

Added by Laws 1990, c. 159, § 1, emerg. eff. May 1, 1990.

§74-3117. Increase of fees by state agencies - When permitted - Notice - Justification and documentation.

No agency, constitutionally or statutorily created state board, bureau, commission, office, authority, public trust in which the state is a beneficiary, or interstate commission, except governing boards for entities within The Oklahoma State System of Higher Education, shall establish or increase fees, except during such times as the Legislature is in session, unless specifically mandated by the Legislature or federal legislation, or when the failure to establish or increase fees would conflict with an order issued by a court of law.

Prior to the establishment or increase of a fee, the agency, constitutionally or statutorily created state board, bureau, commission, office, authority, public trust in which the state is a beneficiary, or interstate commission, except governing boards for entities within The Oklahoma State System of Higher Education for which fees are reported pursuant to Section 3218.2 of Title 70 of the Oklahoma Statutes, shall notify, in writing, the Governor, the Speaker of the House of Representatives, the Government Operations, Agency Oversight and Administrative Rules Committee and the President Pro Tempore of the Senate of the intended action. The notice shall include justification for the fee or fee increase and all supportive documentation.

Added by Laws 1998, c. 239, § 18, eff. Nov. 1, 1998. Amended by Laws 2003, c. 4, § 7, emerg. eff. March 28, 2003.

§74-3118. Written response at time of denial of permit, license or tax exemption.

Every state agency that has authority to deny a permit, license, or tax exemption shall provide a written response to the applicant at the time of denial that states the reason for the denial, any applicable appeals procedure for the applicant, and any time limitation for filing an appeal.

Added by Laws 2004, c. 290, § 1, eff. Nov. 1, 2004.

§74-3119. State employee membership - Department of Corrections - General mailing list.

Any statewide organization limited to state employee membership with a minimum membership of two thousand dues-paying members and serving employees of a state agency including, but not limited to, the Department of Corrections, may annually send one general mailing to all state employees and shall pay for the total cost of the mailing. The Office of Management and Enterprise Services and any qualifying organization under this section shall agree on the method of providing a list of the names and addresses of the state employees to accomplish the mailing, while preserving the confidentiality of the list. Such an agreement may include providing the list to a third party in the business of providing mailing services if the third party agrees to maintain the confidentiality of the list. The State of Oklahoma shall not be held responsible or be liable to employees for providing the names and addresses as provided herein.

Added by Laws 2009, c. 455, § 6, emerg. eff. June 2, 2009. Amended by Laws 2012, c. 304, § 1004.

§74-3200.1. Short title - Health Care Workforce Resources Center.

A. This act shall be known and may be cited as the "Health Care Workforce Resources Act".

B. There is hereby created the Health Care Workforce Resources Center whose purpose shall be to coordinate, facilitate and communicate statewide efforts to meet supply and demand needs for Oklahoma's health care workforce. The initial focus for the Center shall include health care professionals in short supply including, but not limited to:

1. Nurses;
2. Respiratory therapists;
3. Pharmacists;
4. Imaging technologists;
5. Medical laboratory technologists and technicians;
6. Surgical and scrub technicians;
7. Physical therapists; and
8. Psychiatrists.

C. The Health Care Workforce Resources Center shall further focus on:

1. Data collection to support strategic decisions and policy recommendations, to measure and evaluate efforts over time, and to certify on an ongoing basis:

- a. current health care worker supply and demand,
- b. future supply and demand, and
- c. gap analysis;

2. Education and training to ensure Oklahoma's current education and training systems have the resources and support necessary to produce the number of health care workers needed in both the short and long term;

3. Recruitment to increase the level of awareness among Oklahoma's youth and adults of the opportunities available in health care, thereby increasing the number of individuals entering health careers; and

4. Retention to improve the job satisfaction and retention rates for Oklahoma health care employees.

D. The Health Care Workforce Resources Center shall act as a clearinghouse of information and activities focused on health care workforce supply and demand. The state agencies, programs, task forces, boards and commissions with resources earmarked or dedicated to health care workforce efforts shall coordinate with the Center to streamline resources, with the goal of eliminating duplication of effort.

E. The Health Care Workforce Resources Center may accept funding that includes but is not limited to:

1. Monetary contributions;
2. Contractual arrangements;
3. In-kind services;
4. Federal- and state-appropriated dollars;
5. Private and public foundation grants; and
6. Fee-for-service products.

Added by Laws 2006, c. 224, § 1, eff. Nov. 1, 2006.

§74-3200.2. Health Care Workforce Resources Board.

A. There is hereby created the Health Care Workforce Resources Board whose purpose shall be to govern the Health Care Workforce Resources Center promoting the purposes for which the Health Care Workforce Resources Center was created in the Health Care Workforce Resources Act.

B. 1. The Board shall consist of nineteen (19) members as follows:

- a. two members of the Oklahoma State Senate. One member shall be appointed by the President Pro Tempore of the Senate and one member shall be appointed by the minority leader of the Senate,

- b. two members of the Oklahoma House of Representatives. One member shall be appointed by the Speaker of the House of Representatives and one member shall be appointed by the minority leader of the House of Representatives,
- c. the Chancellor of the Oklahoma State Regents for Higher Education or a designee,
- d. the Director of the Oklahoma Department of Career and Technology Education or a designee,
- e. the State Superintendent of Public Instruction or a designee,
- f. the Secretary of Health or a designee,
- g. the Commissioner of Health or a designee,
- h. a representative of the Governor's Council for Workforce and Economic Development,
- i. a representative of the University of Oklahoma Health Sciences Center, designated by the president of that institution,
- j. a representative of the Office of Management and Enterprise Services, designated by the Director of the Office of Management and Enterprise Services, and
- k. a representative of the Oklahoma State University Center for Health Sciences, designated by the president of that institution.

2. Six members shall be appointed by the Governor as follows:

- a. one member of a statewide association representing urban and rural hospitals,
- b. one member of a statewide association representing nurses,
- c. one member of a statewide association representing allopathic physicians,
- d. one member of a statewide association representing osteopathic physicians,
- e. one member representing the long-term care industry chosen from a list of at least three names submitted by a statewide association representing urban and rural nursing homes, and
- f. one lay member who shall represent the general public.

3. All designated members shall serve at the pleasure of their designators. The initial appointments of the Governor shall be for the following terms:

- a. the initial term of the member of a statewide association representing urban and rural hospitals shall be for a three-year term,
- b. the initial term of the member of a statewide association representing nurses shall be for a three-year term,

- c. the initial term of the member of a statewide association representing allopathic physicians shall be for a two-year term,
- d. the initial term of the member of a statewide association representing osteopathic physicians shall be for a two-year term,
- e. the initial term of the member representing the long-term care industry shall be for a one-year term, and
- f. the initial term of the lay member representing the general public shall be for a one-year term.

4. After the initial terms, all other terms of members appointed by the Governor shall be for four-year terms. Members appointed by the Governor may be removed by the Governor for cause. A vacancy of an appointed member shall be filled in the same manner as the original appointment for the unexpired portion of the term.

5. The Board shall elect from among its membership a chair and a vice-chair and shall adopt procedures for the governance of its operations. Ten members shall constitute a quorum for the transaction of business. The Board shall meet at such times as it deems appropriate.

6. Members of the Board shall receive no compensation for their services but may be reimbursed for reasonable and necessary travel expenses incurred in the performance of their duties by their respective legislative house or state agency pursuant to the provisions of the State Travel Reimbursement Act. Members appointed by the Governor shall be reimbursed by the Oklahoma State Regents for Higher Education pursuant to the provisions of the State Travel Reimbursement Act.

7. Until such time as private or public funds become available, administrative support for the Board, including, but not limited to, personnel necessary to ensure the proper performance of the duties and responsibilities of the Board shall be provided by the Oklahoma State Regents for Higher Education and the Oklahoma Department of Health. All represented agencies shall provide any additional administrative support requested by the Board.

C. The duties of the Health Care Workforce Resources Board shall include, but not be limited to, the hiring of, or contracting for, an Executive Director of the Health Care Workforce Resources Center as private or public funds become available. The Executive Director shall report to the Board and be responsible for the hiring of staff and activities of the Health Care Workforce Resources Center as stated in the Health Care Workforce Resources Act. These activities include contracting for services including, but not limited to, data collection and analysis and Web support. Until such time as private or public funds become available to hire an Executive Director, the Board shall be responsible for activities of the Health Care Workforce Resources Center.

Added by Laws 2006, c. 224, § 2, eff. Nov. 1, 2006. Amended by Laws 2012, c. 304, § 1005.

§74-3301. "Agency" defined.

As used in this act, "agency" means any board, commission, department, authority, bureau, office or other entity created with authority to make rules or formulate orders as defined in the Administrative Procedures Act.

Laws 1973, c. 153, § 1, emerg. eff. May 14, 1973.

§74-3302. Legislature as sole creating authority during session.

During the time the Legislature is in session, it is the sole authority for the creation of an agency.

Laws 1973, c. 153, § 2, emerg. eff. May 14, 1973.

§74-3303. Creation by Executive Order during interim.

Agencies may be created by Executive Order of the Governor during the interim between sessions of the Legislature.

Laws 1973, c. 153, § 3, emerg. eff. May 14, 1973.

§74-3304. Requisites of Executive Order.

An Executive Order creating an agency shall clearly define its purpose and the duties, responsibilities and qualifications of agency officials, salaries of the officials, projected number of employees and the maximum permissible expenditures of the agency.

Laws 1973, c. 153, § 4, emerg. eff. May 14, 1973.

§74-3305. Continuation of agency created by Executive Order - Legislation.

Continuation of an agency created by Executive Order is conditioned upon the Governor's submitting proposed legislation, upon convening of the Legislature, for creation of the agency by statute, the proposal to contain detailed provisions regarding the purpose of the agency, its manner of operation, the duties, responsibilities and qualification requirements of its officials, salaries of its officials, projected number of employees and projected costs of its operation. If legislation establishing the agency is not enacted, it shall not continue operation beyond sine die adjournment of the Legislature for that session.

Laws 1973, c. 153, § 5, emerg. eff. May 14, 1973.

§74-3315. Renumbered as Title 74, § 5060.9a-1 by Laws 1996, c. 143, § 4, emerg. eff. May 7, 1996.

§74-3315.1. State Register of Natural Heritage Areas - Creation - Listing of sites - Private property.



A. There is hereby created a "State Register of Natural Heritage Areas".

B. The Oklahoma Biological Survey shall establish a listing of sites, districts, areas, or objects above or below the surface of the earth whether on land or in the waters of this state, which have unique and diverse ecological, geological, or other special natural characteristics of significant scientific, educational, or passive recreational value to the citizens of this state. The listing shall constitute the State Register of Natural Heritage Areas.

C. Listing a privately owned property in the State Register shall in no way violate or abridge the right of the landowner to use, modify, or dispose of the property.

Added by Laws 1984, c. 48, § 2, eff. Nov. 1, 1984. Amended by Laws 2002, c. 199, § 2, emerg. eff. May 6, 2002. Renumbered from Title 74, § 1841 by Laws 2002, c. 199, § 5, emerg. eff. May 6, 2002.

#### §74-3315.2. Potential areas for inclusion in State Register - Characteristics.

Any potential natural area recommended for inclusion in the State Register shall possess one or more of the following characteristics:

1. Rare, threatened, or endangered plant or animal species habitat;

2. Outstanding plant community type which is representative of the natural diversity of this state;

3. Outstanding geological element which is representative of the geological history or processes of this state;

4. Outstanding aquatic elements which are representative of the aquatic diversity of this state; or

5. Unusual natural features, such as vegetation types, virgin stands, or other unique biological or ecological phenomena.

Added by Laws 1984, c. 48, § 4, eff. Nov. 1, 1984. Renumbered from Title 74, § 1843 by Laws 2002, c. 199, § 5, emerg. eff. May 6, 2002.

#### §74-3315.3. Duties of Oklahoma Biological Survey.

In performing its duties pursuant to the provisions of the Oklahoma State Register of Natural Heritage Areas Act, the Oklahoma Biological Survey shall:

1. Identify potential natural areas for inclusion in the State Register. Any person or organization may recommend the inclusion of any area within this state to the Survey;

2. Notify the landowners of a potential natural area of the recommendation of the area, explain the scope and intent of the State Register, and request permission to evaluate the site of the area;

3. Evaluate the site of the potential natural area, upon receiving permission from the landowners, to determine whether the area satisfies the criteria listed in Section 4 of this act;

4. Invite the landowners of a natural area site which satisfies the criteria to register the site in the State Register. To register a site, a nonbinding agreement stating the intent of the landowners to protect the characteristics of the natural area site is signed by the landowners and the Director of the Oklahoma Biological Survey. Upon the signing of the agreement, the Director shall present a plaque and a certificate of registration to the landowners acknowledging their generosity and civic-mindedness;

5. Protect the rights of the landowners by publicly listing a registered natural area only with the consent of the landowners and by removing a natural area from the State Register at the request of the landowners;

6. Assist the landowners of registered natural areas by providing information concerning such areas and by providing or arranging for technical assistance and resource planning which may be requested;

7. Review periodically each registered natural area and remove from the State Register any area which has had its natural character or quality degraded through significant natural or man-made changes; and

8. Publish an annual report on the state and condition of the registered natural areas which shall be available to the public. Added by Laws 1984, c. 48, § 5, eff. Nov. 1, 1984. Amended by Laws 1993, c. 155, § 1, eff. July 1, 1993; Laws 2002, c. 199, § 3, emerg. eff. May 6, 2002. Renumbered from Title 74, § 1844 by Laws 2002, c. 199, § 5, emerg. eff. May 6, 2002.

#### §74-3315.4. Evaluation of recommended areas - Criteria.

All potential natural areas recommended for inclusion in the State Register shall be evaluated by the Oklahoma Biological Survey, as required by Section 3 of this act, according to the following criteria:

1. The diversity of flora and fauna;
2. The quality and viability of the occurrence of the element of natural diversity;
3. The absence of damaging land uses and the extent of historic disturbances;
4. The potential for sustained protection and management of the element of natural diversity;
5. The presence of additional elements of natural diversity not adequately represented in other registered natural areas; and
6. The significance of the educational and scientific values of the element of natural diversity.

Added by Laws 1984, c. 48, § 6, eff. Nov. 1, 1984. Amended by Laws 1993, c. 155, § 2, eff. July 1, 1993; Laws 2002, c. 199, § 4, emerg. eff. May 6, 2002. Renumbered from Title 74, § 1845 by Laws 2002, c. 199, § 5, emerg. eff. May 6, 2002.

§74-3316. CompSource purchasing exemption pilot program.

CompSource Oklahoma is hereby permitted to develop a pilot program. The purpose of the pilot program is to capture cost savings and improve services through exemption from certain purchasing and acquisition statutory provisions and rules and from certain budget filings and information systems conversions. The pilot program shall continue for a period of three (3) years and shall become permanent if the program remains in existence and written authorization for continuation from the Governor is provided during the 2012 legislative session. CompSource Oklahoma shall further be accountable to provide a report annually to the President Pro Tempore of the Senate, Speaker of the House of Representatives and Governor describing the methods and innovations utilized in its procurement processes, and the improved services and savings accrued as a result of the program.

Added by Laws 2009, c. 454, § 1.

§74-3317. CompSource Oklahoma compliance exemptions.

A. Compliance with the provisions of The Oklahoma Central Purchasing Act shall not be required of CompSource Oklahoma. CompSource Oklahoma shall observe internal purchasing procedures approved by the Purchasing Director of the Office of Management and Enterprise Services and keep records of acquisitions which shall be subject to audit by the Office of Management and Enterprise Services.

B. Compliance with the provisions of the Public Competitive Bidding Act of 1974, Public Building Construction and Planning Act, and Consulting Services through the Construction and Properties Division of the Office of Management and Enterprise Services shall not be required of CompSource Oklahoma. CompSource Oklahoma shall observe internal procurement and bidding procedures and keep records of contracts and acquisitions which shall be subject to audit by the Office of Management and Enterprise Services.

C. Compliance with the provisions of the Oklahoma Surplus Property Act shall not be required of CompSource Oklahoma. CompSource Oklahoma shall observe internal property disposition procedures and keep records of property dispositions which shall be subject to audit by the Office of Management and Enterprise Services.

D. CompSource Oklahoma shall additionally be exempted from compliance with Sections 78 through 78b of this title concerning Fleet Management within the Office of Management and Enterprise

Services and shall keep records and documentation of its motor-vehicle-related transactions which shall be subject to audit by the Office of Management and Enterprise Services.

E. CompSource Oklahoma shall be exempted from the requirements of the Office of Management and Enterprise Services to file the annual budget work program, budget request, information systems plan and telecommunications plan. CompSource Oklahoma shall continue to file an annual audited financial statement in accordance with governmental accounting standards.

F. CompSource Oklahoma shall further be exempted from conversion to CORE Phase II requirements of the Office of Management and Enterprise Services.

Added by Laws 2009, c. 454, § 2. Amended by Laws 2012, c. 304, § 1006.

#### §74-3361.1. Abolition of Department of Energy.

The Oklahoma Department of Energy is hereby abolished. The Corporation Commission shall review and evaluate all federal programs being administered by the Department and shall continue those programs the Commission determines to be beneficial to Oklahoma. All unexpended funds, outstanding financial obligations or encumbrances, contractual obligations, equipment, files, materials and fixtures of the Department of Energy are hereby transferred to the Corporation Commission, provided that those unexpended funds, supplies and equipment utilized by the Department to support the state fuel set-aside, allocation and emergency energy planning programs are hereby transferred to the Office of Civil Defense.

Laws 1981, c. 285, § 5, eff. Oct. 1, 1981.

#### §74-3401. Short title.

This act shall be known and may be cited as "The Anti-Kickback Act of 1974".

Added by Laws 1974, c. 32, § 1, emerg. eff. April 10, 1974.

#### §74-3402. Definitions.

As used in this act:

1. Kickback means the giving of money or any other thing of value either directly or indirectly by or on behalf of any person, or the agent of any person, holding a contract or bidding to obtain a contract with the state for the furnishing of goods or services of any kind to any state employee or any person holding a higher tier contract with the state for the furnishing of goods or services, when the giving of which is for the purpose of acquiring or holding such contract with the state;

2. Person means an individual, firm, partnership, foreign or domestic corporation or association or any employee thereof;

3. State means the State of Oklahoma or any office, department, board, bureau, commission, committee, authority or any other entity or political subdivision of the state which includes, but is not limited to municipalities, counties and school boards; and

4. State employee means any elected or appointed officer or employee of the state.

Added by Laws 1974, c. 32, § 2, emerg. eff. April 10, 1974.

§74-3403. Giving of kickback by holder of contract prohibited.

No person, holding a contract with the state for the furnishing of goods or services of any kind, shall give or offer to give a kickback to any person holding a higher tier contract with the state or to any state employee.

Added by Laws 1974, c. 32, § 3, emerg. eff. April 10, 1974.

§74-3404. Making or receiving a kickback prohibited - Penalty.

Any person who shall knowingly make or receive, either directly or indirectly, a kickback shall be guilty of a felony, and upon conviction shall be fined not more than Ten Thousand Dollars (\$10,000.00) or double the amount of the financial gain or be imprisoned for not more than five (5) years, or both.

Added by Laws 1974, c. 32, § 4, emerg. eff. April 10, 1974. Amended by Laws 1997, c. 133, § 590, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 427, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 590 from July 1, 1998, to July 1, 1999.

§74-3405. Recovery of kickback.

The cost of any kickback shall not be recompensed either directly or indirectly as a part of the contract price charged to the state. The amount of any kickback shall be recoverable in treble on behalf of the state from the person giving the kickback or the person receiving the kickback by a civil suit in a court of competent jurisdiction or by setoff on any claim for payment of monies due under the contract price.

Laws 1974, c. 32, § 5, emerg. eff. April 10, 1974.

§74-3406. Presumptions - Exemplary damages.

Upon a showing that a contractor or subcontractor gave a kickback in connection with the award of any state contract or subcontract, it shall be conclusively presumed that the cost of the kickback was included in the price of the contract or subcontract and was ultimately borne by the state and in addition to any other penalty or liability, such person shall be liable for exemplary damages.

Added by Laws 1974, c. 32, § 6, emerg. eff. April 10, 1974.

§74-3407. Attorney General to appear for state.

The Attorney General of the State of Oklahoma shall appear for the state and prosecute and defend all actions and proceedings in which the state is an interested party under this act.

Added by Laws 1974, c. 32, § 7, emerg. eff. April 10, 1974.

§74-3458. Limitation of liability of owners of land used for recreational purposes.

No person or corporation, or their successors in interest, who has granted a right-of-way or easement across his land to the Commission for use in the state trails system shall be liable to any user of the trail for injuries suffered on said right-of-way or easement unless the injuries are caused by the willful or wanton misconduct of the grantor.

Added by Laws 1974, c. 241, § 8.

§74-3501. Repealed by Laws 2014, c. 190, § 1, eff. Nov. 1, 2014.

§74-3502. Repealed by Laws 2014, c. 190, § 1, eff. Nov. 1, 2014.

§74-3601. Repealed by Laws 2002, c. 17, § 4, emerg. eff. Feb. 15, 2002.

§74-3601.1. Employee defined - Maximum number of full-time-equivalent employees.

A. For purposes of Sections 3601.1 through 3603 of this title, the term "employee" means a full-time employee or any number of part-time employees whose combined weekly hours of employment equal those of a full-time employee, but shall not include temporary employees working on a seasonal basis between May 1 and October 31.

B. Beginning July 1, 2008, the maximum number of full-time-equivalent employees for each of the following agencies, boards, commissions, departments, or programs shall not exceed the numbers specified in this section, except as may be authorized pursuant to the provisions of Section 3603 of this title.

MAXIMUM NUMBER OF  
FULL-TIME-EQUIVALENT  
EMPLOYEES

Oklahoma Employment Security Commission	1150
Oklahoma Accountancy Board	11
Board of Governors of the Licensed Architects, Landscape Architects and Interior Designers of Oklahoma	4
Board of Chiropractic Examiners	3
State Board of Cosmetology	16
Board of Dentistry	10

Oklahoma State Board of Embalmers and Funeral Directors	5
State Board of Registration for Professional Engineers and Land Surveyors	10
State Board of Medical Licensure and Supervision/ Board of Podiatric Medical Examiners/State Board of Examiners of Perfusionists	29
Commission on Marginally Producing Oil and Gas Wells	5
Oklahoma Motor Vehicle Commission	6
Oklahoma Board of Nursing	30
Oklahoma State Board of Examiners for Nursing Home Administrators	4
Board of Examiners in Optometry	3
State Board of Osteopathic Examiners	7
Oklahoma State Board of Pharmacy	10
State Board of Examiners of Psychologists	2
Oklahoma Real Estate Commission	26
Board of Examiners for Speech-Language Pathology and Audiology	2
Oklahoma Used Motor Vehicle and Parts Commission	12
State Board of Veterinary Medical Examiners	6
Oklahoma Firefighters Pension and Retirement System	13
Oklahoma Police Pension and Retirement System	12
Teachers' Retirement System of Oklahoma	52
Oklahoma Public Employees Retirement System	63
Oklahoma Student Loan Authority	85
Oklahoma Industrial Finance Authority/Oklahoma Development Finance Authority	10
State and Education Employees Group Insurance Board	178
Oklahoma Capital Investment Board	4
State Board of Licensed Social Workers	1
Oklahoma State Employees Benefits Council	38
Oklahoma State Banking Department	46
Liquefied Petroleum Gas Administration	10

C. The duties and compensation of employees, not otherwise prescribed by law, necessary to perform the duties imposed upon the Oklahoma Public Employees Retirement System Board of Trustees by law shall be set by the Board of Trustees.

D. Temporary employees of the Oklahoma Used Motor Vehicle and Parts Commission between the dates of November 1 and January 31 annually shall not be counted toward the maximum number of full-time-equivalent employees provided for in this section.

Added by Laws 2002, c. 17, § 1, emerg. eff. Feb. 15, 2002. Amended by Laws 2003, c. 398, § 1, eff. July 1, 2003; Laws 2004, c. 463, §

1, eff. July 1, 2004; Laws 2005, c. 408, § 1, eff. July 1, 2005; Laws 2006, 2nd Ex. Sess., c. 47, § 1, eff. July 1, 2006; Laws 2007, c. 208, § 1, eff. July 1, 2007; Laws 2008, c. 300, § 5, eff. July 1, 2008; Laws 2011, c. 101, § 13, eff. Nov. 1, 2011; Laws 2013, c. 254, § 34; Laws 2013, c. 405, § 19, eff. July 1, 2013; Laws 2016, c. 269, § 11, eff. Nov. 1, 2016.

§74-3601.2. Chief executive officers - Minimum and maximum salaries.

A. Beginning July 1, 2013, each agency, board, commission, department or program in the executive branch of state government shall establish the salary of each of the chief executive officers for which they have appointing authority. Such salary shall be set between the minimum and maximum of the range specified in the annual compensation reports required by paragraph 5 of Section 840-1.6A of this title, for full-time employees only.

B. All increases require certification of the appointing authority that said action can be implemented for the current fiscal year and subsequent fiscal year without the need for additional funding. The agency, board, commission, department or program shall report increases granted under this section to the Office of Management and Enterprise Services on an annual basis by August 1 of each year. The Office of Management and Enterprise Services shall forward a report of such increases to the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives no later than September 1 of each year.

C. Every three (3) years beginning with fiscal year 2013, the Office of Management and Enterprise Services shall review these salary ranges and report on and make recommendations on proposed salary ranges in its annual compensation reports mandated by paragraph 5 of Section 840-1.6A of this title. Such recommendations shall be made no later than February 1 for chief executive officers in all state agencies, boards, commissions, departments or programs in the executive branch of state government, including but not limited to those specified in Section 3601.1 of this title.

Added by Laws 2004, c. 463, § 2, eff. Jan. 1, 2005. Amended by Laws 2005, c. 408, § 2, eff. July 1, 2005; Laws 2006, 2nd Ex. Sess., c. 47, § 2, eff. July 1, 2006; Laws 2007, c. 208, § 2, eff. July 1, 2007; Laws 2010, c. 430, § 1, eff. July 1, 2010; Laws 2012, c. 304, § 1007; Laws 2013, c. 254, § 35; Laws 2013, c. 351, § 1, eff. July 1, 2013.

§74-3602. Reports

The following agencies, boards, commissions, departments and institutions shall file a quarterly report with the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate, showing the increase or decrease in employees



employed by them during the fiscal quarter immediately preceding the filing of the report:

1. Oklahoma State Regents for Higher Education;
  2. Board of Regents of Oklahoma Colleges; and
  3. Every institution comprising the Oklahoma State System of Higher Education.
- Laws 1975, c. 126, § 2, emerg. eff. May 13, 1975; Laws 1976, c. 285, § 2, emerg. eff. June 17, 1976.

§74-3603. Increase in personnel or expenditure of funds.

A. No agency, board, commission, department, program or office of the state government listed in Sections 3601 through 3604 of this title or whose number of personnel is fixed in any appropriation act or other law of the state, shall increase its personnel above the total number set forth in the provisions of Sections 3601 through 3604 of this title or such appropriation act or other law of the state, unless approval is first granted by the Contingency Review Board. No board, commission, department, program or office whose expenditure of funds for salaries and wages has been limited by legislative action shall exceed the amount unless approval is first granted by the Contingency Review Board.

B. The Board shall meet at the call of the Governor for the purpose of reviewing requests for increasing personnel by those agencies, boards, commissions, departments, programs or offices referred to in subsection A of this section. All meetings of the Board shall be preannounced and open to the public. A majority vote of the total membership of the Board shall be necessary to approve a request for an increase in personnel. For any additional employees authorized by the Board, the Board shall be empowered to make a corresponding adjustment in the amount of monies any board, agency, department, commission, program or office is authorized to expend for salaries and wages.

C. The Board shall approve a request for increasing personnel only if an emergency exists within the requesting entity which could not have been foreseen during the preceding Legislative Session and only if such increase in personnel is needed to perform new or additional duties and services required of such agency, board, commission, department, program or office. All requests for a personnel increase shall be submitted in writing to each member of the Contingency Review Board with a specific explanation of the existing emergency which could not have been foreseen and the new or additional duties or services to be performed.

D. Any action to increase the number of employees in any agency involved herein shall be compiled in a report by December 31 each year, and said report transmitted to each member of the Legislature.

E. The Board, by majority vote, is authorized to determine and approve the transfer of funds, encumbrances, obligations, personnel

spaces and associated salary limits, relevant records and equipment, within the limits previously established by legislative action, that are essential in the implementation of those governmental reorganization measures that are adopted by the Legislature. The transfer of funds accomplished by the Board shall be exempt from the provisions of Section 41.12 of Title 62 of the Oklahoma Statutes. Laws 1975, c. 126, § 3, emerg. eff. May 13, 1975; Laws 1976, c. 285, § 3, emerg. eff. June 17, 1976; Laws 1979, c. 279, § 2, emerg. eff. June 6, 1979; Laws 1980, c. 155, § 5, emerg. eff. April, 1980.

§74-3605. Contingency Review Board.

A. There is hereby re-created, the Contingency Review Board consisting of the following ex officio voting members:

1. The Governor;
2. The Speaker of the House of Representatives;
3. The President Pro Tempore of the Senate; and
4. The Director of the Office of Management and Enterprise

Services shall be an ex officio nonvoting member of the Board.

B. The Governor shall act as Chair of the Board. The Director of the Office of Management and Enterprise Services shall be the Executive Secretary of the Board and shall perform all the duties pertaining to such position.

C. A simple majority of the total voting membership shall be required to constitute a quorum and shall be necessary for any official action of the Board.

D. The Board shall hold such meetings as are necessary to carry out the purposes of this act. The Board shall meet at the call of the Governor.

Added by Laws 1980, c. 155, § 1, emerg. eff. April 1, 1980. Amended by Laws 1986, c. 15, § 2, eff. July 1, 1986; Laws 1992, c. 96, § 1, emerg. eff. April 17, 1992; Laws 1998, c. 41, § 1; Laws 2012, c. 304, § 1008.

§74-3805. Repealed by Laws 2014, c. 189, § 1, eff. Nov. 1, 2014.

§74-3901. Short title.

This act shall be known as the "Oklahoma Sunset Law." Laws 1977, c. 9, § 1, emerg. eff. March 10, 1977.

§74-3902. Definitions.

As used in the Oklahoma Sunset Law:

1. "Statutory entity" means any department, agency, commission, board or other regulatory instrumentality of state government enumerated in the Oklahoma Sunset Law; and
2. "Termination date" means the date provided for termination of legislative authority for the existence of a particular entity as provided for in this act.

Added by Laws 1977, c. 9, § 2, emerg. eff. March 10, 1977. Amended by Laws 1983, c. 333, § 1, emerg. eff. June 29, 1983; Laws 1995, c. 31, § 2.

§74-3902.1. Repealed by Laws 1995, c. 31, § 7.

§74-3903. Termination of certain statutory entities July 1, 2012 - Abolition of powers, duties and functions.

The following statutory entities and their successors shall be terminated on July 1, 2012, and all powers, duties and functions shall be abolished one (1) year thereafter:

1. Oklahoma State Committee of Plumbing Examiners as created by Section 1004 of Title 59 of the Oklahoma Statutes;
2. Waterworks and Wastewater Works Advisory Council as created by Section 1103 of Title 59 of the Oklahoma Statutes;
3. State Board of Examiners of Certified Shorthand Reporters as created by Section 1501 of Title 20 of the Oklahoma Statutes;
4. Oklahoma Emergency Response Systems Development Advisory Council as created by Section 1-2516 of Title 63 of the Oklahoma Statutes;
5. Oklahoma Educational Television Authority as created by Section 23-105 of Title 70 of the Oklahoma Statutes;
6. State Board of Examiners of Perfusionists as created by Section 2053 of Title 59 of the Oklahoma Statutes; and
7. Public Employees Relations Board as created by Section 51-104 of Title 11 of the Oklahoma Statutes.

Added by Laws 1977, c. 9, § 3, emerg. eff. March 10, 1977. Amended by Laws 1983, c. 333, § 3, emerg. eff. June 29, 1983; Laws 1986, c. 296, § 1, eff. July 1, 1986; Laws 1989, c. 254, § 1; Laws 1992, c. 1, § 1, emerg. eff. March 10, 1992; Laws 1997, c. 26, § 1, emerg. eff. April 1, 1997; Laws 2002, c. 331, § 1; Laws 2011, c. 47, § 1.

§74-3904. Termination of certain statutory entities July 1, 2013 - Abolition of powers, duties and functions.

The following statutory entities and their successors shall be terminated on July 1, 2013, and all powers, duties and functions shall be abolished one (1) year thereafter:

1. State Board of Cosmetology as created by Section 199.2 of Title 59 of the Oklahoma Statutes;
2. State Barber Advisory Board as created by Section 61.4 of Title 59 of the Oklahoma Statutes;
3. Oklahoma Real Estate Commission as created by Section 858-201 of Title 59 of the Oklahoma Statutes;
4. State Board of Examiners of Psychologists as created by Section 1354 of Title 59 of the Oklahoma Statutes;
5. Scenic Rivers Commission as created by Section 1461 of Title 82 of the Oklahoma Statutes;

6. Domestic Violence and Sexual Assault Advisory Council as created by Section 18p-2 of Title 74 of the Oklahoma Statutes;

7. State Board of Medical Licensure and Supervision as created by Section 481 of Title 59 of the Oklahoma Statutes;

8. Oklahoma Partnership for School Readiness Board as created by Section 640.1 of Title 10 of the Oklahoma Statutes.

Added by Laws 1977, c. 9, § 4, emerg. eff. March 10, 1977. Amended by Laws 1983, c. 333, § 4, emerg. eff. June 29, 1983; Laws 1986, c. 296, § 2, eff. July 1, 1986; Laws 1991, c. 194, § 1; Laws 1997, c. 34, § 1; Laws 2000, c. 33, § 2; Laws 2003, c. 26, § 1; Laws 2009, c. 24, § 1.

§74-3905. Termination of certain statutory entities July 1, 2010 - Abolition of powers, duties and functions.

The following statutory entities and their successors shall be terminated on July 1, 2014, and all powers, duties and functions shall be abolished one (1) year thereafter:

1. State Board of Licensure for Professional Engineers and Land Surveyors as created by Section 475.3 of Title 59 of the Oklahoma Statutes;

2. Oklahoma Accountancy Board as created by Section 15.2 of Title 59 of the Oklahoma Statutes;

3. The Board of Governors of the Licensed Architects, Landscape Architects and Registered Interior Designers of Oklahoma as created by Section 46.4 of Title 59 of the Oklahoma Statutes;

4. Oklahoma Funeral Board as created by Section 396 of Title 59 of the Oklahoma Statutes;

5. Long-Term Care Facility Advisory Board as created by Section 1-1923 of Title 63 of the Oklahoma Statutes;

6. Commission on Marginally Producing Oil and Gas Wells as created by Section 700 of Title 52 of the Oklahoma Statutes;

7. Group Homes for Persons with Developmental or Physical Disabilities Advisory Board as created by Section 1430.4 of Title 10 of the Oklahoma Statutes;

8. Electronic and Information Technology Accessibility Advisory Council as created by Section 34.30 of Title 62 of the Oklahoma Statutes; and

9. Oklahoma Strategic Military Commission as created by Section 5401 of Title 74 of the Oklahoma Statutes.

Added by Laws 1977, c. 9, § 5, emerg. eff. March 10, 1977. Amended by Laws 1979, c. 115, § 2; Laws 1983, c. 333, § 5, emerg. eff. June 29, 1983; Laws 1986, c. 296, § 3, eff. July 1, 1986; Laws 1987, c. 236, § 195, emerg. eff. July 20, 1987; Laws 1992, c. 343, § 1, eff. July 1, 1992; Laws 1995, c. 252, § 3, emerg. eff. May 25, 1995; Laws 1998, c. 205, § 1; Laws 2004, c. 93, § 1; Laws 2009, c. 24, § 2; Laws 2010, c. 27, § 1; Laws 2010, c. 165, § 1.

§74-3906. Termination of certain statutory entities July 1, 2015 - Abolition of powers, duties and functions.

The following statutory entities and their successors shall be terminated on July 1, 2015, and all powers, duties and functions shall be abolished one (1) year thereafter:

1. Polygraph Examiners Board as created by Section 1455 of Title 59 of the Oklahoma Statutes;
2. State Board of Osteopathic Examiners as created by Section 624 of Title 59 of the Oklahoma Statutes;
3. Board of Podiatric Medical Examiners as created by Section 137 of Title 59 of the Oklahoma Statutes; and
4. Oklahoma State Athletic Commission as created by Section 604.1 of Title 3A of the Oklahoma Statutes.

Added by Laws 1977, c. 9, § 6, emerg. eff. March 10, 1977. Amended by Laws 1983, c. 333, § 6, emerg. eff. June 29, 1983; Laws 1986, c. 150, § 23, emerg. eff. April 29, 1986; Laws 1986, c. 251, § 56, eff. Nov. 1, 1986; Laws 1988, c. 225, § 23; Laws 1992, c. 147, § 11, eff. July 1, 1992; Laws 1993, c. 145, § 357, eff. July 1, 1993; Laws 1993, c. 196, § 1; Laws 1999, c. 238, § 1; Laws 2005, c. 24, § 1; Laws 2008, c. 329, § 20, eff. July 1, 2008; Laws 2010, c. 165, § 2; Laws 2011, c. 42, § 1.

§74-3907. Termination of certain statutory entities July 1, 2012 - Abolition of powers, duties, and functions.

The following statutory entities and their successors shall be terminated on July 1, 2012, and all powers, duties and functions shall be abolished one (1) year thereafter:

1. Board of Examiners for Speech-Language Pathology and Audiology as created by Section 1607 of Title 59 of the Oklahoma Statutes;
2. State Board of Veterinary Medical Examiners as created by Section 698.3 of Title 59 of the Oklahoma Statutes;
3. Board of Tests for Alcohol and Drug Influence as created by Section 759 of Title 47 of the Oklahoma Statutes;
4. State Anatomical Board as created by Section 91 of Title 63 of the Oklahoma Statutes;
5. Board of Examiners in Optometry as created by Section 582 of Title 59 of the Oklahoma Statutes;
6. State Capitol Preservation Commission as created by Section 4102 of this title;
7. Commission on County Government Personnel Education and Training as created by Section 130.1 of Title 19 of the Oklahoma Statutes;
8. Oklahoma Climatological Survey as created by Section 245 of this title;
9. The State Board of Licensed Social Workers as created by Section 1253 of Title 59 of the Oklahoma Statutes;

10. Child Death Review Board as created by Section 1150.2 of Title 10 of the Oklahoma Statutes;

11. Oversight Committee for State Employee Charitable Contributions as created by Section 7005 of this title;

12. The Wellness Council as created by Section 1382 of this title;

13. Board of Chiropractic Examiners as created by Section 161.4 of Title 59 of the Oklahoma Statutes; and

14. Oklahoma Music Hall of Fame Board as created by Section 231 of Title 53 of the Oklahoma Statutes.

Added by Laws 1977, c. 9, § 7, emerg. eff. March 10, 1977. Amended by Laws 1983, c. 333, § 7, emerg. eff. June 29, 1983; Laws 1987, c. 108, § 6, eff. July 1, 1987; Laws 1988, c. 225, § 24; Laws 1989, c. 210, § 4, emerg. eff. May 8, 1989; Laws 1991, c. 168, § 11, eff. July 1, 1991; Laws 1993, c. 195, § 4, eff. July 1, 1993; Laws 1994, c. 219, § 1; Laws 1994, c. 334, § 1, eff. July 1, 1994; Laws 1999, c. 19, § 2; Laws 2000, c. 158, § 1; Laws 2004, c. 93, § 3; Laws 2005, c. 168, § 6, emerg. eff. May 13, 2005; Laws 2006, c. 16, § 87, emerg. eff. March 29, 2006; Laws 2006, c. 208, § 2, eff. Nov. 1, 2006; Laws 2016, c. 269, § 12, eff. Nov. 1, 2016.

NOTE: Laws 2005, c. 24, § 2 repealed by Laws 2006, c. 16, § 88, emerg. eff. March 29, 2006.

§74-3908. Termination of certain statutory entities July 1, 2013 - Abolition of powers, duties and functions.

The following statutory entities and their successors shall be terminated on July 1, 2013, and all powers, duties and functions shall be abolished one (1) year thereafter:

1. State Accrediting Agency as created by Section 241 of Title 72 of the Oklahoma Statutes;

2. Capitol-Medical Center Improvement and Zoning Commission as created by Section 83.1 of Title 73 of the Oklahoma Statutes;

3. Archives and Records Commission as created by Section 305 of Title 67 of the Oklahoma Statutes;

4. Domestic Violence Fatality Review Board as created by Section 1601 of Title 22 of the Oklahoma Statutes;

5. Oklahoma Energy Resources Board as created by Section 288.3 of Title 52 of the Oklahoma Statutes;

6. Advisory Committee on Pedorthics as created by Section 2305 of Title 59 of the Oklahoma Statutes;

7. Advisory Committee on Orthotics and Prosthetics as created by Section 3005 of Title 59 of the Oklahoma Statutes;

8. Sheep and Wool Utilization, Research and Market Development Commission as created by Section 18-181 of Title 2 of the Oklahoma Statutes;

9. Construction Industries Board as created by Section 1000.2 of Title 59 of the Oklahoma Statutes; and

10. Committee of Home Inspector Examiners, as created by Section 858-624 of Title 59 of the Oklahoma Statutes. Added by Laws 1977, c. 9, § 8, emerg. eff. March 10, 1977. Amended by Laws 1983, c. 333, § 8, emerg. eff. June 29, 1983; Laws 1987, c. 118, § 58, operative July 1, 1987; Laws 1989, c. 254, § 2; Laws 1989, c. 343, § 41, operative July 1, 1989; Laws 1995, c. 31, § 1; Laws 2001, c. 276, § 1; Laws 2006, c. 208, § 3, eff. Nov. 1, 2006; Laws 2007, c. 188, § 22, eff. Nov. 1, 2007.

§74-3909. One-year period for ceasing affairs - Abolition - Transfer of funds to General Revenue Fund - Payment of debts - Equipment and supplies - Other obligations.

A. Except as otherwise provided by law, any statutory entity listed in Sections 3903 through 3908 of this title which is terminated shall have a period of one (1) year after its termination date for the purpose of ceasing its affairs and termination shall not reduce or otherwise limit the powers, duties, or functions of said entity. Upon the expiration of the one-year period, the entity and its personnel positions shall be abolished.

B. Except as otherwise provided by law, one (1) year after the termination date of a statutory entity, the State Treasurer shall transfer all funds of that entity to the General Revenue Fund. All debts of that entity shall be paid by the State Treasurer from the funds of that statutory entity. All equipment, files, fixtures, furniture, and supplies of the terminated entity shall be transferred to the Office of Management and Enterprise Services to be stored or disposed of as specified by law. Any other outstanding obligations or functions remaining to be performed after termination of an entity shall be performed by the Office of Management and Enterprise Services until provisions are made for such obligations or functions by the Legislature.

Added by Laws 1977, c. 9, § 9, emerg. eff. March, 10, 1977. Amended by Laws 1983, c. 304, § 160, eff. July 1, 1983; Laws 1985, c. 92, § 1, eff. July 1, 1985; Laws 2012, c. 304, § 1009.

§74-3911. Re-creation of statutory entity - Status of members.

After a statutory entity has been re-created by the Legislature, it shall not be necessary to reappoint any member of the governing board or commission of said statutory entity, and said members shall complete their original terms without reappointment or reconfirmation.

Amended by Laws 1983, c. 333, § 10, emerg. eff. June 29, 1983.

§74-3912. Repealed by Laws 1995, c. 31, § 7.

§74-3913. Continuation of orders, rules, regulations, licenses, etc. - Revenue bonds - Actions and judicial proceedings - Continuation of proceedings.

A. All orders, determinations, rules, regulations, permits, certificates, licenses, contracts, rates and privileges which have been issued, made, granted or allowed to become effective by a statutory entity abolished by this act or by any provision of law affected by this act, shall continue in effect according to their terms until terminated or modified by operation of law.

B. Notwithstanding any other provisions of this act any revenue bonds heretofore or hereafter issued or sold by a statutory entity shall remain in full force and effect, and no such statutory entity shall be terminated under the terms of this act until such outstanding revenue bonded indebtedness has been satisfied.

C. No suit, action or other judicial proceeding lawfully commenced by or against any officer or agency in his or its official capacity, or in relation to the exercise of his or its official functions, shall abate by reason of the taking effect of any provision of this act, but the court, unless it determines that the survival of such suit, action or other proceedings is not necessary for purposes of settlement of the questions involved, shall allow the same to be maintained, with such substitutions as to parties as are appropriate.

D. No administrative action or any judicial proceeding lawfully commenced shall abate solely by reason of the taking effect of any provision of this act. Any such cause of action pending on the date the entity is terminated or that is commenced during the termination period shall be prosecuted or defended in the name of the state by the Attorney General if it would have been his duty to so prosecute or defend had the statutory entity been recreated.

Laws 1977, c. 9, § 13, emerg. eff. March 10, 1977.

§74-3914. Hearings - Burden of establishing public need - Information to be provided.

When any statutory entities are under review for sunset, said entities shall bear the burden of establishing that a sufficient public need is present which justifies their continued existence. All said entities shall provide the appropriate House and Senate sunset committees with the following information:

1. A performance-informed operating budget review and analysis, including a summary of all income and expenditures;
2. The identity of all units and subunits under the direct or advisory control of the statutory entity under review;
3. All powers, duties and functions currently performed by the statutory entity under review;
4. All statutory or other authority under which said powers, duties and functions of the statutory entity are carried out;



5. Any powers, duties or functions which, in the opinion of the statutory entity under review, are being performed and duplicated by another statutory entity within the state including the manner in which, and the extent to which, this duplication of efforts is occurring and any recommendations as to eliminating such a situation;

6. Any powers, duties or functions which, in the opinion of the statutory entity under review, are inconsistent with current and projected public demands and should be terminated or altered; and

7. Any other information which the appropriate House or Senate sunset committee, in its discretion, feels is necessary and proper in carrying out its duties.

Added by Laws 1977, c. 9, § 14, emerg. eff. March 10, 1977. Amended by Laws 1983, c. 333, § 12, emerg. eff. June 29, 1983; Laws 1995, c. 31, § 3; Laws 2015, c. 168, § 4, eff. July 1, 2015.

#### §74-3915. Evaluation criteria.

In evaluating each statutory entity the appropriate House or Senate sunset committee may consider factors including, but not limited to:

1. The extent to which statutory changes have been recommended which would benefit the statutory entity;

2. The extent to which operation of the statutory entity has been efficient and responsive to public needs;

3. The extent to which the public has been encouraged to participate in rule- and decision-making as opposed to participation solely by persons regulated;

4. The extent to which complaints have been expeditiously processed to completion in the public interest;

5. The extent to which affirmative action requirements of state and federal statutes and constitutions have been complied with by the agency or the industry it regulates;

6. An identification of other statutory entities having the same or similar objectives along with a comparison of the cost and effectiveness of said statutory entities and any duplication of the statutory entity under review;

7. An examination of the extent to which the objectives of the statutory entity have been achieved in comparison with the objectives as initially set forth in the enabling legislation and an analysis of any significant variance between project and actual performance;

8. A specification, to the extent feasible, in quantitative terms, of the objectives of said statutory entity for the next six (6) years; and

9. An examination of the impact of said statutory entity on the economy of the state.

Added by Laws 1977, c. 9, § 15, emerg. eff. March 10, 1977. Amended by Laws 1995, c. 31, § 4.

§74-3916. Information to be provided by State Auditor and Inspector.

The State Auditor and Inspector shall furnish, upon request of the appropriate House or Senate sunset committee, any relevant information, including the results of prior audits and reviews of any statutory entity under sunset review.

Added by Laws 1977, c. 9, § 16, emerg. eff. March 10, 1977. Amended by Laws 1983, c. 333, § 13, emerg. eff. June 29, 1983; Laws 1995, c. 31, § 5.

§74-3917. Term of statutory entity - Monitoring new statutory entities.

A. Any statutory entity enumerated in the Oklahoma Sunset Law shall, if re-created, be placed in this act to be terminated or re-created not more than six (6) years thereafter.

B. The Oklahoma Department of Libraries shall monitor actions of the State Legislature and maintain a list of all agencies, boards, commissions, committees or other entities created or authorized by law, and all entities created by a Governor's Executive Order. The updated list shall be provided to the Governor, the President Pro Tempore of the Oklahoma Senate, the Speaker of the Oklahoma House of Representatives, and the chairs of the appropriate House or Senate sunset committee within thirty (30) days after sine die adjournment of each legislative session.

Added by Laws 1977, c. 9, § 17, emerg. eff. March 10, 1977. Amended by Laws 1983, c. 333, § 14, emerg. eff. June 29, 1983; Laws 1995, c. 31, § 6; Laws 2005, c. 24, § 3.

§74-3918. Authority to terminate at earlier date.

Nothing in this act shall be construed to prohibit the Legislature from terminating a statutory entity covered by these provisions at a date earlier than that provided herein, nor to prohibit the Legislature from considering any other legislation relative to such statutory entity.

Laws 1977, c. 9, § 18, emerg. eff. March 10, 1977.

§74-3920. Status and compensation of employees of terminated statutory entity.

All persons employed by any statutory entity which has been terminated by operation of the Oklahoma Sunset Law, but has been re-created within one (1) year after the final termination date shall be deemed employees of the Office of Management and Enterprise Services for not more than one (1) year after such final termination date. Salaries and benefits of such employees shall continue from

the final termination date until the effective date re-creating the statutory entity, and shall be paid from the funds of the re-created statutory entity as soon as available. For the purpose of this section "final termination date" shall mean the date on which a statutory entity's powers, duties and functions are to be abolished pursuant to the provisions of the Oklahoma Sunset Law.

After the effective date of the act re-creating the statutory entity the employees shall resume their positions with the entities they were employed by on the final termination date.

The provisions of this section shall have prospective and retrospective application.

Added by Laws 1988, c. 225, § 25. Amended by Laws 2012, c. 304, § 1010.

§74-3921. Termination of advisory bodies.

A. 1. Any joint resolution or bill enacted after February 1, 1993, creating or establishing advisory bodies including, but not limited to, task forces, boards, commissions, and councils, which creation or establishment is not codified in the Oklahoma Statutes, shall terminate the first day of the first regular session of the next Oklahoma Legislature unless the joint resolution or bill specifies an earlier or later termination date.

2. Any advisory bodies created by bill or joint resolution prior to February 1, 1993, which creation or establishment is not codified in the Oklahoma Statutes, shall be terminated unless the advisory body is codified in the next decennial compilation of Oklahoma laws.

B. 1. Effective January 1, 1994, except as otherwise provided by this subsection, advisory bodies including, but not limited to, task forces, boards, commissions and councils created or established by simple resolutions or concurrent resolutions passed by the Legislature or either house thereof shall terminate the first day of the first regular session of the next Oklahoma Legislature, unless such simple or concurrent resolution specifies an earlier termination date.

2. Any such advisory body created prior to January 1, 1991, by a simple or concurrent resolution passed by the Legislature or either house thereof is hereby terminated.

C. If a task force or similar advisory body created pursuant to a codified section of law does not conduct at least one meeting or issue its final report within three (3) years from the date upon which the section of law creating the task force or similar advisory body becomes effective, the task force or advisory body shall cease to have any authority to conduct any business and shall be considered terminated by operation of law at the expiration of the three-year period.

Added by Laws 1992, c. 310, § 16, eff. July 1, 1992. Amended by Laws 1993, c. 155, § 3, eff. July 1, 1993; Laws 1999, c. 59, § 1, eff. July 1, 1999. Renumbered from § 11b of Title 75 by Laws 1999, c. 59, § 23, eff. July 1, 1999. Amended by Laws 2010, c. 169, § 1, eff. Nov. 1, 2010.

§74-4101. Definitions.

As used in Sections 4101 through 4108 of this title:

1. "Public areas" means those areas in the Capitol open to the general public for general visitation; and

2. "Art" means fine art of museum quality representing the highest quality of art objects available to include paintings, graphic arts, art photography and sculpture, aesthetically aligned with recognized values, created by the conscious use of skill and creative imagination.

Added by Laws 1982, c. 75, § 1, operative July 1, 1982; Laws 1983, c. 304, § 153, eff. July 1, 1983.

§74-4102. Creation - Responsibilities.

There is hereby re-created, to continue until July 1, 2019, in accordance with the provisions of the Oklahoma Sunset Law, the State Capitol Preservation Commission which shall be responsible for planning and supervising the preservation and restoration of the interior and exterior of the State Capitol Building, hereinafter referred to as the Capitol, and the Governor's Mansion. The Commission shall control the display of art objects in public areas of the Capitol and the Governor's Mansion.

Added by Laws 1982, c. 75, § 2, operative July 1, 1982. Amended by Laws 1983, c. 304, § 154, eff. July 1, 1983; Laws 1988, c. 12, § 1, operative July 1, 1988; Laws 1994, c. 13, § 1; Laws 2000, c. 96, §1; Laws 2006, c. 44, § 1; Laws 2012, c. 66, § 1; Laws 2015, c. 237, § 1.

§74-4103. Membership - Term - Officers - Support services.

A. The State Capitol Preservation Commission shall be composed of fifteen (15) members as follows:

1. Three members shall be appointed by the Governor;

2. Three members shall be appointed by the President Pro Tempore of the Senate;

3. Three members shall be appointed by the Speaker of the House of Representatives;

4. One member shall be appointed by the Chief Justice of the Oklahoma Supreme Court; and

5. The following shall be ex officio members:

a. Chairman of the Oklahoma Arts Council,

b. President of the Oklahoma Historical Society,

c. Capitol Architect and Curator,

- d. Superintendent of the Capitol, and
- e. Director of the Office of Management and Enterprise Services or a designee.

B. The initial term of office of the appointed members shall be as follows:

1. One of the members appointed by the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the member appointed by the Chief Justice of the Oklahoma Supreme Court shall serve a one-year term;

2. One of the members appointed by the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives shall serve a three-year term; and

3. One of the members appointed by the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives shall serve a five-year term.

The term of office for each successor shall be for five (5) years. Any member of the Legislature who is appointed to the Commission shall serve only as long as the member is a member of the respective house from which the member was appointed.

C. The Commission shall elect a chair and a vice-chair from its membership to serve for a period of two (2) years. Members of the Commission shall not be compensated except for reimbursement as provided in the State Travel Reimbursement Act.

D. The Office of Management and Enterprise Services shall make the necessary arrangements for support services for the State Capitol Preservation Commission.

Added by Laws 1982, c. 75, § 3, operative July 1, 1982. Amended by Laws 1983, c. 304, § 155, eff. July 1, 1983; Laws 1996, c. 348, § 15, eff. July 1, 1996; Laws 2012, c. 304, § 1011; Laws 2013, c. 209, § 13, eff. July 1, 2013.

§74-4104. Powers and responsibilities of Commission.

A. The State Capitol Preservation Commission shall:

1. Research, plan, and have control of modifications and decor of the interior and exterior of the Capitol and the Governor's Mansion;

2. Establish standards for the acquisition and display of works of art for public display in the Capitol and the Governor's Mansion and select such works. Such works of art shall be directly related to the history and culture of the State of Oklahoma;

3. Establish procedures by which private contributions of suitable art can be accepted for the Capitol and the Governor's Mansion. The Commission is authorized to accept and make proper disposition of works of art as may be donated to the Commission and this state;

4. Have authority to approve and submit to the Long-Range Capital Planning Commission any proposed modification, alteration,

renovation, repair, or construction on any part of the Capitol and the Governor's Mansion; and

5. Have final approval authority for any plans or programs for the restoration, preservation, or display of fine art programs in and surrounding the Capitol and the Governor's Mansion.

B. The Long-Range Capital Planning Commission shall submit any capital construction or renovation project with respect to the State Capitol or the Governor's Mansion to the State Capitol Preservation Commission for its advisory opinion prior to consideration by the Long-Range Capital Planning Commission.

Added by Laws 1982, c. 75, § 4, operative July 1, 1982. Amended by Laws 1983, c. 304, § 156, eff. July 1, 1983; Laws 2012, c. 304, § 1012; Laws 2013, c. 209, § 14, eff. July 1, 2013.

#### §74-4105. Capitol Architect and Curator - Duties - Compensation.

There is hereby established the position of the Capitol Architect and Curator who shall:

1. Develop the technical plans and programs for consideration by the State Capitol Preservation Commission and the Long-Range Capital Planning Commission with regard to restoration, renovation, and preservation of the Capitol and the Governor's Mansion;

2. Develop and enforce standards adopted for acquisition and display of works of art in and surrounding the Capitol and the Governor's Mansion;

3. Coordinate space demands of the various agencies in the Capitol and the Governor's Mansion;

4. Maintain a record of all structural and decor changes made in the Capitol and the Governor's Mansion; and

5. Make recommendations to the State Capitol Preservation Commission of necessary action on proposed modifications in decor or design to ensure preservation and maintenance of the cultural and historic integrity of the Capitol and the Governor's Mansion.

The Director of the Office of Management and Enterprise Services may contract for the services of a Capitol Architect and Curator or employ such an individual on either a full- or part-time basis. Compensation for the position will be in accord with similar professional positions in state government.

Added by Laws 1982, c. 75, § 5, operative July 1, 1982. Amended by Laws 1983, c. 304, § 157, eff. July 1, 1983; Laws 2012, c. 304, § 1013; Laws 2013, c. 209, § 15, eff. July 1, 2013.

#### §74-4106. Cooperation between Commission and branches of state government.

The State Capitol Preservation Commission and the Long-Range Capital Planning Commission are directed to maintain close coordination with the executive, legislative and judicial branches of government to ensure that the needs of each branch of government

are considered in all planned development and modifications of the Capitol and the Governor's Mansion.

Added by Laws 1982, c. 75, § 6, operative July 1, 1982. Amended by Laws 1983, c. 304, § 158, eff. July 1, 1983; Laws 2013, c. 209, § 16, eff. July 1, 2013.

§74-4107. Accomplishment of work and acquisitions - Compliance with administrative requirements.

All work and acquisitions planned and developed by the State Capitol Preservation Commission shall be accomplished or contracted through the appropriate administrative agencies of the state. The Commission shall comply with all approved administrative requirements placed on separate agencies of state government except as it may be exempted therefrom by appropriate legislative action. Added by Laws 1982, c. 75, § 7, operative July 1, 1982.

§74-4108. Application of act.

The provisions of Sections 4101 through 4107 of this title shall apply to all modifications in the structure or decor of the Capitol and the Governor's Mansion except for those immediate emergency repairs needed to prevent loss or damage to property or to protect the public during use of the building.

Added by Laws 1982, c. 75, § 8, operative July 1, 1982. Amended by Laws 1983, c. 304, § 159, eff. July 1, 1983.

§74-4109. State Capitol Building and Governor's Mansion restoration and preservation projects - Competitive bidding exemption.

By the order of the Director of the Office of Management and Enterprise Services, restoration and preservation projects of the State Capitol Building or of the Governor's Mansion may be exempted from the provisions of the Public Competitive Bidding Act of 1974, Section 101 et seq. of Title 61 of the Oklahoma Statutes. For exempted State Capitol Building or Governor's Mansion construction projects, the Office of Management and Enterprise Services shall select among contractors qualified by past experience to conduct historical preservation projects.

Added by Laws 1985, c. 312, § 50, emerg. eff. July 25, 1985.

Amended by Laws 1997, c. 123, § 1, eff. Nov. 1, 1997; Laws 2012, c. 304, § 1014.

§74-4110. Ten Commandments display monument.

A. This section shall be known and may be cited as the "Ten Commandments Monument Display Act".

B. The State Capitol Preservation Commission or designee is hereby authorized to permit and arrange for the placement on the State Capitol grounds of a suitable monument displaying the Ten Commandments. The Ten Commandments monument shall use the same

words used on the monument at issue in *Van Orden v. Perry*, that the United States Supreme Court ruled constitutional. This monument shall be designed, constructed, and placed on the Capitol grounds by private entities at no expense to the State of Oklahoma. The State Capitol Preservation Commission or designee is authorized to assist private entities in selecting a location for the monument and arranging a suitable time for its placement.

C. In the event that the legality or constitutionality of the Ten Commandments monument is challenged in a court of law, the Oklahoma Attorney General or Liberty Legal Institute is hereby authorized to prepare and present a legal defense of the monument.

D. The placement of this monument shall not be construed to mean that the State of Oklahoma favors any particular religion or denomination thereof over others, but rather will be placed on the Capitol grounds where there are numerous other monuments.

Added by Laws 2009, c. 204, § 2, eff. Nov. 1, 2009.

#### §74-4110.1. Bill of Rights Monument Display Act

A. This section shall be known and may be cited as the "Bill of Rights Monument Display Act".

B. The State Capitol Preservation Commission or designee is hereby authorized to permit and arrange for the placement on the State Capitol grounds of a suitable monument displaying the first ten amendments to the Constitution of the United States, commonly referred to as the Bill of Rights. This monument shall be designed, constructed, and placed on the State Capitol grounds by private entities at no expense to the state. The State Capitol Preservation Commission or designee is authorized to assist private entities in selecting a location for the monument and arranging a suitable time for its placement.

Added by Laws 2016, c. 63, § 1.

#### §74-4111. Short title - Incentive Awards for State Employees Act.

Sections 4111 through 4122 of this title shall be known and may be cited as the "Incentive Awards for State Employees Act".

Added by Laws 1984, c. 269, § 1, operative July 1, 1984. Amended by Laws 2015, c. 289, § 2.

§74-4112. Repealed by Laws 2015, c. 289, § 5.

§74-4113. Repealed by Laws 2015, c. 289, § 5.

§74-4114. Agencies authorized to participate in incentive awards program.

With the exception of agencies and offices within the Legislature, the Office of the Governor, the Office of the Lieutenant Governor, and the Office of the State Auditor and



Inspector, any agency, department, commission, or office of state government may participate in the incentive awards program provided for in Section 5 of this act.

Added by Laws 1984, c. 269, § 4, operative July 1, 1984.

§74-4115. Contents of incentive awards program.

The incentive awards program provided for in the Incentive Awards for State Employees Act shall consist of:

1. individual productivity incentive awards, individual incentive compensation, and unit incentive pay for contributions resulting in increased productivity, cost curtailment, improved safety, efficiency, or morale, or better services to the citizens of this state; and

2. individual longevity incentive awards for length of service to the state.

Added by Laws 1984, c. 269, § 5, operative July 1, 1984. Amended by Laws 1989, c. 344, § 4.

§74-4115A. Longevity awards.

Pursuant to rules promulgated by the Office of Management and Enterprise Services, state employees shall be recognized for their length of service to the state. Recognition shall consist of certificates and lapel pins. The longevity award shall be made at five-year intervals during the month following the anniversary date of the employee to recognize years of service as defined in Section 840-2.18 of this title. The cost of the incentive award shall be billed to the employing agency.

Added by Laws 1989, c. 344, § 5. Amended by Laws 2015, c. 289, § 3.

§74-4116. Repealed by Laws 2015, c. 289, § 5.

§74-4117. Repealed by Laws 2015, c. 289, § 5.

§74-4118. Repealed by Laws 2015, c. 289, § 5.

§74-4119. Awards exempt from retirement contributions - Funding source.

Incentive pay awards provided pursuant to the provisions of the Incentive Awards for State Employees Act shall be exempt from retirement contributions and shall not be included for the purpose of computing a retirement allowance pursuant to any public retirement system of this state. Funds for this incentive pay shall be drawn from the operating expenses of the agency, department, commission, or office for the eligible fiscal year.

Added by Laws 1984, c. 269, § 9, operative July 1, 1984. Amended by Laws 1985, c. 46, § 9, emerg. eff. April 23, 1985; Laws 1992, c.

126, § 2, eff. July 1, 1992; Laws 2012, c. 304, § 1016; Laws 2015, c. 289, § 4.

§74-4120. Repealed by Laws 2015, c. 289, § 5.

§74-4121. On-the-job employee performance recognition program.

A. In order to establish a public employee benefit program to encourage outstanding performance in the workplace, the Director of the Office of Management and Enterprise Services is hereby directed to establish an on-the-job employee performance recognition program which encourages outstanding job performance and productivity.

B. In order to promote excellence in job performance and provide recognition for work units with exceptional performance, state agencies are authorized to expend from monies available in the agency's operating funds so much thereof as may be necessary for the purchase of recognition awards for presentation to the members of work units or individual employees with exceptional job performance records or for other significant contributions to the operation of the agency. State agencies may also provide for such recognition awards to be cash awards.

C. Recognition awards may be presented to members of work units or individual employees having exceptional job performance records or other significant contributions and such awards may be presented at a formal or informal ceremony, banquet or reception, the cost of which may be expended from monies available in the agency's operating funds.

D. 1. Recognition awards may consist of distinctive wearing apparel, service pins, plaques, writing pens, or other distinguished awards of a value not exceeding One Hundred Fifty Dollars (\$150.00) per recognized employee each fiscal year to recognize the achievement of the work unit or individual employee.

2. In addition to recognition awards listed in paragraph 1 of this subsection, the agency may establish an employee cash recognition program not to exceed Five Hundred Dollars (\$500.00) per recognized employee each fiscal year.

Added by Laws 1999, c. 396, § 29, emerg. eff. June 10, 1999.

Amended by Laws 2001, c. 50, § 1, emerg. eff. April 10, 2001; Laws 2001, c. 348, § 1, eff. Nov. 1, 2001. Renumbered from § 162.6 of Title 56 by Laws 2001, c. 348, § 5, eff. Nov. 1, 2001. Amended by Laws 2002, c. 325, § 1, eff. Nov. 1, 2002; Laws 2007, c. 342, § 6, eff. July 1, 2007; Laws 2012, c. 304, § 1018.

§74-4122. Employee productivity program.

A. State agencies may establish employee productivity programs designed to enhance their quality improvement efforts and employee productivity. Employee productivity programs shall include a process that enables employees to make recommendations to agencies

that would improve employee productivity or reduce agency service costs and that provides recognition to employees whose recommendations lead to improved productivity or agency cost savings.

B. State agencies may expend monies available to them for the purchase of employee productivity program recognition awards for employees whose exceptional recommendations result in improved productivity or agency cost savings. Recognition awards shall include distinctive wearing apparel, service pins, or United States Savings Bonds, the value of which shall not exceed One Hundred Dollars (\$100.00) per employee per award.

Added by Laws 2001, c. 362, § 1, eff. Nov. 1, 2001.

NOTE: Editorially renumbered from § 4121 of this title to avoid a duplication in numbering.

§74-4190. Child care centers - Administration - Priority in eligibility - Rates.

A. The Director of the Office of Management and Enterprise Services is authorized to approve and administer child care centers for minor dependents of state employees, and may provide consultation to state agencies regarding child care centers.

B. The Office of Management and Enterprise Services, the Department of Human Services, and the Oklahoma State Department of Health are directed to assist the Director of the Office of Management and Enterprise Services in the implementation of Sections 4190 through 4192 of this title.

C. The Director is authorized to promulgate any rules necessary for the establishment and implementation of Sections 4190 through 4192 of this title.

D. Licensed spaces in the child care centers shall be open to all eligible children, including those individuals not employed by the State of Oklahoma and those financially eligible for Department of Human Services child care assistance. However, minor dependents of state employees shall be given highest priority and children financially eligible for Department of Human Services child care assistance second priority for all vacant spaces.

E. The Director shall approve rates for child care consistent with the rates of the industry within the geographic area.

Added by Laws 1989, c. 344, § 7. Amended by Laws 1990, c. 281, § 1, emerg. eff. May 29, 1990; Laws 1992, c. 367, § 12, eff. July 1, 1992; Laws 1994, c. 242, § 49; Laws 1995, c. 309, § 7, eff. July 1, 1995; Laws 2001, c. 381, § 21, eff. July 1, 2001; Laws 2012, c. 304, § 1019; Laws 2013, c. 227, § 36, eff. Nov. 1, 2013.

§74-4191. Child care - Contracts - Required provider qualifications - Parental responsibility.

A. The Director of the Office of Management and Enterprise Services shall establish and administer child care centers with funds available for that purpose.

B. The Director of the Office of Management and Enterprise Services may approve a consortium, partnership, cooperative or agreement to provide child care centers with other public or private employers.

C. The child care centers shall be operated through a contract with child care providers. Specifications for a contract shall be developed with the assistance of, and subject to the approval of, the Director of the Office of Management and Enterprise Services. Any such contract shall be made through the Central Purchasing Division of the Office of Management and Enterprise Services. The low bid will not be the single qualifier. Any child care provider shall be required to carry sufficient liability insurance coverage which will pay damages incurred as a result of the negligent acts or omissions of an employee of the child care provider within the scope of the employment of such person. Any child care provider shall meet or exceed applicable state child care facilities licensure standards.

D. Nothing in this section shall prevent the Director from utilizing paragraph 13 of Section 85.5 of this title and paragraph 3 of subsection A of Section 85.7 of this title to continue the operation of a child care center with emergency contracts when the service provider's contract is canceled or terminated before another qualified service provider is procured. The employees of the Office of Management and Enterprise Services shall not be employed to operate the centers.

E. Any parent utilizing the services of a child care center shall be responsible for the charges assessed by the child care provider for child care services.

Added by Laws 1990, c. 281, § 2, emerg. eff. May 29, 1990. Amended by Laws 1995, c. 309, § 8, eff. July 1, 1995; Laws 2001, c. 381, § 22, eff. July 1, 2001; Laws 2012, c. 304, § 1020.

#### §74-4192. Child Care Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services, to be designated the "Child Care Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Office of Management and Enterprise Services, from appropriations or fees. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Office of Management and Enterprise Services for the purpose of establishing and administering child care centers. All expenditures from said revolving fund shall be made upon warrants issued by the State Treasurer against claims

filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment. Added by Laws 1990, c. 281, § 3, emerg. eff. May 29, 1990. Amended by Laws 2001, c. 381, § 23, eff. July 1, 2001; Laws 2012, c. 304, § 1021.

- §74-4200. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.
- §74-4201. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.
- §74-4201.1. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.
- §74-4202. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.
- §74-4203. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.
- §74-4203.1. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.
- §74-4204. Repealed by Laws 1991, c. 316, § 37, eff. July 1, 1991.
- §74-4205. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.
- §74-4206. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.
- §74-4206.2. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.
- §74-4206.3. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.
- §74-4206.4. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.
- §74-4207. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.
- §74-4207.1. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.
- §74-4208. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.
- §74-4209. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.
- §74-4209.1. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.
- §74-4209.2. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.
- §74-4210. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.
- §74-4211. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.
- §74-4211.1. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4211.2. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4212. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4212.1. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4213. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4214. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4214.1. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4214.2. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4215. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4216. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4217. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4218. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4219. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4219.1. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4219.2. Repealed by Laws 1992, H.J.R. No. 1077, § 45, eff. Jan. 1, 1993.

§74-4219.3. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4220. Renumbered as § 1840 of Title 21 by Laws 1991, c. 316, § 36, eff. July 1, 1991.

§74-4221. Repealed by Laws 1992, H.J.R. No. 1077, § 45, eff. Jan. 1, 1993.

§74-4222. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4223. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4224. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4225. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4226. Repealed by Laws 1992, H.J.R. No. 1077, § 45, eff. Jan. 1, 1993.

§74-4227. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4228. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4229. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4230. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4230.1. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4231. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4232. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4233. Repealed by Laws 1992, H.J.R. No. 1077, § 45, eff. Jan. 1, 1993.

§74-4234. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4235. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4236. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4237. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4238. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4239. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4241. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4242. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4243. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

NOTE: Subsequent to repeal this section was amended by Laws 1995, c. 352, § 198, eff. July 1, 1995, to read as follows:

A. No state agency shall:

1. Enter into any contract with an employee of the agency, or with a business in which an employee holds a substantial financial interest, unless the contract is made after public notice by the agency and compliance with competitive bidding procedures. This paragraph shall not apply to a contract of employment with the state;

2. Enter into a contract with or make any ruling or take any action in favor of any person or business which is represented before such agency by a former state employee who, while a state employee, participated substantially in the particular matter before the agency; or

3. Purchase any real property from any employee of said state agency or from any person who within eighteen (18) months prior to such purchase held such position with the state government, unless the property is acquired either by condemnation proceedings or the price to be paid for such property is approved in writing by the appointing authority of the agency acquiring such property and by the Governor.

B. 1. The Department of Human Services is authorized to contract with qualified former state employees, or the spouses of state employees, or other relatives of state employees, for the purpose of providing direct care or treatment services to clients of the Department who are mentally retarded or have other developmental disabilities or are deprived. Provided, however, that rates of payment and other terms and conditions of contracts entered into pursuant to this section shall be established by the Commission for Human Services and shall be no more favorable than contracts for such services with persons who were not employed by the Department of Human Services nor related to an individual employed by the Department of Human Services.

2. A state employee terminating state employment to provide direct care or treatment services to clients of the Department who are mentally retarded or have developmental disabilities or are deprived may not return to state employment for a period of one hundred eighty (180) days after date of termination from contracts with the Department of Human Services for direct care or treatment services to clients of the Department who are mentally retarded or have developmental disabilities or are deprived.

C. Notwithstanding provisions to the contrary, the Department of Human Services is authorized to employ or contract with personnel of the University of Oklahoma Health Sciences Center, directly or indirectly, to obtain professional services for the Oklahoma Medical Center or clients of other programs administered by the Department of Human Services.

D. Notwithstanding provisions to the contrary, the Department of Human Services is authorized to contract



with qualified state employees, or the spouses of state employees, or other relatives of state employees, for the purpose of providing out-of-home care, respite care, and attendant services to children in the custody of the Department.

E. 1. The Office of Juvenile Affairs is authorized to contract with qualified former state employees, or the spouses of state employees, or other relatives of state employees, for the purpose of providing direct care or treatment services to juveniles in the custody of the Office of Juvenile Affairs. Provided, however, that rates of payment and other terms and conditions of contracts entered into pursuant to this section shall be established by the Board of Juvenile Affairs and shall be no more favorable than contracts for such services with persons who were not employed by the Office of Juvenile Affairs nor related to an individual employed by the Office of Juvenile Affairs.

2. A state employee terminating state employment to provide direct care or treatment services to juveniles in the custody of the Office of Juvenile Affairs who are delinquent shall not return to state employment for a period of one hundred eighty (180) days after date of termination from contracts with the Office of Juvenile Affairs for direct care or treatment services to juveniles in the custody of the Office of Juvenile Affairs who are delinquent or in need of supervision.

§74-4243.1. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4244. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4245. Repealed by Laws 1992, H.J.R. No. 1077, § 45, eff. Jan. 1, 1993.

§74-4246. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4246.1. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4246.2. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4246.3. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4246.4. Repealed by Laws 1995, c. 343, § 43, eff. July 1, 1995.

§74-4247. Repealed by Laws 1992, H.J.R. No. 1077, § 45, eff. Jan. 1, 1993.

§74-4248. Repealed by Laws 2014, c. 314, § 6, eff. Jan. 1, 2015.

§74-4248.1. Repealed by Laws 1991, c. 316, § 37, eff. July 1, 1991.

§74-4249. Definitions.

As used in Sections 4250 through 4255 of this title, terms used shall be defined as they are defined in the Rules of the Ethics Commission.

Added by Laws 1995, c. 343, § 6, eff. July 1, 1995. Amended by Laws 2014, c. 314, § 1, eff. Jan. 1, 2015.

§74-4250. Registration.

A. Every lobbyist shall be required to register with the Ethics Commission no later than December 31 of each year or within five (5) days after engaging in lobbying on behalf of one or more lobbyist principals, and pay a registration fee of One Hundred Dollars (\$100.00). All monies collected from this registration fee shall be deposited with the State Treasurer to the credit of the Ethics Commission Fund. Lobbyists shall be required to file reports in accordance with the Rules of the Ethics Commission.

B. All registrations and expenditure reports filed under this section shall be public records and shall be made available for public inspection pursuant to the Open Records Act.

Added by Laws 1995, c. 343, § 7, eff. July 1, 1995. Amended by Laws 2004, c. 320, § 1, eff. Nov. 1, 2004; Laws 2013, c. 376, § 1, emerg. eff. May 29, 2013; Laws 2014, c. 314, § 2, eff. Jan. 1, 2015.

§74-4251. False statements.

No person required to be registered as a lobbyist with the Ethics Commission may:

1. Knowingly or willfully make any false statement or representation of the facts to a member of the legislative branch, judicial branch or executive branch; or

2. Knowing a document to contain a false statement, cause a copy of the document to be received by a member of the legislative branch, judicial branch or executive branch without notifying such member in writing of the truth.

Added by Laws 1995, c. 343, § 8, eff. July 1, 1995. Amended by Laws 2014, c. 314, § 3, eff. Jan. 1, 2015.

§74-4252. Appearance on floor of Legislature.

No lobbyist may go on the floor of either house of the Legislature while that house is in session, except on invitation of that house.

Added by Laws 1995, c. 343, § 9, eff. July 1, 1995.

§74-4253. Registration forms not confidential.

No information copied from lobbyist registration forms shall be confidential.

Added by Laws 1995, c. 343, § 10, eff. July 1, 1995. Amended by Laws 2014, c. 314, § 4, eff. Jan. 1, 2015.

§74-4254. State officers and employees - Additional compensation for lobbying prohibited.

No state officer or state employee shall receive any additional compensation or reimbursement from any person for personally engaging in lobbying other than compensation or reimbursements provided by law for that member's job position.

Added by Laws 1995, c. 343, § 11, eff. July 1, 1995.

§74-4255. Penalties.

A. Any person who knowingly and willfully violates any provision of Sections 4249 through this section of this title commits a misdemeanor. Nothing in Sections 4249 through this section of this title relieves a person of criminal responsibility under the laws of this state relating to perjury.

B. Any person who knowingly and willfully violates any provision of Sections 4249 through this section of this title a third and subsequent time, in addition to any other penalties provided herein, shall be prohibited from further lobbying for a period of five (5) years. If any person having been so prohibited, lobbies while prohibited, such person shall be permanently prohibited from lobbying and shall be guilty of a felony.

Added by Laws 1995, c. 343, § 12, eff. July 1, 1995. Amended by Laws 2014, c. 314, § 5, eff. Jan. 1, 2015.

§74-4256. Penalties for violation of campaign reporting rules.

A. Every candidate or candidate committee for state or county office and every other committee failing to file registrations and reports of contributions and expenditures or statements of inactivity on or before the days specified in Chapter 10 of the Rules of the Ethics Commission shall be assessed by the Ethics Commission a late filing fee of up to One Hundred Dollars (\$100.00) for each day after a report of contributions and expenditures is due that said report remains unfiled; provided, the total amount of such fees assessed per report shall not exceed One Thousand Dollars (\$1,000.00).

B. Committees campaigning for or against an initiative or referendum petition, legislative referendum, or a state question who fail to file reports of contributions and expenditures on or before the days specified in Chapter 10 of the Rules of the Ethics Commission shall be assessed by the Ethics Commission a late filing fee of up to One Thousand Dollars (\$1,000.00) for each day after a

report of contributions and expenditures is due that said report remains unfiled; provided, the total amount of such fee assessed per report filing shall not exceed Ten Thousand Dollars (\$10,000.00).

C. Every person failing to file a statement of financial interests or financial disclosure statement on or before the days specified in Chapter 15 of the Rules of the Ethics Commission shall be assessed by the Ethics Commission a late filing fee of up to One Hundred Dollars (\$100.00) for each day the statement remains unfiled; provided, the total amount of such fees assessed per statement shall not exceed One Thousand Dollars (\$1,000.00).

D. The treasurer, except for treasurers for candidates or candidate committees, may be liable for the late fee. Failure to file a registration, report or statement shall be deemed to be a separate offense for each day that the registration, report or statement remains unfiled after it becomes due. The first Twenty-five Thousand Dollars (\$25,000.00) per calendar year derived from fees collected pursuant to the provisions of this section shall be deposited with the State Treasurer to the credit of the Ethics Commission Fund and any amount in excess of Twenty-five Thousand Dollars (\$25,000.00) per calendar year shall be deposited in the General Revenue Fund. Candidates or candidate committees shall not pay such fees from campaign funds.

Added by Laws 1995, c. 343, § 13, eff. July 1, 1995. Amended by Laws 2010, c. 442, § 2, eff. July 1, 2010.

§74-4257. Employment of former or ex officio state board or commission members.

A. Except as otherwise provided by law, no state board or commission shall employ any former member of the board or commission.

B. 1. A state board or commission may employ a former member of the board or commission if at least one (1) year has passed since the term of office of the former member has expired or since the date the former member resigned from the board or commission.

2. An institution of higher education may employ a former member of the board of regents which has oversight over the institution if at least six (6) months have passed since the term of office of the former member has expired or since the date the former member resigned from the board of regents.

C. Notwithstanding subsection B of this section, a state board or commission may employ:

1. A state employee who is an ex officio member of that board or commission and who is required by law to be a member of that board or commission; or

2. A former statewide elected official who was an ex officio member of that board or commission if the former statewide elected official completed the term in office. This subsection shall not

apply to a statewide elected official who is an ex officio member of a board or commission.

D. Any person who willfully violates any provision of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00), or by imprisonment for not longer than six (6) months or by both such fine and imprisonment, and upon conviction shall be ineligible for appointment to or employment in a position in state service and, if at the time of conviction is an employee of the state, the employee shall forfeit the position.

Added by Laws 1995, c. 343, § 14, eff. July 1, 1995. Amended by Laws 1999, c. 101, § 1, emerg. eff. April 19, 1999; Laws 2001, c. 420, § 3, emerg. eff. June 5, 2001; Laws 2003, c. 353, § 6, emerg. eff. June 3, 2003; Laws 2004, c. 461, § 1, emerg. eff. June 8, 2004; Laws 2008, c. 2, § 1, emerg. eff. Feb. 28, 2008.

NOTE: Laws 2001, c. 266, § 3 repealed by Laws 2002, c. 22, § 34, emerg. eff. March 8, 2002.

#### §74-4258. Ethics Commission Fund.

There is hereby created in the State Treasury a revolving fund for the Ethics Commission to be designated the "Ethics Commission Fund". The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of all fees received by the Commission. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Commission for any expenses incurred in the implementation of its duties as provided by law. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1995, c. 343, § 40, eff. July 1, 1995. Amended by Laws 2004, c. 320, § 3, eff. Nov. 1, 2004; Laws 2012, c. 304, § 1022; Laws 2015, c. 150, § 1, eff. July 1, 2015.

#### §74-4258.1. Political subdivisions enforcement fund.

There is hereby created in the State Treasury a revolving fund for the Ethics Commission to be designated the "Political Subdivisions Enforcement Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all funds appropriated by the Legislature to the fund and all late filing fees, fines from settlement agreements and fines assessed by the District Court for violations of the County Campaign Finance and Financial Disclosure Act, the Municipal Campaign Finance and Financial Disclosure Act, and the Technology Center District and Independent School District Campaign Finance and Financial Disclosure Act. All monies accruing to the credit of the fund are

hereby appropriated and may be budgeted and expended by the Commission for any expenses incurred by the Political Subdivisions Enforcement Division. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment. No later than January 31, 2016, and every year thereafter, the State Treasurer shall transfer to the General Revenue Fund of the state any monies in the fund in excess of One Hundred Fifty Thousand Dollars (\$150,000.00). If at any time the amount of money in the fund is less than One Hundred Thousand Dollars (\$100,000.00), the Executive Director of the Commission may order that there be no further enforcement by the Political Subdivisions Enforcement Division until the amount of money in the fund is more than One Hundred Thousand Dollars (\$100,000.00).

Added by Laws 2014, c. 313, § 33, eff. Jan. 1, 2015.

§74-4259. Repealed by Laws 2014, c. 314, § 6, eff. Jan. 1, 2015.

§74-4260. Repealed by Laws 2014, c. 314, § 6, eff. Jan. 1, 2015.

§74-4261. Political subdivisions - Forms required for compliance.

The Ethics Commission shall design all forms required for compliance with the County Campaign Finance and Financial Disclosure Act, the Municipal Campaign Finance and Financial Disclosure Act and the Technology Center District and Independent School District Campaign Finance and Financial Disclosure Act. Such forms shall be made available in electronic form on the Commission's Internet website.

Added by Laws 2014, c. 313, § 31, eff. Jan. 1, 2015.

§74-4262. Political subdivisions enforcement division.

For purposes of enforcing the County Campaign Finance and Financial Disclosure Act, the Municipal Campaign Finance and Financial Disclosure Act, and the Technology Center District and Independent School District Campaign Finance and Financial Disclosure Act, the Ethics Commission shall establish a special division to be known as the "Political Subdivisions Enforcement Division". The Executive Director of the Ethics Commission may employ staff for the Political Subdivisions Enforcement Division, or may contract for services to be performed by the Division, or both.

Added by Laws 2014, c. 313, § 32, eff. Jan. 1, 2015.

§74-5001. Abolition of Oklahoma Economic Development Commission, the Office of the Governor - Department of Economic Development and Department of Economic and Community Affairs - Tulsa Division of Department of Commerce - Transfer of powers and duties.

A. The Oklahoma Economic Development Commission, the Office of the Governor - Department of Economic Development, and the Department of Economic and Community Affairs are hereby abolished.

B. All powers, duties, responsibilities, property, personnel, assets, liabilities, fund balances, encumbrances and obligations of the Oklahoma Economic Development Commission, the Office of the Governor - Department of Economic Development, and the Department of Economic and Community Affairs are hereby transferred to the Oklahoma Department of Commerce or other appropriate governmental entity as provided for in this act. As soon as possible the offices and staff of the Oklahoma Department of Commerce shall be moved to a common location.

C. The current Tulsa field office of the Department of Commerce shall be designated as the Tulsa Division of the Department of Commerce. The Tulsa Division shall include, but not be limited to the following services: film industry promotion, international trade recruitment and export assistance, trade reference, business expansion and start-up, small business assistance, economic and community development financing, and economic and community development.

All powers, duties, responsibilities, property, personnel, and assets of the Division of Waterways of the Department of Commerce abolished by this act are hereby transferred to the Department of Transportation.

The Department of Commerce shall transfer only those employees requesting to be transferred to the Tulsa Division, provided the employee meets the criteria established by the Department for positions to be placed in the Tulsa Division, and shall fill any remaining positions at the Tulsa Division through accrued vacancies within the Department of Commerce.

D. All powers, duties, responsibilities, property, personnel, assets, liabilities, fund balances, encumbrances and obligations of the film industry program in the Marketing Division of the Oklahoma Department of Tourism and Recreation are hereby transferred to the Oklahoma Department of Commerce.

E. The Director of the Office of Management and Enterprise Services shall coordinate the transfers made pursuant to subsections B and D of this section.

Added by Laws 1986, c. 207, § 7, operative July 1, 1986. Amended by Laws 1990, c. 312, § 1; Laws 1992, c. 135, § 2, eff. July 1, 1992; Laws 1993, c. 49, § 1, eff. July 1, 1993; Laws 2012, c. 304, § 1024.

§74-5002. Transfer of certain programs and divisions of Department of Economic and Community Affairs - Transfer of Juvenile Justice and Delinquency Prevention Program.

A. Except as provided for in subsection B of this section, all programs and divisions of the Department of Economic and Community

Affairs not specifically transferred pursuant to the provisions of this act shall be transferred to the Oklahoma Department of Commerce.

B. The Juvenile Justice and Delinquency Prevention Program shall be transferred to the Oklahoma Commission on Children and Youth.

Added by Laws 1986, c. 207, § 8, operative July 1, 1986.

§74-5002.1. Repealed by Laws 2002, c. 484, § 17, eff. July 1, 2002.

§74-5002.2. Repealed by Laws 2002, c. 484, § 17, eff. July 1, 2002.

§74-5002.3. Repealed by Laws 2002, c. 484, § 17, eff. July 1, 2002.

§74-5002.4. Repealed by Laws 2002, c. 484, § 17, eff. July 1, 2002.

§74-5002.5. Repealed by Laws 2002, c. 484, § 17, eff. July 1, 2002.

§74-5002.6. Repealed by Laws 2000, c. 251, § 4, eff. July 1, 2000.

§74-5002.7. Abolition of Oklahoma Futures.

Oklahoma Futures is hereby abolished.

Added by Laws 2002, c. 484, § 13, eff. July 1, 2002.

§74-5003.1. Short title.

Sections 9 through 15 of this act shall be known and may be cited as the "Oklahoma Department of Commerce Act".

Added by Laws 1987, c. 222, § 8, operative July 1, 1987.

§74-5003.2. Statement of needs - Oklahoma Department of Commerce created - Status.

A. Recognizing the geographic diversity of this state, Oklahoma needs one central, primary public-sector economic development agency for the state in order to manage or coordinate all public sector economic development activity.

Oklahoma needs an agency to work at the community and firm level to:

1. Create new and higher quality jobs for the people of this state through the expansion, creation, restructuring and recruitment of export-oriented Oklahoma firms which produce value-added goods, services and processes;

2. Encourage statewide economic diversification and stability;3. Mainta

4. Implement the strategic economic development five-year plan; and

5. Carry out policy development and research in support of Oklahoma Futures.



B. The Oklahoma Department of Commerce is hereby constituted an agency of state government.

C. Whenever the terms "Department of Economic Development" or "Department of Economic and Community Affairs" appear in the Oklahoma Statutes they shall mean and refer to the Oklahoma Department of Commerce.

Added by Laws 1986, c. 207, § 9, operative July 1, 1986. Amended by Laws 1987, c. 222, § 9, operative July 1, 1987. Renumbered from § 5003 by Laws 1987, c. 222, § 122, operative July 1, 1987.

#### §74-5003.3. Mission of Oklahoma Department of Commerce.

The mission of the Oklahoma Department of Commerce shall be to support firms', farms' and local communities' growth, diversification, expansion and ability to compete in export markets in order to create new and better jobs for Oklahomans throughout the state.

Added by Laws 1987, c. 222, § 10, operative July 1, 1987.

#### §74-5003.4. Definitions.

As used in the Oklahoma Department of Commerce Act:

1. "Department" means the Oklahoma Department of Commerce;
2. "Director" means the director of the Department of Commerce;
3. "Enterprise" means a firm with its principal place of business in Oklahoma;

4. "Economic Information System" means a comprehensive statewide data collection, analysis and distribution system which makes available current and thorough information on Oklahoma economic trends and future Oklahoma economic opportunities to communities, firms, farms and individuals in the state; firms and individuals outside the state considering location in Oklahoma; and Oklahoma Futures, the Governor, the Legislature and all other state agencies and institutions; and

5. "Economic Innovation System" means a decentralized statewide system that responsively and innovatively coordinates technical assistance, grant and loan programs with local, state, federal and private sector activities into a single statewide Economic Innovation System.

Added by Laws 1987, c. 222, § 11, operative July 1, 1987.

#### §74-5003.5. Director of Department of Commerce.

A. The Director of the Department of Commerce shall be appointed by the Governor with the advice and consent of the Senate. The Director shall serve at the pleasure of the Governor and shall continue to serve until a successor is duly appointed and qualified. The salary of the Director shall be set by law.

B. The Director shall be qualified for such position by character, personality, ability, education, training and successful administrative experience in the public or private sector.

C. The Director shall employ such persons as are necessary to implement the powers and duties of the Department. Because many of the powers and duties of the Department involve working closely with the private sector, certain employee positions of the Department must be governed, classified and compensated in a manner that compares equally to similar positions in the private sector. Therefore, in the annual business plan, the Director shall list, describe and justify all such positions and their compensation and shall designate and place them in unclassified status, exempt from the provisions of the Oklahoma Personnel Act. All other employees and positions shall be classified and subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act. Provided, nothing in this section shall be construed to limit the authority of the Legislature to specify the status of positions otherwise by law. Neither shall the Director have the authority to circumvent, disregard or otherwise disobey specific provisions of law regarding positions in the Department.

D. The Director shall serve on the board of:

1. The Oklahoma Industrial Finance Authority;
2. The Oklahoma Science and Technology Research and Development Board;
3. The Oklahoma Development Finance Authority;
4. The Executive Bond Oversight Commission; and
5. The Oklahoma Ordnance Works Authority.

E. The Director may serve as administrator of any interlocal agreement or compact to pursue economic development and to assign any employees of the Department or employee personnel to carry out duties or obligations pursuant to any interlocal agreement or compact for economic development.

F. The Director, at his or her discretion, may approve payment for affiliations or memberships of the Department or, if necessary, associate memberships for individual employees in international, national, or state economic development councils, professional organizations, or governmental associations.

Added by Laws 1986, c. 207, § 10, operative July 1, 1986. Amended by Laws 1986, c. 276, § 22, operative July 1, 1986; Laws 1987, c. 222, § 12, operative July 1, 1987. Renumbered from § 5004 by Laws 1987, c. 222, § 122, operative July 1, 1987. Amended by Laws 1990, c. 266, § 34, operative July 1, 1990; Laws 1998, c. 309, § 8, eff. July 1, 1998; Laws 2002, c. 484, § 14, eff. July 1, 2002.

§74-5003.6. Powers and duties of Department.

The Oklahoma Department of Commerce shall have, exercise and perform those powers and duties necessary to implement and

accomplish the statutorily stated mission and purpose of the Department.

Added by Laws 1987, c. 222, § 13, operative July 1, 1987.

§74-5003.7. Five-year economic development plan and updates.

A. The Oklahoma Department of Commerce shall prepare, with the cooperation of the Oklahoma business community, agricultural community, financial community, universities, labor and the state executive and legislative branches, a five-year economic development plan and annual updates for the State of Oklahoma.

1. The purpose of the plan shall be to identify significant economic, social, and demographic trends which may have both short-term and long-term impacts on the state and local economy and to present strategies and recommendations that the state and local political subdivisions might adopt to improve or stabilize the economy.

2. The goals of the plan shall include the development of a diversified state economy, increasing employment, the maximum use of federal, state and local funds to achieve the goals or recommendations included in the plan, the maximum investment of capital in the economy of the state, and the improvement of the quality of life in the state.

3. The plan wherever possible shall make recommendations to encourage intergovernmental cooperation and public and private cooperation.

4. Copies of the plan and the annual updates shall be submitted to the Oklahoma Advisory Committee on Intergovernmental Relations, the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the chairmen of the standing committees on economic development of the Senate and of the House of Representatives on the first day of each legislative session.

5. The Department shall develop and manage a complete economic information system which will support the five-year planning process, and which will make available complete and timely information on the state economy. The economic information system shall be operated by public or private Oklahoma universities or an Oklahoma enterprise capable of providing such services in a cost-effective manner.

B. The Department, in conjunction with the Oklahoma Development Finance Authority, is authorized to develop an infrastructure program which will enable political subdivisions of this state to finance public works projects in order to modify or improve existing public facilities for purposes of bringing said facilities, and the operation thereof, into compliance with and maintaining compliance with federal, state and local laws and regulations pertaining to the protection of the public health and the environment.

C. The Director shall develop an annual business plan for the Department. The business plan shall include the need and mission of each division of the Department created by law or the Director and an analysis of past costs and benefits and future projected costs and benefits to the state of the programs of each division of the Department. The business plan shall be consistent with the goals of the recurring five-year plan specified in this section. The Director shall distribute copies of the business plan by such means that will make it widely available to communities, firms and local economic development managers throughout this state.

Added by Laws 1986, c. 207, § 20, operative July 1, 1986. Amended by Laws 1987, c. 222, § 14, operative July 1, 1987. Renumbered from § 5014 by Laws 1987, c. 222, § 122, operative July 1, 1987. Amended by Laws 1987, c. 236, § 57, emerg. eff. July 20, 1987; Laws 1991, c. 341, § 7, eff. July 1, 1991; Laws 1992, c. 330, § 6, emerg. eff. May 28, 1992; Laws 2002, c. 484, § 15, eff. July 1, 2002.

§74-5003.8. Annual report.

In order to ensure that the Oklahoma Department of Commerce is effectively implementing its mission, purpose and objectives, the Department shall publish an annual report setting forth in detail the operations and programs conducted by it pursuant to this act or to other legislation. The report shall review both statewide progress and departmental progress according to several measures including objective measures listed in the Department's five-year plan. The Department shall present this report to the Governor and the Legislature. The annual report shall specifically account for ways in which the needs, mission and programs of the Department described in this act have been carried out and recommendations shall specifically note what changes in the activities of the Department and the programs it administers and of state government are necessary to better address the mission described in this act. The Department shall distribute its annual report by such means that will make it widely available to communities, firms and local economic development managers throughout this state.

Added by Laws 1987, c. 222, § 15, operative July 1, 1987. Amended by Laws 2002, c. 484, § 16, eff. July 1, 2002.

§74-5003.9. Program performance review - Report.

The Oklahoma Department of Commerce shall submit to the Legislature performance review information for the programs it operates or funds. This information shall be compiled into a report that shall be submitted to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Appropriations Committee and the Chairman of the House of Representatives Appropriations and Budget Committee by February 1 of each year. The report shall be designed to assist the appropriation

committees in determining funding priorities and should provide the best available information regarding the effectiveness of these programs. This report shall complement the Department's annual budget request.

The report shall be structured so that:

1. The need for the program is clearly established;
2. The goals of the program are clearly defined;
3. Measurable objectives are set forth;
4. Actual performance data is provided and explained;
5. Performance is evaluated against objectives; and
6. Future funding recommendations and program benefits are

outlined.

Added by Laws 1987, c. 208, § 25, operative July 1, 1987; Laws 1987, c. 236, § 58, emerg. eff. July 20, 1987.

§74-5003.10. Oklahoma Department of Commerce - Powers and authority.

The Oklahoma Department of Commerce shall have the authority to:

1. Disseminate information concerning the industrial, commercial, governmental, educational, cultural, agricultural, business and other advantages and attractions of the state;

2. Assist public and private agencies in the preparation of informational and publicity programs designed to attract or retain business and industry for the state;

3. Obligate and expend funds for services performed by local political subdivisions of the state, state agencies, including universities and colleges within and without the state, and federal agencies for research and training in conformity with the general state laws governing such activity; and apply for, accept, administer and expend grants from the federal government and any other public or private sources for research and training purposes;

4. Conduct, publish and disseminate or encourage research designed to further new and more extensive uses of the natural and other resources of the state and designed to develop and commercialize new products and commercial processes;

5. Study trends and developments in the industries of the state and analyze the reasons underlying such trends; study costs within the state; and make recommendations regarding circumstances promoting or hampering business and industrial development;

6. Generally gather, compile and make available economic analyses and statistical information relating to business, trade, commerce, industry, transportation, communication, natural resources, population and other like subjects in this state, with authority to call upon other agencies, universities and colleges of the state for statistical data and results obtained by them, and to arrange and compile such economic analyses and statistical information in such a manner as it deems advisable;

7. Study such other scientific, industrial, financial and economic issues as, in the judgment of the Department, shall be deemed of value to the people of the state;

8. Support and assist the efforts of state, regional and local development organizations, industrial committees, chambers of commerce, agricultural organizations, labor organizations and other similar public and private agencies to obtain new and to foster expansion of existing service, industrial and manufacturing facilities, businesses and enterprises; and to foster community improvements in leadership, expertise, human development, infrastructure, public facilities and quality of life; and to expand data availability and utilization opportunities;

9. Maintain a continuing evaluation of the sources available for the financing of the development or expansion of industrial, agricultural and commercial facilities in this state through both public and private agencies;

10. Assist in obtaining financing for the development and expansion of industrial, agricultural and commercial facilities in the state;

11. Serve as the state's official liaison agency between persons interested in locating new economic enterprises in Oklahoma and state and local groups seeking new enterprises. In this respect, the Department shall aid communities in organizing for and obtaining new businesses and expanding existing businesses and shall process requests which reflect interest in locating economic enterprises in the state;

12. Promote the sale and facilitate the marketing of Oklahoma products including agricultural and value-added products in the international market;

13. Encourage the location of foreign manufacturing plants and other industries in Oklahoma;

14. Coordinate the international efforts of the various state agencies without violating the individual authority given those agencies by statute;

15. Coordinate and serve as liaison to the private sector as needed;

16. Establish, subject to an annual appropriation or private gifts, offices outside the state boundaries. The offices may be operated by the state or may be operated pursuant to contract which shall not be subject to the competitive bid laws of the State of Oklahoma. The Department shall prepare an annual report concerning the activities of the offices and submit it to the Governor and the Legislature. The Director of the Oklahoma Department of Commerce shall notify in writing the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives that the Department intends to establish a new office pursuant to this

paragraph at least thirty (30) days prior to the establishment of the new office or execution of a contract;

17. Establish a system of not less than six geographic regions for promoting new or existing businesses, assisting in the expansion of small and medium sized manufacturers through a modernization program, creating new jobs, and assisting local businesses, political subdivisions or other entities to better utilize the services of the Department;

18. Solicit, accept and expend donations and contributions from any source, whether public or private, in order to advertise, promote or disseminate information which may assist in the recruitment of companies, firms or jobs to Oklahoma, including but not limited to the Oklahoma Quality Jobs Program Act, and any other acts which the Department administers or which may assist the Department in the performance of its mission. The Department shall deposit any funds collected pursuant to this paragraph in the "Oklahoma Department of Commerce Revolving Fund" created by Section 5012 of this title; and

19. Enter into contracts at fair market value for the rental of office space in any facility under its control to entities engaged in activities related to the export of goods produced in Oklahoma. The Department shall deposit any funds collected pursuant to this paragraph in the "Oklahoma Department of Commerce Revolving Fund" created by Section 5012 of this title.

Added by Laws 1992, c. 259, § 1, emerg. eff. May 22, 1992. Amended by Laws 1994, c. 322, § 27, emerg. eff. June 8, 1994; Laws 1999, c. 71, § 1, emerg. eff. April 7, 1999.

§74-5003.10a. Termination of office outside state.

An office established by the Oklahoma Department of Commerce outside the State of Oklahoma pursuant to paragraph 16 of Section 5003.10 of this title shall not be terminated until the Director of the Oklahoma Department of Commerce provides a written report to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate of the intent of the Director to terminate the office. Termination of the office pursuant to this section shall not occur earlier than sixty (60) days following the date the report is filed as provided in this section. For purposes of this section, "termination" means a reduction in funding for an office or a change in representation.

Added by Laws 1998, c. 364, § 36, emerg. eff. June 8, 1998. Amended by Laws 2001, c. 313, § 1, emerg. eff. June 1, 2001; Laws 2013, c. 227, § 37, eff. Nov. 1, 2013.

§74-5003.10b. Administration of federal funds to develop trade center and industrial park.

A. 1. The Oklahoma Department of Commerce is hereby authorized to administer any federal funds received by this state that are allocated for the purposes of completion of traffic and feasibility studies for, and the development of a trade center and industrial park by, the Continental Gateway Authority, a public trust in McClain County, Oklahoma.

2. For purposes of this section, "administer any federal funds" means to provide oversight administration and includes, but is not limited to, approval or rejection by the Department of expenditures of the Authority and review by the Department of contracts proposed by the Authority for noncompliance with federal and state law, rules, regulations, and the provisions set forth herein, and the rejection by the Department of such contracts prior to their execution by the Authority if determined by the Department to be out of compliance with law determined to be applicable by the Department.

B. The Department of Transportation is hereby authorized and directed to transfer to the Oklahoma Department of Commerce for use by the Continental Gateway Authority any federal funds received and allocated for the purposes set forth in subsection A of this section.

C. The Oklahoma Department of Commerce shall utilize such funds to contract with the Continental Gateway Authority for the provision of the study authorized by federal appropriation and subsection A of this section. Such contract shall be exempt from the competitive bidding procedures set forth in Section 85.7 of Title 74 of the Oklahoma Statutes and shall contain provisions as required by law.

D. The Continental Gateway Authority shall utilize the funds for the studies set out in subsection A of this section and may contract with a consultant for such studies. Such contract shall be exempt from the competitive bidding procedures set forth in Section 85.7 of the Oklahoma Statutes but shall comply with the following requirements:

1. The Continental Gateway Authority shall issue requests for proposals to no less than three and no more than five consultants to perform the studies. Detailed consideration, including interviews, shall be given to those responding to the request for proposals. The initial screening should consider the requirements of a consultant interview evaluation sheet as well as the following factors to be determined from Authority staff and replies to inquiries to former clients:

- a. specialized experience in the type of work contemplated,
- b. capacity of the consultant to perform the work in the required time, and
- c. past performance;



2. A full report of the evaluation procedures and recommendations of the Authority shall be prepared by the Authority and submitted to the Oklahoma Department of Commerce for an independent review of the entire process; and

3. The Authority shall negotiate the contract with the selected consultant, which contract shall include a fair and reasonable fee. The negotiated scope and fee shall be reported to the Oklahoma Department of Commerce for review of compliance with state and federal laws, rules and regulations. If the Authority and the first choice consultant cannot reach an agreement, their negotiations shall be terminated and negotiations with the second-choice consultant shall commence. If the Authority and the second-choice consultant cannot reach an agreement, their negotiations shall be terminated and negotiations with the third-choice consultant shall commence. If the Authority and the third-choice consultant cannot reach an agreement, then all negotiations shall be terminated. Should the Authority be unable to negotiate a satisfactory contract with any of the three selected consultants, the Authority shall select additional consultants in order of their competence and qualifications and shall continue negotiations in accordance with the provisions of this subsection until an agreement is reached. Added by Laws 1999, c. 388, § 1, emerg. eff. June 8, 1999.

§74-5003.10c. Repealed by Laws 2013, c. 227, § 38, eff. Nov. 1, 2013.

§74-5003.10d. State's Workforce Investment Board, Recognition - Purpose - Membership - Terms - Meetings - Duties and Responsibilities - Funding.

A. The Governor's Council for Workforce and Economic Development established under the authority of Executive Order 2005-27 is hereby recognized by the Legislature as the State's Workforce Investment Board. The Council succeeded and was established in lieu of the Oklahoma Workforce Investment Board. Appointed members of the Council serving under the authority of Executive Order 2005-27 when this act becomes effective shall continue to serve until their terms have expired and their successors have been duly appointed. Pursuant to the federal Workforce Innovation and Opportunity Act, the purpose of the Council shall be to:

1. Guide the development of a comprehensive and coordinated workforce development system for the state and monitor its operation; and

2. Review and make recommendations that will align the workforce system, including education, with the economic development goals of the state for the purpose of creating workforce and economic development systems that are integrated and shall provide Oklahoma a competitive advantage in a global economy.

B. Membership of the Council shall include representatives of private employers who reflect Oklahoma's projected and desired business and industry base and public officials from agencies which provide programs and services related to workforce, education and economic development. All Council members shall be in positions to influence policy and hiring decisions within their organizations. Initial appointments to the Council shall conform to the following described schedule:

1. The membership of the Council shall comply with the federal requirements of the state investment board;

2. A majority of the Council shall come from described private sector employers, including owners of businesses, chief executives or operating officers of businesses or other business executives or employees with optimum policymaking or hiring authority, and who represent businesses, including small businesses, that provide employment opportunities that, at a minimum, include high-quality, work-relevant training and development in in-demand industry sectors or occupations in this state;

3. State officials shall include incumbents or designees of the following named offices, or their successors in office or function:

- a. Governor,
- b. two members of the Senate, appointed by the President Pro Tempore,
- c. two members of the House of Representatives, appointed by the Speaker,
- d. Executive Director of the Oklahoma Department of Commerce, and
- e. Executive Director of the Oklahoma Employment Security Commission;

4. Additional members, at the discretion and pleasure of the Governor, may be appointed representing the needs or interests of the state economy or specific regional needs; and

5. Ex-officio members, at the discretion and pleasure of the Governor, may be included to provide expertise and agency information to the Council. These appointments may include, but not be limited to:

- a. the Secretary of Education,
- b. the Secretary of Health and Human Services,
- c. the Secretary of Commerce,
- d. the Chancellor of the Oklahoma State Regents for Higher Education,
- e. the Director of Career and Technology Education,
- f. the State Superintendent of Public Instruction,
- g. the Director of the State Department of Rehabilitation Services,
- h. the Director of the Oklahoma Department of Corrections,

- i. the Commissioner of the Oklahoma Department of Mental Health and Substance Abuse Services,
- j. the Director of the Oklahoma Health Care Authority, and
- k. the Native American Liaison.

C. Private sector members shall be appointed by and serve at the pleasure of the Governor for a two-year term beginning October 1, 2005, and may be reappointed. However, of the initial private sector members appointed, half shall be appointed for an initial term of one (1) year beginning October 1, 2005. Private members may be removed from office for failure to attend three consecutive Council meetings. The chair of the Council shall be from the private sector and shall be appointed by and serve at the pleasure of the Governor.

D. The Council shall meet at such times and places as it deems appropriate. Members shall serve without compensation. Council members employed by a state agency shall be reimbursed travel expenses related to their service on the Council as authorized by state law by their respective state agency. Legislative members of the Council shall be reimbursed by their respective houses for necessary travel expenses incurred in the performance of their duties as authorized by state law. Remaining Council members shall also be reimbursed travel expenses related to their service on the Council by the Oklahoma Department of Commerce as authorized by state law. No member of the Council shall profit, directly or indirectly, from any transaction with the Council.

E. The duties and responsibilities of the Council in the development, monitoring and aligning of the workforce system with economic development shall include, but not be limited to:

1. Performing the duties required of the state governance board by the federal Workforce Innovation and Opportunity Act;

2. Identifying the human resource investment needs of Oklahoma business and industry, together with those of the citizens of the state, so that each might respond to and meet the needs of the others and thus together build a robust, diversified economy;

3. Reviewing and evaluating workforce development programs within the state, formulate recommendations to increase their efficiency and effectiveness, eliminate duplication, and align with economic goals. Recommendations shall be communicated to the Governor, Legislature, state and federal government agencies and appropriate individuals and entities within the private sector;

4. Increasing academic capability and technical skills within the state workforce and foster lifelong learning among Oklahoma's citizens;

5. Strengthening collaboration among institutions which provide education and training services, government agencies which coordinate employment and other human resource investment

activities, and Oklahoma business and industry to create a seamless system to nurture healthy economic development; and

6. Enhancing rural economic development capability and capacity, giving particular attention to regional collaboration and partnering.

F. Activities of the Council shall be coordinated by the Secretary of Commerce and directed by the Deputy Secretary of Commerce for Workforce Development, or their successors in office or function. Administrative and staffing support for the Council shall be coordinated by the Office of Workforce Solutions within the Department of Commerce.

G. The State Workforce Partners originally established under the authority of Executive Order 2005-27 as the Workforce Solutions Staff Team is hereby recognized by the Legislature. This interagency team shall be comprised of executive level staff from workforce, education and economic development agencies of the state for the purpose of providing staff support to the Council and to create efficiencies, eliminate duplication, and eliminate barriers to jointly providing a service delivery system. Other members may be included on this team as the Governor may deem necessary to accomplish this goal.

H. The Council shall be supported by funds available to state agencies pursuant to state and federal laws and regulations. Each member of the Council whose agency qualifies pursuant to state and federal law to receive and use such funds shall assist by providing support and funding of the Council in carrying out the responsibilities of the Council.

I. The Council shall form a subcommittee on health workforce whose purpose shall be to inform, coordinate, and facilitate statewide efforts to ensure that a well-trained, adequately distributed, and flexible health workforce is available to meet the needs of an efficient and effective health care system in Oklahoma. Duties of the Health Workforce Subcommittee shall include, but not be limited to, the following:

1. Conducting data analysis and preparing reports on health workforce supply and demand;

2. Research and analysis of state health professional education and training capacity;

3. Recommend recruitment and retention strategies for areas determined by the Oklahoma Primary Care Office or the Oklahoma Office of Rural Health to be areas of high need; and

4. Assessment of health workforce policy, evaluation of impact on Oklahoma's health system and health outcomes, and developing health workforce policy recommendations.

Added by Laws 2006, c. 236, § 1, emerg. eff. June 6, 2006. Amended by Laws 2015, c. 188, § 1, eff. Nov. 1, 2015.

§74-5003.10e. Work-based Learning Program.

A. There is hereby created the Work-based Learning Program. The Governor's Council on Workforce and Economic Development shall have authority over the program. The Governor's Council shall coordinate the program by establishing partnerships with the State Department of Education, the State Regents for Higher Education, the State Department of Career and Technology Education, the Oklahoma Board of Private Vocational Schools, the Secretary of State and business entities throughout the state. The Oklahoma Office of Workforce Development, serving as the Workforce Innovation and Opportunity Act designee as established by the Governor, shall have the official duty to develop and maintain a Work-based Learning Program within its jurisdiction to be focused on increasing the number of registered apprenticeships and internship programs, defined as paid and unpaid work experience by the United States Department of Labor as contained in 20 CFR 681.600, in this state to at least an aggregate of twenty thousand positions by the end of the calendar year 2020. All partners participating in the Work-based Learning Program shall be required to provide their expertise, time and resources as deemed necessary to advance and sustain the work-based learning goals of Oklahoma Works to assist with publishing an annual progress report showing each state agency's steps and accomplishments toward meeting statewide workforce goals and to network and coordinate with other public and private entities in an effort to align all state agencies, boards and commissions and the private business sector in meeting Oklahoma Works goals.

B. The Work-based Learning Program shall include the following components:

1. Coordinate work-based learning opportunities through the state's labor market and labor exchange systems to connect youth and adults in public and private sectors;

2. Work toward increasing the number of youth and adults participating successfully in public and private work-based learning opportunities;

3. Set standards for equality and fair access to quality work-based learning experiences for all Oklahomans, including, but not limited to, women, out-of-school youth, adults, African Americans, Hispanics, Native Americans, veterans, individuals with disabilities and other target populations identified in the federal Workforce Innovation and Opportunity Act;

4. Promote quality work-based learning experiences which are developmentally appropriate, including an orientation for all parties, identify learning objectives for the term of the experience, explore multiple aspects of an industry, develop workplace skills and competencies, assess performance, provide opportunities for work-based reflection, link appropriate next steps

and see that all aspects are documented and reported and comply with state and federal labor laws;

5. Convene industry partners to develop industry-specific standards for internships in order to aid employers with the creation of rigorous internship programs; and

6. Prioritize paid work-based learning experiences to ensure equity and access.

C. Each organization seeking to be a registered Work-based Learning Program in Oklahoma shall either:

1. Be registered as a Work-based Learning Program, such as an apprenticeship, with the United States Department of Labor; or

2. File a certificate each year in the Office of the Secretary of State, which shall confirm such an organization is an active participant in Oklahoma's registered Work-based Learning Program. The certificate to be filed shall include:

- a. the name of the business, nonprofit organization or government organization,
- b. the street address of the organization,
- c. the name of the primary contact for the organization,
- d. the electronic mail address for the primary contact of the registered organization,
- e. the registered organization's North American Industry Classification System code (NAICS), if applicable,
- f. the number and type of work-based learning opportunities proposed for the year, the estimated term of each opportunity, the proposed occupations, and estimated number of hours per week of each opportunity, if available,
- g. the number and type of work-based learning opportunities proposed for the year, the estimated term of each opportunity, the proposed occupations, and the estimated number of hours per week of each opportunity, if available,
- h. signed acknowledgement of the application by the primary contact, and
- i. the annual renewal shall be due on the anniversary date of filing the registration application.

The filing shall be made electronically via the Secretary of State website.

D. The annual certificate of participation shall be due on the anniversary date of original registration, as the case may be, until cancellation of the work-based organization in the Work-based Learning Program.

E. The Secretary of State shall, at least sixty (60) days before the anniversary date each year of a participating organization, cause a notice of renewal of the annual certificate to be sent to such organization to its last known electronic mail

address of record filed with the Secretary of State. At the time of renewal, the organization shall provide a Work-based Learning Program annual summary, including for each position offered:

1. The number of opportunities posted;
2. The number of opportunities hired;
3. The type of work-based learning opportunities offered (e.g., internship, apprenticeship);
4. The Standard Occupational Classification (SOC) code;
5. The performance evaluation criteria utilized;
6. The term of the position;
7. The number of hours per week;
8. Paid or unpaid status;
9. Academic credit awarding institution, if applicable;
10. Academic hours awarded, if applicable; and
11. The gender, age and ethnicity of hires, if available.

F. A registered organization that fails to file the annual renewal and pay the annual renewal fee by the anniversary date of registration shall cease to be a registered organization with the Governor's Council for Workforce and Economic Development.

G. The Secretary of State shall charge and collect the following fees:

1. For filing the original application, a fee of Fifty Dollars (\$50.00) submitted to the Secretary of State; and
2. For filing subsequent annual renewals, a fee of Twenty-five Dollars (\$25.00) submitted to the Secretary of State.

H. To coordinate with statewide career pathways efforts, registered organizations under this program shall recruit participants by posting job announcements on the state labor market exchange system. Job announcements shall include the registered organization number as assigned by the Secretary of State.

I. The Secretary of State shall transfer on July 1 of each fiscal year an amount based on the Governor's Council for Workforce Development annual budget not to exceed Eight Hundred Fifty Thousand Dollars (\$850,000.00) annually from the Secretary of State revolving fund to support the administration of the program and business registration to help enable the development of the state's talent pipeline.

Added by Laws 2018, c. 138, § 1, eff. July 1, 2018.

§74-5003.11. Establishment of community development strategy and plan - Authority of Department.

The Oklahoma Department of Commerce shall serve as the lead state agency in establishing a community development strategy and plan for the state. The Department shall have the authority to establish and administer community development programs such as certified community programs which enhance the quality of life in Oklahoma communities; the Department has the authority to administer

such programs directly or by contract with qualified community development entities.

In establishing such programs, the Department shall determine needs, priorities or funding limits within the limits for such programs imposed by the Legislature. The Department may promulgate rules in accordance with the Administrative Procedures Act to clarify such programs.

The Department shall establish and develop or cause to be developed individual program budgets, work plans, and audits of each community development program established and administered. Any contract under this section shall be exempt from the Central Purchasing Act.

Added by Laws 1999, c. 264, § 17, eff. Sept. 1, 1999.

§74-5003.12. Aerospace Commerce Economic Services Act - Purpose - Aerospace and Defense Industry Integrator.

A. This act shall be known and may be cited as the "Aerospace Commerce Economic Services Act".

B. There is hereby created within the Oklahoma Department of Commerce, the Aerospace Commerce Economic Services (ACES), whose purpose shall be to create a partnership of service providers to more effectively respond to the needs of the aviation, aerospace and defense industries in the areas of education and training, research, and economic development. ACES will focus available resources to promote cooperation and collaboration among businesses, manufacturers, military installations, commercial aviation, educational institutions, nonprofit research institutions and state government for the purpose of strengthening the economy of the State of Oklahoma. Contingent upon the availability of funds, the Oklahoma Department of Commerce may employ established program processes or may contract with other qualified entities to operate ACES. The Department of Commerce shall partner with the Oklahoma Aeronautics Commission to implement the provisions of this act.

C. ACES is designed to coordinate and integrate the various aerospace resources that currently exist within state and local agencies. The primary goal of ACES is to establish a common statewide strategy for the growth of the Oklahoma aerospace industry. ACES will focus the collective aerospace resources, all or new aerospace resources, to achieve one or more of the following objectives into an integrated, coordinated statewide effort that will:

1. Increase contracts between companies in the aviation, aerospace and defense industries in Oklahoma and the Department of Defense and its prime contractors;
2. Create and retain more high-wage, high-skill jobs;
3. Strengthen collaborations between businesses and aviation, aerospace and defense interests;



4. Reduce the flow of federal defense contract dollars out of state;
5. Expand the aviation, aerospace and defense industries in Oklahoma;
6. Provide engineering and technical assistance;
7. Provide more suppliers for Oklahoma military installations and the aviation, aerospace and defense industries;
8. Reduce costs for the Department of Defense and Oklahoma military installations and increase the competitiveness of aviation, aerospace and defense businesses in Oklahoma;
9. Create and align goals to grow aerospace business to a top industry in Oklahoma by providing a forum to bring agencies, industry and government together;
10. Enhance Oklahoma's supply chain utilization in the industry to fill existing gaps in supplier networks;
11. Develop a recruitment strategy to attract new businesses that reside or have a presence in Oklahoma; and
12. Create a forum for all aerospace stakeholders in Oklahoma to come together to pool ideas and resources to advance aerospace in the state. State aerospace stakeholders include but are not limited to Federal Aviation Administration, Veterans Administration, Tinker Air Force Base, all Oklahoma military installations, chambers of commerce, Oklahoma Space Industry Development Authority, Oklahoma Department of Commerce, Oklahoma State Regents for Higher Education, Oklahoma Aeronautics Commission, Small Business Administration, Unmanned Aerial Systems Cluster Initiative of Oklahoma and Kansas, Oklahoma Manufacturing Alliance, CareerTech, Oklahoma Center for the Advancement of Science and Technology, Governor's Unmanned Aerial Systems Alliance of Oklahoma, Unmanned Aerial Systems Council and Oklahoma Bid Assistance Network.

D. ACES shall establish an Aerospace and Defense Industry Integrator. The integrator shall be used to engage key players from the government, academia and other key stakeholders to create an industry-wide vision and strategic map that details a plan to enhance the industry. The integrator shall initiate the following activities:

1. Assessing the current state of the industry, developing and defining a vision for the future of the industry;
2. Identifying supplier network gaps and developing solutions to fill those gaps;
3. Identifying funding requirements and developing funding opportunities; and
4. Establishing ongoing mechanisms to monitor activities and devising a process that includes the development and reporting of metrics to track and manage ongoing progress.

E. In order to streamline the use of resources with the goal of eliminating duplication of efforts, ACES shall act as a facilitator

for the collection and sharing of information and activities concerning the aviation, aerospace and defense industries. ACES shall provide coordination and assistance for the plans and activities of state agencies, task forces, departments, boards, commissions and other entities that have responsibilities or duties regarding the aviation, aerospace and defense industries with the goal of eliminating duplication of effort.

F. ACES shall support and foster the growth of the aviation, aerospace and defense industries. ACES shall acquire aerospace executive expertise and provide consulting services to the aviation, aerospace and defense industries, government agencies and organizations across the State of Oklahoma in order to strengthen the policy framework, economic development initiatives and activities of the state.

G. ACES may accept funding that includes, but is not limited to:

1. Monetary contributions;
2. Contractual arrangements;
3. In-kind services;
4. Federal- and state-appropriated dollars;
5. Private and public foundation grants; and
6. Fee-for-service products.

Added by Laws 2018, c. 278, § 1, eff. Nov. 1, 2018.

§74-5003.15. 2nd Century Entrepreneurship Center.

A. The Oklahoma Department of Commerce shall establish within the agency a central point of access and information for persons or business entities in order to facilitate the creation of new business enterprises within the state. The central point of access and the related programs shall be designated the "2nd Century Entrepreneurship Center".

B. The Department shall utilize the existing Master Business Licensing System and incorporate the systems and informational resources currently in use to establish the 2nd Century Entrepreneurship Center.

C. The Department of Commerce shall develop a centralized method by which an emerging or expanding Oklahoma business enterprise may have access to all state and local permit information, license information, applicable state or local codes, and other information and resources necessary for the successful organization of a new business enterprise or for the expansion of an existing business enterprise.

D. To the extent possible, the 2nd Century Entrepreneurship Center shall allow an emerging or expanding business enterprise to complete all steps necessary for the formation and organization of the business entity, including the formal organization of the business entity, the acquisition of a federal employer tax

identification number, if required, the acquisition of any needed licenses or permits from the Secretary of State, the Oklahoma Tax Commission, or the Oklahoma Employment Security Commission.

E. The Department of Commerce may work in collaboration with other statewide partners also involved in the offering of entrepreneurship-based programs.

Added by Laws 2007, c. 245, § 1, eff. July 1, 2007.

§74-5003.21. Oklahoma Department of Commerce - Accessing economic and tax incentives.

A. The Oklahoma Department of Commerce shall provide direction and assistance to private for-profit business entities, community-owned business entities, and governmental entities which are engaged in an activity related to the processing of Eastern Red Cedar trees and products or processes related to the Eastern Red Cedar tree on the steps necessary to qualify for and access existing economic and tax incentives. The Department shall work with the Eastern Red Cedar Registry Board created in Section 4 of this act to identify viable programs that can provide or create opportunities for business or governmental entities involved in an activity related to the processing of Eastern Red Cedar trees and products or processes related to the Eastern Red Cedar tree.

B. The Oklahoma Department of Commerce shall utilize its existing resources in order to make the information described in subsection A of this section accessible to interested persons and business entities that could benefit from the utilization of any incentive programs.

Added by Laws 2010, c. 454, § 12, eff. July 1, 2010.

§74-5004.1. General counsel.

The Oklahoma Department of Commerce may employ an attorney. Such attorney shall be a full-time employee of the Department and act as general counsel for the Department.

Added by Laws 1987, c. 208, § 26, operative July 1, 1987; Laws 1987, c. 236, § 59, emerg. eff. July 20, 1987.

§74-5005.1. Repealed by Laws 1992, c. 259, § 5, emerg. eff. May 22, 1992.

§74-5008.1. Repealed by Laws 2016, c. 55, § 1, eff. Nov. 1, 2016.

§74-5008.2. Repealed by Laws 2016, c. 55, § 1, eff. Nov. 1, 2016.

§74-5008.3. Repealed by Laws 2016, c. 55, § 1, eff. Nov. 1, 2016.

§74-5009.1. Repealed by Laws 1993, c. 270, § 58, eff. Sept. 1, 1993.

§74-5009.2. Repealed by Laws 1993, c. 270, § 58, eff. Sept. 1, 1993.

§74-5009.3. Repealed by Laws 1993, c. 270, § 58, eff. Sept. 1, 1993.

§74-5009.4. Repealed by Laws 1993, c. 270, § 58, eff. Sept. 1, 1993.

§74-5009.5. Repealed by Laws 1993, c. 270, § 58, eff. Sept. 1, 1993.

§74-5009.6. Repealed by Laws 1993, c. 270, § 58, eff. Sept. 1, 1993.

§74-5009.11. Repealed by Laws 2013, c. 188, § 2, eff. July 1, 2013.

§74-5009.12. Repealed by Laws 2013, c. 188, § 2, eff. July 1, 2013.

§74-5009.13. Repealed by Laws 2013, c. 188, § 2, eff. July 1, 2013.

§74-5009.14. Repealed by Laws 2013, c. 188, § 2, eff. July 1, 2013.

§74-5009.15. Repealed by Laws 2013, c. 188, § 2, eff. July 1, 2013.

§74-5009.16. Repealed by Laws 2013, c. 188, § 2, eff. July 1, 2013.

§74-5010.1. Purpose of act - Finding of Legislature.

The purpose of this act is to provide special assistance and aid to certain minority and disadvantaged persons, so that such persons may engage in gainful business and employment opportunities to the extent of their capabilities.

The Legislature hereby specifically finds there is a pattern of continuing and latent discrimination in the financial and commercial sectors of the business communities that results in the deprivation of opportunities to minority and disadvantaged persons in this state to engage in self-employment and establishment of business enterprises.

Added by Laws 1987, c. 148, § 1, eff. July 1, 1987.

§74-5010.2. Definitions.

For purposes of this act:

1. "Disadvantaged business" means a business employing less than twenty-five persons of which at least fifty-one percent (51%) of the outstanding stock is owned, regardless of minority status, by a person who is:

a. by reason of social or economic background unable to compete in the free enterprise system due to diminished capital and credit opportunities of a quality or quantity similar to those available to others in the same business area who are not disadvantaged, and

b. impeded from normal entry into the economic mainstream because of historical practices of discrimination based on race, color, religion, ethnic background, sex, age, handicap, national origin, or service in the armed forces during the Vietnam conflict, and

c. unable to compete effectively because of tendencies of regular financing and commercial organizations to restrict their services to established businesses, and

d. in a state of low income;

2. "Low income" means annual income which is eighty percent (80%) or less of the median annual income of the citizens of this state as reported by the latest estimates of the U.S. Bureau of the Census;

3. "Minority business" means a business employing less than twenty-five persons which is fifty-one percent (51%) owned and operated by one or more minority persons; and

4. "Minority person" means a citizen of the United States who is Black, Hispanic, Oriental, American Indian, Eskimo, Aleut, or handicapped.

Added by Laws 1987, c. 148, § 2, eff. July 1, 1987.

#### §74-5010.3. Office of Minority and Disadvantaged Business Enterprise - Creation - Powers and duties - Reports.

A. There is hereby created within the Oklahoma Department of Commerce, the Office for Minority and Disadvantaged Business Enterprises. The Director of the Oklahoma Department of Commerce shall appoint a director for the Office for Minority and Disadvantaged Business Enterprises. The appointed director shall employ such persons as are necessary to implement the powers and duties of the Office.

B. In performing the services set out in subsection A of this section, the Office shall:

1. Promote the establishment of minority and disadvantaged businesses with technical assistance;

2. Serve as a focal point and ombudsman in state government for minority and disadvantaged business entrepreneurs and coordinate efforts by state agencies, business development organizations, and the private sector as they relate to the development of minority and disadvantaged business enterprises;

3. Serve as an information clearinghouse and disseminator of data for minority and disadvantaged businessmen by:

a. compiling and keeping updated a listing of all minority and disadvantaged businesses in the State of Oklahoma,

b. furnishing to all minority and disadvantaged business enterprises that request it information relating to the state procurement system, state-supported construction, and state-supported subcontracting opportunities, and

c. upon request by such a businessman, reviewing the licensure process, regulations, and administrative procedures of state agencies relating to private enterprise;

4. Encourage development of capital resources for minority and disadvantaged business entrepreneurs;

5. Strengthen the communication link between minority and disadvantaged businessmen and the Governor's office;

6. Assist business development organizations and activities which require the cooperation of state agencies;

7. Provide assistance to minority and disadvantaged businesses by advising and counseling on all phases of procurement policies, by obtaining information concerning prime contractors in letting subcontracts and by encouraging subcontracting by prime contractors to minority and disadvantaged businesses;

8. Receive funding from sources other than the state to further this assistance;

9. Make studies and conduct workshops, conferences and seminars with owners and employees of minority and disadvantaged businesses to enhance their understanding of business management, bidding, licensing procedures, procurement procedures and any other activities incident to their positions in business;

10. Develop training and educational programs in cooperation with institutions, associations and other state, local and federal agencies, and coordinate the training efforts of the various organizations presently providing technical assistance to minority and disadvantaged businesses;

11. Encourage and provide the direction and coordination to secure franchises and dealerships from private firms for minority and disadvantaged businesses;

12. Continually evaluate the progress of minority and disadvantaged businesses through monitoring and techniques of evaluations such as surveys and feasibility studies; and

13. Review and evaluate pertinent legislation and determine its effect upon minority and disadvantaged businesses and make appropriate recommendations to the Governor and the Legislature.

C. The Office shall submit an annual report to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate prior to January 1 of each year. The report shall describe the Office's activities on behalf of minority and disadvantaged businesses, including but not limited to research and development, technical assistance and dissemination of data and

information; furthermore, such report shall make recommendations for strengthening or improving the business climate for minority and disadvantaged businesses in this state through legislation or other means. Additionally, the report shall list all businesses to which assistance was rendered during the period covered by the report and the nature of such assistance.

Added by Laws 1987, c. 148, § 3, eff. July 1, 1987.

§74-5010.4. Repealed by Laws 2003, c. 8, § 10, eff. July 1, 2003.

§74-5010.5. Certification program for women-owned businesses.

A. In order to facilitate contracting capabilities of women-owned businesses with public and private entities, and to establish criteria to certify such businesses, the Oklahoma Department of Commerce may establish a certification program for women-owned businesses which are in compliance with the definition of a small-business concern as set forth in 15 U.S.C., Section 632 and in regulations promulgated pursuant to said section by the Small Business Administration. For purposes of this section, a women-owned business is one that is at least fifty-one percent (51%) owned and operated on a day-to-day basis by one or more females.

B. The Department shall issue certificates to women-owned businesses which are small-business concerns as evidence of ownership for the purpose of contracting with corporate or governmental entities. Certification shall be based upon information which is required by the Department from the business seeking certification and which will be subject to verification and approval by the Department. The Department shall require an affidavit of ownership, organization and decision-making authority, financial information and such other information deemed necessary by the Department to evaluate a business for certification. The Department shall have the authority to promulgate rules and regulations to implement the provisions of this section. The certification program shall not replace any certification procedures or programs of other governmental agencies.

C. Certificates issued by the Department pursuant to this section shall not be financial guarantees or personal approvals of businesses but shall be for the purpose of verifying that businesses are women-owned in order to enhance the ability of such businesses to contract with public and private entities and to access state and federal information and assistance.

Added by Laws 1991, c. 341, § 15, eff. July 1, 1991.

§74-5012. Oklahoma Department of Commerce Revolving Fund.

A. There is hereby created the "Oklahoma Department of Commerce Revolving Fund". The fund shall consist of all monies, other than appropriated monies, received by the Department which are not

directed to be placed into another fund. The fund shall be a continuing fund not subject to fiscal year limitations and shall be subject to the administrative direction of the Oklahoma Department of Commerce. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims submitted to the Director of the Office of Management and Enterprise Services. Monies in the fund may be expended for the operating expenses of the Department and shall be made pursuant to the laws of this state.

B. On July 1, 1986, any unallotted cash balance in the funds created in Sections 678 and 2008 of this title shall be transferred to the Oklahoma Department of Commerce Revolving Fund. All outstanding financial obligations and encumbrances of the funds created in Sections 678 and 2008 of this title are hereby transferred to the Oklahoma Department of Commerce. After November 15, 1986, any unexpended balance in the funds created in Sections 678 and 2008 of this title shall be transferred to the Oklahoma Department of Commerce Revolving Fund.

Added by Laws 1986, c. 207, § 18, operative July 1, 1986. Amended by Laws 2012, c. 304, § 1027.

§74-5012.1. Program service fees - Amount, collection and disposition.

The Oklahoma Department of Commerce may collect reasonable fees based on actual direct and indirect costs for programmatic services extended to users by the Department in accomplishing its mission. The Department shall set amounts of fees for programs it administers including but not limited to the Export Services Program, Quality Jobs Program or others in its General Rules of Practice and Procedure written in accordance with the Administrative Procedures Act. Fees collected pursuant to this section shall be deposited to the credit of the Oklahoma Department of Commerce Revolving Fund. Added by Laws 1993, c. 270, § 18, eff. Sept. 1, 1993.

§74-5013. Community Planning Project Revolving Fund.

A. There is hereby created the "Community Planning Project Revolving Fund". The fund shall consist of any monies appropriated thereto and any monies payable to the Oklahoma Department of Commerce by the United States Federal Government or cities, towns, or counties of the State of Oklahoma for assistance in communities' planning projects. The fund shall be a continuing fund not subject to fiscal year limitations and shall be subject to the administrative direction of the Oklahoma Department of Commerce. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims submitted to the Director of the Office of Management and Enterprise Services. The monies deposited in the revolving fund shall be expended by the Oklahoma Department



of Commerce to pay the cost of providing these services for the various planning projects.

B. On July 1, 1986, any unallotted cash balance in the fund created in Section 686 of this title shall be transferred to the Community Planning Project Revolving Fund. All outstanding financial obligations and encumbrances of the fund created in Section 686 of this title are hereby transferred to the Oklahoma Department of Commerce. After November 15, 1986, any unexpended balance in the fund created in Section 686 of this title shall be transferred to the Community Planning Project Revolving Fund created in this section.

Added by Laws 1986, c. 207, § 19, operative July 1, 1986. Amended by Laws 2012, c. 304, § 1028.

§74-5013.1. Minority Business Development Program Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Department of Commerce to be designated the "Minority Business Development Program Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. The fund shall consist of all monies authorized by law for deposit in such fund including, but not limited to appropriations, gifts, grants, private donations, fee revenues and funds by governmental entities authorized to provide funding for the purposes authorized for the use of the fund. Monies deposited or apportioned to the credit of the fund may be expended for the purposes of job creation and enhancement and business creation and expansion of Oklahoma minority owned businesses pursuant to law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Department of Commerce for purposes authorized by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1990, c. 266, § 29, operative July 1, 1990. Amended by Laws 2012, c. 304, § 1029.

§74-5013.2. Expenditures from Minority Business Development Program Fund - Contracts.

A. The Oklahoma Department of Commerce shall expend so much as appropriated to the Minority Business Development Program Fund as may be necessary to accomplish contractual responsibilities for job creation and enhancement and business creation and expansion of Oklahoma minority-owned businesses. The Department may contract with organizations which support minority businesses for these purposes only after:

1. An applicant organization has submitted an approved business plan;

2. An applicant organization has demonstrated through education and experience capabilities of offering management tools and technical assistance to minority-owned businesses;

3. An applicant organization has demonstrated that it can provide financial capacity and responsibility to manage a program to aid minority-owned businesses in the manner set out herein;

4. A panel of peer reviewers has received applications and recommended such applications for contracting;

5. The Department has given due consideration to those applicants that demonstrate an ability to attract matching funding from other governmental or private or charitable organizations;

6. The Department has given due consideration to those applicants that demonstrate an ability to aid minority-owned businesses located in communities with a population of less than ten thousand (10,000); and

7. The Department has developed, adopted and published additional criteria, upon receipt of advice and comment from qualified peer reviewers.

B. Any contract entered into pursuant to this section shall require quarterly reports of activities and expenditures upon forms prescribed by the Department. Said quarterly reports shall be reviewed by Oklahoma Futures. The Department or Oklahoma Futures may disallow expenditures and withhold funds accordingly, if reports reflect failure to comply with approved applications. All contractors shall submit annual audits as required by the Department of Commerce which may be paid from allocated, appropriated funds. The Department may utilize an amount not to exceed twenty percent (20%) of appropriated funds for administration of the minority-owned business program.

C. Contracts entered into by the Oklahoma Department of Commerce for the purpose of implementing the Minority Business Development Program shall be exempt from the requirements of the Oklahoma Central Purchasing Act.

Added by Laws 1992, c. 259, § 2, emerg. eff. May 22, 1992.

#### §74-5013.3. Capital Improvement Program Revolving Fund.

There is hereby created the "Capital Improvement Program Revolving Fund". The fund shall consist of any monies appropriated thereto. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall be subject to the administrative direction of the Oklahoma Department of Commerce. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims submitted to the Director of the Office of Management and Enterprise Services. The monies deposited in the revolving fund shall be expended by the Oklahoma Department of Commerce to pay the cost of providing services for the various capital improvement planning projects.

Added by Laws 1996, c. 257, § 1, eff. Sept. 1, 1996. Amended by Laws 2012, c. 304, § 1030.

§74-5015. Filing of comprehensive plans and amendments - Comments and recommendations.

A. All comprehensive plans, or amendments thereto, to be financed in whole or in part by state or federal funds, being considered by any county, city, municipal corporation, governmental conference or council or regional planning commission shall be filed with the Oklahoma Department of Commerce for review and recommendation prior to adoption. The Department shall communicate its comments and recommendations to the proponent within thirty (30) days following receipt of such plans or amendments unless the proponent shall authorize a longer time. Such comments and recommendations shall be advisory only.

B. As used in this section, "comprehensive plan" means an analysis of all information and alternatives to the future development of the governmental entity developing the plan. Added by Laws 1986, c. 207, § 21, operative July 1, 1986.

§74-5017. Department of Commerce - Additional functions and responsibilities.

In addition to other functions and responsibilities of the Oklahoma Department of Commerce, the Department shall:

1. Administer or coordinate state programs and projects relating to economic or community issues for the planning and carrying out of the acquisition, preservation, use and development of land and provision of public facilities and services for fully carrying out the state's role in related federal grant or loan programs;

2. Administer and coordinate state programs and projects relating to economic opportunity, manpower planning and federal public service employment for fully carrying out the state's role in related federal grant or loan programs;

3. Where not otherwise authorized by state law, provide state participation with cities, towns, counties and other municipal corporations in financing public works projects and service programs. The assisted projects and programs shall be consistent with local, regional and state comprehensive plans and policies;

4. Coordinate and review applications for federal assistance as required by the federal government and review all other applications for participation in any federal grant or loan program by any public body.

Provided, however, that nothing in this section shall be construed to grant the Department the authority to disapprove such application;

5. Cooperate with and provide technical and financial assistance to counties, cities, municipal corporations and agencies owned and controlled by them, governmental conferences or councils, regional planning commissions, community development groups, community action agencies, Indian tribes and similar agencies created for the purposes of aiding and encouraging an orderly, productive and coordinated development of the state, and to strengthen local planning responsibility and capability;

6. Coordinate a program on an experimental basis in world trade centers in contiguous states for Oklahoma gift manufacturers. Reimbursement may be required from gift manufacturers participating in such market space program for funds expended for such purposes. It is the intent of the Legislature that the program:

- a. limit the experimental market space program to Oklahoma gift manufacturers which employ no more than fifty employees; and
- b. limit the amount of reimbursement required from the gift manufacturers participating in such market space program to an amount not to exceed twenty percent (20%) of the gross sales of such manufacturer or not to exceed the normal and customary amount received by market space representatives in contiguous states.

For purposes of this paragraph, "gift manufacturer" means any Oklahoma manufacturer who manufactures apparel products, lumber and wood products, furniture and fixtures, ceramics, paper and allied products, rubber and miscellaneous plastic products, leather and leather products, stone, clay, and glass products, fabricated metal and other similar items normally sold to persons for gift purposes;

7. Assist the Governor in coordinating the activities of state agencies which have an impact on the solution of economic or community development problems and the implementation of economic or community plans;

8. Encourage and, when requested, assist the efforts of local governments to develop mutual and cooperative solutions to their common problems;

9. Study existing legal provisions that affect the structure and financing of local government and those state activities which involve significant relations with local governmental units in cooperation with local governments and agencies owned by them and recommend to the Governor and the Legislature such changes in these provisions and activities as may seem necessary to strengthen local government;

10. Carry out continuing studies and analyses of the problems faced by communities within the state and develop such recommendations for administrative or legislative action as would appear necessary. In carrying out such studies and analyses, particular attention should be paid to the problems of regional,

metropolitan, urban, suburban, rural and other areas in which economic and population factors are rapidly changing;

11. Develop and test model or demonstration programs and projects, which may include contracting to administer certain functions or services of the state for such purposes and otherwise provide a program of practical research in the solution of community problems;

12. Collect reasonable personnel costs for staff time spent in the search for and duplication of records if such time exceeds one hour; and

13. Collect reasonable fees for informational publications and materials produced by Department of Commerce in accomplishing its mission.

Added by Laws 1986, c. 207, § 23, operative July 1, 1986. Amended by Laws 1989, c. 313, § 14, operative July 1, 1989; Laws 1992, c. 198, § 1, eff. July 1, 1992; Laws 1993, c. 329, § 5, eff. Sept. 1, 1993.

§74-5017.1. Enforcement of energy conservation programs - Abolition of Energy Conservation Services Division of Corporation Commission - Classification of transferred employees.

The Oklahoma Department of Commerce shall have the authority to establish, administer and enforce state and federal energy conservation programs including, but not limited to, implementing The Energy Conservation Act of 1975 (P.L. 94-163), National Energy Extension Service Act (P.L. 95-39, 42 U.S.C. Section 7001 et seq.) and the National Conservation Policy Act (P.L. 95-619), except as otherwise provided by law.

The Energy Conservation Services Division of the Oklahoma Corporation Commission is hereby abolished. All personnel, equipment, files, fixtures, funds, furniture, publications and supplies, and all duties, functions, authority and contractual obligations that relate to the Energy Conservation Services Division of the Oklahoma Corporation Commission are hereby transferred to and vested in the Oklahoma Department of Commerce.

Employees transferred to the Oklahoma Department of Commerce shall be classified and subject to the provisions of the Merit System of Personnel Administration as provided for in the Oklahoma Personnel Act. The salaries, grade and/or class of the employees transferred shall be adjusted to be commensurate with comparable positions in the Oklahoma Department of Commerce.

The full-time-equivalent employee positions funded through the federal energy conservation programs outlined in this section shall terminate upon the exhaustion of said federal funding.

Added by Laws 1987, c. 236, § 60, emerg. eff. July 20, 1987.

§74-5017.2. Purpose of Sections 5017.2 to 5017.5.

The purpose of Sections 10 through 13 of this act is to stimulate international trade, produce more jobs, create economic diversity and sources of additional tax revenue, allow small and medium-sized businesses to take advantage of exporting opportunities formerly practically available only to larger businesses, and allow businesses in the state to compete in a world market with businesses in other states.

Added by Laws 1987, c. 214, § 10, eff. Nov. 1, 1987.

#### §74-5017.3. Definitions.

As used in Sections 10 through 13 of this act:

1. "Shared foreign sales corporation" means a corporation that satisfies the requirements of Section 922, Internal Revenue Code of 1986 (26 U.S.C. Sec. 922) and is operated for the benefit of more than one business in this state.

2. "Department" means the Oklahoma Department of Commerce.

3. "Director" means the Director of the Oklahoma Department of Commerce.

Added by Laws 1987, c. 214, § 11, eff. Nov. 1, 1987.

#### §74-5017.4. Department - Powers and duties.

A. The Department shall encourage and assist in creation and operation of shared foreign sales corporations to benefit businesses in this state.

B. The Department may:

1. Develop model shared foreign sales corporations, including model bylaws, operation manuals, form contracts, a model certificate of incorporation and other appropriate aids that businesses may use in creating and operating shared foreign sales corporations;

2. Provide information and counseling to businesses relating to state, federal, and international law governing shared foreign sales corporations;

3. Provide accounting information and counseling to businesses in connection with creation and operation of shared foreign sales corporations; and

4. Provide other information and assistance necessary to the creation and operation of shared foreign sales corporations to benefit businesses in the state.

Added by Laws 1987, c. 214, § 12, eff. Nov. 1, 1987.

#### §74-5017.5. Service fees.

The Department may collect fees for services provided under Sections 10 through 13 of this act in amounts which the Director determines to be necessary to cover costs of administering Sections 10 through 13 of this act.

Added by Laws 1987, c. 214, § 13, eff. Nov. 1, 1987.

§74-5017.7. Oklahoma Chief International Protocol Office - Creation and operation by Secretary of State.

A. The Office of the Oklahoma Secretary of State may create and serve as the Oklahoma Chief International Protocol Office and provide a resource for information concerning proper protocol with regard to international diplomats and officials and shall cooperate with other state agencies already engaged in international relations to facilitate and coordinate government resources for optimal leveraging in achieving the common goal of advancing Oklahoma to the forefront of the global community. The Secretary of State may also serve as the official representative of the Governor to ensure that the growing numbers of international officials traveling to Oklahoma are warmly received and enjoy productive visits to the state. When dealing with international visitors of foreign governments, the Secretary of State may greet chiefs of state, heads of government and other appropriate functionaries, and may provide support to coordinate, arrange and facilitate meetings and other engagements between the Governor and international leaders.

B. The Oklahoma Department of Commerce shall, for the encouragement of international trade opportunities for Oklahoma businesses, assist the Office of the Oklahoma Secretary of State in efforts toward the development of interpersonal relationships between citizens of this state and citizens of other nations. Added by Laws 1996, c. 286, § 1, emerg. eff. June 5, 1996. Amended by Laws 2007, c. 103, § 1, eff. July 1, 2007.

§74-5017.8. Financial assistance program for the employment of part-time city managers or planners.

Contingent on funding, the Oklahoma Department of Commerce may partner with a statewide organization to develop and coordinate a financial assistance program for qualifying municipalities having a population of less than five thousand (5,000) according to the latest Federal Decennial Census to employ a part-time city manager or a part-time city planner pursuant to Section 8-116 of Title 11 of the Oklahoma Statutes. The statewide organization shall demonstrate to the Oklahoma Department of Commerce that it is exempt from taxation under federal law and designated pursuant to the Internal Revenue Code, 26 U.S.C., Section 170(a) and that it has represented municipalities, had statutory functions and conducted training programs for municipalities for at least fifteen (15) years prior to November 1, 2005. It shall further demonstrate that its continuous official purpose is to promote the general welfare of cities and towns, to foster or conduct schools, short courses and other training sessions, to provide technical assistance and consultative services and other aids for the improvement and increased efficiency of city and town government, and to serve as the representative of

cities and towns in carrying out the duties and prerogatives conferred on it by state law.

Added by Laws 2008, c. 304, § 3, eff. Nov. 1, 2008. Amended by Laws 2009, c. 42, § 3, eff. Nov. 1, 2009.

§74-5018. Repealed by Laws 2013, c. 227, § 39, eff. Nov. 1, 2013.

§74-5019. Repealed by Laws 2013, c. 227, § 39, eff. Nov. 1, 2013.

§74-5020. Repealed by Laws 1993, c. 270, § 58, eff. Sept. 1, 1993.

§74-5020.1. Community Development Centers Program Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Department of Commerce to be designated the "Community Development Centers Program Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. The fund shall consist of all monies authorized by law for deposit in such fund including, but not limited to appropriations, gifts, grants, private donations, fee revenues and funds by governmental entities authorized to provide funding for the purposes authorized for the use of the fund. Monies deposited or apportioned or donated to the credit of the fund may be expended for the purposes of community development centers, with emphasis on aging and elderly citizen interests pursuant to law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Department of Commerce for purposes authorized by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1992, c. 337, § 16, eff. July 1, 1992. Amended by Laws 2012, c. 304, § 1032.

§74-5021. Repealed by Laws 1992, c. 337, § 36, eff. July 1, 1992.

§74-5022. Repealed by Laws 1992, c. 337, § 36, eff. July 1, 1992.

§74-5023. Federal block grant programs - Equal access to programs and services - Proposals.

All state agencies providing services through federal block grant programs shall include, as part of their proposals for federal block grant programs, assurances to guarantee equal access to program services and resources, including contracted services, and guarantee the public uniform rights to appeal and appeal procedures. It is the intent of the Legislature that services maintain a commitment to the efficient delivery of vital services to the most needy persons in the state and that any changes in eligibility



criteria be identified in a comprehensive plan. The proposals for federal block grant programs shall specify a process to guarantee that each person seeking services shall:

1. Have the right to file formal application for services or resources upon request;
  2. Be afforded an opportunity to have private and confidential interviews pertaining to the case;
  3. Not be denied assistance on the basis of race, color, gender, creed, religion, age, political preference or physical affliction;
  4. Receive timely approval or disapproval of the application; and
  5. Receive written notification of appeal and appeal procedures, including notice that:
    - a. all aggrieved parties shall be afforded a reasonable opportunity for a fair hearing,
    - b. the applicant or the representative of the applicant shall have access to records relevant to the appeal process, and
    - c. the applicant shall have the right to a timely determination and prompt notice of hearing decisions.
- Added by Laws 1986, c. 207, § 29, operative July 1, 1986.

§74-5024. Professional auditing services.

The Oklahoma Department of Commerce is hereby authorized to contract for such professional auditing services as may be necessary to accomplish audits of funds processed through the Department. Such audits shall be made by a public accountant or an independent certified public accountant. A copy of a written report of the audit, certified to by said accountant, shall be placed and maintained on file with the State Auditor and Inspector. The contracted services shall be procured in accordance with applicable provisions of the Oklahoma Central Purchasing Act.

Added by Laws 1986, c. 207, § 30, operative July 1, 1986. Amended by Laws 1990, c. 266, § 35, operative July 1, 1990; Laws 1990, c. 260, § 43, operative July 1, 1990.

§74-5025. Department of Commerce - Negotiation of certain contracts.

The Oklahoma Department of Commerce shall negotiate contracts for all expenditures by other entities in amounts over Two Thousand Five Hundred Dollars (\$2,500.00) which have been appropriated to the Department for the use of such entities. The Director of the Department may require a formal contract for such expenditures of Two Thousand Five Hundred Dollars (\$2,500.00) or less.

Added by Laws 1986, c. 207, § 31, operative July 1, 1986; Amended by Laws 1991, c. 197, § 4, eff. July 1, 1991.

§74-5026. Repealed by Laws 2007, c.106, § 12, eff. July 1, 2007.

§74-5027. Repealed by Laws 1990, c. 266, § 99, operative July 1, 1990.

§74-5028. County Jail Improvement Fund.

A. There is hereby created in the State Treasury a special fund for the Oklahoma Department of Commerce to be designated the "County Jail Improvement Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. All monies appropriated to the fund may be budgeted and expended by the Oklahoma Department of Commerce for the purpose of providing matching funds to counties to renovate existing or to construct new jail facilities in accordance with state-approved jail standards. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. On July 1, 1986, any unallotted cash balance in the County Jail Improvement Fund created in Section 66 of Title 57 of the Oklahoma Statutes shall be transferred to the County Jail Improvement Fund created in this section. All outstanding financial obligations and encumbrances of the County Jail Improvement Fund created in Section 66 of Title 57 of the Oklahoma Statutes are hereby transferred to the Oklahoma Department of Commerce. After November 15, 1986, any unexpended balance in the County Jail Improvement Fund created in Section 66 of Title 57 of the Oklahoma Statutes shall be transferred to the County Jail Improvement Fund created in this section.

Added by Laws 1986, c. 207, § 34, operative July 1, 1986. Amended by Laws 2012, c. 304, § 1033.

§74-5029. Application for county jail improvement funds.

The Oklahoma Department of Commerce shall approve only those applications for funds to renovate an existing county jail facility or to construct a new county jail facility which contain proposed plans that are in compliance with state-approved jail standards as determined by the Jail Inspection Division, Oklahoma State Department of Health. Any jail facility which serves as a combined city and county jail facility shall be eligible to apply for a grant under the provisions of this act.

For each grant of funds by the Oklahoma Department of Commerce to a county, the requesting county must legally bind itself to expend on said property funds equal to the amount of funds being applied for from the County Jail Improvement Fund.

No application for funds available under the provisions of this act may be filed where the construction of new facilities or the renovation of existing facilities has begun by July 1, 1981.

No applicant may receive more than a total of Two Hundred Thousand Dollars (\$200,000.00) from the "County Jail Improvement Fund" in any one fiscal year.

Added by Laws 1986, c. 207, § 35, operative July 1, 1986.

§74-5030. Weatherization Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund to be designated as the "Weatherization Revolving Fund", which shall consist of all monies appropriated or transferred to the fund. Said revolving fund shall be a continuing fund not subject to fiscal year limitations and shall be under the administration of the Oklahoma Department of Commerce and may be disbursed without legislative appropriation. Warrants for expenditures from said revolving fund shall be drawn by the State Treasurer, based on claims signed by an authorized employee or employees of the Oklahoma Department of Commerce and approved for payment by the Director of the Office of Management and Enterprise Services. It is hereby declared that energy conservation is in the interest of the State of Oklahoma. The purpose of this fund is to provide monies to be used for the purpose of weatherizing households in Oklahoma thereby conserving the oil and natural gas resources of the state.

B. On July 1, 1986, any unallotted cash balance in the Weatherization Revolving Fund created in Section 1537.1 of this title shall be transferred to the Weatherization Revolving Fund created in this section. All outstanding financial obligations and encumbrances of the Weatherization Revolving Fund created in Section 1537.1 of this title are hereby transferred to the Oklahoma Department of Commerce. After November 15, 1986, any unexpended balance in the Weatherization Revolving Fund created in Section 1537.1 of this title shall be transferred to the Weatherization Revolving Fund created in this section.

Added by Laws 1986, c. 207, § 36, operative July 1, 1986. Amended by Laws 2012, c. 304, § 1034.

§74-5032. Administration of weatherization funds of Low-Income Energy Assistance Block Grant.

Community action agencies shall administer the weatherization funds of the Low-Income Energy Assistance Block Grant on a local level unless the Oklahoma Department of Commerce determines that the program can be more effectively administered through another entity. Added by Laws 1986, c. 207, § 38, operative July 1, 1986.

§74-5034. Purpose of Sections 5035 through 5040.

It is the purpose of Sections 5035 through 5040 of this title to delineate a system of community action agencies to enhance and stimulate economic opportunity and self-sufficiency for all citizens. It is hereby found and determined that community action agencies provide services which are basic and essential to the well-being of low-income and economically disadvantaged persons of this state. It is further determined that the delivery of such services should be officially recognized in order to assure the effective and efficient continuation of such services and to solve existing problems of human service delivery systems. Community action agencies shall be considered a public agency for the purposes of the Prisoners Public Works Act, Section 215 et seq. of Title 57 of the Oklahoma Statutes.

Added by Laws 1986, c. 207, § 40, operative July 1, 1986. Amended by Laws 2016, c. 199, § 1, eff. July 1, 2016.

§74-5035. Community Service Block Grant Funds - Receipt - Use - Rules and regulations - Allocation to community action agencies - Consolidation of programs.

A. The Oklahoma Department of Commerce is hereby designated to receive Community Services Block Grant Funds appropriated, authorized or allocated for usage within the State of Oklahoma by the United States Government. These funds shall be used for, but not limited to the following:

1. Provide a range of services and activities having major impact on causes and effects of poverty in the community or those areas of the community where poverty is a particularly acute problem;

2. Provide activities designed to assist low-income participants including the elderly poor;

a. to secure and retain meaningful employment,  
b. to attain an adequate education,  
c. to make better use of available income,  
d. to obtain and maintain adequate housing and a suitable living environment,  
e. to obtain emergency assistance,  
f. to remove obstacles and solve problems which block the achievement of self-sufficiency,  
g. to make more effective use of other programs;

3. Provide on an emergency basis for the provision of such supplies and services, nutritious foodstuffs and related services, as may be necessary to counteract conditions of starvation and malnutrition among the poor or temporarily indigent;

4. Coordinate and establish linkages between government and other social services programs to assure the effective delivery of such services to low-income individuals; and

5. Encourage the use of entities in the private sector of the community in efforts to eliminate poverty in the community.

B. The Oklahoma Department of Commerce shall promulgate and ensure compliance on rules, regulations, policies and procedures to carry out all programs of the Community Services Block Grant.

C. At least ninety percent (90%) of the Community Service Block Grant funds received by the Oklahoma Department of Commerce for the state from the United States Government shall be allocated to community action agencies, as defined in this act.

D. If the Community Services Block Grant is consolidated with any other block grant or other federal program, then a proportional share of the consolidated funds shall be used for services under the Community Services Block Grant program in accordance with this act for at least twelve (12) months. The Oklahoma Department of Commerce shall retain administrative responsibility of these funds.

E. For each consolidated program, proportional share shall be the percentage of total funds received by all consolidated programs prior to the consolidation.

Added by Laws 1986, c. 207, § 41, operative July 1, 1986.

§74-5036. Community action agency defined - Evaluation of service areas and agencies.

A community action agency shall be defined as a public or private nonprofit agency, designated by the Oklahoma Department of Commerce.

The Oklahoma Department of Commerce shall have the right to evaluate existing service areas and community action agencies and, as may be necessary, modify boundaries of the service areas or rescind designation in accordance with the provisions outlined in Section 45 of this act so that services will be adequately and efficiently provided.

Added by Laws 1986, c. 207, § 42, operative July 1, 1986.

§74-5037. Community action agencies - Boards of directors.

A community action agency shall establish a governing board of directors which shall consist of not less than twelve nor more than thirty-six members. At least one-third of the members shall be representative of the poor in the areas served and shall be chosen through a democratic selection process. One-third of the members shall be elected public officials or their designees as established by the Oklahoma Department of Commerce. The remaining members shall be representative of business, industry, labor, religious, welfare, education or other major groups and interests in the community. The community action agency board of directors shall be responsible for:

1. The appointment and dismissal of an executive director of the community action agency;

2. The approval of contracts, annual budget requests and operational policies of the community action agency;

3. The performance of an annual audit by an independent auditor;

4. Convening of public meetings to provide citizens the opportunity to comment on public policies and programs to reduce poverty;

5. Evaluate programs and policies of the community action agency; and

6. Compliance with all Oklahoma Department of Commerce, federal, local and agency rules, regulations, policies and procedures.

Added by Laws 1986, c. 207, § 43, operative July 1, 1986.

§74-5038. Designating community action agencies.

To ensure statewide delivery of Community Services Block Grant services, the Oklahoma Department of Commerce shall establish a process to designate community action agencies.

Added by Laws 1986, c. 207, § 44, operative July 1, 1986.

§74-5039. Rescission of designation of community action agency.

A. Prior to rescission of designation of a community action agency, the Oklahoma Department of Commerce shall:

1. Determine whether the existing or proposed community action agency is in compliance with Sections 41, 42 and 43 of this act;

2. Evaluate the existing or proposed community action agency service area, and, as may be necessary, modify the boundaries of the service area so that services will be adequately and efficiently provided;

3. Provide a written notice containing the reasons for the anticipated action to the chairman of the board of the existing or proposed community action agency.

B. The Oklahoma Department of Commerce may rescind the designation of a community action agency if it is found that the community action agency is not in compliance with any or all of the provisions of Sections 41, 42 and 43 of this act.

Any agency whose designation is rescinded pursuant to this section may appeal the order of rescission in accordance with existing state and federal law. The Oklahoma Department of Commerce shall consider a community action agency or agencies for the assumption of all or a portion of the service area of a community action agency with contiguous borders whose designation may be rescinded.

Added by Laws 1986, c. 207, § 45, operative July 1, 1986.

74-5040. Purpose and activities of community action agency.

A. A community action agency shall serve as a primary advocate for the reduction of the causes, conditions and effects of poverty

and shall provide social and economic opportunities that foster self-sufficiency for low-income persons. Any service provided by a community action agency through the Community Services Block Grant opportunity shall be made available to all eligible persons within the community action agency's service area. The activities of a community action agency shall, subject to rules and regulations promulgated by the Oklahoma Department of Commerce, include but not be limited to the following:

1. Informing state and local governments, private agencies and organizations, and citizens of the nature and extent of poverty within the service area;

2. Developing, administering, and operating community social and economic programs to reduce poverty within the entire area;

3. Providing and advocating for training and technical assistance to the poor and other residents within the service area to better define human problems, improve services, and facilitate citizen participation;

4. Promoting interagency cooperation and coordination in providing services to low-income persons;

5. Entering into contracts with federal, state, and local public and private agencies and organizations as necessary to carry out the purposes of this act; and

6. Engaging in any other activity necessary to fulfill the intent of this section and Sections 5034 through 5039 of this title.

B. The Department of Commerce shall not execute a contract with a community action agency until the applicant submits, and the Department approves, a budget work program for expenditure of funds. Each contract shall require audits of expenditures, as provided in rules promulgated by the Department.

Added by Laws 1986, c. 207, § 46, operative July 1, 1986. Amended by Laws 2012, c. 301, § 1, eff. Nov. 1, 2012.

§74-5040.1. Transfer of real or personal property to community action agency.

If a community action agency is otherwise eligible to receive real or personal property from the state or federal government, or any agency or instrumentality of the state or federal government, and state or federal law requires that the entity to which the property is transferred must be a governmental entity, the community action agency shall, for the purposes of the transfer and for purposes of managing the property so transferred, be deemed to be a governmental entity.

Added by Laws 2004, c. 440, § 1, eff. July 1, 2004.

§74-5040.2. Short title.

This act shall be known and may be cited as the "Rx for Oklahoma Act".

Added by Laws 2005, c. 463, § 1, emerg. eff. June 9, 2005.

§74-5040.3. Definitions.

As used in the Rx for Oklahoma Act:

1. "Medically indigent" means a person who meets the criteria established by the drug manufacturer assistance programs for the purchase of prescribed medications; and

2. "Prescription drug" means a drug which may be dispensed only upon prescription by a health care professional authorized by the appropriate licensing authority and which is approved for safety and effectiveness as a prescription drug under Section 505 or 507 of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040 (1938), 21 U.S.C.A., Section 301).

Added by Laws 2005, c. 463, § 2, emerg. eff. June 9, 2005.

§74-5040.4. Prescription assistance for medically indigent residents - Service agencies - Requirements - Eligibility - Annual report.

A. Beginning November 1, 2005, the Oklahoma Department of Commerce shall establish, through a competitive bid process, a statewide program to assist medically indigent residents of Oklahoma to receive prescriptions from drug manufacturer assistance programs.

B. Agencies including, but not limited to, the following shall be encouraged by the Department to submit bids:

1. County offices of the Department of Human Services;
2. County health departments;
3. Community action agencies designated by the Oklahoma

Department of Commerce pursuant to Section 5038 of Title 74 of the Oklahoma Statutes;

4. Community mental health centers;
5. Private nonprofit agencies; and
6. Public entities engaged in the delivery of social services.

C. Agencies selected by the Department to provide services pursuant to the Rx for Oklahoma Act shall, at a minimum, demonstrate their ability to:

1. Deliver services in a community or geographic area of the state that is not currently receiving services pursuant to the Rx for Oklahoma Act;

2. Maintain a dedicated telephone line and computer with Internet access with appropriate software during normal business hours; and

3. Have staff or volunteers available who can:

- a. develop and implement community awareness initiatives about the prescription assistance services offered by the agency,
- b. determine whether a pharmaceutical program is offered for the drug or drugs a person needs,



- c. determine whether a person is eligible for assistance through a pharmaceutical program,
- d. assist a person to make application to and enroll in a pharmaceutical assistance program,
- e. keep accurate records of the number of clients served,
- f. maintain the confidentiality of all client information including, but not limited to, the client's identity, application information and other records, and
- g. estimate the value of prescriptions provided to clients under the program.

D. Eligibility for the Rx for Oklahoma Act shall be residents of Oklahoma who:

- 1. Are medically indigent; or
- 2. Are not medically indigent but cannot reasonably afford to pay for prescription medications.

E. The Oklahoma Department of Commerce shall promulgate rules or establish procedures necessary to implement the program established by the Rx for Oklahoma Act and shall submit an annual report to the Legislature and the Governor no later than January 1 of each year. The report shall include, but not be limited to, the following:

- 1. A listing of entities awarded grants and the amount of each award;
  - 2. The number of residents served who were eligible for a drug manufacturer assistance program and the average amount of savings per resident;
  - 3. The number of residents who sought assistance pursuant to the Rx for Oklahoma Act, but were determined not to be eligible for a drug manufacturer assistance program; and
  - 4. A report by the Department of total expenditures. Included within the report shall be a summary of each grantee's administrative, personnel, and direct services expenditures by category relative to the grantee's administration of the program.
- Added by Laws 2005, c. 463, § 3, emerg. eff. June 9, 2005.

§74-5040.20. Short title.

This act shall be known and may be cited as the "Certified Retirement Communities Program Act".

Added by Laws 2010, c. 209, § 1, eff. July 1, 2010.

§74-5040.21. Oklahoma Certified Retirement Communities Program.

A. The Oklahoma Department of Commerce shall establish an Oklahoma Certified Retirement Communities Program to recognize communities in the state that have made themselves attractive destinations for retirees.

B. The purposes of the Program shall be to:

- 1. Encourage retirees to establish a residence in Oklahoma;

2. Help communities promote and market themselves as retirement destinations for retirees;

3. Assist the economic development of rural communities by encouraging retirees to live, work, and volunteer in these communities; and

4. Encourage tourism in Oklahoma by enhancing the marketing of the state to retirees everywhere.

C. The Oklahoma Department of Commerce is encouraged to collaborate with the Oklahoma Cooperative Extension Service in the development of an outreach program to assist communities seeking certification.

D. The Department shall promulgate rules to implement the provisions of this act.

Added by Laws 2010, c. 209, § 2, eff. July 1, 2010.

#### §74-5040.22. Eligibility and certification.

A. Any community in this state is eligible to be named a certified retirement community. In an application to the Oklahoma Department of Commerce for recognition as a certified retirement community, the applicant shall clearly articulate how the applicant defines community for purposes of seeking certification.

B. Each community seeking certification shall meet the following requirements:

1. The community shall submit an application to the Oklahoma Department of Commerce containing basic demographic and statistical information, including crime statistics, tax-related information, recreational opportunities, housing prices and availability, health care and emergency medical service availability and other factors deemed relevant by the Department;

2. The community shall demonstrate the support and active involvement of the local governing body, churches, clubs, businesses, media outlets or other entities with an interest in the future of the community;

3. The community shall submit with the application a plan describing the community's long-term care facility and service capabilities and the community's strategy for marketing the community to retirees. The plan shall include a target market, a list of competing communities, an analysis of the community's strengths, weaknesses, opportunities and dangers, and the steps the community will employ to achieve the goals of the plan; and

4. The applicant community shall certify the availability of at least Twenty Thousand Dollars (\$20,000.00) to be expended by the community to implement the Certified Retirement Communities Program.

C. For purposes of this act, "community" means a city, town or county. A community can be coterminous with a political subdivision of the state or with a particular geographic boundary.

Added by Laws 2010, c. 209, § 3, eff. July 1, 2010.

§74-5040.23. Review of applications - Criteria.

A. The Oklahoma Department of Commerce shall accept and review applications from communities seeking to become a certified retirement community. The Department shall determine which communities qualify for certification.

B. In determining which communities qualify, the Department shall develop a set of criteria for evaluating and scoring the applicants and comparing each applicant against the other applicants. The criteria developed by the Department shall include:

1. The competitiveness of the tax burden on residents in the community;

2. Housing availability and cost;

3. Climatic factors;

4. Personal and community safety;

5. Work, volunteer and community service opportunities;

6. Health care and emergency medical services available to residents of the community;

7. Public transportation and transportation infrastructure;

8. Educational quality and opportunities;

9. Recreational and leisure opportunities;

10. The availability of cultural and performing arts, sporting events, festivals and other activities; and

11. The availability of services and facilities necessary to assist retirees as they age.

Added by Laws 2010, c. 209, § 4, eff. July 1, 2010.

§74-5040.24. Issuance of certificate - Re-certification.

A. If the Oklahoma Department of Commerce determines that a community qualifies for certification, the Department shall issue to the community a certificate recognizing the status of the community as an attractive destination for retirees.

B. 1. A community's certification expires on the fifth anniversary of the date of initial certification.

2. To be recertified, a community shall submit a new application, as provided in Section 3 of this act. Such application shall include a report of the success or failure of the community's past efforts to market itself to retirees.

Added by Laws 2010, c. 209, § 5, eff. July 1, 2010.

§74-5040.25. Pilot project.

The Oklahoma Department of Commerce is authorized to implement the Oklahoma Certified Retirement Communities Program through a pilot project. During this pilot implementation, the community selection criteria and scoring methodology shall be defined, applications shall be developed, educational sessions shall be conducted and marketing strategies shall be developed. The City of

Stillwater, Oklahoma, shall serve as the pilot community pursuant to this section. In recognition of the assistance the City of Stillwater shall provide in this pilot project, the application fee charged by the Department for the city's initial application shall be Twenty-five Dollars (\$25.00). The Department and the City of Stillwater shall jointly work to organize the community and prepare its application.

Added by Laws 2010, c. 209, § 6, eff. July 1, 2010.

§74-5044. Counties not required to participate in certain districts and agencies.

No county in Oklahoma shall be required to be under the jurisdiction of a planning district or any clearing agency by whatever name, located in another state, in order to receive grants, aid, loans or other federal funds for any purpose. Appropriate federal agencies shall be advised of this provision and the Oklahoma Department of Commerce shall take such steps as are necessary to implement these provisions.

Added by Laws 1986, c. 207, § 50, operative July 1, 1986.

§74-5045. Political subdivisions not required to participate in substate planning districts.

No county, city, town or other subdivision of the State of Oklahoma shall in any manner be compelled to be a member of or participate in a substate planning district.

No county, city, town or other subdivision of the State of Oklahoma shall be penalized in any manner whatsoever for said subdivision's election not to participate in a substate planning district.

Added by Laws 1986, c. 207, § 51, operative July 1, 1986.

§74-5045.1. Substate planning districts - Hiring registered professional engineers.

Each substate planning district within the State of Oklahoma is authorized to hire or contract for the services of one or more registered professional engineers to provide services for the governmental entities which are members of the substate planning district. No substate planning district shall provide technical and professional engineering, architectural, planning or land surveying service to any person, entity or governmental subdivision of the State of Oklahoma unless the person, entity or governmental subdivision is a member of the substate planning district providing the services.

Added by Laws 1989, c. 356, § 1.

§74-5054. Limits on use of funds.

A. None of the funds provided in the Oklahoma Health Research Act shall be used to conduct or support any research or experimentation on a human subject unless the research or experimentation has been reviewed and approved by an institutional review board.

B. None of the funds provided in the Oklahoma Health Research Act shall be used to undertake any research which has abortion, as defined by Section 1-730 of Title 63 of the Oklahoma Statutes, as its purpose.

Added by Laws 1986, c. 264, § 9, operative July 1, 1986.

§74-5057. Repealed by Laws 1999, c. 59, § 5, eff. July 1, 1999.

§74-5058.1. Short title.

Sections 1 through 7 of this act shall be known and may be cited as the "Oklahoma Master Business License System Act".

Added by Laws 1998, c. 309, § 1, eff. July 1, 1998.

§74-5058.2. Purpose.

The purpose of this act is to provide a convenient, accessible, and timely one-stop system that will enable the business community to acquire and maintain the necessary state licenses to conduct business. It is the intent of the Legislature that use of this one-stop system by a business be optional and that any business may continue to work directly with the appropriate state agency if preferred.

Added by Laws 1998, c. 309, § 2, eff. July 1, 1998.

§74-5058.3. Definitions.

As used in this act:

1. "Director" means the Director of the Oklahoma Department of Commerce;

2. "Department" means the Oklahoma Department of Commerce;

3. "License" means any certificate, permit or other evidence, by whatever name called, of a right or privilege to engage in any activity, except occupational licenses and licenses issued under Title 47 of the Oklahoma Statutes;

4. "Occupational license" means any certificate, permit, or other evidence, by whatever name called, of a right or privilege to engage in a profession, occupation, or field of endeavor that is issued by an occupational licensing agency;

5. "Occupational licensing agency" means any board, commission, committee, or other agency of this state that is established for the primary purpose of regulating the admission or conduct of persons in a particular profession, occupation, or field of endeavor, and is authorized to issue and revoke licenses. The term does not include

a state agency or department that issues permits or licenses as only a part of its regular function; and

6. "Office" means the Business License Information Office.

Added by Laws 1998, c. 309, § 3, eff. July 1, 1998.

§74-5058.4. Business License Information Office.

A. There is hereby established within the Oklahoma Department of Commerce the Business License Information Office. The Office shall be under the direction and supervision of a full-time state employee as appointed by the Director of the Department. Additional staff sufficient to perform the duties of the Office shall be provided under the direction of the Director.

B. The Office shall be a clearinghouse for state business license information and shall perform the following duties:

1. Establish a license information service detailing requirements for establishing and engaging in business in this state, including state licensing and regulatory requirements, and, to the extent feasible, local and federal requirements;

2. Provide the most recent forms and information sheets for all state business licenses;

3. Prepare, publish, and distribute a complete directory of all state licenses required to do business in this state;

4. Make recommendations to agencies and the Legislature for eliminating, consolidating, simplifying, or expediting licenses, or otherwise improving licensing procedures affecting business undertakings; and

5. Promulgate and adopt rules and forms necessary to carry out the purposes of this act.

Added by Laws 1998, c. 309, § 4, eff. July 1, 1998.

§74-5058.5. Operating plan for automated master application system.

The Business License Information Office shall develop an operating plan for an automated master application system, shall determine the software and hardware needs of the system, and shall determine the staffing levels and space required for the system. State agencies that issue business licenses shall assist and cooperate in the development and implementation of the plan as required by the Office. In making the determination and developing an operating plan for an automated master application system, the Office shall identify the business licenses appropriate for inclusion in a master application system and shall develop a master application form that consolidates the information needed for the various state agencies to issue the licenses.

Added by Laws 1998, c. 309, § 5, eff. July 1, 1999.

§74-5058.6. Cooperation of state agencies - Business license coordinators.

A. Each state agency that issues licenses shall cooperate fully with the Business License Information Office in providing information on the licenses and regulatory requirements of the agency and in developing a plan for an automated master application system.

B. Each state agency shall designate a business license coordinator. The coordinator shall have the following responsibilities:

1. Provide to the Office the most recent application and supplemental forms required for each license issued by the agency, the most recent information available on existing and proposed changes in license requirements or agency rules and how those changes will affect the business community, and agency publications that would be of aid or interest to the business community;

2. Receive and respond to communications from the Office; and

3. Review state agency regulatory and license requirements and provide a written report to the Office no later than January 1, 1999, and every two (2) years thereafter that:

a. identifies the regulatory and licensing requirements that affect the business community,

b. indicates which, if any, requirements should be eliminated, modified, or consolidated with other requirements, and

c. explains the need for continuing those requirements not recommended for elimination.

Added by Laws 1998, c. 309, § 6, eff. July 1, 1998.

§74-5058.7. Services optional - Authority of licensing agency.

A. The services offered to persons by the Business License Information Office are optional. Any person may deal directly with a state agency in obtaining information or assistance, or in applying for a license if the person so prefers.

B. The authority for determining whether a requested license shall be issued shall remain with the state agency legally authorized to issue the license.

Added by Laws 1998, c. 309, § 7, eff. July 1, 1998.

§74-5060.1. Short title.

This act shall be known and may be cited as the "Oklahoma Science and Technology Research and Development Act".

Added by Laws 1987, c. 222, § 16, operative July 1, 1987. Amended by Laws 2002, c. 484, § 1, eff. July 1, 2002.

§74-5060.1a. Goals - Oklahoma Science and Technology Research and Development Board.

A. Recognizing the vast, underutilized human and capital resources, both urban and rural, in the State of Oklahoma and the

opportunity for economic development through technological advancement, the Legislature and the Governor hereby adopt the following goals:

1. Establishing Oklahoma as a premier information technology and biotechnology center for the twenty-first century;

2. Enhancing the lives of, and expanding opportunities for, all Oklahomans through growth of information technology, biotechnology, nanotechnology and sensors industries and infrastructure throughout the urban and rural areas of the state;

3. Expanding and diversifying Oklahoma's economy and providing new and higher quality jobs for Oklahomans; and

4. Creating public-private partnerships to provide opportunities for development, expansion, and retention of, funding and financing for, and investment in, technology-oriented enterprises in Oklahoma.

B. To further the goals set forth in the Oklahoma Science and Technology Research and Development Act, there is hereby created the Oklahoma Science and Technology Research and Development Board. The Board shall be responsible for the administration and governance of the Oklahoma Center for the Advancement of Science and Technology. Added by Laws 2002, c. 484, § 2, eff. July 1, 2002. Amended by Laws 2004, c. 63, § 1, eff. Nov. 1, 2004; Laws 2010, c. 464, § 1, eff. July 1, 2010; Laws 2013, c. 227, § 40, eff. Nov. 1, 2013.

§74-5060.2. Statement of need - Oklahoma Center for the Advancement of Science and Technology created.

A. In order to attain the goals as set forth in the Oklahoma Science and Technology Research and Development Act, Oklahoma enterprises need institutions that combine the resources of the public and private sectors to encourage the development of new products, new processes and whole new industries in Oklahoma. The institutions are needed to:

1. Support the development of new or expanded technologies;

2. Provide basic and applied research capital to move innovation to commercial application;

3. Encourage the transfer of technology to firms and farms throughout the geographic regions of the state;

4. Stimulate seed-capital investment in firms that will use innovation, new technologies, or technological advances in profitable commercial applications;

5. Foster competitiveness, productivity and modernization in Oklahoma firms and farms; and

6. Establish public-private partnerships to provide opportunities for development, expansion, and retention of, funding and financing for, and investment in, technology-oriented enterprises in Oklahoma.



B. There is hereby created the Oklahoma Center for the Advancement of Science and Technology. The Oklahoma Center for the Advancement of Science and Technology is hereby constituted an instrumentality of the state and the exercise of the authority and powers conferred by law shall be deemed and held to be the performance of an essential governmental function.

Added by Laws 1987, c. 222, § 17, operative July 1, 1987. Amended by Laws 1992, c. 230, § 1, eff. July 1, 1992; Laws 2002, c. 484, § 3, eff. July 1, 2002; Laws 2010, c. 464, § 2, eff. July 1, 2010; Laws 2012, c. 304, § 1035; Laws 2013, c. 227, § 41, eff. Nov. 1, 2013.

§74-5060.3. Mission and purposes of Oklahoma Center for the Advancement of Science and Technology.

The mission of the Oklahoma Center for the Advancement of Science and Technology shall be to foster innovation in existing and developing businesses by supporting basic and applied research, by facilitating technology transfer between research laboratories and firms and farms, and by providing seed-capital for innovative and technology-oriented firms and their products. The Oklahoma Center for the Advancement of Science and Technology also shall have the authority to foster enhanced competitiveness in the national and international markets by small and medium-sized manufacturing firms located in Oklahoma by stimulating productivity and modernization of such firms.

Added by Laws 1987, c. 222, § 18, operative July 1, 1987. Amended by Laws 1992, c. 230, § 2, eff. July 1, 1992; Laws 2002, c. 484, § 4, eff. July 1, 2002; Laws 2010, c. 464, § 3, eff. July 1, 2010; Laws 2013, c. 227, § 42, eff. Nov. 1, 2013.

§74-5060.3a. Renumbered as § 85.3 of Title 3 by Laws 2008, c. 180, § 2, eff. Nov. 1, 2008.

§74-5060.4. Definitions.

As used in the Oklahoma Science and Technology Research and Development Act:

1. "COEAT" means Center of Excellence for Aerospace Technology, an initiative within the Oklahoma Aerospace Institute that undertakes applied research, development and technology transfer that has long-term potential for commercial development;

2. "CASQ" means Center of Aerospace Supplier Quality, an initiative within the Oklahoma Aerospace Institute that serves as a conduit between Oklahoma's military installations and the aerospace industry;

3. "Applied research" means those research activities occurring at institutions of higher education, nonprofit research foundations,

and in private enterprises which have potential commercial application;

4. "Basic research" means any original investigation for the advancement of scientific knowledge not having a specific commercial objective, but having potential long-range value to commercial interests;

5. "Board" means the Oklahoma Science and Technology Research and Development Board;

6. "Center" or "OCAST" means the Oklahoma Center for the Advancement of Science and Technology;

7. "Commercialization Center" means a private, nonprofit corporation contracting with and funded in part by OCAST to:

- a. attract to, and retain in, Oklahoma technology and technology-based enterprises,
- b. promote and assist with the development and expansion of scientific and technology-based industry in the state,
- c. facilitate the development of incubators for technology-oriented enterprises,
- d. assist technology-based enterprises in developing and expanding their businesses, obtaining financing and funding, attracting capital, including seed capital and venture capital, and attracting and retaining key management personnel, scientists, and skilled labor, and
- e. develop, operate, and manage programs to facilitate entrepreneurial activity with respect to technology, scientific-based, biomedical, biomedical-technical, and technology-oriented enterprises in this state;

8. "Enterprise" means a firm with its principal place of business in Oklahoma;

9. "Health research project" means a specific examination, experimentation or investigation, or initiative to provide research resources oriented principally toward basic, applied, and developmental scientific inquiry related to the causes, diagnosis, prevention, and treatment of human diseases and disabilities and mental health and emotional disorders, and the rehabilitation of persons afflicted with such diseases, disabilities, and disorders; new knowledge, better understanding, and innovative methods to improve the processes by which health care services are made available and how they may be provided more efficiently, more effectively and at a lower cost, for all the citizens of this state; and the development of new products and services which shall form the basis of new high-technology health research and care industry for this state;

10. "Industrial Extension System" means a coordinated network of public and private manufacturing modernization resources, the

purpose of which is to stimulate the competitiveness of Oklahoma small and medium-sized manufacturing firms;

11. "Institutional Review Board" means a committee composed of investigators, lay representatives, and legal counsel, which is established at each institution of higher learning and each nonprofit research institution receiving funds from a health research project, for the express purpose of determining the appropriateness of any research involving human subjects;

12. "Institutions of higher education" means public and private colleges and universities in the state;

13. "Investigator" means a person who proposes research projects and is primarily responsible for the execution of the proposed projects and is employed by or affiliated with an institution of higher education, a nonprofit research institution in this state, or a private enterprise;

14. "Nanotechnology" means technology development at the molecular range (1nm to 100nm) to create and use structures, devices, and systems that have novel properties because of their small size;

15. "New technology" means methods, products, processes and procedures developed through science or research;

16. "Nonprofit research institution" means any not-for-profit public or private facility in this state which has the capabilities for research projects and which is not a subsidiary of any corporation, partnership, or association organized for profit, nor is its stock or assets owned or controlled by a corporation, partnership, or association organized for profit;

17. "OAI" means Oklahoma Aerospace Institute, a strategic partnership that will focus available resources to promote cooperation and collaboration among Oklahoma businesses, manufacturers, military installations, commercial aviation, higher education institutions, nonprofit research institutions, and state government;

18. "OAME" means the Oklahoma Alliance for Manufacturing Excellence, Inc., a corporation to be formed pursuant to the provisions of Title 18 of the Oklahoma Statutes and Section 5060.26 of this title;

19. "ONAP" means the Oklahoma Nanotechnology Applications Project;

20. "OSTRaD" means the Oklahoma Science and Technology Research and Development Act;

21. "Person" means any individual, partnership, corporation or joint venture carrying on business or proposing to carry on business within the state;

22. "Plant science research" means those research activities occurring at institutions of higher education, nonprofit research institutions, and in private enterprises, which have potential

commercial application and concern plant productivity, renewable biomass, plant-based environmental applications and chemical platforms, plant-based solutions to improve nutrition, human and/or animal health or performance, process applications, and seed management and the development of new products and services that shall form the basis of new, high-technology plant science/agriculture industry for this state;

23. "Product" means any outcome, device, technique or process, which is or may be developed or marketed commercially and which has advanced beyond the theoretical stage and is in a prototype or practice stage;

24. "Professional service contract" means a written agreement providing funds for the performance of a research project; for salaries and fringe benefits of personnel associated with research programs; for research equipment; for operating expenses associated with a research program; or for services provided in connection with the evaluation of applications submitted to the Center;

25. "Qualified security" means any public or private financial arrangement, involving any note, security, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, preorganization certificate or subscription, transferable security, investment contract, certificate of deposit for a security, certificate of interest or participation in a patent or application therefor, or in royalty or other payments under such a patent or application, or, in general, any interest or instrument commonly known as a "security" or any certificate for, receipt for, guarantee of, or option, warrant or right to subscribe to or purchase any of the foregoing to the extent allowed by law;

26. "Seed-capital" means funding, capital, and financing that is provided and made available for the creation, development, validation, refinement, protection, manufacturing, marketing, and commercialization of a product, process, concept, invention, or innovation, whether for the startup of a new enterprise or for the expansion, growth, or restructuring of an existing enterprise; and

27. "Technology transfer" means a two-way process by which ideas or inventions for processes or products (developed in research programs usually on a laboratory or pilot-plant scale) are converted to commercial use.

Added by Laws 1987, c. 222, § 19, operative July 1, 1987. Amended by Laws 1992, c. 230, § 3, eff. July 1, 1992; Laws 1994, c. 288, § 6, eff. July 1, 1994; Laws 1995, c. 279, § 1, eff. July 1, 1995; Laws 2002, c. 484, § 5, eff. July 1, 2002; Laws 2006, c. 76, § 1, eff. July 1, 2006; Laws 2006, c. 263, § 2, eff. July 1, 2006; Laws 2007, c. 1, § 79, emerg. eff. Feb. 22, 2007; Laws 2010, c. 464, § 4, eff. July 1, 2010; Laws 2013, c. 227, § 43, eff. Nov. 1, 2013.

NOTE: Laws 1994, c. 287, § 7 repealed by Laws 1995, c. 279, § 9, eff. July 1, 1995. Laws 2006, c. 297, § 1 repealed by Laws 2007, c. 1, § 80, emerg. eff. Feb. 22, 2007.

§74-5060.5. Relationship with Oklahoma Futures and Department of Commerce.

In order to fulfill its missions as provided in Section 5060.3 of this title, the Oklahoma Center for the Advancement of Science and Technology shall be subject to the policy development of Oklahoma Futures.

1. Oklahoma Futures shall in no way interfere with the day-to-day administration of the Center, but shall provide long-term oversight by reviewing and approving the Center's five-year plan and annual oversight by reviewing and approving the Center's annual business plan to ensure the Center fulfills the legislative purpose for which it is created.

2. Notwithstanding other provisions of law, the Oklahoma Department of Commerce shall have the authority to expend funds to administer and operate the programs of the Oklahoma Center for the Advancement of Science and Technology until such time as designated by Oklahoma Futures.

Added by Laws 1987, c. 222, § 20, operative July 1, 1987. Amended by Laws 1992, c. 230, § 4, eff. July 1, 1992.

§74-5060.6. Board of directors.

A. The board of directors for the Oklahoma Center for the Advancement of Science and Technology (OCAST) is hereby reconstituted as the Oklahoma Science and Technology Research (OSTRaD) and Development Board and shall be comprised as follows:

1. The Director of the Oklahoma Department of Commerce;
2. The Chancellor of the Oklahoma State Regents for Higher Education;
3. The president of the University of Oklahoma;
4. The president of Oklahoma State University;
5. The president of one of the regional universities in The State System of Higher Education designated by the Chancellor;
6. The president of a private Oklahoma university classified by the Carnegie Foundation as a national doctorate-granting institution offering graduate engineering degrees to be appointed by the Governor;
7. The Governor's appointed cabinet Secretary of Agriculture;
8. A member of the House of Representatives, who shall serve as an ex officio nonvoting member, appointed by the Speaker of the House of Representatives;
9. A member of the Senate, who shall serve as an ex officio nonvoting member, appointed by the President Pro Tempore of the Senate;

10. Two members, appointed by the Governor, who shall be engineers or scientists with extensive experience in managing basic or applied scientific or technological research at Oklahoma institutions of higher education, who shall serve terms of four (4) years; provided that, the two members who possess these qualifications and are serving on the board of directors of the Center on July 1, 2002, shall fill these positions on the Oklahoma Science and Technology Research and Development Board for initial terms to expire on June 30, 2003;

11. Five members appointed by the Governor who are or who have served as chief executive officers or senior executive officers of corporations engaged in information technology, biotechnology, genetics, other emerging technologies, agriculture, oil and natural gas, early stage high risk venture capital finance, other significant Oklahoma industries, or Oklahoma industries that are potentially significant to the state economy or who are or who have served as chief executive officers or senior executive officers of a private nonprofit organization or who are or who have served as chief executive officers or senior executive officers of foundations with a history of supporting research and development. Two members appointed pursuant to this paragraph shall serve initial terms to expire on June 30, 2005, and two shall serve initial terms to expire on June 30, 2006. For the position for which the initial appointment begins after July 1, 2005, the initial term shall expire on June 30, 2009;

12. Four members appointed by the Governor who represent small business. One appointee shall serve an initial term to expire on June 30, 2005, and one shall serve an initial term to expire on June 30, 2006. For the two positions for which the initial appointments begin after July 1, 2005, one appointee shall serve an initial term to expire on June 30, 2008, and one appointee shall serve an initial term to expire on June 30, 2009;

13. One member appointed by the Governor who represents rural Oklahoma. The initial appointee shall serve a term to expire on June 30, 2004; and

14. Until June 30, 2004, or vacation of the offices, six members who, before the effective date of this act, were appointed by the Governor and who are serving on the board of directors of OCAST on July 1, 2002. These positions on the Oklahoma Science and Technology Research and Development Board shall cease to exist on June 30, 2004, or when the position is vacated if the vacancy occurs prior to June 30, 2004. A member of the OCAST board who holds one of these positions may be appointed to a position described in paragraphs 9 through 12 of this subsection on the Oklahoma Science and Technology Research and Development Board if the member meets the qualifications for such position.

B. The two legislatively appointed members of the Board shall be persons of demonstrated knowledge of and commitment to the advancement of science and technology in Oklahoma and shall serve at the pleasure of their respective appointing authority.

C. In making appointments to the Oklahoma Science and Technology Research and Development Board, appropriate consideration shall be given to representation upon the Board by race, gender and geographical area.

D. Gubernatorial appointees appointed after July 1, 2002, shall serve four-year terms except for initial terms as provided in this section. Terms shall expire on June 30. All gubernatorial appointees shall be subject to confirmation by the Senate. Except as otherwise provided in this section, any vacancy in board positions filled by appointment of the Governor shall be filled for the unexpired term in the same manner as the original appointment.

E. The Board shall elect, annually, a chair who shall be from the private sector membership of the Board. A vice-chair shall be elected annually from among all the members of the Board. Persons elected to the position of chair or vice-chair shall not serve more than two consecutive terms in said position.

F. The Board shall meet at least once each calendar quarter and at such other times:

1. Upon call of the chair;
2. Upon call of the chief executive officer of the Center or the Institute; or
3. Upon written request of a majority of the board members.

G. A majority of the voting members of the Board shall constitute a quorum. A quorum of the Board shall be necessary to transact business. All actions of the board members shall be made by a majority of the quorum present. A board member appointed pursuant to paragraphs 3, 4, 5 or 6 of subsection A of this section may send a predetermined designee as a representative to board meetings who may participate with full voting privileges. All other board members may send a predetermined designee as a representative to board meetings who may vote; provided, the designee may vote at no more than thirty percent (30%) of meetings during a fiscal year.

H. Members of the Board shall be entitled to compensation and expenses as may be provided in the charter or bylaws of the Board. The members of the Board shall not be subject to the dual-office-holding prohibitions set forth in Section 6 of Title 51 of the Oklahoma Statutes.

I. The Board shall establish an executive committee composed of the chair, vice-chair, and three (3) additional voting members chosen by the chair from among the remaining board members. The executive committee, in intervals between board meetings, may transact any board business that has been delegated to the executive committee. A majority of the executive committee shall be necessary

to transact business and all actions of the executive committee shall be by a majority vote of the committee.

Added by Laws 1987, c. 222, § 21, operative July 1, 1987. Amended by Laws 1988, c. 269, § 1; Laws 2002, c. 484, § 6, eff. July 1, 2002; Laws 2004, c. 217, § 1, eff. Nov. 1, 2004; Laws 2005, c. 82, § 1, eff. July 1, 2005; Laws 2010, c. 141, § 1, eff. July 1, 2010.

§74-5060.7. Executive director and other officers - Meetings - Conflicts of interest - Liability.

A. The position of president of the Oklahoma Center for the Advancement of Science and Technology is hereby reconstituted as the executive director for the Oklahoma Science and Technology Research and Development Board. The president of the Center upon the effective date of this act shall serve as the executive director for the Board at the pleasure of the Board. Subsequent executive directors shall be selected by the Board and shall serve at the pleasure of the Board. The executive director shall serve as the chief executive officer of the Center and the Institute, and shall direct and supervise the administrative affairs and the general management of the Center and the Institute. The Board shall establish criteria for selecting the executive director taking into consideration national standards. The search for the executive director shall be conducted pursuant to the criteria so established.

B. The executive director:

1. May employ and terminate such other officers and employees as designated by the Board including, if necessary, legal counsel to be chosen through a request for proposal process;

2. Shall attend board meetings;

3. Shall appoint a secretary of the Board to keep a record of all proceedings and maintain and be custodian of all financial and operational records, documents and papers filed with the Center and the Institute and of the minute book of the Center and the Institute; and

4. Before accepting any applications as provided for under this act, shall prepare a business plan which shall include the analysis of funding levels of programs in other states that are shown in the report required in subsection B of Section 5060.22 of this title, and the threshold funding levels specified in subsection C of Section 5060.22 of this title.

C. The meetings of the Board shall be subject to the Open Meeting Act and the Open Records Act. Any information submitted to or compiled by the Center or the Institute with respect to the marketing plans, financial statements, trade secrets, research concepts, methods or products, or any other proprietary information of persons, firms, associations, partnerships, agencies, corporations, institutions of higher education, nonprofit research institutions or other entities shall be confidential, except to the



extent that the person or entity which provided such information or which is the subject of such information consents to disclosure. Executive sessions may be held to discuss such materials if deemed necessary by the Board.

D. If a member of the Board, officer, agent or employee of the Center or the Institute has any direct or any indirect interest in any approval, contract or agreement upon which the member, officer, agent or employee may be called upon to act or vote, the board member, officer, agent or employee shall disclose the same to the secretary of the Board prior to the taking of final action by the Board concerning such contract or agreement and shall so disclose the nature and extent of such interest and the acquisition thereof, which disclosure shall be publicly acknowledged by the Board and entered upon the minutes of the Board. A Board member, officer, agent or employee who holds such an interest shall refrain from any further official involvement in regard to such contract or agreement, from voting on any matter pertaining to such contract or agreement, and from communicating with other board members, officers, agents or employees concerning said contract or agreement. Employees of the Center, including employees assigned to the Institute, shall be subject to the provisions of the Ethics Commission rules. Notwithstanding any other provision of law, any contract or agreement entered into in conformity with this subsection shall not be void or invalid by reason of the interest described in this subsection, nor shall any person so disclosing the interest and refraining from further official involvement as provided for in this subsection be guilty of an offense, be removed from office, or be subject to any other penalty on account of such interest. Provided, any approval, contract or agreement made in violation of this section shall give rise to no action against the Board, the Center or the Institute.

Indirect interest shall include pecuniary or competitive advantage which exists or could foreseeably accrue as a result of the act or forbearance of the Board, Center or Institute.

E. No director or any person acting on behalf of the Board, Center or Institute executing any contracts, commitments, or agreements issued pursuant to this act shall be personally liable upon such contracts, commitments, or agreements or be subject to any personal liability or accountability by reason thereof. No director or any person acting on behalf of the Board, Center or Institute shall be personally liable for damage or injury resulting from the performance of duties hereunder.

Added by Laws 1987, c. 222, § 22, operative July 1, 1987. Amended by Laws 2002, c. 484, § 7, eff. July 1, 2002.

§74-5060.8. Annual business plan - Five-year strategic plan.

The Oklahoma Science and Technology Research and Development Board shall develop an annual business plan and a five-year strategic plan for the Center and the Institute.  
Added by Laws 1987, c. 222, § 23, operative July 1, 1987. Amended by Laws 2002, c. 484, § 8, eff. July 1, 2002.

§74-5060.9. Powers of Oklahoma Science and Technology Research and Development Board - Tax exemptions - Administrative policies.

A. The Oklahoma Science and Technology Research and Development Board shall have the power to:

1. Make, amend and repeal bylaws for the management of the Center;
2. Sue and be sued;
3. Make contracts and execute all instruments necessary or convenient for carrying out the business of the Center;
4. Acquire, own, hold, dispose of and encumber real or personal property of any nature, including tangible, intangible, commercial or intellectual, or any interest therein;
5. Enter into agreements or other transactions with any federal, state, county or municipal agency, authority or other governmental entity and with any individual, corporation, enterprise, association or any other entity involving research and technology;
6. Acquire real property or an interest therein, by purchase or foreclosure, where such acquisition is necessary or appropriate to protect or secure any investment or loan in which the Center has an interest;
7. Sell, transfer and convey any such property to a buyer, and in the event such sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease such property to a tenant;
8. Invest any funds provided by the state and held in reserve in funds not required for immediate disbursement and invest funds received from gifts, grants, donations and other operations of the Center in such investments as would be lawful for a private corporation having purposes similar to the Center;
9. Borrow money and give guaranties, provided that the indebtedness and other obligations of the Center shall be payable solely out of the resources of the Center and shall not constitute a pledge of the full faith and credit of the state or any of its revenues;
10. Appoint officers, consultants, agents and advisors, and prescribe their duties and compensation;
11. Appear on its own behalf or on behalf of the Center before boards, commissions, departments or other agencies of municipal, county or state government or federal government;

12. Procure insurance against any losses in connection with its properties in such amounts from such insurers as may be necessary or desirable;

13. Consent, subject to the provisions of any contract with note-holders, whenever it considers it necessary or desirable in the fulfillment of the goals and purposes of the Center, to the modifications, with respect to the rate of interest, time payment or of any installment, of principal and interest or any terms of any contract or agreement of any kind to which the Center is a party;

14. Accept any and all donations, grants, bequests and devises, conditional and otherwise, of money, property, services or other things of value which may be received from the United States or any agency thereof, any governmental agency, or any institution, person, firm or corporation, public or private, to be held, used or applied for any or all of the goals and purposes of the Center, in accordance with the terms and conditions of any such grant;

15. Trade, buy or sell qualified securities;

16. Own, possess and take license in, patents, copyrights and proprietary processes and negotiate and enter into contracts and establish charges for the use of such patents, copyrights and proprietary processes when such patents and licenses for innovation or inventions result from research sponsored by the Center in a private enterprise or when the Center finances a product developed by a private enterprise;

17. Establish policies governing royalty payments to the Center on patents and licenses for innovations or inventions arising in the course of research sponsored by the Center at institutions of higher education and nonprofit research foundations; such royalty policies should reflect an appropriate sharing of legal risk as well as financial return between the Center and such institution or foundation; such patents and licenses shall be in keeping with the patent policies of such institutions or foundations;

18. Conduct studies which are related to economic development, involving product or process innovations;

19. Solicit, study and assist in the preparation of business plans and proposals of new or established enterprises of special importance to the Oklahoma economy;

20. Prepare, publish and distribute such technological studies, reports, bulletins and other materials as it considers appropriate, subject only to the maintenance and responsibility for confidentiality of the client proprietary information, and encourage institutions of higher education to develop and disseminate similar materials;

21. Sponsor, or co-sponsor with both private industry and higher education institutions, special institutes, conferences and demonstrations relating to the stimulation of innovation, science and technologically oriented enterprises;

22. Participate with any state agency or institution of higher education in developing specific goals, programs and performance monitoring systems to assist in the development of basic research, applied research and technology transfer of special importance to the Oklahoma economy;

23. Provide scientific and technological data and information required by the Governor, the Legislature, or its committees, and to state agencies, institutions of higher education and cities, towns, counties and school districts and to private citizens and groups, within the limitations of the resources available to the Center;

24. Provide training and practical experience for Oklahoma researchers in the preparation of applications for peer-reviewed grant competitions;

25. Facilitate public/private partnerships that will support the creation of endowed chairs, scholarships, research grants, and business opportunities;

26. Develop policies and procedures for partnering with and/or between universities offering engineering or technology degrees in Oklahoma to facilitate joint public/private technology research and development projects using resources and facilities of such public higher education institutions or private entities; provided that, the Board shall utilize, and accord lead status to, Rogers State University for coordinating and delivering higher education distance learning opportunities initiated or developed by the Board;

27. Advertise for, accept, and fund proposals from universities, private industries, towns, counties, municipalities, and individuals to achieve its goals and purposes;

28. Collaborate with the various entities to develop initiatives which foster economic development through technological advancement;

29. Create institutes or centers with world-class research teams that support the state's primary economic development thrusts; and

30. Exercise any other powers necessary for the operation and functioning of the Center within the purposes authorized in this act.

B. The Center shall be exempt from all franchise, corporate business and income taxes levied by the state. The manufacture or sale of any products or processes which are the subject of any agreement made by the Center, or any person entering into any agreement with the Center shall not be exempt from any such taxes or taxes applicable to such manufacture or sale.

C. The Center shall include in the annual business plan appropriate administrative policies, including but not limited to policies governing the classification, employment, promotion, suspension, disciplinary action or dismissal of Center employees, purchasing, travel, and reimbursement of employees. All actions

governed by said administrative policies shall be examined annually in the independent audit required by Section 5060.22 of this title. The Center shall not be subject to state purchasing laws, except with respect to purchases required for the administrative expenses of the Board, or laws concerning travel or reimbursement of state employees. Professional service contracts executed by the Center shall not be subject to any requirement of law relating to competitive bidding.

Because many of the powers and duties of the Center involve working closely with the private sector, certain employee positions of the Center must be governed, classified and compensated in a manner that compares equally to similar positions in the private sector. Therefore, in the annual business plan, the Board shall list, describe and justify all such positions and their compensation and shall designate and place them in unclassified status, exempt from the provisions of the Oklahoma Personnel Act. All other employees and positions shall be classified and subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act. Provided, nothing in this section shall be construed to limit the authority of the Legislature to specify the status of positions otherwise by law. Neither shall the Board have the authority to circumvent, disregard or otherwise disobey specific provisions of law regarding positions in the Center.

D. Upon approval of the Board, the Center shall have the authority to exercise the powers enumerated in subsection A of this section.

Added by Laws 1987, c. 222, § 24, operative July 1, 1987. Amended by Laws 2002, c. 484, § 9, eff. July 1, 2002; Laws 2013, c. 227, § 44, eff. Nov. 1, 2013.

#### §74-5060.9a. Advisory Committees.

The Oklahoma Science and Technology Research and Development Board shall create an advisory committee to the Oklahoma Center for the Advancement of Science and Technology for each program pertaining to research which is operated by the Center and does not have such a committee established by law. The advisory committees shall include representatives of the business, higher education and research communities. No more than two members of the Board may serve on an advisory committee. No member of the Board may serve concurrently on more than one advisory committee.

At least one-third (1/3) of the members of each advisory committee shall be researchers with experience in basic or applied scientific or technological research. The Board shall make every effort to appoint researchers possessing the following qualifications:

1. Tenured appointment as an Associate or Full Professor in one of the following four groups of discipline:

- a. Life Sciences (Biology, Biochemistry, Botany, Microbiology, Zoology),
- b. Physical Sciences (Chemistry, Physics, Astronomy, Geology, Meteorology),
- c. Engineering or Computer Science, or
- d. Business Administration; and

2. Publication of research papers (excluding abstracts, proceedings or comments) in nationally or internationally refereed journals. A list of such journals shall be determined annually by the Board; or

3. Satisfaction of one of the following two criteria:

- a. Principal investigator for research grants awarded by the National Science Foundation, the National Institutes of Health, or any such other organization holding external peer-reviewed national competitions for the distribution of research funds. A list of qualifying organizations shall be determined annually by the Board. Research grants awarded in exclusively statewide competitions and service contracts or other grants not requiring submission of a research proposal or which are funded on bases other than scientific merit shall not be used to satisfy this requirement, or
- b. Inventor of one or more products which have had commercial application. Contractual commitments for a product or products shall meet this requirement; and

4. Demonstrated experience in the evaluation of research programs, which shall be satisfied either by review of external proposals from the organizations listed in subparagraph a of paragraph 3 of this section, or by review of proposals in university-wide competitions for internal support of research.

The most highly qualified researchers in this state with a breadth of experience in a variety of disciplines shall be given priority.

Added by Laws 1988, c. 246, § 10, operative July 1, 1988. Amended by Laws 2002, c. 484, § 10, eff. July 1, 2002.

§74-5060.9a-1. Renumbered as § 1-554 of Title 63 by Laws 1998, c. 210, § 9, eff. July 1, 1998.

§74-5060.9b. Renumbered as § 1-555 of Title 63 by Laws 1998, c. 210, § 9, eff. July 1, 1998.

§74-5060.9c. Renumbered as § 1-556 of Title 63 by Laws 1998, c. 210, § 9, eff. July 1, 1998.

§74-5060.9d. Repealed by Laws 1998, c. 210, § 8, eff. July 1, 1998.

§74-5060.9e. Renumbered as § 1-558 of Title 63 by Laws 1998, c. 210, § 9, eff. July 1, 1998.

§74-5060.10. Commercial application of results of research as condition of assistance.

The Oklahoma Center for the Advancement of Science and Technology shall require as a condition to any form of financial or other assistance authorized by this act before such assistance is provided to any person, firm, business enterprise or corporation that any patent, license, copyright, goods, services, proprietary processes or other results of research that result in a commercial application shall be developed or produced by an Oklahoma-based firm or that a legitimate effort shall be made to apply the results of financial or other assistance in a manner that has a reasonable potential to create or enhance employment or other factors contributing to economic growth within Oklahoma. The board of directors of the Oklahoma Center for the Advancement of Science and Technology shall prescribe policies and procedures in order to implement the provisions of this section.

Added by Laws 1987, c. 222, § 25, operative July 1, 1987.

§74-5060.11. Research Support Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Center for the Advancement of Science and Technology to be designated the "Research Support Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. The fund shall consist of all monies authorized by law for deposit in such fund including, but not limited to, gifts, grants, private donations, fee revenues and funds by government entities authorized to provide funding for the purposes authorized for the use of the fund. Monies deposited or apportioned to the credit of the fund in excess of that required for implementation of the program or programs for which expenditures from the fund are authorized may be transferred to any other fund under the control of the Center. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Center for the Advancement of Science and Technology for purposes authorized by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1987, c. 222, § 26, operative July 1, 1987. Amended by Laws 1988, c. 246, § 11, operative July 1, 1988; Laws 1995, c. 279, § 2, eff. July 1, 1995; Laws 2012, c. 304, § 1036.

§74-5060.12. Centers of excellence.

A. The purpose of this section is to authorize the establishment of two types of centers of excellence at institutions of higher education or nonprofit research institutions: centers of excellence for basic research and centers of excellence for applied research, development and technology transfer.

B. Centers of excellence for basic research will primarily undertake ongoing basic research that has potential for long-range value to the state's economic development. The centers should build on institutional strengths and conduct activity in areas of research in which the participating institutions of higher education or nonprofit research institutions have achieved or have true promise of attaining a standard of excellence as recognized by national and international peers.

C. Centers of excellence for applied research, development and technology transfer will primarily undertake applied research, development and technology transfer that has long-run potential for commercial development. The centers should build on institutional strengths and conduct activity in areas of research in which the participating institutions of higher education or nonprofit research institutions have achieved or have true promise of attaining a standard of excellence in applied research and development.

D. The Oklahoma Center for the Advancement of Science and Technology (OCAST) shall award funding to centers of excellence in accordance with subsections E and F of this section.

E. OCAST may award funding from the Research Support Revolving Fund for new centers and increased funding for established centers only after:

1. Developing, adopting and publishing the criteria it shall use when evaluating centers of excellence; and

2. Reviewing proposals for new or established centers of excellence containing:

- a. documentation, in the case of applied research, development and technology transfer, that not less than fifty percent (50%) of the center's total funding will be provided by sources other than OCAST and other than state-appropriated money; and, in the case of basic research, documentation that not less than twenty percent (20%) of the funding for centers conducting basic research will be provided by sources other than OCAST and other than state-appropriated money; machinery or equipment may be considered as part of the matching funds, but must be accompanied by a statement that the center of excellence has received the machinery or equipment, that it is appropriate and useful to the program under review, and either:



- (1) verifying that the machinery or equipment is donated, has only been used in testing to ensure quality control, or used by a wholesaler or retailer for demonstration purposes only and verifying the fair market value of the machinery or equipment on the date of the gift, or
  - (2) detailing the price paid by the center of excellence, with an invoice showing the amount paid for the equipment,
- b. a description of the proposed center's potential contribution to the state's economic development interests,
  - c. an itemized operations budget, and
  - d. other information that may be required by the Oklahoma Science and Technology Research and Development Board.

F. The board may approve proposals to establish new centers of excellence and increase funding for existing centers contingent on the availability of funds and only after the board finds, based upon the proposal submitted, external peer reviews, and such additional investigation as the staff of OCAST shall make and incorporate in its minutes that:

1. Each proposed center of excellence involves higher education institution(s), nonprofit research institution(s), and private enterprise;

2. Each proposed center of excellence is funded at Nine Hundred Thousand Dollars (\$900,000.00), or so much as is needed, per year for five (5) years, above the annual appropriation for OCAST;

3. In the case of applied research, development and technology transfer the proposed center of excellence has the potential to stimulate economic development in Oklahoma by fostering partnership among higher education institutions, nonprofit research institutions, and businesses;

4. The center has the long-run potential to benefit existing and new businesses through innovation and development of new technology; and

5. Approval of the proposal will not create or foster unnecessary duplication of programs, particularly at the graduate level of instruction.

G. Any commercialized research that results from the funding of a center of excellence shall be subject to negotiations and policies pursuant to the provisions of this act.

Added by Laws 1987, c. 222, § 27, operative July 1, 1987. Amended by Laws 1995, c. 279, § 3, eff. July 1, 1995; Laws 2006, c. 297, § 2, eff. Nov. 1, 2006.

§74-5060.13. Challenge funding of research.

A. The Center may use monies from the Research Support Revolving Fund for the purposes of this act by awarding competitive funds, through professional service contracts or otherwise, to institutions of higher education, nonprofit research foundations and private enterprises of special importance to the Oklahoma economy.

B. The Center is authorized to provide challenge funding to Oklahoma higher education institutions for the purpose of assisting such institutions to raise funds in research areas where they have achieved or have true promise of attaining a standard of excellence as recognized by national and international peers. The Center may transfer to the Oklahoma State Regents for Higher Education the endowed chairs established pursuant to paragraph 1 of subsection D of this section, with any funds associated with such endowed chairs, for the purposes specified in Section 3952 of Title 70 of the Oklahoma Statutes.

C. Any higher education institution which desires to obtain such challenge funding authorized in subsection B of this section shall submit an application to the Oklahoma Center for the Advancement of Science and Technology. Such application shall specify the total amount of funds such institution will provide to meet the requirements of the challenge funding and the research merits and economic benefits of the proposals as well as any other information which the Center may deem necessary in order to evaluate the application; provided, however, such institution shall not use state-appropriated funds for the purpose of meeting the requirements of such challenge funding.

D. Funding shall be awarded on the following basis:

1. For endowed chair professional service contracts or grants, the Center shall match Two Dollars (\$2.00) from the More Oklahoma Science and Technology (MOST) Eminent Scholars and Research Equipment Account for every One Dollar (\$1.00) of interest income generated by the endowment for such chair; however, the amount of a state professional service contract or grant for any endowed chair shall not be less than Fifty Thousand Dollars (\$50,000.00) for any one fiscal year. Funding awarded to match such interest shall be limited to endowed chairs created after May 27, 1986; and

2. For research professional service contracts or grants, the Center shall match One Dollar (\$1.00) from the More Oklahoma Science and Technology (MOST) Eminent Scholars and Research Equipment Account for every One Dollar (\$1.00) of monies that will be raised by such institution for matching purposes. The minimum amount of a state professional service contract or grant for any research project shall not be less than Ten Thousand Dollars (\$10,000.00) and shall be limited to acquiring research equipment. No applicant for a professional service contract or grant for research equipment under this paragraph shall be required to obtain the mandatory matching funding prior to application to the Center for funding.

Applicants selected by the Center for funding shall have up to twelve (12) months from the date of selection to obtain the required matching funds. A selected applicant may request an extension of time not to exceed three (3) months to obtain the necessary matching funds. The period for obtaining matching funds shall not exceed a total of fifteen (15) months from the date of selection.

E. Persons selected to hold such endowed chairs or to receive funding for research as provided for in this section shall be selected pursuant to the procedures of the higher education institution which has been awarded such funding.

F. Approval of any challenge funding proposal shall be based upon the proposal submitted, external peer review and such additional investigation as the staff of the Center shall make. Added by Laws 1987, c. 222, § 28, operative July 1, 1987. Amended by Laws 1989, c. 312, § 8, operative July 1, 1989; Laws 1992, c. 324, § 27, eff. July 1, 1992; Laws 1995, c. 279, § 4, eff. July 1, 1995.

§74-5060.14. Oklahoma Health Research Committee.

A. The Oklahoma Center for the Advancement of Science and Technology may use monies from the Research Support Revolving Fund to carry out the purposes of the Oklahoma Center for the Advancement of Science and Technology Act by awarding competitive health research funds, through professional service contracts, to institutions of higher education, nonprofit research foundations and private enterprises of special importance to the Oklahoma economy.

B. There is hereby created within the Oklahoma Center for the Advancement of Science and Technology, the Oklahoma Health Research Committee to be appointed by the Governor which shall consist of nine (9) members, no more than five nor less than three of whom shall be physicians licensed pursuant to the laws of this state. For the initial Committee, three members shall be appointed for a term of two (2) years; three members shall be appointed for a term of four (4) years; and three members shall be appointed for a term of six (6) years. Thereafter members shall be appointed for a term of six (6) years. At all times the Committee shall be composed of at least:

1. One member from the clergy or who has an advanced degree in philosophy from an accredited institution of higher learning;

2. Five members who shall be basic health research scientists each having an established record of basic health science research accomplishment and a demonstrated interest in public service to represent the following areas: Epidemiology, public health or biometrics or psychology; biochemistry, anatomy or nutrition; microbiology, immunology or molecular biology; genetics, pathology, or pharmacology; biology or physiology; and

3. Three members who shall be clinical research scientists having an established record of clinical biomedical science research accomplishment and a demonstrated interest in public service to represent the clinical research disciplines.

The Health Research Committee as constituted prior to the effective date of this act shall be re-created within the Oklahoma Center for the Advancement of Science and Technology. Members of the Committee, formerly within the Oklahoma Department of Commerce, serving terms upon the effective date of this act shall continue to serve such terms.

Upon expiration of any term of office of the Health Research Committee, in making appointments to the Committee appropriate consideration shall be given to representation upon the Committee by race, gender and geographical area.

C. Any vacancy on the Committee shall be filled for the unexpired term within thirty (30) days after the vacancy occurs.

D. No more than three members of the Committee shall have the same primary affiliation with an institution of higher learning or a nonprofit research institution.

E. A basic health research scientist or clinical research scientist shall not be eligible to become a member of the Committee unless said scientist is the inventor of one or more products which have earned more than Two Hundred Thousand Dollars (\$200,000.00) in royalties or other profit within the fifteen (15) years immediately preceding appointment or is the principal investigator for research grants awarded by national health research organizations for at least five (5) years during the fifteen (15) years immediately preceding appointment. Contractual commitments which have been made for a product or products shall qualify in meeting the royalty or profit requirement. Tentative commitments for future funding from national health research organizations shall satisfy the research grant requirement. Research grants awarded by the National Science Foundation, the National Institutes of Health, the American Heart Association, the Lung Association, the American Cancer Society, the Arthritis Foundation, the March of Dimes, and such other organizations that hold a peer-reviewed national competition for the distribution of research funds that the Committee deems acceptable from time to time shall satisfy the research grant requirement. Research grants which only may be awarded to investigators in this state shall not be used to satisfy the research grant time of support requirement. Service contracts or other grants which do not require submission of a research project or which are not funded competitively on the basis of scientific merit of the research project shall not satisfy the research grant time of support requirement.

F. Members of the Committee shall be reimbursed for expenses incurred in the performance of their duties as provided by the board of directors of the Center.

G. The Committee shall elect from its membership a chair to serve a two-year term and such other officers from its membership as deemed necessary for the performance of the duties of the Committee. The Committee shall hold regular meetings not less than once a quarter and such additional meetings as called by the chair as may be required for the proper discharge of the duties of the Committee. Any action by the Committee shall require the affirmative vote of a majority of its members present. Five members shall constitute a quorum.

Added by Laws 1987, c. 222, § 29, operative July 1, 1987. Amended by Laws 1994, c. 288, § 7, eff. July 1, 1994; Laws 1995, c. 279, § 5, eff. July 1, 1995; Laws 1996, c. 143, § 3, emerg. eff. May 7, 1996; Laws 1998, c. 210, § 7, eff. July 1, 1998.

NOTE: Laws 1994, c. 287, § 8 repealed by Laws 1995, c. 279, § 9, eff. July 1, 1995.

#### §74-5060.15. Evaluation of health research projects.

The Committee shall evaluate the merits of proposed health research projects, the qualifications of investigators, and the facilities in which proposed health research projects will be performed, and shall advise the Center of its findings.

Added by Laws 1987, c. 222, § 30, operative July 1, 1987.

#### §74-5060.16. Duties of Center relating to health research.

The Oklahoma Center for the Advancement of Science and Technology, with the advice and consent of the Committee, shall:

1. Establish and operate a state program designed to secure and impartially distribute funds credited to the Research Support Revolving Fund to support professional service contracts for health research projects;

2. Ensure that funding to support health research projects is awarded only on the basis of scientific merit;

3. Design the health research program to ensure the optimum performance of the investigator and the maximum efficiency of the project;

4. Evaluate and approve health research projects to be funded from the Research Support Revolving Fund;

5. Establish a procedure for the referral of proposed health research projects to the Committee for review;

6. Establish procedures for review of proposed health research projects by qualified individuals residing outside this state;

7. Suspend or terminate any professional service contract supporting health research projects for failure by an investigator, institution of higher learning, or nonprofit research institution to

comply with the procedures, requirements, or bylaws of the Center; and

8. Enter into contracts to ensure the optimum performance of health research investigators and to ensure the maximum efficiency of proposed health research projects.

Added by Laws 1987, c. 222, § 31, operative July 1, 1987. Amended by Laws 1995, c. 279, § 6, eff. July 1, 1995.

§74-5060.17. Conditions for award of professional service contract to support health research project.

No professional service contract shall be awarded by the Oklahoma Center for the Advancement of Science and Technology to support a health research project unless:

1. The investigators are residents of this state or become residents of this state before the ninetieth day after a professional service contract, pursuant to which they will be functioning as an investigator, has been funded by the Center;

2. The institutions that administer the professional service contracts are primarily located in this state and are able to assume financial responsibility for professional service contracts;

3. The professional service contract will not be transferred to any other institutions within the state without the approval of the Center and will not be transferred to an institution outside this state at any time; and

4. The funds will not be expended for patient care except if patient care is an intrinsic part of a funded professional service contract.

Added by Laws 1987, c. 222, § 32, operative July 1, 1987.

§74-5060.18. Annual conference on commercial application of results of health research projects.

The Oklahoma Center for the Advancement of Science and Technology shall sponsor an annual conference of health research investigators, representatives of institutions of higher learning, nonprofit research institutions, and representatives of industry to accelerate and facilitate the commercial development of new products and services conceived or developed as consequence of professional service contracts supporting health research projects.

Added by Laws 1987, c. 222, § 33, operative July 1, 1987.

§74-5060.19. Criteria for award of funding or professional service contract - Applied research proposals - Small business innovation research - Commercialized research.

A. The Center may use monies from the Research Support Revolving Fund to carry out the purposes of this act by awarding competitive applied research funds, through professional service contracts or otherwise, to institutions of higher education,

nonprofit research foundations and private enterprises of special importance to the Oklahoma economy. The Center may use the fund to provide funding for the programs and purposes specified in subsection D of this section.

B. The board shall award funding or professional service contracts only after:

1. Developing, adopting and publishing the criteria it shall use when evaluating research proposals; and

2. Reviewing applied research proposals which present:

- a. documentation, if the proposal is from an institution of higher education or nonprofit research institutions, that not less than fifty percent (50%) of the total direct cost of the proposed project will be provided by sources other than the Center and other than state-appropriated money; machinery or equipment may be considered as part of the matching funds for the research, but must be accompanied by a statement:
  - (1) that the institution of higher education or nonprofit research institution has received the machinery or equipment and that it is appropriate and useful to the program under review; and either
  - (2) verifying that the equipment or machinery is donated and has only been used in testing to ensure quality control, or used by a wholesaler or retailer for demonstration purposes only and verifying the fair market value of the machinery or equipment on the date of the gift; or
  - (3) detailing the price paid by the institution of higher education or nonprofit research institution, with an invoice showing the amount paid for the machinery or equipment;
- b. documentation, if the proposal is from a private enterprise, that not less than fifty percent (50%) of the total direct cost of the proposed project will be provided by sources other than the Center and other than state-appropriated money. No portion of the fifty percent (50%) may be provided by in-kind services performed by the enterprise;
- c. a description of the potential commercial application of and the industrial sectors that will likely benefit from the applied research project and the potential to enhance employment opportunities in Oklahoma;
- d. an itemized research budget, time line and research methodology;

e. a recommendation from the sponsoring institution of higher education, nonprofit research institution or business enterprise; and

f. other information that may be required by the board.

C. The board may approve such applied research proposals after the board finds, based upon the proposal submitted, external peer review and such additional investigation as the staff of the Center shall make and incorporate in its minutes, that:

1. The proposed project is research that leads to innovation, new knowledge or technology and is not training or technical assistance for business firms;

2. The project has a reasonable probability to enhance employment opportunities within Oklahoma; and

3. The project is technically sound and will produce a measurable result.

D. The Center is directed to develop a small business innovation research (SBIR) matching support program which meets the highest current standards for state matching support to federal SBIR program grants. The Center shall also develop and implement a program to financially support the preparation of SBIR grant proposals by Oklahoma entities. The Center may also develop and implement programs to encourage Oklahoma firms to participate in other federal research and development programs including, but not limited to, the Small Business Technology Transfer (SBTT) program.

E. Any commercialized research that results from Center funding of applied research shall be subject to negotiations and policies pursuant to the provisions of this act.

Added by Laws 1987, c. 222, § 34, operative July 1, 1987. Amended by Laws 1995, c. 279, § 7, eff. July 1, 1995.

§74-5060.20. Information clearinghouse - Technical services - Technical information data bases and industrial liaison offices - Minority business assistance.

A. The Center may use monies from the Research Support Revolving Fund to carry out the purposes of this section.

B. The Oklahoma Center for the Advancement of Science and Technology shall establish a clearinghouse to provide technology transfer and technical referral services and may charge reasonable user fees to recover the costs of providing such services. The Center may fund institutions of higher education to establish technical information data bases and industrial liaison offices which are easily accessible by both private and public sector organizations.

C. The Center shall provide to private enterprises and individuals, services which include, but are not limited to:

1. Disseminating research and technical information;



2. Referring clients to researchers or laboratories for the purpose of testing and evaluating new products, processes or innovations;

3. Assisting persons developing innovations or new technology in locating enterprises or entrepreneurs that may be interested in applying such innovations or new technologies; and

4. Providing managerial assistance to enterprises requesting such assistance, but particularly to those small enterprises of special importance to the Oklahoma economy.

D. The Center shall encourage business enterprises to use such technology transfer and technical support services as provided by institutions of higher education and especially the state's Small Business Development Centers.

E. The Center shall assist minority businesses in obtaining investments or loans or other means of financial assistance. The terms and conditions of such loans or financial assistance, including the charges for interest and other services, will be consistent with the provisions of this act. The Center shall solicit proposed minority business ventures for review and analysis. Added by Laws 1987, c. 222, § 35, operative July 1, 1987. Amended by Laws 1995, c. 279, § 8, eff. July 1, 1995.

§74-5060.20a. Technology business financing program - Specifications.

The Oklahoma Center for the Advancement of Science and Technology (OCAST), in conjunction with the Commercialization Center, may develop and implement a technology business financing program to provide funding and financing for and to assist qualified Oklahoma enterprises to commercialize new products, services, technology, innovations, and processes. In order to obtain funding or financing from the technology business financing program, a recipient shall be required to obtain separate private investment or funding, and may also be required to pay royalties, fees, interest, profits, or other payments generated or arising from the sale, lease, licensing, distribution, manufacture, marketing, or development of products, services, technology, innovations, and processes, whether alone or in conjunction with others, or generated or arising from a sale, acquisition, merger, or other transfer or takeover of the enterprise. Any such royalties, fees, interest, profits, or other payments or return of funding and financing shall be retained for use in the program. OCAST, in conjunction with the Commercialization Center, shall establish program specifications. OCAST may contract with the Commercialization Center or other qualified entity to operate and manage the program. Program funds shall not be used to pay administrative, management, or operating expenses of OCAST.

Added by Laws 1998, c. 211, § 4, eff. July 1, 1998. Amended by Laws 2010, c. 464, § 5, eff. July 1, 2010.

§74-5060.20b. Cooperation between the Commercialization Center and technology transfer offices.

It is the intent of the Legislature that the Commercialization Center funded through the Oklahoma Center for the Advancement of Science and Technology (OCAST) and the technology transfer offices within The Oklahoma State System of Higher Education (OSSHE) complement each other's capabilities and work closely to optimize each other's effectiveness. The OSSHE technology transfer offices shall create an entrepreneurial climate on the campuses to maximize opportunities for commercialization of technology resulting from university research. The Commercialization Center shall assist technology-based businesses to start up and grow in Oklahoma. Added by Laws 1998, c. 211, § 5, eff. July 1, 1998. Amended by Laws 2010, c. 464, § 6, eff. July 1, 2010.

§74-5060.21. Seed-Capital Revolving Fund - Authorized investments - Investment committee.

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Center for the Advancement of Science and Technology to be designated the "Seed-Capital Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. The fund shall consist of all monies authorized by law for deposit in the fund including but not limited to gifts, grants, private donations and funds by government entities authorized to provide funding for the purposes authorized for use of the fund and with payments on loans made from the fund, rents, dividends paid on shares of stock purchased with monies from the fund, royalty proceeds, or any other form of return on authorized investments made by the Center. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Center for the Advancement of Science and Technology for use as seed-capital for enterprises and for the purposes set forth in this section, and shall not be used for administrative, management, or operating expenses of the Center. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. The Seed-Capital Revolving Fund shall be managed consistent with the long-term goal that revenues earned from investment of the fund be used to cover administrative costs of the fund. The Center may contract with the Commercialization Center or another entity to manage the Seed-Capital Revolving Fund and to carry out the activities set forth in this section.

C. The Center may use the Seed-Capital Revolving Fund to provide seed-capital to enterprises and to carry out the purposes of the Oklahoma Science and Technology Research and Development Act through authorized investments, including:

1. Loans, loans convertible to equity, and equity;
2. Leaseholds;
3. Management or consultant service agreements;
4. Loans with stock subscription or similar warrants that are beneficially owned by the Center;

5. Loans with stock subscription or similar warrants that are beneficially owned by a party other than the Center;

6. Any other contractual arrangement in which the Center is providing scientific and technological services to any federal, state, county or municipal agency, or to any individual, corporation, enterprise, association or any other entity involving science and technology. The Center, in connection with the provision of any form of financial assistance, may enter into royalty agreements with an enterprise;

7. Participation as a general or limited partner in other seed-capital funds or participation as a limited partner in individual cases as authorized by the board of directors;

8. Royalty or other interests in patents, licenses, trade secrets or other technology; and

9. All other seed-capital investments and qualified securities as defined in the Oklahoma Science and Technology Research and Development Act.

D. The Center may use the Seed-Capital Revolving Fund to purchase qualified securities issued by enterprises engaged in new product or process innovations subject to the conditions set forth in this section.

E. The Center may use the Seed-Capital Revolving Fund to make loans for business incubator facilities in exchange for interests in the enterprises.

F. The Center shall make authorized seed-capital investments in enterprises engaged in new product or process innovations only after:

1. Receipt of an application from the enterprise which contains:

- a. a business plan including a description of the enterprise and its management, product and market,
- b. a statement of the amount, timing and projected use of the capital required,
- c. a statement of the potential economic impact of the enterprise, including the number, location and types of jobs expected to be created, and
- d. such other information as the Center board of directors shall request; and

2. Approval of the investment by the Center. Such approval may be made after the board of directors finds, based upon the application submitted by the enterprise and such additional investigation as the staff of the Center shall make and incorporate in its minutes, or based on the recommendation of the fund manager, if the Center contracts with the Commercialization Center or another entity to manage the Seed-Capital Revolving Fund, that:

- a. the proceeds of the investment or financial assistance will be used only to cover the seed-capital needs of the enterprise except as authorized by this section,
- b. the enterprise has a reasonable chance of success,
- c. the Center's participation is instrumental to the success of the enterprise and will assist in its retention within the state,
- d. the Center's investment is leveraged by at least one additional equity or near-equity investor,
- e. the enterprise has the reasonable potential to enhance employment opportunities within the state,
- f. the entrepreneur and other founders of the enterprise have already made or are contractually committed to make an appropriate financial and time commitment to the enterprise,
- g. any securities to be purchased are qualified securities,
- h. there is a reasonable possibility that the Center will recoup at least its initial investment or financial commitment, and
- i. binding commitments have been made to the Center by the enterprise for adequate reporting of financial data to the Center, which shall include a requirement for an annual report, or if required by the board, an annual audit of the financial and operational records of the enterprise, and for such control on the part of the Center as the board of directors shall consider prudent over the management of the enterprise, so as to protect the investment or financial commitment of the Center, including in the discretion of the board and without limitation, right of access to financial and other records of the enterprise, and membership or representation on the board of directors of the enterprise.

G. The board of directors shall create an investment committee to assist in evaluating potential investments in qualified securities and provision of other forms of authorized financial assistance. The membership of this investment committee shall serve at the pleasure of the board and shall consist of:

1. No more than two members of the board of directors, neither of whom serves on any advisory committee to the Center; and

2. Persons drawn from sources other than the Center who meet standards similar to those applying to the board of directors and who are recognized by their peers for outstanding knowledge and leadership in their fields, all of whom shall serve at the pleasure of the board.

H. The Center shall not make investments in qualified securities issued by enterprises in excess of the amount necessary to own more than forty-nine percent (49%) of qualified securities in any one enterprise at the time such securities are purchased by the Center, after giving effect to the conversion of all outstanding convertible qualified securities of the enterprise; however, in the event of severe financial difficulty of the enterprise, threatening, in the judgment of the board of directors, the investment of the Center therein, a greater percentage of such securities may be owned by the Center.

Added by Laws 1987, c. 222, § 36, operative July 1, 1987. Amended by Laws 1988, c. 246, § 12, operative July 1, 1988; Laws 2010, c. 464, § 7, eff. July 1, 2010; Laws 2012, c. 304, § 1037.

§74-5060.22. Reports - Funding review and recommendations - Funding priorities.

A. The Oklahoma Science and Technology Research and Development Board is authorized and instructed to make an annual report no later than November 1 to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives that shall describe the accomplishments, the expenditures, and the activities of the prior fiscal year. The report shall include elements the Board identifies as hampering the state's economic progress and recommendations for changes. The report shall include an independent audit in accordance with auditing standards generally accepted in the United States and the standards applicable to financial audits contained in Government Auditing Standards, latest revised edition, issued by the Comptroller General of the United States, which shall examine, among other things, actions governed by the administrative policies adopted by the Board on behalf of the Oklahoma Center for the Advancement of Science and Technology. The annual report shall specifically account for the ways in which the need, mission and programs of the Center have been carried out, including but not limited to a review of the results of the operations and transactions according to objective measures set forth in the business plan. The report shall recommend specific changes in the activities of the Center which are necessary to better carry out the need and mission described in the Oklahoma Center for the Advancement of Science and Technology Act. The Board shall distribute its annual report by such means that will make it

widely available to those innovative enterprises of special importance to the Oklahoma economy.

B. The Board shall annually review and prepare a report showing how and at what level other states fund technology-based economic development programs. The Board shall recommend an appropriate funding level for Oklahoma which will make these programs nationally competitive with those of other states. The Board's findings and recommendations shall be included in the annual report to be submitted to the Governor and the Legislature.

C. The Center shall adopt a threshold funding level for each of the programs provided for by law. The threshold amount shall provide for funding that is great enough to have a significant impact and carry out the intent of the Legislature. If the funding for these programs falls below the threshold, then no funding shall be provided by the Center to the program funded below threshold level.

D. The Board, on behalf of the Center, shall fund areas of research and development that the Board selects as most likely to stimulate information technology, biotechnology, genetics, meteorology and climate studies, and emerging or developing technology and related jobs; foster patents; result in new patents, copyrights, trademarks, and licenses of value; pursue world-class research teams that support the state's primary economic development thrusts or focus areas; and stimulate private and public investments with the intent to encourage economic development in Oklahoma.

Added by Laws 1987, c. 222, § 37, operative July 1, 1987. Amended by Laws 2002, c. 484, § 11, eff. July 1, 2002; Laws 2010, c. 413, § 29, eff. July 1, 2010; Laws 2013, c. 227, § 45, eff. Nov. 1, 2013.

§74-5060.23. Acquiring ownership of corporation or partnership prohibited - Exceptions.

The Oklahoma Center for the Advancement of Science and Technology shall not be permitted to make an expenditure for purposes of any loan, grant or for purposes of acquiring any form of ownership in a corporation or partnership unless authorized by law including, but not limited to, Section 15 of Article X of the Oklahoma Constitution.

Added by Laws 1987, c. 222, § 38, operative July 1, 1987.

§74-5060.24. Administration and Data Processing Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Center for the Advancement of Science and Technology to be designated the "Administration and Data Processing Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. The fund shall consist of all monies authorized by law for deposit therein, grants, donations or reimbursements that the President of the Center may direct to be

deposited therein, proceeds from the sale of surplus property, insurance payments to the agency, receipts pursuant to the Oklahoma Open Records Act, and transfers from other revolving funds of the Center as the President may direct. Monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Center for the administrative costs of all programs of the Center, including all personal and other operating expenses. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1988, c. 246, § 13, operative July 1, 1988. Amended by Laws 2012, c. 304, § 1038.

§74-5060.25. Working with OAME to foster competitiveness in national and international markets.

In addition to other functions and responsibilities of the Oklahoma Center for the Advancement of Science and Technology, the Center shall have the authority to work in conjunction with OAME, a private, not-for-profit corporation certified by Oklahoma Futures as qualifying pursuant to the provisions of this act, to foster competitiveness in the national and international markets by small and medium-sized manufacturing firms located in Oklahoma, with a special emphasis on minority business enterprises.

Added by Laws 1992, c. 230, § 5, eff. July 1, 1992.

§74-5060.26. Creation of private, not-for-profit corporation - Powers - Certificate of incorporation and bylaws.

A. A private, not-for-profit corporation may be organized pursuant to the provisions of Title 18 of the Oklahoma Statutes and the provisions of this act to develop the Industrial Extension System in Oklahoma, with a special emphasis on minority business enterprises. Such corporation, upon certification by Oklahoma Futures, shall be known as and may exercise all of the powers of OAME.

B. In addition to the provisions and requirements of Title 18 of the Oklahoma Statutes, the certificate of incorporation and the bylaws of OAME must be certified by Oklahoma Futures and the certificate of incorporation shall:

1. Designate the name of the corporation as the Oklahoma Alliance for Manufacturing Excellence, Inc.;

2. Provide that the exclusive purposes of OAME are public purposes to assist small and medium-sized manufacturing firms, with a special emphasis on minority business enterprises, to gain the ability, through education, technology transfer, and otherwise, to compete successfully at progressively higher levels of value-added in the national and international economy;

3. Provide for the following three classes of membership in OAME which shall have representation on the Board of Directors of OAME:

- a. one class composed of small and medium-sized manufacturing firms located in Oklahoma, and the certificate of incorporation shall provide for the qualifications for membership in such class,
- b. one class composed of large corporations, and the certificate of incorporation shall provide for the qualifications for membership in such class, and
- c. one class composed of state entities, including, but not limited to, the Oklahoma Center for the Advancement of Science and Technology, the Oklahoma Department of Commerce, the Oklahoma Department of Career and Technology Education, and the Oklahoma State Regents for Higher Education;

4. Provide for classes of associate membership which shall not have representation on the Board of Directors of OAME, except as provided in paragraph 5 of this subsection;

5. Provide that the Board of Directors of OAME shall consist of five representatives of members who shall be individuals elected at the first annual meeting of OAME by members of the class composed of small and medium-sized manufacturing firms, and four representatives of members who shall be individuals elected at the first annual meeting of OAME by members of the class composed of large corporations. The Board of Directors also shall include the President of the Oklahoma Center for the Advancement of Science and Technology, the Executive Director of the Oklahoma Department of Commerce, the Director of the Oklahoma Department of Career and Technology Education and the Chancellor of Higher Education as ex officio members. The bylaws of OAME may provide for designees who may serve in the place of any of the directors and the terms under which any such designation will be made. The Board of Directors shall have the power to elect, from time to time, persons to serve as directors who are associate members or are not affiliated with any entity or firm which qualifies for membership in OAME, provided that no more than three (3) of such persons shall serve on the Board of Directors at any time;

6. Have the authority to set membership dues in an amount to be determined by the Board of Directors. No participating state entity shall pay membership dues;

7. Provide for all powers necessary or appropriate to carry out and effectuate its corporate purposes, including, but not limited to, the following:

- a. to maintain an office at such place or places as it may designate,



- b. to make and execute contracts with any individual, corporation, association or any other entity and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this act,
- c. to receive funds from any source to carry out the purposes of this act, including, but not limited to, gifts or grants from any department, agency or instrumentality of the United States or of the state for any purpose consistent with the provisions of this act,
- d. to acquire or sell, convey, lease, exchange, transfer or otherwise dispose of its property or any interest therein,
- e. to develop plans and policies to assist small and medium-sized manufacturing companies in Oklahoma,
- f. to enter into contracts to provide assistance to small and medium-sized manufacturing companies, including, but not limited to, the following categories:
  - (1) technology,
  - (2) human resources development,
  - (3) market planning,
  - (4) finance, and
  - (5) inter-firm collaboration,
- g. to assist other organizations providing general business assistance to small and medium-sized manufacturing enterprises,
- h. to establish manufacturing quality and standards certification programs, setting minimum standards and issuing certification to companies meeting such standards,
- i. to develop and distribute information about manufacturing modernization and assistance that is available to support efforts to improve the abilities of small and medium-sized firms to produce and market higher value-added products,
- j. to establish a system to evaluate the effectiveness and efficiency of services provided to small and medium-sized manufacturing firms,
- k. to establish and operate, directly or under contract, an information system designed to access resources that will assist the firms to become more productive,
- l. establish a training program for individuals working on behalf of small and medium-sized manufacturing firms, and
- m. to establish special educational and informational programs for its members.

Added by Laws 1992, c. 230, § 6, eff. July 1, 1992. Amended by Laws 2001, c. 33, § 179, eff. July 1, 2001.

§74-5060.27. Annual business plan - Annual report.

OAME shall prepare and submit an annual business plan for approval by the Board of Directors of the Oklahoma Center for the Advancement of Science and Technology. The business plan shall be made a part of the annual business plan of the Center provided for in Section 5060.8 of Title 74 of the Oklahoma Statutes and shall be subject to approval by Oklahoma Futures. OAME shall also prepare an annual report for submission to the Center, which shall include:

1. A synopsis of the activities of OAME during the previous fiscal year; and
2. An examination of quantifiable measures of the results of actions and plans of OAME.

Added by Laws 1992, c. 230, § 7, eff. July 1, 1992.

§74-5060.28. Repealed by Laws 2002, c. 484, § 17, eff. July 1, 2002.

§74-5060.29. Allocation of funds to technology-business incubator.

Contingent upon a total annual appropriation of at least Nine Million Dollars (\$9,000,000.00) to the Oklahoma Center for the Advancement of Science and Technology (OCAST), OCAST shall annually use One Hundred Thousand Dollars (\$100,000.00), or so much of that amount as shall be necessary, in conjunction with the nonprofit Oklahoma Health Center Research Park Corporation to operate a technology-business incubator located in the Oklahoma Health Center Research Park and appropriately equipped to meet the needs of start-up, technology-intensive firms including, but not limited to, biotechnology and bio-medical firms.

Added by Laws 1997, c. 416, § 2, eff. Sept. 1, 1997.

§74-5060.30. Oklahoma Technology Trust Fund.

A. The "Oklahoma Technology Trust Fund" is hereby created. The trust fund shall be administered as follows:

1. The trustees of the trust fund shall consist of seven members of the Oklahoma Science and Technology Research and Development Board who are the presidents of Oklahoma State University, the University of Oklahoma, and the private university offering graduate engineering degrees and the four chief executive officers or senior executive officers of corporations or foundations. The chair of the board of trustees shall be elected by the trustees from among the four chief executive officers or senior executive officers who also serve on the Oklahoma Science and Technology Research and Development Board.

2. After January 1, 2003, the board of trustees may by unanimous vote expand the number of trustees at any time. No more than three members added by the board of trustees may serve concurrently. The members added by the board of trustees shall be representatives of industries, shall have full voting rights, and shall serve four-year terms. A position added by the board of trustees may be filled at the end of the term by vote of the trustees. A position not filled by the trustees at the end of the term shall be considered abolished.

3. The trust fund principal shall consist of monies received from any monies the Legislature appropriates for, or transfers to, the trust fund and any monies or assets contributed to the trust fund from any other source, public or private. Notwithstanding other provisions of law, income and investment return on trust fund principal shall accrue to the trust fund and may be authorized upon a majority vote of the trustees for use and expenditure by the Oklahoma Science and Technology Research and Development Board. Use of the trust fund principal may be authorized upon a vote of three-fourths of the trustees for use and expenditure by the Oklahoma Science and Technology Research and Development Board.

4. The trustees shall develop procedures for accomplishing transfer of income and investment return to appropriate accounts set up in the Office of the State Treasurer.

5. The trust fund may be dissolved upon an act approved by three-fourths (3/4) of both houses of the Legislature or pursuant to a plan for use of the principal, leading to dissolution of the trust fund, over a ten-year period that has been proposed by the trustees and approved by the Legislature and the Governor. Upon the trust fund's dissolution, any funds in the trust fund shall be placed in the state general revenue fund, unless the Legislature specifically provides otherwise.

B. There is hereby created in the State Treasury a fund for the Oklahoma Center for the Advancement of Science and Technology to be designated the "Oklahoma Technology Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies received by the Center from the Legislature or other sources for the fund. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Science and Technology Research and Development Board for the purposes of the Center. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment. The Oklahoma Science and Technology Research and Development Board shall develop procedures for setting up accounts within the fund as necessary in the Office of the State Treasurer. The Board shall place only funds appropriated for or otherwise received for the

Center in the accounts for the Center and shall not commingle funds that are not appropriated or otherwise received for the Center with funds appropriated or received for any other purpose of the Center. Added by Laws 2002, c. 484, § 12, eff. July 1, 2002. Amended by Laws 2012, c. 304, § 1039; Laws 2013, c. 227, § 46, eff. Nov. 1, 2013.

§74-5060.40. Science and Technology Council.

A. There is hereby created the Science and Technology Council, to continue until July 1, 2007, in accordance with the provisions of the Oklahoma Sunset Law. The Council shall consist of fourteen (14) members, who shall be appointed by the Governor with the advice and consent of the Senate and serve at the pleasure of the Governor, and the Secretary of Science and Technology Development. The Secretary of Science and Technology Development shall chair the Council, preside at meetings of the Council, arrange the Council's agenda, appoint committees as desired, sign official Council documents, and perform such other duties as may be prescribed by the Council. The Council shall elect to annual terms beginning July 1 a vice-chair and such other officers as the Council deems appropriate. The vice-chair shall perform the duties of the chair during the chair's absence or disability and shall perform such other duties as may be prescribed by the Council. The chair or vice-chair and seven other members shall constitute a quorum.

B. The mission and duties of the Council shall be to search for, review, and identify targeted market opportunities for this state. The Council shall rank opportunities identified, by specific area of opportunity, to determine the best prospects for helping this state develop, advance, and gain recognition of, market leadership. The Council's selections shall be presented to the Board of Directors of the Oklahoma Center for the Advancement of Science and Technology (OCAST).

C. The Council shall be subject to the Oklahoma Open Meeting Act and Oklahoma Open Records Act; provided, the chair or vice-chair may at any time and without prior notice call the Council into executive session for the purpose of examining or discussing proprietary or financial information of research or business entities and may determine that related records remain confidential.

D. Staff assistance and meeting space for the work of the Council shall be provided by the office of the Vice President of Technology Development of the University of Oklahoma and further, when requested by the Secretary of Science and Technology Development, the Oklahoma Center for the Advancement of Science and Technology.

E. Expenses of the Council shall be paid from the Science and Technology Council Revolving Fund created by Section 2 of this act and for the purposes set forth therein. Council members shall be

reimbursed for actual and necessary travel expenses incurred in the performance of their Council duties in accordance with the State Travel Reimbursement Act.

Added by Laws 2001, c. 420, § 1, eff. July 1, 2001.

§74-5060.41. Science and Technology Council Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Science and Technology Council to be designated the Science and Technology Council Revolving Fund. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies appropriated to the Oklahoma Center for the Advancement of Science and Technology designated for the Council and of such gifts or other income as may be designated for the use of the Council. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Center for the Advancement of Science and Technology for the Council. Purposes for use of the monies shall include, but not be limited to, salaries and other personnel expenses, travel, contracts for marketing analysis, and expertise and other expenses for business plan development. The Center shall review all uses of the monies and provide for audit of the fund by the State Auditor and Inspector at least once every three (3) years.

Added by Laws 2001, c. 420, § 1, eff. July 1, 2001.

§74-5060.42. Repealed by Laws 2002, c. 484, § 17, eff. July 1, 2002.

§74-5060.43. Oklahoma Nanotechnology Applications Project.

A. The Oklahoma Center for the Advancement of Science and Technology may develop and implement a nanotechnology pilot project to assist qualified Oklahoma companies in the process of applying nanotechnology through research, development, and manufacturing to improve current products or create new, cutting-edge products. The project shall be known as the "Oklahoma Nanotechnology Applications Project" (ONAP). The Oklahoma Center for the Advancement of Science and Technology may employ established program processes to award nanotechnology funds or may contract with other qualified entities to operate this pilot project.

B. The Oklahoma Nanotechnology Applications Project is designed to provide Oklahoma with the ability to respond quickly to opportunities in the following technology focuses:

1. Advanced materials/nanotechnology;
2. Agricultural sciences;
3. Aviation/aerospace;
4. Biotechnology and life sciences;
5. Energy and energy-related;
6. Information technology and telecommunications;

7. Sensors and sensor-related; and
8. Meteorological science.

C. The Board shall award nanotechnology funding or professional service contracts only after finding that:

1. The project is technically sound and will produce measurable results;

2. The project leads to innovation, new knowledge, new devices, new products, or processes with preferences given to applications of nanotechnology leading to commercialization;

3. The project has a reasonable probability to enhance employment opportunities within Oklahoma; and

4. The project will enhance services to Oklahoma manufacturers or Oklahoma companies that are in the process of applying nanotechnology.

D. ONAP awards are designed to enable new and existing applications in nanotechnology and to encourage nanotechnology collaboration between industry, institutions of higher education, and nonprofit research institutions.

Added by Laws 2006, c. 76, § 2, eff. July 1, 2006.

§74-5060.50. Repealed by Laws 2007, c. 93, § 14, eff. Nov. 1, 2007.

§74-5060.51. Repealed by Laws 2004, c. 180, § 2, eff. July 1, 2004.

§74-5060.52. Compensation and expenses.

A. Members of the Electronic Commerce Pilot Program Steering Committee created in Section 5060.50 of Title 74 of the Oklahoma Statutes shall receive no compensation for serving on the Committee, but shall receive travel reimbursement as follows:

1. Legislative members of the Committee shall be reimbursed for their necessary travel expenses incurred in the performance of their duties in accordance with Section 456 of Title 74 of the Oklahoma Statutes from the legislative body in which they serve;

2. State agency employees who are members of the Committee shall be reimbursed for travel expenses incurred in the performance of their duties by their respective agencies in accordance with the State Travel Reimbursement Act; and

3. All other Committee members shall be reimbursed by the Department of Central Services for travel expenses incurred in performance of their duties on the Committee, in accordance with the State Travel Reimbursement Act.

Added by Laws 1999, c. 337, § 5 eff. July 1, 1999.

§74-5060.53. Use of monies from Research Support Revolving Fund.

A. The Oklahoma Center for the Advancement of Science and Technology (OCAST) may use monies from the Research Support Revolving Fund to carry out the purposes of the Oklahoma Science and

Technology Research and Development Act by awarding competitive basic and applied plant science research funds, through professional service contracts, to institutions of higher education, nonprofit research foundations and private enterprises of special importance to the Oklahoma economy.

B. The Oklahoma Center for the Advancement of Science and Technology, contingent on the availability of funds, and with the advice of the Plant Science Research Committee, shall:

1. Establish and operate a state program designed to secure and impartially distribute funds credited to the Research Support Revolving Fund to support professional service contracts for basic plant science research projects to be awarded only on the basis of scientific and technical merit;

2. Design the basic plant science research program to ensure the optimum performance of the investigator(s) and the maximum efficiency of the project(s);

3. Evaluate and approve basic plant science research projects to be funded from the Research Support Revolving Fund;

4. Establish a procedure for the referral of proposed basic plant science research projects to the Plant Science Research Committee for review;

5. Establish procedures for review of proposed basic plant science research projects by qualified individuals, the majority of whom reside outside of Oklahoma;

6. Suspend or terminate any professional service contract supporting basic plant science research projects for failure by an investigator, institution of higher learning, private enterprise, or nonprofit research institution to comply with the procedures, requirements, or bylaws of the Oklahoma Science and Technology Research and Development (OSTRaD) Board; and

7. Enter into contracts to ensure the optimum performance of plant science research investigators and to ensure the maximum efficiency of proposed plant science research projects.

C. The Board shall award funding or professional service contracts for basic plant science research, contingent on the availability of funds and based upon the proposal submitted; external peer review, the majority of whom must reside outside of Oklahoma; and such additional investigation as the staff of OCAST shall make only after:

1. Developing, adopting and publishing the criteria it shall use when evaluating research proposals; and

2. Ensuring that funding to support basic plant science research projects is awarded only on the basis of scientific and technical merit.

D. The Oklahoma Center for the Advancement of Science and Technology, contingent on the availability of funds, and with the advice of the Plant Science Research Committee, shall establish and

operate a state program designed to secure and impartially distribute funds credited to the Research Support Revolving Fund to support professional service contracts for applied plant science research projects.

E. The OSTRaD Board shall award funding or professional service contracts for applied plant science research only after:

1. Developing, adopting and publishing the criteria it shall use when evaluating research proposals; and

2. Reviewing applied plant science research proposals which present:

- a. documentation, if the proposal is from an institution of higher education or nonprofit research institution, that not less than fifty percent (50%) of the total direct cost of the proposed project will be provided by sources other than OCAST and other than state-appropriated money; machinery or equipment may be considered as part of the matching funds for the research, but must be accompanied by a statement:
  - (1) that the institution of higher education or nonprofit research institution has possession of the machinery or equipment and that it is appropriate and useful to the program under review, and either
  - (2) verifying that the equipment or machinery is donated and has only been used in testing to ensure quality control, or used by a wholesaler or retailer for demonstration purposes only and verifying the fair market value of the machinery or equipment on the date of the gift, or
  - (3) detailing the price paid by the institution of higher education or nonprofit research institution, with an invoice showing the amount paid for the machinery or equipment,
- b. documentation, if the proposal is from a private enterprise, that not less than fifty percent (50%) of the total direct cost of the proposed project will be provided by sources other than OCAST and other than state-appropriated money. No portion of the fifty percent (50%) may be provided by in-kind services performed by the enterprise,
- c. a description of the potential commercial application of and the industrial sectors that will likely benefit from the applied research project and the potential to enhance employment opportunities in Oklahoma,
- d. an itemized research budget, time line and research methodology,



e. a recommendation from the sponsoring institution of higher education, nonprofit research institution or business enterprise, and

f. other information that may be required by the Board.

F. The OSTRaD Board may approve such applied plant science research proposals, contingent on the availability of funds, after the Board finds, based upon the proposal submitted; external peer review, the majority of whom must reside outside of Oklahoma; and such additional investigation as the staff of OCAST shall make and incorporate in its minutes, that:

1. The proposed project is research that leads to innovation, new knowledge or technology and is not training or technical assistance for business firms;

2. The project has a reasonable probability to enhance employment opportunities within Oklahoma; and

3. The project is technically sound and will produce a specified measurable result.

Added by Laws 2006, c. 297, § 3, eff. Nov. 1, 2006.

§74-5060.54. Requirements for professional service contracts to support basic or applied plant science research projects.

No professional service contract shall be awarded by the Oklahoma Center for the Advancement of Science and Technology (OCAST) to support a basic or applied plant science research project unless:

1. The investigators are residents of this state or become residents of this state before the ninetieth day after a professional service contract, pursuant to which they will be functioning as an investigator, has been funded by OCAST;

2. The institutions that administer the professional service contracts are primarily located in this state and are able to assume financial responsibility for professional service contracts; and

3. The professional service contract will not be transferred to any other institutions within the state without the approval of OCAST and will not be transferred to an institution outside of the State of Oklahoma at any time.

Added by Laws 2006, c. 297, § 4, eff. Nov. 1, 2006.

§74-5061.1. Repealed by Laws 1991, c. 188, § 15, eff. July 1, 1991.

§74-5061.2. Repealed by Laws 1991, c. 188, § 15, eff. July 1, 1991.

§74-5061.3. Repealed by Laws 1991, c. 188, § 15, eff. July 1, 1991.

§74-5061.4. Repealed by Laws 1991, c. 188, § 15, eff. July 1, 1991.

§74-5061.5. Repealed by Laws 1991, c. 188, § 15, eff. July 1, 1991.

§74-5061.6. Repealed by Laws 1991, c. 188, § 15, eff. July 1, 1991.

§74-5061.7. Recodified as § 5085.7 of this title by Laws 1991, c. 188, § 16, eff. July 1, 1991.

§74-5061.8. Repealed by Laws 1991, c. 188, § 15, eff. July 1, 1991.

§74-5061.9. Repealed by Laws 1991, c. 188, § 15, eff. July 1, 1991.

§74-5061.10. Repealed by Laws 1991, c. 188, § 15, eff. July 1, 1991.

§74-5061.11. Repealed by Laws 1991, c. 188, § 15, eff. July 1, 1991.

§74-5062.1. Short title.

Sections 50 through 70 of this act shall be known and may be cited as the "Oklahoma Development Finance Authority Act".

Added by Laws 1987, c. 222, § 49, operative July 1, 1987.

§74-5062.2. Statement of need - Oklahoma Development Finance Authority created - Status

A. Lack of response in this state to fundamental changes in national and international markets has created an economic hardship as manifested by high levels of unemployment and bankruptcy. Structural changes in global capital markets and real goods markets have had a profound impact on the availability of long-term capital for Oklahoma's agricultural and industrial enterprises and for infrastructure finance. There exists a need to improve, repair, replace and expand Oklahoma's infrastructure, which is vital to the welfare of Oklahomans and to the economic development of the state.

B. It is hereby found that there exists in the state an immediate and urgent need to provide the means and methods for providing financing:

1. to complement the state's private financial institutions to better serve their customers in ways which contribute to a strengthened and diversified Oklahoma economy;

2. to promote and develop the expansion of existing and the establishment of new agricultural enterprises and industrial

enterprises for the purpose of further alleviating unemployment within the state and for providing additional employment;

3. to promote and target resources of the state to further the development of export trade of state products for the purpose of the economic development of the state and for providing additional employment therefrom;

4. to assure the development of reliable, affordable, efficient and environmentally compatible sources of energy for all types of public and private consumption;

5. to provide health care facilities for the citizens and inhabitants of the state;

6. to provide capital improvement facilities for the benefit of the citizens and inhabitants of the state;

7. to provide, in conjunction with the Oklahoma Department of Commerce, an infrastructure program which will enable political subdivisions of this state to finance public works projects in order to modify or improve existing public facilities for purposes of bringing said facilities, and the operation thereof, into compliance with and maintaining compliance with federal, state and local laws and regulations pertaining to the protection of the public health and the environment;

8. to provide educational facilities for educational institutions within the state;

9. to provide for such additional facilities, enterprises and projects as herein authorized; and

10. to provide for short-term advance funding and the purchase of the obligations of political subdivisions throughout the state.

C. Any public trust organized pursuant to Title 60 of the Oklahoma Statutes for the benefit of the entire State of Oklahoma which has Seven Hundred Fifty Million Dollars (\$750,000,000.00) or more of issued and outstanding indebtedness, and if such indebtedness has been issued for three (3) or more distinct purposes, shall become eligible to become the Oklahoma Development Finance Authority as provided by this act. Such trust may amend its indenture to conform with the provisions of this act and, upon certification by the Governor, such trust shall be known as and exercise all of the powers of the Oklahoma Development Finance Authority as provided by law. After the certification of the trust as the Oklahoma Development Finance Authority, the trustees of such trust shall, with addition of other persons as provided by law, become the board of directors of the Oklahoma Development Finance Authority. The Oklahoma Development Finance Authority is hereby constituted an instrumentality of the state and the exercise of the authority and powers conferred by this act shall be deemed and held to be the performance of an essential governmental function.

Added by Laws 1987, c. 222, § 50, operative July 1, 1987.

§74-5062.3. Mission of Oklahoma Development Finance Authority - Public policy.

A. The mission of the Oklahoma Development Finance Authority shall be to take into account and develop its policies based upon the following findings:

1. Fundamental changes have occurred in national and international markets for goods and services produced by the citizens of this state. These changes have created an economic hardship for this state as manifested by the increasing number of business failures and bankruptcies, both personal and corporate, and the high levels of unemployment in agricultural and industrial enterprises;

2. There exists a need to improve, repair, replace and expand the infrastructure of the state and its political subdivisions, which is vital to the health, safety and welfare of the citizens of the state as well as to economic growth and development; and

3. Structural changes in global capital markets and real goods markets have had a strong impact on the availability of long-term capital in this state.

B. It is hereby declared to be the public policy and responsibility of this state to promote the health, welfare, safety and economic security of its inhabitants through the retention of existing employment and alleviation of unemployment in all phases of agricultural enterprises and industrial enterprises, for the development of reliable, affordable, efficient and environmentally compatible sources of energy for all types of public and private consumption, for providing health care facilities, for providing capital improvement facilities, for providing educational facilities for the benefit of educational institutions within the state and for such other facilities and projects as herein provided.

C. It is hereby found that the public policies and responsibilities of the state as set forth in this act cannot be fully attained without the use of public financing and that such public financing can best be provided by the creation of a state development finance authority with comprehensive and extensive powers therein, which authority shall have the power to issue bonds to provide financing for qualified agricultural enterprises, capital improvements, educational facilities, industrial enterprises, energy conservation facilities, energy distribution facilities, energy generating facilities and facilities, health care facilities, pollution control facilities, recreational facilities and waste water facilities, and that all of the foregoing are public purposes and uses for which public moneys may be borrowed, expended, advanced, loaned and granted.

Added by Laws 1987, c. 222, § 51, operative July 1, 1987.

§74-5062.4. Relationship with Oklahoma Futures - Annual business plan.

The Oklahoma Development Finance Authority shall exercise the powers granted to it in a manner consistent with each five-year plan developed by Oklahoma Futures for the activities and programs of the Authority. The Oklahoma Development Finance Authority shall submit a proposed schedule of activities and goals to Oklahoma Futures in order to facilitate development of the first five-year plan provisions applicable to the Authority.

The board of directors shall develop an annual business plan for the Oklahoma Development Finance Authority. The business plan shall be submitted to Oklahoma Futures for its approval and shall be included in the annual report of Oklahoma Futures. The business plan shall be consistent with the goals of the recurring five-year policy plan as provided by law. Oklahoma Futures shall approve such policy plan before it is implemented. The board of directors shall distribute copies of the business plan by such means that will make it widely available to communities, firms and local economic development managers throughout this state.

Added by Laws 1987, c. 222, § 52, operative July 1, 1987.

§74-5062.5. Definitions.

As used in the Oklahoma Development Finance Authority Act:

1. "Authority" means the Oklahoma Development Finance Authority;
2. "Agricultural enterprise" means facilities for farms, ranches, other agricultural, silvicultural or aquacultural commodity operations, and related businesses and industries, including but not limited to, grain elevators, shipping heads, livestock pens, warehouses and other storage facilities, related transportation facilities, drainage facilities and any related facilities hereto;
3. "Board of directors" means and includes the board of directors of the Authority created by this act;
4. "Bonds" means any bonds, notes, obligations, debentures, interim certificates, grant and revenue anticipation notes, interest in a lease, lease certificates of participation or other evidences of indebtedness, whether or not the interest on which is includable in the gross income of the recipients thereof for federal income tax purposes, issued by the Authority pursuant to this act;
5. "Educational facilities" means any facility intended by an educational institution in furtherance of its educational program, including, but not limited to, classrooms, laboratories, administrative buildings, equipment and other property for use therein or thereon;
6. "Energy conservation facilities" means any facility designated for the purchasing and installation of energy

conservation equipment or facilities, including building modifications;

7. "Energy distribution facilities" means an energy distribution system owned, in whole or in part, by an individual, municipality, corporation or other governmental or business entity and which uses alcohol, peat, solar, waste, water and related dams, wind, wood, coal or natural gas;

8. "Energy generating facilities" means (a) for a system which does not generate electricity, an energy generating system owned, in whole or in part, by an individual, municipality, corporation or other governmental or business entity, and which systems uses biomass, peat, solar, waste, water and related dams, wind, wood or coal, or which is an energy conservation project; or (b) for a system which does generate electricity, an energy generating system which uses alcohol, peat, solar, waste, water and related dams, wind, wood or coal, and which is owned, in whole or in part, by an individual, municipality, corporation or other business or governmental entity;

9. "Facilities" means any real property, including, without limitation, any land, building, fixture, improvement, easement, right-of-way, water right, land lying under the water or air right, and any personal property, including without limitation any leasehold, inventory, account receivable, patent, license, franchise, machinery, equipment, merchandise, raw material, supply, product, work in process or stock in trade, or mixed property of any and every kind including, but not limited to, buildings, rights-of-way, roads, streets, waterways, transportation systems, ports and terminals, pipes, pipelines, reservoirs, utilities, pollution control systems, toxic and solid waste disposal systems, health care facilities for furnishing any physical or mental health care, materials, commodities, equipment, fixtures, machinery, furniture, furnishings, instrumentalities, tourism facilities in the form of amusement parks, entertainment parks, theme parks, or museums, and other real, personal or mixed property of every kind or any preliminary studies and surveys related thereto;

10. "Financing assistance" or "financial assistance" means the making of, entering into or providing for guarantees, leases, insurance, financing credits, loans, letters of credit, financing assistance payments, grants or other financial aid;

11. "Financial document" means a lease, installment sale agreement, conditional sale agreement, note, mortgage, chattel mortgage, loan agreement or other instrument pertaining to an extension of financial assistance;

12. "Industrial enterprise" means facilities for manufacturing, producing, research, processing, assembling, repairing, extracting, warehousing and distributing goods, facilities for any service profession, facilities for communications, computer services,

transportation and corporate and management offices and services provided in connection with any of the foregoing, in isolation or in any combination that involve the creation of new or additional employment or the retention of existing employment, and industrial parks;

13. "Operating capital" means start-up costs of general administration for a temporary period not to exceed one (1) year for qualified enterprises as defined in the bylaws or by resolution of the Authority;

14. "Political subdivision" means any incorporated city or town, school district, county, special district or public trust where a city, town, school district, county or special district is a beneficiary and all their institutions, agencies or instrumentalities;

15. "Pollution" means any form of environmental pollution, including, but not limited to, water pollution, air pollution, radiation contamination, noise pollution or pollution caused by solid waste disposal;

16. "Pollution control facilities" means any facilities for the purpose of reducing, abating, preventing, controlling, or eliminating pollution caused or produced by the operation of any manufacturing, industrial, or commercial enterprise or any utility plant or useful for the purpose of removing or treating any substance in processed material, which material would cause pollution if used without such removal or treatment;

17. "Project" means any facility used for or in connection with any of the following: industrial enterprises, agricultural enterprises, capital improvements, health-care facilities, educational facilities, pollution control facilities, energy conservation facilities, energy distribution facilities, energy generating facilities, recreational facilities, tourism facilities in the form of amusement parks, entertainment parks, theme parks, or museums, short-term advance funding, waste water facilities;

18. "Short-term advance funding" shall mean the financing of temporary cash shortfalls of the state or political subdivisions;

19. "State" means the State of Oklahoma or any office, department, agency, authority, commission, board, institution, hospital, college, university, public trust where the state is the beneficiary or other instrumentality thereof;

20. "Waste water" shall mean any water containing sewage, industrial wastes, or other wastes or contaminants derived from the prior use of such water, and shall include, without limiting the generality of the foregoing, surface water of the type storm sewers are designed to collect and dispose of; and

21. "Waste water facilities" shall mean any facility for the purpose of treating, neutralizing, disposing of, stabilizing, cooling, segregating or holding waste water, including, without

limiting the generality of the foregoing, facilities for the treatment and disposal of sewage, industrial wastes, or other wastes, waste water, and the residue thereof; facilities for the temporary or permanent impoundment of waste water, both surface and underground; and sanitary sewers or other collection systems, whether on the surface or underground, designed to transport waste water together with the equipment and furnishings thereof and their appurtenances and systems, whether on the surface or underground including force mains and pumping facilities therefor.

Added by Laws 1987, c. 222, § 53, operative July 1, 1987. Amended by Laws 1989, c. 350, § 5, operative July 1, 1989.

§74-5062.6. Oklahoma Development Finance Authority and Oklahoma Industrial Finance Authority.

A. Upon certification by the Governor of a public trust as qualifying to become the Oklahoma Development Finance Authority, the board of trustees of such trust shall become the governing board of the Oklahoma Development Finance Authority with the addition of two (2) other persons. From and after the effective date of this act, the Governor, the board of directors of the Oklahoma Development Finance Authority and the board of directors of the Oklahoma Industrial Finance Authority, governed by Section 851 of this title, shall begin the consolidation of the membership of the boards of both authorities. The Oklahoma Development Finance Authority is authorized to amend its trust indenture, to provide that its board shall be composed of the members of the board of directors of the Oklahoma Industrial Finance Authority except for the State Treasurer of Oklahoma and to provide that the terms of office of the board of directors of the Oklahoma Development Finance Authority shall be identical to the terms of the Oklahoma Industrial Finance Authority. Any director of the Oklahoma Development Finance Authority who is in office upon the effective date of this act, and who is not also at that time a member of the board of directors of the Oklahoma Industrial Finance Authority, shall finish the term for which he or she was appointed. Upon the end of such a director's term, or upon such a director vacating his or her office, the Governor shall appoint a member of the board of directors of the Oklahoma Industrial Finance Authority to fill the vacancy, or to the new term. The qualifications for the board of directors of the Oklahoma Development Finance Authority shall be identical to the qualifications for the board of directors of the Oklahoma Industrial Finance Authority. As soon as the two boards of directors of each authority are composed of the same members, the boards shall be considered as consolidated. From and after that consolidation, persons appointed to the board of directors of the Oklahoma Industrial Finance Authority shall also become directors of the Oklahoma Development Finance Authority. Even though the membership



of each board shall be identical, the authorities shall be considered and treated as separate legal entities. The funds of each authority shall not be commingled and shall be separately accounted for. This consolidation of board membership shall not be construed as effecting a merger of estates or otherwise be construed to terminate the trust status of the Oklahoma Development Finance Authority. The Oklahoma Development Finance Authority shall continue to exist as a public trust, created under the Oklahoma Public Trust Act. The S.S.C. Development Authority is hereby authorized to amend its trust indenture to permit the members of the Oklahoma Industrial Finance Authority to become the governing board of such trust. Any such amendment shall not affect the separate legal status of such trust. The governing and administrative powers of the Oklahoma Development Finance Authority shall be vested in the governing board as provided by this section.

B. Each appointive member may receive reimbursement for expenses pursuant to the provisions of the State Travel Reimbursement Act. In addition, each appointive member shall receive a monthly stipend of Three Hundred Dollars (\$300.00) if, during the month, the member attended a meeting of the board of directors at which a quorum was present. Provided, a member who is also to receive a stipend for attending, during said month, a board meeting of the Oklahoma Industrial Finance Authority shall not receive a stipend pursuant to this subsection for said month except to the extent that payment to the member may be divided between the two boards in proportion to the service rendered by the member to each board.

C. Members shall annually elect from among the membership a chair, vice-chair, secretary and treasurer, and may elect an assistant secretary or assistant secretaries who need not be members of the board. Four members of the board shall constitute a quorum and the affirmative vote of the majority of members present at a meeting of the board shall be necessary and sufficient for any action taken by the board, except that the affirmative vote of at least four members shall be required for the approval of any resolution authorizing the issuance of any bonds or approving any loan transaction pursuant to Section 5062.1 et seq. of this title.

D. No vacancy in the membership of the board shall impair the right of a quorum to exercise all rights and perform all the duties of the board. Any action taken by the board may be authorized by resolution at any regular, special, or emergency meeting and shall take effect upon the date the chair or vice-chair certifies the action of the Authority by affixing a signature to the resolution unless some other date is otherwise provided in the resolution.

E. The board may delegate to its employees, persons under contract to provide administrative or staff services to the board, its members and/or officers of the Authority such duties as it deems

necessary or convenient to carry out the purposes of this act. The board may contract with the Oklahoma Industrial Finance Authority to provide all or part of the board's administrative and staff services. Funds of the Oklahoma Development Finance Authority may be paid to the Oklahoma Industrial Finance Authority for services reasonably attributable to the operation of the Oklahoma Development Finance Authority.

F. Except as otherwise provided by law, no part of the funds of the Authority shall inure to the benefit of, or be distributed to its employees, officers, or board of directors, except that the Authority shall be authorized and empowered to pay its employees and agents reasonable compensation and benefits.

G. The meetings of the board of directors of the Oklahoma Development Finance Authority shall be subject to the Oklahoma Open Meeting Act and the Oklahoma Open Records Act. Any information submitted to or compiled by the Oklahoma Development Finance Authority with respect to the marketing plans, financial statements, trade secrets or any other commercially sensitive information of persons, firms, associations, partnerships, agencies, corporations or other entities shall be confidential, except to the extent that the person or entity which provided such information or which is the subject of such information consents to disclosure. Executive sessions may be held to discuss such materials if deemed necessary by the board of directors.

H. The Authority shall assist minority businesses in obtaining financial assistance. The terms and conditions of loans or other means of financial assistance, including the charges for interest and other services, will be consistent with the provisions of this act. The Authority shall solicit proposed minority business ventures for review and analysis.

I. The Authority shall not be subject to state laws regulating the classification, employment, promotion, suspension, disciplinary action or dismissal of state employees. The Oklahoma Development Finance Authority shall not be subject to the provisions of the Oklahoma Central Purchasing Act. The Oklahoma Development Finance Authority shall be subject to the provisions of law governing administrative procedures pursuant to Title 75 of the Oklahoma Statutes.

J. If a member of the board of directors, officer, agent or employee of the Oklahoma Development Finance Authority has any direct or any indirect interest in any approval, contract or agreement upon which the member, officer, agent or employee may be called upon to act or vote, the board member, officer, agent or employee shall disclose the same to the secretary of the Authority prior to the taking of final action by the Authority concerning such contract or agreement and shall so disclose the nature and extent of such interest and his or her acquisition thereof, which disclosure

shall be publicly acknowledged by the Authority and entered upon the minutes of the Authority. If a board member, officer, agent or employee holds such an interest, he or she shall refrain from any further official involvement in regard to such contract or agreement, from voting on any matter pertaining to such contract or agreement, and from communicating with other board members, officers, agents or employees concerning said contract or agreement. Employees of the Oklahoma Development Finance Authority shall be subject to the provisions of Rule 257:20-1-4, Rules of the Ethics Commission, 74 O.S. 2001, Ch. 62, App., in the same manner as other state employees. Notwithstanding any other provision of law, any contract or agreement entered into in conformity with this subsection shall not be void or invalid by reason of the interest described in this subsection, nor shall any person so disclosing the interest and refraining from further official involvement as provided for in this subsection be guilty of an offense, be removed from office, or be subject to any other penalty on account of such interest. Provided, any approval, contract or agreement made in violation of this section shall give rise to no action against the Authority.

Indirect interest shall include pecuniary or competitive advantage which exists or could foreseeably accrue as a result of the act or forbearance of the Authority.

Added by Laws 1987, c. 222, § 54, operative July 1, 1987. Amended by Laws 1989, c. 374, § 5, emerg. eff. June 6, 1989; Laws 1991, c. 305, § 2, emerg. eff. May 30, 1991; Laws 1994, c. 285, § 2, eff. July 1, 1994; Laws 2004, c. 67, § 1, emerg. eff. April 7, 2004.

§74-5062.6a. Program Development and Credit Review Committee - Creation - Membership - Meetings - Personal interest in contracts - Personal liability - Duties.

A. There is hereby created the Program Development and Credit Review Committee within the Oklahoma Development Finance Authority. The committee shall be composed of three (3) members as follows:

1. One member who is designated by the board of directors of the Oklahoma Development Finance Authority;
2. One member who is the Oklahoma State Bond Advisor; and
3. One member who is jointly selected by the Oklahoma State Bond Advisor and by the designee of the Oklahoma Development Finance Authority; provided, the Oklahoma Development Finance Authority shall contract for the services of said member.

B. The Oklahoma Development Finance Authority shall provide all staff support required by the committee.

C. The meetings of the committee shall be subject to the Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes, and the Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes. Any information submitted to or

compiled by the committee with respect to the marketing plans, financial statements, trade secrets or any other commercially sensitive information of persons, firms, associations, partnerships, agencies, corporations or other entities shall be confidential, except to the extent that the person or entity which provided such information or which is the subject of such information consents to disclosure. Executive sessions may be held to discuss such materials if deemed necessary by the members of the committee.

D. If a member of the committee has any direct or any indirect interest in any approval, contract or agreement upon which the member may be called upon to act or vote, the member shall disclose the same to the committee prior to the taking of final action by the committee concerning such contract or agreement and shall so disclose the nature and extent of such interest and the member's acquisition thereof, which disclosure shall be publicly acknowledged by the committee and entered upon the minutes of the committee. If a member holds such an interest, the member shall refrain from any further official involvement in regard to such contract or agreement, from voting on any matter pertaining to such contract or agreement, and from communicating with other members concerning said contract or agreement. Notwithstanding any other provision of law, any contract or agreement entered into in conformity with this subsection shall not be void or invalid by reason of the interest described in this subsection, nor shall any person so disclosing the interest and refraining from further official involvement as provided for in this subsection be guilty of an offense, be removed from office, or be subject to any other penalty on account of such interest. Provided, any approval, contract or agreement made in violation of this section shall give rise to no action against the committee. Indirect interest shall include pecuniary or competitive advantage which exists or could foreseeably accrue as a result of the act or forbearance of the committee.

E. No member of the committee may be subject to any personal liability or accountability for having acted within the course and scope of the person's membership on the committee. The committee shall indemnify any member of the committee against expenses actually and necessarily incurred by the member in connection with the defense of any action or proceeding in which the member is made a party by reason of past or present association with the committee and the subject of which was within the course and scope of the person's membership on the committee.

F. The committee, except for actions taken by the Oklahoma Development Finance Authority pursuant to Section 5 of this act and Section 5063.4i of this title, shall:

1. Prior to any action by the Oklahoma Development Finance Authority, review and approve all program development uses of the Credit Enhancement Reserve Fund;

2. Prior to any action by the Oklahoma Development Finance Authority, review and approve all commitments of the Credit Enhancement Reserve Fund;

3. Facilitate implementation of subsection H of Section 5062.6 of this title; and

4. Review the Rules Regarding the Administration of the Credit Enhancement Reserve Fund and related regulations and policies as implemented by the Oklahoma Development Finance Authority to determine the adequacy and sufficiency of such rules, regulations and policies for fulfilling the intents and purposes of the Credit Enhancement Reserve Fund Act, Section 5063.1 et seq. of this title. The committee shall prepare and provide to the Executive and Legislative Bond Oversight Commissions and the Oklahoma Development Finance Authority a written finding on such determination.

G. The Oklahoma Development Finance Authority may accept or reject approvals of the committee, but may not modify the approvals.

H. On any application for financing proposed to be supported pursuant to the Credit Enhancement Reserve Fund Act, except for the Quality Jobs Investment Program established by Section 5 of this act and Section 5063.4i of this title, the application and any relevant materials considered by the Oklahoma Development Finance Authority when making a determination concerning the proposed financing shall be reviewed by the committee for the purpose of evaluating and assigning a credit rating based upon the risk of the venture and the ultimate risk of loss exposure to the Credit Enhancement Reserve Fund.

I. The committee, except for actions taken by the Oklahoma Development Finance Authority pursuant to Section 5 of this act and Section 5063.4i of this title, shall examine the credit analysis and due diligence on each such proposed financing and shall prepare and provide a written report to the Commissions and the Oklahoma Development Finance Authority concerning the credit rating and concerning sufficient compliance with the Rules Regarding the Administration of the Credit Enhancement Reserve Fund.

Added by Laws 1990, c. 342, § 6, emerg. eff. May 30, 1990. Amended by Laws 1993, c. 275, § 46, eff. July 1, 1994; Laws 1994, c. 285, § 3, eff. July 1, 1994.

§74-5062.7. President - Appointment - Powers and duties.

A. The board of directors of the Oklahoma Development Finance Authority shall appoint a president who shall direct and supervise the administrative affairs and the general management of the Authority. The board shall establish criteria for selecting the president taking into consideration national standards for similar positions in similar institutions in other states. The search for the president shall be conducted pursuant to the criteria so established. The president's salary shall be set by the board of

directors. The board may appoint the same person who is serving as, or is appointed to be, the chief executive officer or president of the Oklahoma Industrial Finance Authority. The board is authorized to pay the full salary of the president or may agree to share in this expense with the Oklahoma Industrial Finance Authority.

B. The president:

1. May employ and terminate such other officers and employees as designated by the board of directors, including, if necessary, legal counsel;

2. Shall attend board meetings;

3. Shall appoint a secretary to keep a record of all proceedings and maintain and be custodian of all financial and operational records, documents and papers filed with the Authority and of the minute book of the Authority; and

4. Shall perform other duties directed by action of the board of directors of the Authority in carrying out the purposes of this act.

Added by Laws 1987, c. 222, § 55, operative July 1, 1987. Amended by Laws 1994, c. 285, § 4, eff. July 1, 1994.

#### §74-5062.8. Powers of authority.

The Oklahoma Development Finance Authority is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate its corporate purposes, including without limiting the generality thereof, the following:

1. to adopt, amend, and repeal rules and regulations, policies, and procedures for the regulation of its affairs and the conduct of its business;

2. to sue and be sued in its own name;

3. to have an official seal and power to alter that seal at will;

4. to maintain an office at such place or places within this state as it may designate;

5. to adopt, amend and repeal bylaws and rules and regulations, not inconsistent with the Oklahoma Development Finance Authority Act, to carry into effect the powers and purposes of the Authority and the conduct of its business;

6. to make and execute contracts with any individual, corporation, whether profit or nonprofit, association or any other entity and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under the Oklahoma Development Finance Authority Act;

7. to employ underwriters, bond or other legal counsel, financial advisors, consultants, a financial institution to serve as trustee, paying agent or in any fiduciary capacity in connection with any program, indenture or general resolution of the Authority, or any other experts and to determine their qualifications, duties

and compensation subject to the provisions of the Oklahoma Development Finance Authority Act for advice and oversight of the State Bond Advisor; provided, however, after July 1, 1987, the Authority shall not employ or contract with any person, partnership, corporation, trust or other entity for underwriting services for issuance of bonded indebtedness if that entity has served as financial advisor to the Authority concerning the consideration of that issuance;

When engaging the services of underwriters, bond or other legal counsel, financial advisors, consultants, a financial institution to serve as trustee, paying agent or in any fiduciary capacity in connection with any program, indenture or general resolution of the Authority, or any other experts, the board shall be governed by the provisions of subsection C of Section 695.7 of Title 62 of the Oklahoma Statutes except when engaging such services in connection with a program whose purpose is to provide financing for a single, private entity which has previously selected providers of any such services prior to making application to the Authority, provided such financing for the program shall not be backed by the Credit Enhancement Reserve Fund;

8. to procure insurance against any loss in connection with its property and other assets in such amounts and from such insurers as it deems desirable;

9. to borrow money and to issue bonds, whether or not the interest thereon is to be includable in the gross income of the recipients thereof for federal income tax purposes, including, without limitation, to provide on a pooled or consolidated basis financing for the purposes and projects herein provided and to provide for the security and sources of payments therefor;

10. to receive and accept aid or contributions from any source of money, property, labor, or other things of value to be held, used and applied to carry out the purposes of the Oklahoma Development Finance Authority Act subject to the conditions upon which the grants and contributions are made, including, but not limited to, gifts or grants from any department, agency or instrumentality of the United States or of the state for any purpose consistent with the Oklahoma Development Finance Authority Act;

11. to obtain from any department or agency of the United States of America or nongovernmental insurer any insurance or guaranty, to the extent now or hereafter available, as to, or of, or for, the payment or repayment of, interest or principal, or both, or any part thereof, on any bonds issued by the Authority, or on any municipal securities of political subdivisions purchased or held by the Authority, pursuant to the Oklahoma Development Finance Authority Act; and, notwithstanding any other provisions of the Oklahoma Development Finance Authority Act, to enter into any agreement or contract whatsoever with respect to any such insurance

or guaranty, except to the extent that the same would in any way impair or interfere with the ability of the Authority to perform and fulfill the terms of any agreement made with the owners of the bonds of the Authority;

12. to sell, convey, lease, exchange, transfer or otherwise dispose of, all or any of its property or any interest therein, wherever situated;

13. to provide financing assistance for the purposes and projects herein provided;

14. to acquire, purchase, hold, store, advertise, market, sell, trade, barter, exchange, distribute, transport, process, utilize and contract in all manner with respect thereto and for commodities, products and services, and real or personal property or any interest therein and to contract for, issue and utilize letters of credit and other credit facilities and incur indebtedness and to arrange, form, make, guarantee, issue, remit, receive, receipt, process and collect payments and equivalents, howsoever nominated, in connection with or for purposes of any of the foregoing and for the purpose of executing and fulfilling the purposes of the Authority;

15. to acquire, reacquire, construct, reconstruct, extend, rent, lease, purchase, use, loan, borrow, install, equip, maintain, operate, renovate, refurbish, enlarge, remodel, convey, sell, at public or private sale, encumber, alleviate, transfer, exchange, dispose of and/or resell, any property, real, personal or mixed, improvements, buildings, equipment, chattels, furnishings, fixtures, trade fixtures, and any and all other facilities and/or property of whatever nature, including any and all rights to or therein for use by corporations, individuals, cooperatives, partnerships, associations or proprietary companies for any of or for the purpose of executing and/or fulfilling the purposes of the Authority, and to plan, establish, develop, construct, enlarge, improve, extend, maintain, equip, operate, lease, furnish, provide, supply, regulate, hold, store and administer property, buildings, improvements, and facilities of every nature, which may be useful in pursuing, promoting, executing and/or fulfilling the aforementioned purposes;

16. to the extent permitted under its contract with the owners of bonds, to consent to any modification with respect to rate of interest, time, and payment of any installment of principal or interest security or any other term of any contract, mortgage, contract or agreement of any kind to which the Authority is a party;

17. to purchase its own bonds at such price or prices as the Authority shall determine, subject to any agreement with the owners of bonds;

18. to enter into financial documents with others for the purpose of receiving revenues to pay the bonds authorized by the Oklahoma Development Finance Authority Act; to lease, sell, or otherwise dispose of any or all of its projects to others for such



revenues and upon such terms and conditions as the Authority may deem advisable, and to grant options to renew any financing agreement with respect to project and to grant options to buy any project at such price or prices as the Authority deems desirable;

19. to lend money to the state or political subdivisions through the purchase by the Authority of obligations of the state or political subdivisions;

20. to collect fees and charges in connection with its loans, commitments and servicing, including, but not limited to, reimbursement of costs of financing as the Authority shall determine to be reasonable and as shall be approved by the Authority;

21. to provide services, technical assistance and advice to this state and political subdivisions and to enter into contracts with this state and political subdivisions to provide such services. The State of Oklahoma and its political subdivisions are hereby authorized to enter into contracts with the Authority for such services and to pay for such services as may be provided them;

22. to contract, cooperate, or join with any one or more other governments or public agencies, or with the state, any political subdivisions of this state, or the United States, to perform any administrative service, activity, or undertaking which any such contracting party is authorized by law to perform, including the issuance of bonds;

23. to lend money or otherwise extend credit to any person and exercise all powers of a lender or creditor;

24. to invest any funds available to the Authority, whether or not from the proceeds of bonds, in such securities or pursuant to such agreements or other arrangements as the Authority shall determine, subject to any agreements with bond owners or other creditors of the Authority;

25. to purchase, trade or sell foreign or domestic currencies or the right to acquire such currency in the future; and

26. to exercise all other powers and functions necessary or appropriate to carry out the duties and purposes set forth in the Oklahoma Development Finance Authority Act.

Added by Laws 1987, c. 222, § 56, operative July 1, 1987. Amended by Laws 1989, c. 374, § 6, emerg. eff. June 6, 1989; Laws 2010, c. 461, § 1, emerg. eff. June 10, 2010.

§74-5062.8a. Quality Jobs Investment Program.

A. 1. The Oklahoma Development Finance Authority is authorized to attract private investment capital to one or more investment enterprises by either the direct investment of Authority funds or by providing a guarantee to the investment enterprise for the purpose of implementing the Quality Jobs Investment Program established pursuant to this section.

2. As used in this section, "investment enterprise" includes any corporation, limited partnership, or other similar business entity, including entities qualifying as Small Business Investment Companies under any applicable federal law.

B. There is hereby established the Quality Jobs Investment Program. The primary activities of the Quality Jobs Investment Program shall be:

1. To utilize private and public resources to build a more comprehensive and efficient public and private financing infrastructure for businesses relocating or expanding in this state, and not solely for direct investment, lending or guarantees;

2. To act as an investor, insurer or guarantor of business capital and debt financing in this state;

3. To inform business entities of available public and private capital sources and how to access those sources; and

4. To primarily function as a wholesaler of business capital and credit and rely principally on private institutions to serve as retailers of the business capital and credit market.

C. The Oklahoma Development Finance Authority shall select on a competitive basis and certify one or more investment enterprises to carry out the activities of the Program. In order to be certified by the Authority, the documents of organization of the investment enterprise must be in compliance with the purposes and requirements of the Quality Jobs Investment Program and must promote the activities of the Program, and the investment enterprise must meet the following criteria:

1. Is organized pursuant to Oklahoma law;

2. Has obtained a broad base of investor participation to the extent possible from among the following categories of investors: utility companies, insurance companies, pension systems, foundations, private and public trusts, banks, individuals, corporations, endowment funds, venture capital entities, and other investors and financial institutions; and

3. Will maintain appropriate standards of care of a fiduciary.

D. 1. Only those investment enterprises selected and certified by the Oklahoma Development Finance Authority pursuant to subsection C of this section may seek from the Authority a direct investment of funds pursuant to this section or a guarantee backed by the allocation of the Credit Enhancement Reserve Fund set forth in Section 5063.4i of this title.

2. Contracts entered into by the Authority pursuant to this section shall establish and provide for periodic review of performance standards for each investment enterprise and shall provide that an investment enterprise may continue to draw on an investment or guarantee of the Authority only if the investment enterprise meets such performance standards.

3. The Authority shall, at a minimum, review its obligations to investment enterprises which are backed by the allocation of the Credit Enhancement Reserve Fund at a time when such obligations reach the levels of Ten Million Dollars (\$10,000,000.00), Twenty Million Dollars (\$20,000,000.00) and Thirty Million Dollars (\$30,000,000.00). Only upon satisfaction by the Authority that performance standards established by contract are being achieved by the investment enterprises for the prior level of such obligations, and approval of the Executive and Legislative Bond Oversight Commission, may the Authority allow investment enterprises to draw on the next level of such obligations. Provided, the Authority may reserve any portion of the Forty Million Dollar (\$40,000,000.00) allocation of the Credit Enhancement Reserve Fund for commitment to one or more investment enterprises.

E. Any guarantee provided by the Authority under this section shall be considered an obligation of the Authority for purposes of Section 42 of Article X of the Oklahoma Constitution. The Authority is authorized to issue other obligations in the form of bonds, notes, or other evidences of indebtedness, to raise funds for investment under this section.

F. 1. Funds invested or obligated pursuant to a guarantee by the Authority in any investment enterprise shall be matched at least equally by private sector investment. Funds guaranteed or invested by the Authority may be employed by an investment enterprise at the same rate but not faster than the investment enterprise employs matching private sector investment. The Authority may only invest in or provide a guarantee to an investment enterprise pursuant to an agreement which provides that the equity of the participating private sector entities must be put at risk or liquidated before any funds or guarantees of the Authority are similarly put at risk or liquidated.

2. The Authority may not issue its obligations for the benefit of individual identified establishments but may only invest in or provide guarantees under this section to or for a prospective pool of investments to be made by investment enterprises. The Authority may review on an annual basis the portfolio of such investments of the investment enterprises.

3. An investment enterprise shall only employ funds invested or guaranteed by the Authority pursuant to this section for the benefit of projects within this state.

G. Directors and staff of the Authority shall not be officers or directors of the investment enterprises receiving investments or other obligations from the Authority. However, the directors and staff may be designated as advisory directors of any such investment enterprises, so that the input and views of the Authority may be considered in any investment decisions.

Added by Laws 1994, c. 285, § 5, eff. July 1, 1994. Amended by Laws 1997, c. 124, § 1, eff. Nov. 1, 1997.

§74-5062.9. Liability of Authority personnel - Indemnification of legal expenses.

No member of the Authority, no member of the board and no officer or employee of the Authority may be subject to any personal liability or accountability for having acted within the course and scope of his membership, office or employment to carry out any power or duty pursuant to this act. The Authority shall indemnify any member of the Authority, any member of the board of the Authority and any employee of the Authority against expenses actually and necessarily incurred by him in connection with the defense of any action or proceeding in which he is made a party by reason of past or present association with the Authority and the subject of which was within the course and scope of his membership, office or employment.

Added by Laws 1987, c. 222, § 57, operative July 1, 1987.

§74-5062.10. Bonds.

A. The Authority shall have the power and is hereby authorized to borrow money and to issue its bonds in such principal amounts as the Authority determines shall be necessary to provide sufficient funds for: (a) the providing of financing for all or any part of any projects of the state or any of its political subdivisions as authorized under this act; (b) the providing of financing assistance to the state or political subdivisions as authorized under this act; (c) the payment of interest on bonds of the Authority; (d) the establishment of reserves to secure the bonds; and (e) all other expenditures of the Authority incident to and necessary or convenient to carry out its purposes and powers, including the payment of any credit enhancement fees and costs of issuance incurred in connection with the issuance of bonds. The Authority shall have the power to make expenditures for purposes of insuring and securing holders of bonds as provided in this act.

B. The Authority shall have the power to refund any bonds and any bonds, notes or other obligations heretofore or hereafter issued by any other issuer of bonds in the state if the Authority is authorized hereunder to issue bonds for the purpose the refunded bonds were issued by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any of its corporate purposes. Refunding bonds may be issued in such amount as the Authority may determine, but not exceeding an amount sufficient to refund the principal amount of the bonds or notes to be refunded, together with any unpaid interest accrued and to accrue thereon and any premiums, expenses and commissions incurred in connection with the issuance of such refunding bonds and any reserve established in

connection with the issuance of such refunding bonds. The refunding bonds may be sold and the proceeds applied to the purchase, redemption, or payment of the bonds to be refunded or exchanged for the bonds to be refunded, all as determined by the Authority.

C. All bonds of the Authority shall be either (i) general obligations of the Authority, secured by any and all moneys and revenues of the Authority, (ii) special and limited obligations of the Authority, secured and payable solely out of the revenues and receipts derived pursuant to a financing agreement, or (iii) both general and special limited obligations, as may be designated in the proceedings of the Authority under which the bonds shall be authorized to be issued.

D. The bonds shall be authorized by resolution or resolutions of the Authority, shall be dated such date or dates, and shall mature at such time or times as such resolution or resolutions may provide. The bonds shall bear interest at such rate or rates or contain terms providing for the means of determining such rate or rates, including variations in such rates, but not to exceed an average interest rate of fourteen percent (14%) per annum if the interest thereon is not includable in the gross income of the recipients thereof for federal income tax purposes or eighteen percent (18%) per annum if the interest thereon is includable in the gross income of recipients thereof for federal income tax purposes, be in such denomination, be in such form, either coupon or registered, or in book-entry form, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such term of redemption, including redemptions prior to maturity, as such resolution or resolutions may provide. The bonds of the Authority may be sold by the Authority at public or private sale, and at the price or prices as the Authority shall determine.

E. Any resolution or resolutions authorizing any bonds or any issue thereof may contain provisions, which shall be a part of the contract or contracts with the owners thereof, as to:

1. pledging all or any part of the revenues to secure the payment of the bonds or of any issue thereof, subject to such agreements with bondowners as may then exist;

2. pledging all or any part of the assets of the Authority, including mortgages and obligations securing the same, to secure the payment of the bonds or of any issue of bonds, subject to the agreements with bondowners as may then exist;

3. the use and disposition of the gross income from assets of any type owned by the Authority and payment of principal of assets of any type owned by the Authority;

4. the setting aside of reserves or sinking funds and the regulations and disposition thereof;

5. limitations on the purpose to which the proceeds of sale of bonds may be applied and pledging the proceeds to secure the payment of the bonds;

6. limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; and the refunding of outstanding or other bonds;

7. the procedure, if any, by which the terms of any contract with bondowners may be amended or abrogated, the amount of bonds the owners of which must consent thereto, and the manner in which the consent may be given;

8. vesting in a trustee such property, rights, powers and duties in trust as the Authority may determine, which may include any or all of the rights, powers, and duties of the trustee appointed by the bondowners pursuant to this act and limiting or abrogating the right of bondowners to appoint a trustee under this act or limiting the rights, powers, and duties of the trustee;

9. defining the acts or omissions to act which shall constitute a default in the obligations and duties of the Authority to the owners of the bonds and providing for the rights and remedies of the owners of the bonds in the event of default, including as a matter of right the appointment of a receiver; but the rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this act; and

10. any other matters, of like or different character, which in any way affect the security or protection of the owners of the bonds.

F. Any pledge made by the Authority shall be valid and binding from the time when the pledge is made. The revenues, monies, or property so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority, irrespective of trust indenture whether the parties have notice thereof. Neither the resolution, trust indenture nor any other instrument by which a pledge is created need be recorded.

G. Bonds of the Authority may be secured by resolution of the Authority or a trust indenture or similar document by and between the Authority and a corporate trustee, which may be any bank having the power of a trust company or any trust company within or without the state. Such resolution, trust indenture or similar document may contain such provisions for protecting and enforcing the rights and remedies of the bondowners as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the exercise of its corporate powers and the custody, safeguarding and application of all monies. The Authority may provide by the resolution or trust indenture for the

payment of the proceeds of the bonds and the revenues to the trustee under the trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine.

H. Whether or not the bonds are of the form and character as to be negotiable instruments under the terms of the Uniform Commercial Code, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code, subject only to the provisions of the bonds relating to registration.

I. In the event that any of the members or officers of the Authority shall cease to be members or officers of the Authority prior to the delivery of any bonds or coupons signed by them, their signatures or facsimiles thereof shall nevertheless be valid and sufficient for all purposes, the same as if such members or officers had remained in office until such delivery.

J. Neither the members of the Authority nor any other person executing the bonds issued under this act shall be subject to personal liability or accountability by reason of the issuance thereof.

K. The Authority shall have the power to provide for the replacement of lost, destroyed, or mutilated bonds.

L. Except as provided by the Credit Enhancement Reserve Fund Act, bonds issued pursuant to the provisions of this act shall never constitute an indebtedness of the state within the meaning of any state constitutional provision or statutory limitation, but such bonds shall be indebtedness payable solely from sources indicated on the bond documents, and shall never constitute nor give rise to a pecuniary liability of this state or unspecified funds of the Authority or a charge against the general credit of the state or taxing powers of the state, and such fact shall be plainly stated on the face of each bond.

Added by Laws 1987, c. 222, § 58, operative July 1, 1987.

#### §74-5062.11. Tax exemption for bonds.

The bonds authorized pursuant to the Oklahoma Development Finance Authority Act and the income therefrom, whether or not the interest on which is subject to federal income taxation, shall be exempt from all taxation in this state except for inheritance, estate or transfer taxes; all legal instruments and all security agreements and financing agreements made pursuant to the provisions of this act shall be exempt from Oklahoma stamp, mortgage and transfer taxes.

Added by Laws 1987, c. 222, § 59, operative July 1, 1987.

#### §74-5062.12. Insurance fund.

The Oklahoma Development Finance Authority is authorized to create an insurance fund consisting solely of funds deposited pursuant to Section 81 of this act. Said insurance fund shall be held in the custody of one or more banks or trust companies having a principal place of business in this state. The insurance fund shall be held as security for the holders of bonds issued pursuant to the provisions of this act. It shall be governed by a trust agreement entered into by the Authority with the trustees. The trust agreement may contain such provisions and limitations as to the investment and disbursement of monies in the insurance fund; the payment of expenses of the insurance fund; the appointment, resignation, and discharge of trustees; the delegation of enforcement and collection powers under the insurance agreements to the trustee; the duties of the trustees, amendments of the trust agreement, and such other lawful provisions and limitations as may be deemed appropriate by the Authority. The trust agreement may pledge premiums and other monies which may be deposited in the insurance fund. Such pledge shall be valid and binding from the time when the pledge is made. The premiums and other monies so pledged and thereafter received by the insurance fund or by the trustees in its behalf shall immediately be subject to the lien of such pledge and shall be valid and binding as against all parties having claims of any kind against the insurance fund, irrespective of whether such parties have notice thereof. The Authority may also use the funds deposited pursuant to Section 81 of this act to purchase insurance which shall be pledged for the security of the holders of any bonds issued under this act or to enter into agreements with credit facilities in order to enhance the security of any holders of bonds. In any case in which insurance is pledged as security, whether obtained through the insurance funds authorized to be created pursuant to the provisions of this section or purchased with monies deposited pursuant to Section 81 of this act, any description of such insurance shall expressly indicate the limitation of the liability of the Authority and that neither the credit nor taxing power of this state or any political subdivision thereof shall be available to satisfy any obligations with respect thereto. Added by Laws 1987, c. 222, § 60, operative July 1, 1987.

§74-5062.13. Investment in securities of Oklahoma Development Finance Authority.

The bonds, debentures, notes or other evidence of indebtedness of the Oklahoma Development Finance Authority are hereby made securities in which all public officers and bodies of this state, all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, savings associations, including savings and loan associations



and building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or who may hereafter be authorized to invest in bonds or other obligations of this state may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provision of law, the bonds, debentures, notes or other evidence of indebtedness of the Authority are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state are now or may hereafter be authorized.

Added by Laws 1987, c. 222, § 61, operative July 1, 1987.

§74-5062.14. Authority - State tax exemption.

The Oklahoma Development Finance Authority shall be and is hereby exempt from all franchise, corporate, business and other taxes of any nature levied by the state, provided that nothing herein shall be construed to exempt from such taxes any person receiving financing assistance from the Authority.

Added by Laws 1987, c. 222, § 62, operative July 1, 1987.

§74-5062.15. Pledge against limitation or alteration of rights of bond owners.

The State of Oklahoma does hereby pledge to and agree with the owners of any bonds issued under this act that the state will not limit or alter the rights hereby vested in the Authority to fulfill the terms of any agreements made with the owners thereof or in any way impair the rights and remedies of the owners until the bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the owners, are fully met and discharged. The Authority is authorized to include this pledge and agreement of the state in any agreement with the owners of the bonds.

Added by Laws 1987, c. 222, § 63, operative July 1, 1987.

§74-5062.16. Covenant and consent to inclusion of interest on bonds in gross income.

The Authority may covenant and consent that the interest on certain of its bonds shall be includable under the Internal Revenue Code of 1986, as amended, or any subsequent corresponding internal revenue law of the United States in the gross income of the owners thereof to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includable in the gross income of the owners thereof under said

Internal Revenue Code or any such subsequent law. Nothing contained herein shall be construed to covenant or consent or to authorize any covenant or consent to the application of any other provision of any other laws, federal or state, to the Authority or to its bonds or to the elimination or modification in any way of any other exemption, privilege or immunity thereof.

Added by Laws 1987, c. 222, § 64, operative July 1, 1987.

§74-5062.17. Construction of act.

This act shall be liberally construed. Nothing contained herein is or shall be construed as a restriction or limitation upon any powers which the Authority might otherwise have under any other law of this state heretofore or hereafter enacted, and the provisions of this act are cumulative to such powers. The provisions hereof do and shall be construed to provide a complete, additional and alternative method for the doing of the things authorized and shall be regarded as supplemental and additional to powers conferred by any other laws.

Added by Laws 1987, c. 222, § 65, operative July 1, 1987.

§74-5062.18. Bonds of Oklahoma Development Finance Authority not to compete with bonds of certain state agencies.

Notwithstanding any provision herein to the contrary, the Oklahoma Development Finance Authority shall not participate in financing programs nor issue bonds which compete with or are similar in nature to those obligations authorized for issuance by the Oklahoma Turnpike Authority, the Oklahoma Housing Finance Agency, the Oklahoma Water Resources Board, the Grand River Dam Authority, the Oklahoma Student Loan Authority and the Oklahoma Municipal Power Authority, without the prior consent of said authorities.

Added by Laws 1987, c. 222, § 66, operative July 1, 1987.

§74-5062.19. Annual report - Matters included - Compliance with G.A.O. auditing standards.

A. Within sixty (60) days after the end of each fiscal year, the Oklahoma Development Finance Authority shall, in its annual report, account for:

1. The manner in which the purpose as described in Section 5062.1 et seq. of this title has been carried out by the Oklahoma Development Finance Authority;

2. A list of all bonds issued by the Authority and an itemized list of costs of issuance and an evaluation of the extent to which the purposes of the bond proceeds have been realized;

3. A list of all loans made by the Authority and a description of projects financed;

4. Documentation and estimates of jobs created and jobs preserved as a result of loans made by the Authority;

5. Estimates of the multiplier effects on the local and/or statewide economy of loans made by the Authority;

6. An analysis by size, sector and location of the targeting of loans by the Authority to agricultural enterprises, industrial enterprises, and to the state and any of its political subdivisions;

7. A preliminary financial report showing the financial condition of the Authority at the end of the fiscal year; provided, an independent audit in accordance with generally accepted accounting principles shall be undertaken by an accounting firm or individual holding a permit to practice public accounting in this state and shall be submitted to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, Oklahoma Futures and the Office of the State Auditor and Inspector in accordance with the requirements set forth for financial statement audits in Section 212A of this title. The audit shall include:

- a. a statement of the aggregate dollar amount, if any, of obligations which are backed by the Credit Enhancement Reserve Fund and which are more than ninety (90) days delinquent in their payments, and
- b. a statement of payments made from the Credit Enhancement Reserve Fund, and
- c. a statement on the loss rate percentage derived by dividing the outstanding principal balance of unpaid obligations of the Credit Enhancement Reserve Fund by the amount of payments made from the fund during the fiscal year; and

8. Policy recommendations for programs which will enhance the economic growth and development of the state.

B. All public accountants and certified public accountants, as a condition of being approved by the Oklahoma Development Finance Authority to perform the annual independent audit required pursuant to this section, shall comply with the most recent "Governmental Auditing Standards" of the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions, issued by the United States General Accounting Office. A copy of the peer review performed in accordance with the above standards shall be filed with the Authority. Should the results of the peer review indicate that material deficiencies exist in the audit work performed by the reviewed auditing firm, the Oklahoma State Board of Public Accountancy shall so notify the Authority, which shall immediately remove the reviewed firm from any approved list of auditors maintained by the Authority for a period of at least two (2) years or until such time as the firm has demonstrated satisfactory correction of the deficiencies reported in the peer review.

Added by Laws 1987, c. 222, § 67, operative July 1, 1987. Amended by Laws 1989, c. 374, § 7, emerg. eff. June 6, 1989; Laws 1996, c. 290, § 19, eff. July 1, 1996.

§74-5062.20. Annual report - Publication - Distribution - Contents - Recommendations.

The Oklahoma Development Finance Authority shall publish and present an annual report to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and Oklahoma Futures, setting forth in detail the operations and transactions conducted by it pursuant to this or to other legislation. The annual report shall specifically account for the ways the need, mission and programs of the Authority described in Section 5062.1 et seq. of this title have been carried out, including but not limited to, a review of the results of the Authority's operations and transactions according to objective measures set forth in the Authority's business plan. The report shall recommend specific changes in the activities of the Authority which are necessary to better carry out the need and mission described in Section 5062.1 et seq. of this title. The Authority shall distribute its annual report by such means that will make it widely available to those innovative enterprises of special importance to the Oklahoma economy.

Added by Laws 1987, c. 222, § 68, operative July 1, 1987. Amended by Laws 1989, c. 374, § 8, emerg. eff. June 6, 1989.

§74-5062.21. Evaluation of Authority's performances.

Seven (7) years after the Oklahoma Development Finance Authority has begun operations, Oklahoma Futures shall review, analyze and evaluate the extent to which the Authority has achieved its statutory need and mission. The evaluation shall include, but not be limited to, an examination of quantifiable results of the Authority's programs and plans.

Added by Laws 1987, c. 222, § 69, operative July 1, 1987.

§74-5062.22. Cooperation and services of other state officers and agencies.

All officers, departments, boards, agencies, divisions, and commissions of this state including, but not limited to, the Oklahoma Department of Commerce, the State Department of Health, the Department of Transportation, the Oklahoma Securities Commission and the Office of the Attorney General, shall cooperate with and render such services, as feasible, to the Oklahoma Development Finance Authority as may be within the area of their respective governmental functions as fixed or established by law, and as may be requested by the Authority. The cost and expenses of any such services shall be

met and provided by the Authority if such services are of the type for which a fee is usually charged.

Added by Laws 1987, c. 222, § 70, operative July 1, 1987.

§74-5062.30. Short title.

Sections 2 through 8 of this act shall be known and may be cited as the "Military Base Protection and Expansion Incentive Act".

Added by Laws 2007, c. 349, § 2, emerg. eff. June 4, 2007.

§74-5062.31. Legislative findings.

The Legislature finds:

1. It is in the best interest of the State of Oklahoma to ensure the continued location and expansion of established military bases and facilities in this state;

2. Growth to political subdivisions as a result of the presence and expansion of military bases and facilities requires improved and expanded municipal and school infrastructure and facilities; and

3. Political subdivisions that serve military bases are in critical need of capital improvement projects, and the financing of such projects constitutes an important public purpose.

Added by Laws 2007, c. 349, § 3, emerg. eff. June 4, 2007. Amended by Laws 2008, c. 217, § 7, emerg. eff. May 20, 2008.

§74-5062.32. Definitions.

As used in the Military Base Protection and Expansion Incentive Act:

1. "Authority" means the Oklahoma Development Finance Authority;

2. "Capital project" means the acquisition, construction, expansion, replacement, or renovation of a municipal, county or school district facility, including real property, buildings, and other fixed assets. Capital project shall not include furnishings or equipment that is not a fixed asset; and

3. "Qualified issuer" means a municipality, county, school district, or public trust of which a municipality, county or school district is the beneficiary that:

a. is located in or adjacent to a county that is home to a military installation receiving military or mission expansion from the 2005 Base Realignment and Closure Commission (BRAC) recommendations, and

b. encompasses all or part of a school district that is entitled to receive federal impact aid dollars or federal payment in lieu of tax dollars for the most recently completed school year.

Added by Laws 2007, c. 349, § 4, emerg. eff. June 4, 2007. Amended by Laws 2008, c. 217, § 8, emerg. eff. May 20, 2008.

§74-5062.33. Loan program - Funding for issuers.

There is hereby created a loan program, the purpose of which is to protect and retain established military bases and facilities and to support additional and expanded employment at such bases and facilities. The program shall provide funding to qualified issuers to finance capital projects needed as a result of growth due to or in connection with an established military base.

Added by Laws 2007, c. 349, § 5, emerg. eff. June 4, 2007. Amended by Laws 2008, c. 217, § 9, emerg. eff. May 20, 2008.

§74-5062.34. Oklahoma Development Finance Authority - Issuance of bonds - Titles and Liens - Deferrals.

A. When a qualified issuer that is or will be impacted by growth at a military installation, proposes to acquire or construct a capital project, the Oklahoma Development Finance Authority may serve as conduit issuer for the capital project in the form of loans, lease-purchase agreements, or other forms of indebtedness.

B. For the capital projects described in subsection A of this section, the Authority may issue bonds to provide funding:

1. To acquire real property, together with improvements thereon;

2. To construct buildings and other improvements to real property;

3. To provide repairs, renovations, and improvements to real property and other fixed assets; and

4. To defease or refund bonds or other obligations of a qualified issuer which were issued to finance a capital project as defined herein; and further, to fund necessary bond reserves and to pay costs of issuance of any obligations issued under this act.

C. The Authority shall not issue bonds for loans, lease-purchase agreements, or other forms of indebtedness for a qualified issuer pursuant to the Military Base Protection and Expansion Incentive Act except upon the certification by the qualified issuer that it has received or will receive an amount sufficient to repay the indebtedness as a result of a voter-approved incentive derived from a tax levy. Further, the qualified issuer shall certify that it will not use the proceeds of general obligation bonds to pay the interest on any lease-purchase obligations.

D. The Authority may hold title to the new real property and improvements and place liens on improved existing real property until such time as any obligations issued for the purpose of the capital project are retired or defeased and may lease the real property and improvements to the qualified issuer. Upon final redemption or defeasance of the obligations created pursuant to this section, title to the real property and improvements thereon shall be transferred from the Authority to the qualified issuer.

E. The Authority may defer principal payments on loans made pursuant to the Military Base Protection and Expansion Incentive Act for a period not to exceed five (5) years.  
Added by Laws 2007, c. 349, § 6, emerg. eff. June 4, 2007. Amended by Laws 2008, c. 217, § 10, emerg. eff. May 20, 2008.

§74-5062.35. Appropriations - Repayment - Bonds.

A. It is the intent of the Legislature to appropriate monies to the Oklahoma Department of Commerce in a total amount not to exceed Five Million Dollars (\$5,000,000.00) per year for the purpose of funding interest payments of obligations issued by the Authority pursuant to this act during the initial five (5) years of the obligations. The appropriated funds shall be deposited in the Military Base Protection and Expansion Bond Fund.

B. Upon the completion of the periods, if any, during which principal payments are deferred and during which interest payments are made from the Military Base Protection and Expansion Bond Fund for a qualified issuer, the qualified issuer shall pay all principal, interest, and other appropriate costs associated with the issuance of the obligations. Payments may be in the form of lease payments to the Authority as described in subsection D of Section 5062.34 of this title.

C. Bonds issued by the Authority under this act must be delivered no later than June 30, 2010. No monies will be provided pursuant to this section after June 30, 2015, for interest payments on bonds issued under this act.

Added by Laws 2007, c. 349, § 7, emerg. eff. June 4, 2007. Amended by Laws 2008, c. 217, § 11, emerg. eff. May 20, 2008.

§74-5062.36. Military Base Protection and Expansion Bond Fund - Separate accounts.

A. There is hereby created within the State Treasury a special fund for the Department of Commerce to be designated as the "Military Base Protection and Expansion Bond Fund". All monies deposited into the fund shall be used and expended by the Department solely to pay interest on bonds issued pursuant to the terms of this act. The Department shall enter into agreements as necessary to carry out the purposes of this act.

B. The Department may establish separate accounts within the Military Base Protection and Expansion Bond Fund as may be required to separately record transactions involving each qualified issuer that applies to participate in the loan program created by this act and to provide for the distribution of monies deposited in the fund.  
Added by Laws 2007, c. 349, § 8, emerg. eff. June 4, 2007. Amended by Laws 2008, c. 217, § 12, emerg. eff. May 20, 2008.

§74-5063.1. Short title.

Sections 5063.1 through 5063.19, including Sections 5063.4a through 5063.4i, of this title shall be known and may be cited as the "Credit Enhancement Reserve Fund Act". Added by Laws 1987, c. 222, § 71, operative July 1, 1987. Amended by Laws 1993, c. 275, § 38, eff. July 1, 1994; Laws 1994, c. 285, § 6, eff. July 1, 1994.

§74-5063.2. Definitions.

All terms used in the Credit Enhancement Reserve Fund Act shall have the meanings set forth in the Oklahoma Development Finance Authority Act, except as expressly referred to below. In addition, as used in the Credit Enhancement Reserve Fund Act, the following words shall have the following meanings:

1. "Act" means the Credit Enhancement Reserve Fund Act;
  2. "Bonds" means the Credit Enhancement Reserve Fund General Obligation Bonds authorized pursuant to Section 81 of this act; and
  3. "Fund" means the Credit Enhancement Reserve Fund.
- Added by Laws 1987, c. 222, § 72, operative July 1, 1987.

§74-5063.3. Credit Enhancement Reserve Fund - Creation - Management, administration and utilization - Legislative intent.

A. There is hereby created a fund to be known as the Credit Enhancement Reserve Fund. The Fund shall be managed, administered and utilized by the Oklahoma Development Finance Authority in accordance with the provisions of this act.

B. It is the intent of the Legislature that the Fund be self-supporting from insurance premiums charged to borrowers and that such charges be based on sound actuarial practices. The proceeds of obligations to which credit enhancement is granted shall be used, except for unusual circumstances with exceptionally strong public benefits, for expansion capital to businesses and to make improvements or additions to real or personal property in the case of private or nonprofit use borrowers. Use of the Fund for business buyouts or refinancing shall be minimal. The Authority shall give reasonable priority to loans in rural areas. In implementing the provisions of the Credit Enhancement Reserve Fund Act, the Authority shall generally limit the granting of credit enhancement by the Fund to high to moderate credit quality revenue bonds or other obligations issued by the Authority, except as provided in Section 5 of this act and Sections 5063.4b and 5063.4i of this title. High to moderate credit quality means revenue bonds or other obligations of the Authority judged to be of low to moderate risk, meaning that an obligation to which credit enhancement is granted demonstrates a strong likelihood of repayment according to its terms. Credit quality shall be determined by the Program Development and Credit Review Committee. To the extent possible, the Fund shall be



leveraged with private financial assistance for Fund-backed obligations for private or nonprofit borrowers.

Added by Laws 1987, c. 222, § 73, operative July 1, 1987. Amended by Laws 1990, c. 342, § 7, emerg. eff. May 30, 1990; Laws 1993, c. 275, § 39, eff. July 1, 1994; Laws 1994, c. 285, § 7, eff. July 1, 1994.

§74-5063.4. Fund - Use and expenditures - Credit enhancement - Rules and regulations for administration.

A. The Fund shall be employed by the Oklahoma Development Finance Authority solely to secure the payment of principal, interest and premium, if any, on the revenue bonds and other financial obligations issued by the Authority pursuant to the Oklahoma Development Finance Authority Act, for the specific purpose of enhancing and supporting the credit of such revenue bonds and other financial obligations. Such other financial obligations may include guarantees, loans, letters of credit or other similar obligations issued by the Authority pursuant to the Oklahoma Development Finance Authority Act, and may include commitments by the Authority for the Fund to secure loans made by private financial institutions. Except for the financial obligation provided in Section 5 of this act and Section 5063.4i of this title, each such other financial obligation must be secured by a first lien security interest on real estate, equipment or inventory, and, except as provided in Section 5 of this act and Sections 5063.4i and 5063.4b of this title, the amount of the commitment by the Fund shall not exceed twenty-five percent (25%) of the value of the collateral securing each such financial transaction. No portion of the monies or other assets deposited to the Fund shall be expended or otherwise used by the Authority in meeting its day-to-day operating expenses, in paying the cost of issuance of the Authority's revenue bonds or other financial obligations, or in supporting any other activity of the Authority not directly related to the Credit Enhancement Reserve Fund or to enhancing the credit of the Authority's revenue bonds and other financial obligations.

B. The Authority shall administer the Fund prudently and according to good insurance practice. Such administration will minimize the loss experience of the Fund, assure the future viability of the Fund, and assure the continuing availability of the proceeds of general obligation bonds issued pursuant to Section 5063.11 of this title as a credit enhancement vehicle for bond issues in this state on an ongoing basis. Accordingly, the granting of credit enhancement by the Fund shall be based on principles of insurability generally applied in the credit enhancement/insurance industry. The Authority is authorized and directed to adopt initial rules and regulations governing the credit enhancement activities and administration of the Fund, including rules and regulations

dealing with the subjects of project feasibility, credit evaluation, collateral evaluation, reinsurance, maximum risk retention by the Fund, avoidance of adverse risk selection, and all other factors deemed relevant by the Authority to the decision whether the Fund should provide credit enhancement to a particular issue of debt, to what extent, on what terms, and for what premium rate.

C. The initial rules and regulations for administration of the Fund promulgated by the Authority pursuant to subsection B of this section shall be subject to the approval of the Legislature in accordance with the requirements of the Oklahoma Administrative Procedures Act.

D. No general obligation bonds may be issued pursuant to Section 5063.11 of this title except upon the approval by a vote of the people of the State of Oklahoma authorizing the Oklahoma Development Finance Authority to issue general obligation bonds for the purposes set forth in this act and unless and until initial rules and regulations governing administration of the Fund have been adopted by the Authority. The Authority by resolution or other appropriate action of the Authority shall determine each issue of bonds or portions thereof with respect to which the benefits of the act shall inure.

E. The Authority is authorized to amend the initial rules and regulations governing administration of the Fund, either by addition of new rules and regulations, or a change or repeal of existing rules and regulations; provided, that such amendment, whether by addition, change or repeal, shall be subject to the approval of the Legislature in accordance with the requirements of the Oklahoma Administrative Procedures Act.

F. Except as provided in subparagraph b of paragraph 4 of subsection A of Section 695.8 of Title 62 of the Oklahoma Statutes, credit enhancement by the Fund for any bonds or other financial obligations issued by the Authority pursuant to law shall also require approval of the Executive Bond Oversight Commission and the Legislative Bond Oversight Commission as provided by law.

Added by Laws 1987, c. 222, § 74, operative July 1, 1987. Amended by Laws 1989, c. 374, § 9, emerg. eff. June 6, 1989; Laws 1990, c. 342, § 8, emerg. eff. May 30, 1990; Laws 1993, c. 275, § 40, eff. July 1, 1994; Laws 1994, c. 285, § 8, eff. July 1, 1994.

§74-5063.4a. Portfolio mix categories.

A. Credit enhancement granted by the Oklahoma Development Finance Authority shall be categorized by use as portfolio mix categories as follows:

1. Industrial, agribusiness, and other private activity;
2. Infrastructure and other publicly owned facilities of governmental entities;
3. Health care and other nonprofit-owned facilities; and

4. The Quality Jobs Investment Program established pursuant to Section 5062.8a of this title.

B. The balance, as determined by the total principal amount authorized pursuant to Section 5063.11 of this title less the amount of Credit Enhancement Reserve Fund applications approved by the Bond Oversight Commissions prior to June 9, 1990, less the amount allocated pursuant to Section 5063.4i of this title, shall be allocated to the portfolio mix categories as follows:

1. Twenty-five percent (25%) of said balance shall be allocated to the industrial, agribusiness, and other private activity portfolio mix category; and

2. Seventy-five percent (75%) of said balance shall be allocated to the infrastructure and other publicly owned facilities of governmental entities portfolio mix category, health care and other nonprofit-owned facilities portfolio mix category; provided, no more than twenty percent (20%) of this allocation may be used for health care and other nonprofit-owned facility projects.

C. The Authority is authorized to credit enhance and secure the payment of principal, interest and premium, if any, on the revenue bonds and other financial obligations issued pursuant to the Oklahoma Development Finance Authority Act, the Local Development Financing Act and the Credit Enhancement Reserve Fund Act. Except as used for the Small Business Credit Enhancement Program, the original principal amount of a credit enhancement commitment of the Authority granted to obligations in the industrial, agribusiness, and other private activity portfolio mix category shall not exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00).

D. To maximize use of the credit enhancement resource and to assure the viability of the Fund, the Fund shall have a balanced portfolio by loan size. In the case of the industrial, agribusiness, and other private activity portfolio mix category, the Fund shall strive to achieve a cumulative average loan size of less than One Million Dollars (\$1,000,000.00).

E. Notwithstanding any other provisions of this act, any obligations issued pursuant to the Local Development Financing Act may be allocated to any of the portfolio mix categories pursuant to this section and Section 5063.4 of this title.

Added by Laws 1990, c. 342, § 9, emerg. eff. May 30, 1990. Amended by Laws 1991, c. 123, § 2, emerg. eff. April 29, 1991; Laws 1993, c. 275, § 41, eff. July 1, 1994; Laws 1994, c. 285, § 9, eff. July 1, 1994; Laws 2004, c. 527, § 4, eff. July 1, 2004.

§74-5063.4b. Small Business Credit Enhancement Program - Creation - Requirements.

There is hereby created the Small Business Credit Enhancement Program. Twenty-five percent (25%) of the amount allocated to the industrial, agribusiness, and other private activity portfolio mix

category pursuant to Section 9 of this act shall be used for the Small Business Credit Enhancement Program. Credit enhancements provided pursuant to this section shall be subject to the following requirements:

1. The original principal amount of credit enhancement on behalf of any borrower shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00);

2. The Authority may insure no more than eighty-five percent (85%) of a loan, and at least twenty-five percent (25%) of the loan proceeds shall be used for improvements and not more than twenty-five percent (25%) of the loan proceeds may be used to refinance existing obligations of a borrower;

3. The borrower:

a. in the case of an existing business, at the time application is made for financing assistance, employs twenty (20) persons or less or has gross sales not exceeding One Million Five Hundred Thousand Dollars (\$1,500,000.00) per year, or

b. in the case of a new business, at the time application is made for financing assistance, projects that, during the first twelve (12) months of operation, it is reasonably expected will employ twenty (20) persons or less or have gross sales not exceeding One Million Five Hundred Thousand Dollars (\$1,500,000.00);

4. Borrowers shall be for-profit entities; and

5. Repayment of loans of less than One Hundred Thousand Dollars (\$100,000.00) may be secured by less than full collateral if the borrower or the principals of the borrower have good credit records as determined by the Authority.

Added by Laws 1990, c. 342, § 10, emerg. eff. May 30, 1990.

#### §74-5063.4c. Security requirements.

Except as otherwise provided in Section 6 of this act, at the time of loan origination, the Oklahoma Development Finance Authority shall require such security from the applicant as it deems necessary in the circumstances of the insurance commitment. Except for the infrastructure and other publicly owned facilities of governmental entities and Quality Jobs Investment Program portfolio mix categories, such security will include, but not be limited to:

1. A first mortgage or coordinate first mortgage on real property, facilities or systems and fixtures located thereon; or

2. A second mortgage on real property, facilities or systems and fixtures located thereon, provided the amount thereof may not exceed One Million Dollars (\$1,000,000.00).

Added by Laws 1990, c. 342, § 11, emerg. eff. May 30, 1990. Amended by Laws 1993, c. 275, § 42, eff. July 1, 1994; Laws 2002, c. 299, § 16, emerg. eff. May 23, 2002.

§74-5063.4d. Limitations on principal amount of underlying loan.

A. At the time of the Authority's issuance of credit enhancement on its revenue bonds or other obligations, the principal amount of the underlying loan for industrial, agribusiness, and other private activity portfolio mix category and health care and other nonprofit-owned facilities portfolio mix category financings, excluding infrastructure and other publicly owned facilities of government entities and Quality Jobs Investment Program portfolio mix category financings, shall be subject to the following limitations:

1. For costs of financing or refinancing real property, including soft costs associated with the construction or development of the facilities and the insurance premium, the principal amount of the underlying loan will not exceed ninety percent (90%) of the lower of:

- a. the actual certified and documented costs of such projects, or
- b. the appraised (as built) fair market value of the real property as indicated in an independent appraisal by an appraiser acceptable to the Authority;

2. For costs of financing the acquisition of personal property, machinery and equipment, the principal amount of the loan will not exceed seventy-five percent (75%) of the actual certified or documented installation cost, including the expense of delivery, refurbishing and installation. The Authority may require an independent appraisal in connection with establishing a fair market value of such personal property and in such case, the principal amount of the loan may not exceed seventy-five percent (75%) of the lower of:

- a. the fair market value of such personal property, or
- b. its documented installed costs;

3. The principal amount of a loan, or portions thereof, secured by accounts receivable, inventory, other current assets and other personal property will not exceed fifty percent (50%) of the value of the collateral as determined by the Oklahoma Development Finance Authority; and

4. The principal amount of a loan, or portions thereof, secured by cash or cash equivalents or by eligible investment securities will not exceed one hundred percent (100%) of their market value.

B. The maximum amount of an insurance commitment in enhancing a public sector entity financing or refinancing of facilities or program participation will not exceed one hundred percent (100%) of the entity's cost of financing, refinancing or program participation.

C. The provisions of this section shall not apply to credit enhancement of less than One Hundred Thousand Dollars (\$100,000.00) done pursuant to the Small Business Credit Enhancement Program.

D. Limitations on the authorized amounts as established in this section and in Section 5063.4a of this title notwithstanding, the Authority may increase such amounts to provide a cash reserve or to secure a letter of credit or surety bond equal to six-months' principal and interest payments on its revenue bonds or other obligations which fund the underlying loan.

Added by Laws 1990, c. 342, § 12, emerg. eff. May 30, 1990. Amended by Laws 1991, c. 123, § 3, emerg. eff. April 29, 1991; Laws 1993, c. 275, § 43, eff. July 1, 1994.

#### §74-5063.4e. Coinsurers.

In addition to its other powers and except as applied to Section 5063.4d of this title, the Oklahoma Development Finance Authority may select a coinsurer to insure a percentage of each loan in a pool or in the portfolio of loans for which Credit Enhancement Reserve Fund-backed bonds have been or may be issued, provided that the Authority may also select a coinsurer to insure individual nonpooled loans should such loans be credit enhanced or supported by the Credit Enhancement Reserve Fund. The Authority may contract to pay losses up to a stated limit and permitting principal reductions to be applied to reduce the liability of the coinsurer until its liability is extinguished.

Added by Laws 1990, c. 342, § 13, emerg. eff. May 30, 1990; Laws 1991, c. 305, § 3, emerg. eff. May 30, 1991.

#### §74-5063.4f. Reserve fund.

The Oklahoma Development Finance Authority may grant credit enhancement to the funding of reserve fund backed loan guarantee programs in accordance with criteria and standards established by the Authority pursuant to rules. Private financial institutions to which credit enhancements have been granted on behalf of loans made to borrowers may be required to partially secure a reserve fund.

Added by Laws 1990, c. 342, § 14, emerg. eff. May 30, 1990.

#### §74-5063.4g. Provisions not applicable to certain Credit Enhancement Reserve Fund applications - Validation.

The provisions of Section 5062.6a, subsection B of Section 5063.3 and Sections 5063.4a through 5063.4f of this title shall not apply to Credit Enhancement Reserve Fund applications approved by the Bond Oversight Commissions prior to June 9, 1990, and such previously approved applications are confirmed, validated and ratified.

Added by Laws 1990, c. 342, § 15, emerg. eff. May 30, 1990; Laws 1991, c. 1, § 2, emerg. eff. Feb. 13, 1991.

§74-5063.4h. Debt-service reserve.

To establish a debt-service reserve for those revenue bonds approved for Credit Enhancement Reserve Fund insurance by the Bond Oversight Commissions prior to June 9, 1990, the Oklahoma Development Finance Authority may increase the amounts of credit enhancement, the revenue bonds and the underlying loans in an amount sufficient to provide a cash reserve or to secure a letter of credit or surety bond equal to six-months' principal and interest on the revenue bonds, plus a rounding factor if necessary. The total amount of any such increase shall not exceed ten percent (10%) of the revenue bond amount approved by the Commissions.

Added by Laws 1991, c. 123, § 4, emerg. eff. April 29, 1991.

§74-5063.4i. Allocation to the Quality Jobs Investment Program.

Forty percent (40%) of the amount authorized pursuant to Section 5063.11 of this title is hereby allocated and may be used for the Quality Jobs Investment Program pursuant to Section 5 of this act.

Added by Laws 1993, c. 275, § 44, eff. July 1, 1994. Amended by Laws 1994, c. 285, § 10, eff. July 1, 1994.

§74-5063.5. Assets of Fund to be maintained in separate accounts.

The monies and other assets designated by the board of directors as being deposited to the Fund shall be maintained in accounts separated from all other monies and assets of the Oklahoma Development Finance Authority, and shall be accounted for separately in the financial statements prepared by or for the Authority.

Added by Laws 1987, c. 222, § 75, operative July 1, 1987.

§74-5063.6. Deposit of certain revenues into Fund.

The board of directors may annually designate for deposit to the Fund such portion of the fees and other revenues received by the Oklahoma Development Finance Authority as are not committed for support of programs or operating expenses of the Authority, and are not obligated or required to pay principal, interest and premium, if any, on the bonds issued by the Authority.

Added by Laws 1987, c. 222, § 76, operative July 1, 1987.

§74-5063.7. Deposit of certain gifts, grants, loans and other aid into Fund.

The board of directors shall have the power to designate for deposit to the Fund such portion as it deems appropriate of any gifts, grants, loans or other aid made available to the Oklahoma Development Finance Authority by the federal government, the state or any state agency, any person, corporation, foundation or other legal entity.

Added by Laws 1987, c. 222, § 77, operative July 1, 1987.

§74-5063.8. Deposit of general obligation bond proceeds into Fund.

The board of directors shall designate for deposit to the Credit Enhancement Reserve Fund the net proceeds of any general obligation bonds issued by the Oklahoma Development Finance Authority pursuant to Section 5063.11 of this title. The board of directors shall by resolution or other appropriate action designate an issue of bonds authorized to be issued pursuant to the Oklahoma Development Finance Authority Act, Section 5062.1 et seq. of this title, as having the security afforded by the act.

Added by Laws 1987, c. 222, § 78, operative July 1, 1987. Amended by Laws 1989, c. 374, § 10, emerg. eff. June 6, 1989.

§74-5063.9. Investment interest and earnings as part of Fund.

All interest and other earnings generated by the investment of the monies and other assets of the Fund shall remain a part of the Fund, except for that portion of such interest and other earnings as may be payable to a private investment manager or investment advisor pursuant to this act.

Added by Laws 1987, c. 222, § 79, operative July 1, 1987.

§74-5063.10. Depositories for Fund assets.

The monies or other assets designated a part of the Fund shall be deposited in such account or accounts in such depository or depositories as the board of directors may direct by resolution.

Added by Laws 1987, c. 222, § 80, operative July 1, 1987.

§74-5063.11. General obligation bonds - Authority to issue -  
Written plan for issuance.

A. The Oklahoma Development Finance Authority is hereby authorized to issue bonds of the State of Oklahoma, to be known as Credit Enhancement Reserve Fund General Obligation Bonds, in a total principal amount not to exceed One Hundred Million Dollars (\$100,000,000.00) for the sole purpose of generating monies to be deposited to the Fund.

B. The Oklahoma Development Finance Authority shall not issue Credit Enhancement Reserve Fund General Obligation Bonds unless and until the Authority has determined that there are insufficient monies in the Credit Enhancement Reserve Fund to cover imminent losses on revenue bonds or other obligations insured by the Fund. In such instances, the Authority shall, prior to the issuance of any State of Oklahoma Credit Enhancement Reserve Fund General Obligation Bonds, submit to the Executive Bond Oversight Commission and Legislative Bond Oversight Commission a written plan describing the need for the issuance of the bonds.

Added by Laws 1987, c. 222, § 81, operative July 1, 1987. Amended by Laws 1989, c. 374, § 11, emerg. eff. June 6, 1989; Laws 1990, c.



342, § 16, emerg. eff. May 30, 1990; Laws 1993, c. 275, § 45, eff. July 1, 1994.

§74-5063.12. Term of bonds - Direct or private placement sale - Notice of sale - Bids and bidding.

The bonds shall have such terms and may be issued in accordance with the applicable provisions of the Oklahoma Development Finance Authority Act, Section 5062.1 et seq. of this title, except that the bonds shall mature no later than twenty-five (25) years after the date of such bonds and shall be sold in one or a combination of the following methods:

1. By direct or private placement sale, provided bids are solicited from a register of no less than five (5) institutions maintained by the Authority, including entities of the State of Oklahoma having the legal ability to invest in general obligations of the State of Oklahoma. The Authority shall award the sale, if any, to the bidder offering to purchase the bonds at a price which results in the lowest net interest cost to the state as determined by computing the total interest cost from date to maturity, and deducting therefrom any premium bid and adding thereto the amount of any discount bid; or

2. By public sale on sealed bids, after notice published by the chairman of the board of directors of the Authority for at least one insertion not less than ten (10) days before the date of sale in a newspaper of general circulation in this state and in a financial newspaper or journal published in the Borough of Manhattan, City and State of New York. The Authority shall award the sale, if any, to the bidder offering to purchase the bonds at a price which results in the lowest net interest cost to the state as determined by computing the total interest cost from date to maturity, and deducting therefrom any premium bid and adding thereto the amount of any discount bid. The Authority shall reserve the right to reject all bids. The notice shall contain such other terms and provisions as the Authority determines to be desirable.

Added by Laws 1987, c. 222, § 82, operative July 1, 1987. Amended by Laws 1989, c. 374, § 12, emerg. eff. June 6, 1989.

§74-5063.13. Resolution of board of directors - Trust indentures.

- A. All bonds issued hereunder shall be authorized by resolution of the board of directors. Each such resolution shall contain such terms, covenants and conditions applicable to the bonds as are deemed desirable. All bonds issued under this act shall be on a parity as to security. The resolution of the board may provide for the execution and delivery by the Oklahoma Development Finance Authority of a trust indenture or trust indentures, with a bank or banks located within or without the state, containing any of the terms, covenants and conditions referred to above, which trust

indenture or trust indentures shall be binding upon the state, and its officers and officials, to the extent set forth in this act.

B. Any resolution or trust indenture adopted or executed under this section shall provide that power is reserved to apply to the payment of debt service on the bonds issued or secured thereunder all or any part of the Authority's revenues, from whatever source derived, and, to the extent of such revenues, to release from any requirement of such resolution or trust indenture other revenues and resources of the state including without limitation, the general revenue funds required to be appropriated pursuant to this act.

Added by Laws 1987, c. 222, § 83, operative July 1, 1987.

§74-5063.14. Signing bond - Seal - Delivery.

Each bond shall be signed by the facsimile signatures of the chairman of the board of directors of the Oklahoma Development Finance Authority and the Secretary of the board of the Authority, and shall have affixed or imprinted thereon the seal of the Authority. Delivery of the bonds so executed shall be valid, notwithstanding any change in persons holding such offices occurring after the bonds have been executed.

Added by Laws 1987, c. 222, § 84, operative July 1, 1987.

§74-5063.15. Sale of bonds - Fiscal agents and legal counsel.

Bonds at any time sold under the provisions of Section 5063.1 et seq. of this title shall be sold in the manner prescribed in Section 5063.12 of this title. The Authority may employ, if it determines that such action is desirable, fiscal agents and legal counsel and may pay them reasonable compensation out of the proceeds of the bonds subject to the review and approval of the State Bond Advisor in the same manner as provided for approval of similar expenditures made by the Authority.

Added by Laws 1987, c. 222, § 85, operative July 1, 1987. Amended by Laws 1989, c. 374, § 13, emerg. eff. June 6, 1989.

§74-5063.16. Bonds as general obligation of state.

All bonds issued pursuant to the Credit Enhancement Reserve Fund Act shall be direct general obligations of the State of Oklahoma, for the payment for the debt service on which the full faith and credit of the State of Oklahoma are hereby irrevocably pledged so long as any such bonds are outstanding. The bonds shall be payable from the General Revenue Fund of this state, and such amount of general revenue funds as is necessary is hereby pledged to the payment of debt service on the bonds, and shall be and remain pledged for such purposes.

Added by Laws 1987, c. 222, § 86, operative July 1, 1987.

§74-5063.17. Debt service - Appropriations - Reserve funds.

A. Before the commencement of each legislative session, the Director of the Office of Management and Enterprise Services shall determine the estimated amount required during the next fiscal year for payment of the debt service on the bonds issued under this act, after making deductions therefrom of estimated monies to be available to the Fund from other sources therefor, and shall certify such estimated amount to the Governor. The Governor shall thereupon promptly prepare and submit to the Legislature his request for an appropriation to meet the debt service on the bonds during such fiscal year. The Legislature shall appropriate funds and provide for timely payment of the maturing debt service of bonds issued under this act.

B. The Authority shall have the power to establish and maintain reserve funds to provide for payment of debt service on the bonds. Monies credited to the reserve funds shall be used only for the purpose of paying debt service on the bonds, either at maturity or on redemption prior to maturity. The reserve funds shall be held and used to ensure prompt payment of debt service on the bonds in such manner and pursuant to such conditions as may be specified by the Authority in the resolution or trust indenture authorizing or securing such bonds. Monies in the reserve funds over and above the amounts necessary to ensure the prompt payment of debt service on the bonds, and the establishment and maintenance of a reserve fund, may be used for the redemption of bonds prior to maturity in the manner and in accordance with the provisions pertaining to redemption prior to maturity, as set forth in the resolution or trust indenture authorizing or securing such bonds.  
Added by Laws 1987, c. 222, § 87, operative July 1, 1987. Amended by Laws 2012, c. 304, § 1040.

§74-5063.18. State tax exemption.

The bonds authorized pursuant to this act, and interest thereon, shall be exempt from all taxation in this state except for inheritance, estate or transfer taxes; and all security agreements and financing agreements made pursuant to the provisions of this act shall be exempt from Oklahoma stamp and transfer taxes.  
Added by Laws 1987, c. 222, § 88, operative July 1, 1987.

§74-5063.19. Investment in securities of Oklahoma Development Finance Authority.

The bonds issued pursuant to this act are hereby made securities in which all public officers and bodies of this state, all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, savings associations, including savings and loan associations and building and loan associations, investment companies and other

persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or who may hereafter be authorized to invest in bonds or other obligations of this state may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provision of law, said bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state are now or may hereafter be authorized.

Added by Laws 1987, c. 222, § 89, operative July 1, 1987.

§74-5063.20. Repealed by Laws 1991, c. 123, § 5, emerg. eff. April 29, 1991.

§74-5063.21. Short title.

Sections 1 through 4 of this act shall be known and may be cited as the "Oklahoma Beginning Agricultural Producer Pool Act".

Added by Laws 1993, c. 233, § 1, eff. July 1, 1993.

§74-5063.22. Beginning Agricultural Producer Pool Program.

The Oklahoma Development Finance Authority shall establish, develop criteria for and implement a program for participation in the Beginning Agricultural Producer Pool provided for in Section 695.24 of Title 62 of the Oklahoma Statutes.

Added by Laws 1993, c. 233, § 2, eff. July 1, 1993.

§74-5063.23. Borrower eligibility criteria.

To be eligible for the Beginning Agricultural Producer Pool provided for in Section 695.24 of Title 62 of the Oklahoma Statutes, a borrower must:

1. Be a resident of Oklahoma;
2. Be, or one of the borrowers must be, the principal operator of the farm;
3. Have sufficient education, training or experience in the type of farming for which the loan is desired;
4. Have a total net worth, including total assets minus total liabilities of the borrower's spouse and dependents, of less than Two Hundred Thousand Dollars (\$200,000.00) in 1992 and an amount in subsequent years determined by multiplying Two Hundred Thousand Dollars (\$200,000.00) by the cumulative inflation rate in years subsequent to 1992 as determined by the United States All-Items Consumer Price Index;
5. Demonstrate a need for the loan;
6. Demonstrate an ability to repay the loan;

7. Certify that the agricultural land to be purchased will be used by the borrower for agricultural purposes;

8. Certify that farming will be the principal occupation of the borrower;

9. Agree to participate in a farm management program approved by the Commissioner of Agriculture for at least the first five (5) years of the loan, if an approved program is available within forty-five (45) miles from the borrower's residence;

10. Agree to file an approved soil and water conservation plan with the soil conservation service office in the county where the land is located;

11. Agree that the original principal amount of funding pursuant to this act shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00); and

12. Meet such other requirements as deemed necessary by the Oklahoma Development Finance Authority.

Added by Laws 1993, c. 233, § 3, eff. July 1, 1993.

§74-5063.24. Publication and distribution of information - Interagency agreements.

A. The Department of Agriculture shall provide for the publication and statewide distribution to the public of information regarding the Beginning Agricultural Producer Pool Program provided for in Section 2 of this act.

B. The Department of Agriculture and the Oklahoma Development Finance Authority may enter into interagency agreements necessary to implement the provisions of the Oklahoma Beginning Agricultural Producer Pool Act.

Added by Laws 1993, c. 233, § 4, eff. July 1, 1993.

§74-5064.1. Short title.

This act shall be known and may be cited as the "Inventors Assistance Act".

Added by Laws 1987, c. 121, § 1, eff. Nov. 1, 1987.

§74-5064.2. Legislative findings.

The Legislature recognizes the numerous benefits to the state's economic base from the establishment of businesses by inventors and the numerous benefits provided by inventors which include industrial diversification, broadening of the economic base, a great proliferation of jobs, providing financial benefits to our citizens through a greatly expanded tax base and new products and processes for the nation's consumers.

It is estimated that ninety-five percent (95%) of all inventions are never authoritatively considered primarily because inventors are unfamiliar with the business environment or financial structure necessary for implementing their proposals.

The Legislature therefore recognizes a need to encourage and assist inventors and, at the same time, to position this state as a leader in advanced and high technology and to foster a climate for those leaders of this state, the nation and the world.  
Added by Laws 1987, c. 121, § 2, eff. Nov. 1, 1987.

§74-5064.3. Definitions.

As used in Section 5064.1 et seq. of this title:

1. "Commercial stage" means the point at which the product has advanced beyond the theoretical and prototype stage and is capable of being manufactured or reduced to practice commercially;
2. "Inventor" means any person who perceives a new concept which may result in a product or patentable process;
3. "Person" means any individual, sole proprietor, partnership or corporation;
4. "Product" means any device, technique or process;
5. "Proposal" means a plan provided by the inventor which includes technical and descriptive information on the concept; and
6. "Royalties" means all things of value received by an inventor in connection with the licensing, rental or sale of a product patented, in patent pending, or trademarked pursuant to federal law.

Added by Laws 1987, c. 121, § 3, eff. Nov. 1, 1987. Amended by Laws 1988, c. 313, § 2, emerg. eff. July 1, 1988.

§74-5064.4. Program - Establishment - Purposes.

A. The Oklahoma Department of Commerce shall establish a program to provide assistance to inventors. On July 1, 1998, all powers, duties, responsibilities, files, and records relating to the inventors assistance program shall be transferred to the Oklahoma Center for the Advancement of Science and Technology (OCAST).

B. The program shall be designed to:

1. Attract inventors from throughout this state, the nation and other countries and encourage them to submit their proposals for review and evaluation;
2. Provide assistance to inventors whose proposals are accepted which shall include patent searches, market analysis, product research and development, assistance in obtaining financing, business counseling, and any other assistance necessary to develop the product to the commercial stage which is not prohibited by the Constitution or laws of this state and further to protect both the state and the inventor, this section would require a provisional patent application or patent application be on file with the U.S. Patent Office before the state will review proposal;
3. Provide assistance and training to inventors to enable the manufacturing, marketing and distribution of their product;

4. Direct inventors to the Inventors Development Society, the Oklahoma Inventors Congress, or other similar organizations for assistance; and

5. Improve the entrepreneurial skills of the state's workforce in order to foster innovation, product development and new high quality jobs.

Added by Laws 1987, c. 121, § 4, eff. Nov. 1, 1987. Amended by Laws 1994, c. 322, § 28, emerg. eff. June 8, 1994; Laws 1998, c. 250, § 1, eff. July 1, 1998.

§74-5064.5. Powers.

The Oklahoma Center for the Advancement of Science and Technology (OCAST) shall have the power to:

1. Enter into contracts on a competitive bid basis with public and private agencies, institutions, organizations and individuals for the purpose of providing assistance to and services for inventors and entrepreneurs as required by Section 5064.1 et seq. of this title;

2. Solicit the support and contributions of public and private agencies, organizations, institutions and individuals;

3. Receive and administer funds for the purpose of operating the inventors and entrepreneurs program;

4. Advertise and promote the inventors and entrepreneurs program;

5. Collect reasonable fees based on actual direct and indirect costs for programmatic services extended to users of the inventors and entrepreneurs program; and

6. Promulgate rules to implement the provisions of Section 5064.1 et seq. of this title.

Added by Laws 1987, c. 121, § 5, eff. Nov. 1, 1987. Amended by Laws 1994, c. 322, § 29, emerg. eff. June 8, 1994; Laws 1998, c. 250, § 2, eff. July 1, 1998.

§74-5064.6. Proposals - Contracts.

A. The Oklahoma Center for the Advancement of Science and Technology (OCAST) shall charge a filing fee of One Hundred Dollars (\$100.00) for each proposal submitted for review and evaluation.

B. After review and evaluation, proposals shall be accepted or rejected for development under the inventors assistance program. OCAST shall not charge for any services to aid in the development of the product. Services may include patent searches, market analysis, product research and development, assistance in obtaining financing, including financing from private sources, and business counseling, if needed. Provided, OCAST shall receive a fee not to exceed an amount equal to ten percent (10%) of all royalties from any product developed under the inventors assistance program for a period of ten

(10) years from the first day after royalties are received from the commercial licensing, rental or sale of the product.

C. Before services to aid in the development of the product shall commence, OCAST shall enter into a contract with the inventor which shall include, in addition to any other provisions consistent with the provisions of Section 5064.1 et seq. of this title:

1. The services which OCAST will provide to aid in the development of the product;

2. Any other services which OCAST will assist the inventor in obtaining and for which the inventor shall be liable pursuant to written consent;

3. Authorization for OCAST to receive a fee not to exceed an amount equal to ten percent (10%) of all royalties from the product for a period of ten (10) years; and

4. An agreement from the inventor that all products developed under the program shall be researched, developed, manufactured, packaged and distributed from this state to the extent that it is economically feasible. Provided, the fee not to exceed an amount equal to ten percent (10%) of all royalties from products developed under this program wherever manufactured shall accrue to this state pursuant to the provisions of Section 5064.1 et seq. of this title. Added by Laws 1987, c. 121, § 6, eff. Nov. 1, 1987. Amended by Laws 1988, c. 313, § 3, emerg. eff. July 1, 1988; Laws 1998, c. 250, § 3, eff. July 1, 1998.

§74-5064.7. Incentives for inventors and businesses.

A. The following incentives shall be available to inventors for products developed and manufactured in this state and to instate manufacturers of said products; provided, to qualify for the incentives, the product shall be patented or have patent pending pursuant to federal law and shall be registered with the Oklahoma Center for the Advancement of Science and Technology (OCAST):

1. Royalty earned by an inventor from a product developed and manufactured in this state shall be exempt from state income tax for a period of seven (7) years from January 1 of the first year in which such royalty is received as long as the manufacturer remains in the state; and

2. An instate manufacturer of a product developed in this state by an inventor shall be eligible for a tax credit, as provided for in Section 2357.4 of Title 68 of the Oklahoma Statutes. In addition such manufacturer may exclude from Oklahoma taxable income, or in the case of an individual, the Oklahoma adjusted gross income, sixty-five percent (65%) of the cost of depreciable property purchased and utilized directly in manufacturing the product. The maximum exclusion shall not exceed Five Hundred Thousand Dollars (\$500,000.00). If the exclusion allowed by this paragraph exceeds the Oklahoma taxable income, or in the case of an individual, the



Oklahoma adjusted gross income, the amount of the exclusion that is in excess of such income may be carried forward as an exclusion against subsequent Oklahoma taxable income or in the case of an individual, subsequent Oklahoma adjusted gross income, for a period not to exceed four (4) years. For the purposes of this paragraph, "depreciable property" means machinery, fixtures, equipment, buildings, or substantial improvements thereto, placed in service in this state during the taxable year.

B. The Oklahoma Tax Commission, in conjunction with the Oklahoma Center for the Advancement of Science and Technology, shall promulgate rules to implement the provisions of this section. Added by Laws 1987, c. 121, § 7, eff. Nov. 1, 1987. Amended by Laws 1988, c. 313, § 4, emerg. eff. July 1, 1988; Laws 1998, c. 250, § 4, eff. July 1, 1998.

§74-5064.8. Inventors and Entrepreneurs Program Fund.

A. There is hereby created in the State Treasury a separate revolving fund for the Oklahoma Department of Commerce, to be designated the "Inventors and Entrepreneurs Program Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department for implementation of this act from all funds appropriated thereto by the Legislature, all fees received pursuant to this act, any federal funds, gifts, private and matching funds and all contributions dedicated thereto from private, state, federal or whatever source. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department for the purpose of implementing this act; however, monies expended for administrative costs shall not exceed five percent (5%) of the total amount of monies in said fund. Any amount in said fund not directly needed to implement the provisions of this act shall go to the General Revenue Fund of the state. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. On July 1, 1998, the Inventors and Entrepreneurs Program Fund shall be abolished and any unencumbered funds remaining in the Inventors and Entrepreneurs Program Fund shall be transferred to the credit of the OCAST Research Support Revolving Fund. Any unexpended funds remaining in the Inventors and Entrepreneurs Program Fund after November 1, 1998, shall be transferred to the credit of the OCAST Research Support Revolving Fund.

Added by Laws 1987, c. 121, § 8, eff. Nov. 1, 1987. Amended by Laws 1988, c. 313, § 5, emerg. eff. July 1, 1988; Laws 1994, c. 322, § 30, emerg. eff. June 8, 1994; Laws 1998, c. 250, § 5, eff. July 1, 1998; Laws 2012, c. 304, § 1041.

§74-5064.9. Reports.

The President of the Oklahoma Center for the Advancement of Science and Technology (OCAST) shall include in OCAST's annual report on program outcomes program information including:

1. The number of seminars and training programs held for inventors and entrepreneurs and the number of persons attending such seminars and programs;
2. The number of inventors and entrepreneurs assisted; and
3. The number of jobs created and preserved as a result of this program.

Added by Laws 1987, c. 121, § 9, eff. Nov. 1, 1987. Amended by Laws 1994, c. 322, § 31, emerg. eff. June 8, 1994; Laws 1998, c. 250, § 6, eff. July 1, 1998.

§74-5065.1. Repealed by Laws 1993, c. 155, § 4, eff. July 1, 1993.

§74-5065.2. Repealed by Laws 1993, c. 155, § 4, eff. July 1, 1993.

§74-5065.3. Repealed by Laws 1993, c. 155, § 4, eff. July 1, 1993.

§74-5065.4. Repealed by Laws 1993, c. 155, § 4, eff. July 1, 1993.

§74-5065.5. Repealed by Laws 1993, c. 155, § 4, eff. July 1, 1993.

§74-5065.6. Repealed by Laws 1993, c. 155, § 4, eff. July 1, 1993.

§74-5065.7. Repealed by Laws 1993, c. 155, § 4, eff. July 1, 1993.

§74-5065.8. Repealed by Laws 1993, c. 155, § 4, eff. July 1, 1993.

§74-5066.1. Short title.

This act shall be known and may be cited as the "Product Development Act".

Added by Laws 1992, c. 246, § 2, emerg. eff. May 21, 1992.

§74-5066.2. Definitions.

As used in this act:

1. "Commercial stage" means the point at which the product has advanced beyond the theoretical and prototype stage and is capable of being manufactured or reduced to practice commercially;
2. "Intellectual property" means a patent, patent pending, trademark, copyright or trade secret;
3. "Licensor" means the person who owns the intellectual property rights of a product;
4. "Licensee" means the person to whom the intellectual properties related to a product have been licensed or assigned;

5. "Person" means any individual, sole proprietor, partnership or corporation;

6. "Product" means any device, technique or process;

7. "Royalties" means all things of value received by a licensor in connection with the licensing, rental or sale of a product patented, patent pending, copyrighted or trademarked pursuant to federal law; and

8. "Strategic alliances" means a business agreement such as licensing, joint venture partnership, etc., between two or more persons.

Added by Laws 1992, c. 246, § 3, emerg. eff. May 21, 1992.

#### §74-5066.3. Product development assistance program.

The Oklahoma Department of Commerce shall establish a program to provide product development assistance to Oklahoma manufacturing and marketing businesses. The program shall:

1. Identify, characterize and catalogue Oklahoma businesses interested in and committed to expansion by commercialization of new products utilizing their available capital, knowledge and human assets;

2. Identify new product opportunities on a worldwide basis that match the current or expanding manufacturing and marketing base of Oklahoma businesses;

3. Provide assistance to make new products available to Oklahoma businesses, which shall include assistance in forming strategic alliances, market and product analysis, business counseling and other assistance necessary to develop the products to the commercial stage; and

4. Facilitate the formation of a product development investment fund.

Added by Laws 1992, c. 246, § 4, emerg. eff. May 21, 1992.

#### §74-5066.4. Authority of Department of Commerce.

The Oklahoma Department of Commerce shall have the authority to:

1. Enter into contracts with public and private agencies, institutions, organizations and individuals for the purpose of providing assistance to and services for Oklahoma manufacturing and marketing firms as required by this act. Such contracts shall be exempt from the provisions of Section 85.1 et seq. of Title 74 of the Oklahoma Statutes;

2. Solicit the support and contributions of public and private agencies, organizations, institutions and individuals;

3. Receive and administer funds for the purpose of operating the product development program;

4. Advertise and promote the product development program; and

5. Promulgate rules and regulations to implement the provisions of this act.

Added by Laws 1992, c. 246, § 5, emerg. eff. May 21, 1992.

§74-5066.5. Agreement to pay royalty fee.

The Oklahoma Department of Commerce may enter into an agreement with a potential licensor to receive a fee not to exceed an amount equal to twenty percent (20%) of all royalties from any product commercialized under the product development program for the life of the license.

Added by Laws 1992, c. 246, § 6, emerg. eff. May 21, 1992.

§74-5066.6. Product Development Program Fund.

There is hereby created in the State Treasury a separate revolving fund for the Oklahoma Department of Commerce to be designated as the "Product Development Program Fund". The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of all monies received by the Department for implementation of the Product Development Act from all funds appropriated thereto by the Oklahoma State Legislature, all fees received pursuant to this act, any federal funds, gifts, private and matching funds and all contributions dedicated thereto from any source. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department for the purposes of this act. Any amount in said fund not directly needed to implement the provisions of this act shall go to the General Revenue Fund of the state. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1992, c. 246, § 7, emerg. eff. May 21, 1992. Amended by Laws 2012, c. 304, § 1042.

§74-5066.7. Annual report.

The Director of the Oklahoma Department of Commerce shall submit an annual report on or before December 31 of each year to the Governor and the Oklahoma State Legislature which shall include but not be limited to:

1. The number of products and description thereof of products developed to the commercial stage; and
2. The total fees collected and donations received.

Added by Laws 1992, c. 246, § 8, emerg. eff. May 21, 1992.

§74-5071. Short title.

This act shall be known and may be cited as the "Small Business Incubators Incentives Act".

Added by Laws 1987, c. 228, § 1, eff. Jan. 1, 1988.

§74-5072. Purpose of act.

The purpose of this act shall be to promote, encourage and advance economic prosperity and employment throughout the state by creating a more favorable tax climate for organizations which qualify as sponsors of small business incubators in this state and a more favorable business climate for tenants.

Added by Laws 1987, c. 228, § 2, eff. Jan. 1, 1988.

§74-5073. Definitions.

As used in this act:

1. "Director" means the Director of the Oklahoma Department of Commerce;

2. "Incubator" means a facility in which small units of space may be leased by a tenant and in which management maintains or provides access to business development services for use by tenants;

3. "Sponsor" means an organization, with a registered office or other office or offices in this state, which enters into a written agreement with the Oklahoma Department of Commerce to establish, operate, and administer a small business incubator facility or to provide funding to an organization which operates such a facility, including municipalities, universities, industrial and commercial development authorities, redevelopment authorities, municipal authorities, or any private nonprofit or for-profit organization approved by the Oklahoma Department of Commerce; and

4. "Tenant" means a sole proprietorship, business partnership, or corporation operating a business for profit and leasing or otherwise occupying space in an incubator.

Added by Laws 1987, c. 228, § 3, eff. Jan. 1, 1988.

§74-5074. Director - Powers and duties.

The Director of the Oklahoma Department of Commerce shall have the power and authority to carry out the following functions:

1. Solicit support and participation of public and private agencies, universities and other institutions for the purposes of establishing and operating incubators;

2. Assemble, publish and disseminate information to potential sponsors and tenants in this state regarding small business opportunities, techniques for forming incubators, sources of public and private assistance and sources of related financing;

3. Organize, host and participate in seminars and other forums designed to disseminate information and technical assistance regarding incubators to small businesses in this state; 4. Review and approve applications from potential sponsors which seek to qualify for exemption from state income tax pursuant to Sections 5 and 6 of this act; and

5. Establish a volunteer, local advisory committee, consisting of representatives from business and administrators at educational

institutions and other groups, to assist in the performance of these functions.

Added by Laws 1987, c. 228, § 4, eff. Jan. 1, 1988.

§74-5075. State income tax exemption for sponsor.

A. Income earned by a sponsor from rental fees, service fees or any other form of payment for services provided to a tenant as an operator of an incubator, or for providing funding for such a facility, shall be exempt from state income tax for a period not to exceed ten (10) years from the date of the tenant's occupancy in an incubator.

B. The Oklahoma Tax Commission shall promulgate rules and regulations to implement the provisions of this section.

Added by Laws 1987, c. 228, § 5, eff. Jan. 1, 1988. Amended by Laws 1997, c. 230, § 1, eff. Nov. 1, 1997.

§74-5076. Application to become sponsor.

A. Any company or association proposing to qualify as a sponsor under this act shall file an application with the Director of the Oklahoma Department of Commerce for approval. The application shall contain such information as the Director may by regulation require, and shall specifically acknowledge applicant's agreement to be bound by the conditions set forth in rules and regulations issued pursuant to this section. Each applicant also shall demonstrate:

1. That a facility exists that can be transformed into an incubator at a specified cost;

2. The ability directly to provide, or arrange for the provision of, business development services for tenants of the incubator. These services shall include, but not be limited to, financial consulting assistance, management and marketing assistance, and physical services;

3. A potential for sustained use of the incubator facility by eligible tenants, through a market study and other means; and

4. The ability to manage and operate the incubator facility in accordance with Section 7 of this act.

B. In determining whether to approve an application for qualification as a sponsor, the Director shall consider:

1. The ability of the sponsor to carry out the provisions of Section 7 of this act;

2. The economic impact of the incubator on the community;

3. The incubator's conformance with state, areawide and local economic development plans if such exist; and

4. The location of the incubator, in order to encourage geographic distribution of incubators across the state.

Added by Laws 1987, c. 228, § 6, eff. Jan. 1, 1988.

§74-5077. Responsibilities and duties of sponsor - Not-for-profit enterprises as tenants.

A. A sponsor shall have the following responsibilities and duties in establishing and operating an incubator:

1. Securing title to the facility or a lease with a sufficient length of term or other security, deemed sufficient by the Director of the Oklahoma Department of Commerce, to assure that the purposes of this act are carried out;

2. Managing the physical development of the incubator facility, including the provision of common conference or meeting space;

3. Furnishing and equipping the facility to provide business services to the tenants;

4. Marketing the facility and securing eligible tenants;

5. Providing financial consulting, marketing, and management assistance services or arranging for the provision of these services for tenants of the incubator, including assistance in accessing private financial markets;

6. Setting rental and service fees; and

7. Encouraging the sharing of ideas between tenants and otherwise aid the incubator and setting policy for the termination of occupancy of tenants so as to maximize the opportunity to succeed for the greatest number of tenants, consistent with the other criteria specified in this act.

B. Not-for-profit enterprises are not permitted as tenants in incubators assisted under this act except by specific consent of the Director in cases in which such tenancy would be exceptionally helpful in promoting the purposes of this act or such tenancy is essential to the economic viability of the incubator.

Added by Laws 1987, c. 228, § 7, eff. Jan. 1, 1988.

§74-5078. State income tax exemption for tenant.

A. For a period of up to ten (10) years from the date of tenant's occupancy in an incubator, income earned by the tenant as a result of activities conducted as an occupant in an incubator, including income distributed to partners, shareholders of a corporation for which a Subchapter S election is in effect and to the members of a limited liability company, shall be exempt from state income tax. The exemption provided by this section shall remain in effect for such activities by such tenant after the date the tenant is no longer an occupant in an incubator, but not to exceed a total duration of ten (10) years for any tenant.

B. In order to qualify for the income tax exemption for the sixth through tenth year as authorized by this section, the tenant must make at least seventy-five percent (75%) of its gross sales constituting the principal business activity of the business to buyers located outside the state or to buyers whose principal business activity is conducted outside the state or to the federal

government or to buyers located within the state if the product or service is resold to an out-of-state customer or buyer for ultimate use. Provided, if a tenant does not achieve the qualifying percentage for any one of the above tax years, the tenant shall not be disqualified for subsequent tax years in which the qualifying percentage is achieved.

The Oklahoma Tax Commission shall promulgate rules to implement the provisions of this section.

Added by Laws 1987, c. 228, § 8, eff. Jan. 1, 1988. Amended by Laws 1997, c. 230, § 2, eff. Nov. 1, 1997; Laws 2001, c. 187, § 1, eff. Nov. 1, 2001; Laws 2002, c. 486, § 11, eff. Jan. 1, 2003.

§74-5079. Annual report to Legislature.

On or before December 31 of each year, the Director of the Oklahoma Department of Commerce shall provide a report to both the Speaker of the House of Representatives and the President Pro Tempore of the Senate which shall include, but not be limited to:

1. The number of applications for incubators submitted;
2. The number of applications for incubators approved;
3. The number of incubators created under this act;
4. The number of tenants occupying each incubator;
5. The number of jobs provided by each incubator and tenants of each incubator; and
6. The number of firms still operating in the state after ending their tenancy in incubators and the number of jobs they have provided.

Added by Laws 1987, c. 228, § 9, eff. Jan. 1, 1988.

§74-5080. Repealed by Laws 1992, c. 259, § 5, emerg. eff. May 22, 1992.

§74-5081. Repealed by Laws 1992, c. 259, § 5, emerg. eff. May 22, 1992.

§74-5082. Repealed by Laws 1992, c. 259, § 5, emerg. eff. May 22, 1992.

§74-5083. Repealed by Laws 1992, c. 259, § 5, emerg. eff. May 22, 1992.

§74-5085.1. Short title.

Sections 5085.1 through 5085.12 of this title and Section 37 of this act shall be known and may be cited as the "Oklahoma Capital Formation Act".

Added by Laws 1991, c. 188, § 1, eff. July 1, 1991. Amended by Laws 1993, c. 275, § 36, eff. July 1, 1994.



§74-5085.2. Statement of need - Oklahoma Capital Investment Board - Certification by Governor.

A. Fundamental changes have occurred in national and international financial markets and in the financial markets of this state. Oklahoma needs to increase the availability of equity and near-equity capital for emerging, expanding and restructuring enterprises in Oklahoma. Such investments will create jobs for Oklahomans and will help to diversify the state's economic base.

B. Any public trust organized pursuant to Title 60 of the Oklahoma Statutes for the benefit of the entire State of Oklahoma, which was created for multiple purposes shall become eligible to be the Oklahoma Capital Investment Board as provided by this act. Such trust may amend its indenture to encompass the provisions of this act, and, upon certification by the Governor, such trust shall be known as and exercise all the powers of the Oklahoma Capital Investment Board as provided by law. After the certification of the trust as the Oklahoma Capital Investment Board, the trustees of such trust shall become members of the Board of Directors of the Oklahoma Capital Investment Board as provided for in Section 6 of this act. The Oklahoma Capital Investment Board is hereby constituted a public trust of the state and the exercise of the Board and powers conferred by this act shall be deemed and held to be the performance of essential public purposes.

Added by Laws 1991, c. 188, § 2, eff. July 1, 1991.

§74-5085.3. Mission of Oklahoma Capital Investment Board.

The mission of the Oklahoma Capital Investment Board shall be to mobilize equity and near-equity capital for investment in such a manner that will result in significant potential to create jobs and diversify and stabilize the economy of the State of Oklahoma.

Added by Laws 1991, c. 188, § 3, eff. July 1, 1991.

§74-5085.4. Business plan - Submission to Oklahoma Futures - Distribution of plan.

In order to fulfill its mission as mobilizer of equity and near-equity capital, the Oklahoma Capital Investment Board shall be subject to the policy development of Oklahoma Futures. The Oklahoma Capital Investment Board shall develop an annual business plan for the Board. The business plan shall be submitted to Oklahoma Futures for its approval and shall be included in the annual report of Oklahoma Futures. Oklahoma Futures shall review the business plan and the annual report of the Board to ensure its consistency with the goals of the state's recurring five-year economic development plan. The Board shall distribute copies of the business plan by such means that will make it widely available to communities, firms and local economic development managers throughout this state.

Oklahoma Futures shall not be involved in the day-to-day administration of the Board.

Added by Laws 1991, c. 188, § 4, eff. July 1, 1991.

§74-5085.5. Definitions.

For purposes of this act:

1. "Board" means the Oklahoma Capital Investment Board;
2. "Director" means any person who is a member of the Board;
3. "Equity capital" means capital invested in common or preferred stock, royalty rights, limited partnership interests, and any other securities or rights that evidence ownership in private businesses;
4. "Investor group" means any individual, corporation, partnership or other lawfully organized entity;
5. "Near-equity capital" means capital invested in unsecured, undersecured, subordinated or convertible loans or debt securities;
6. "Persons" means individuals, corporations, partnerships or other lawfully organized entities;
7. "Put option" means a right or privilege to sell an amount of a particular security or class of securities during a time period ending on the expiration date of the option; and
8. "Tax credits" means tax credits available against liabilities imposed by Section 2355 of Title 68 of the Oklahoma Statutes or Section 624 of Title 36 of the Oklahoma Statutes and issued or transferred pursuant to this act.
  - a. The tax credits issued or transferred pursuant to the Oklahoma Capital Formation Act, upon election by the purchaser at utilization, will be treated as a payment or prepayment in lieu of tax imposed under Section 2355 of Title 68 of the Oklahoma Statutes;
  - b. Tax credits utilized pursuant to subparagraph a of this paragraph shall be treated and may be claimed as a payment of tax or estimated tax for the purposes of and as defined in Sections 2375, 2385.9 and 2385.13 of Title 68 of the Oklahoma Statutes. Such tax credits are further subject to the system developed in conjunction with the Oklahoma Tax Commission as required by subsection C of Section 5085.7 of this title for registration and verification of the tax credits. Taxpayers may rely upon the provisions of the registration and verification system developed pursuant to Section 5085.7 of this title.

Added by Laws 1991, c. 188, § 5, eff. July 1, 1991. Amended by Laws 1995, c. 337, § 14, emerg. eff. June 9, 1995.

§74-5085.6. Oklahoma Capital Investment Board - Directors - Appointment and terms - Meetings - Disclosure - Conflicts of interest - Bonds.

A. The Oklahoma Capital Investment Board shall consist of five (5) Directors who shall be appointed by the Governor with the advice and consent of the Senate. Directors shall be selected based upon outstanding knowledge and leadership and shall possess experience in the management of investments similar in nature and in value to those of the Board. Directors shall serve for a term of office of five (5) years. Provided, the initial Board of Directors of the Oklahoma Capital Investment Board shall consist of the trustees of the trust certified as the Oklahoma Capital Investment Board pursuant to the provisions of Section 2 of this act and the Directors of the Oklahoma Capital Investment Board who were appointed pursuant to the provisions of Section 5061.6 of Title 74 of the Oklahoma Statutes. Positions on the Board of Directors held by trustees of such trust shall not be filled as the terms of office for said trustees expire. Positions on the Board of Directors held by Directors of the Oklahoma Capital Investment Board shall be filled by the Governor with the advice and consent of the Senate as the terms of office for said Directors expire and in a manner to allow one member to rotate off of the Board each year.

B. Annually, the Directors shall select a chairman to preside at their meetings. The Directors shall have the authority to manage the Oklahoma Capital Investment Board in accordance with the requirements of this act and its trust indenture.

C. The meetings of the Directors shall be subject to the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes, and the Oklahoma Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes. Any information submitted to or compiled by the Oklahoma Capital Investment Board with respect to the marketing plans, financial statements, trade secrets, research concepts, methods or products, or any other proprietary information of persons, firms, associations, partnerships, agencies, corporations or other entities shall be confidential, except to the extent that the person or entity that provided such information or that is the subject of such information consents to disclosure. Executive sessions may be held to discuss such materials if deemed necessary by the Directors.

D. A conflict of interest shall be deemed to exist in any contractual relationship in which a Director of the Board, officer, agent or employee or any for-profit firm or corporation in which such Director, officer, agent or employee or any member of his or her immediate family is an officer, partner, or principal stockholder, shall directly or indirectly buy or sell goods or services to, or otherwise contract with the Board. Upon a showing thereof, such Director, officer, agent or employee shall be subject

to removal and such contract shall be deemed unenforceable as against the Board unless the records of the Board shall reflect that such Director, officer, agent or employee fully and publicly disclosed all such interest or interests, and unless such contractual relationship shall have been secured by competitive bidding following a public invitation to bid. If a Director, officer, agent or employee holds such an interest, he or she shall refrain from any further official involvement in regard to such contract or agreement, from voting on any matter pertaining to such contract or agreement, and from communicating with other Board members, officers, agents or employees concerning said contract or agreement.

E. Bonds issued by the Oklahoma Capital Investment Board shall be subject to oversight pursuant to the Oklahoma Bond Oversight and Reform Act, Section 695.1 et seq. of Title 62 of the Oklahoma Statutes.

Added by Laws 1991, c. 188, § 6, eff. July 1, 1991.

#### §74-5085.7. Tax credits.

A. The State of Oklahoma hereby issues tax credits that may be used to reduce the tax liability of a person, firm or corporation if such liability is imposed pursuant to the provisions of Section 2355 of Title 68 of the Oklahoma Statutes or Section 624 of Title 36 of the Oklahoma Statutes. Provided, tax credits against liabilities imposed pursuant to Section 624 of Title 36 of the Oklahoma Statutes shall be limited to the amount that would otherwise be collected and allocated to the General Revenue Fund of the State Treasury. Tax credits issued and transferred to the Oklahoma Development Finance Authority pursuant to the provisions of this section and prior to July 1, 1991, are hereby transferred to the Oklahoma Capital Investment Board, created pursuant to the provisions of the Oklahoma Capital Formation Act. The total amount of tax credits that are hereby issued, or are transferred pursuant to this section to the Board, is One Hundred Million Dollars (\$100,000,000.00). The credits shall be freely transferable to subsequent transferees; however, no such tax credit shall be exercisable before July 1, 1990, nor, except as otherwise provided by subsection B of this section, after July 1, 2020.

B. Tax credits may be exercised after July 1, 2020, if such tax credits were purchased or were agreed to be purchased based upon a contractual commitment to the Board made by a person or entity pursuant to an agreement originally entered into no later than December 31, 1995. Any such credits may be exercised until fully utilized by the person or entity having entered into such contractual commitment or by any person or entity having obtained tax credits from a person or entity having made such a contractual

commitment or by any subsequent transferee if such tax credit transfer occurred prior to the effective date of this act.

C. The Board shall not transfer tax credits except in conjunction with a legitimate call on a Board guarantee. The Board shall immediately notify the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor in writing if any tax credit is transferred in conjunction with a legitimate call on a Board guarantee; provided, the Board shall not be required to make such notification for transfers to subsequent transferees.

D. The Board shall determine the amount of individual tax credits to be transferred pursuant to the Oklahoma Capital Formation Act and may negotiate for sale of such credits subject only to the limits imposed by the Oklahoma Capital Formation Act, including the provisions of subsections F and G of Section 5085.8 of this title.

E. The Board shall ensure that no more than Twenty Million Dollars (\$20,000,000.00) in tax credits has been transferred which may be claimed and used to reduce the tax otherwise imposed by Section 2355 of Title 68 of the Oklahoma Statutes or Section 624 of Title 36 of the Oklahoma Statutes for any one (1) fiscal year.

F. The Board shall clearly indicate upon the face of the certificate or other document transferring the tax credit the principal amount of the tax credit and the taxable year or years for which the credit may be claimed.

G. Any original sale of tax credits by the Board shall be by competitive bidding unless the sale is for full-face value.

H. The Board shall, in conjunction with the Oklahoma Tax Commission, develop a system for registration of any tax credits issued or transferred pursuant to the Oklahoma Capital Formation Act and a system of certificates that permits verification that any tax credit claimed upon a tax return is validly issued, properly taken in the year of claim and that any transfers of the tax credit are made in accordance with the requirements of the Oklahoma Capital Formation Act.

I. The Board may pay a fee in connection with the purchase by the Board of an option or other agreement pursuant to which a transfer of tax credits authorized by the Oklahoma Capital Formation Act may be made.

J. Except as otherwise provided by this section and by subsections F and G of Section 5085.8 of this title, the Board shall have the power to make any contract, execute any document, charge reasonable fees for services rendered, perform any act or enter into any financial or other transaction necessary in order to carry out its mission.

K. The Board may employ such persons as may be required for the proper implementation of the Oklahoma Capital Formation Act, the management of its assets, or the performance of any function

authorized or required by the Oklahoma Capital Formation Act or necessary for the accomplishment of any such function. Such persons shall be selected by the Board based upon outstanding knowledge and leadership in the field for which the person performs services for the Board.

Added by Laws 1987, c. 222, § 46, operative July 1, 1987. Amended by Laws 1990, c. 150, § 1; Laws 1991, c. 188, § 7, eff. July 1, 1991. Renumbered from § 5061.7 of this title by Laws 1991, c. 188, § 16, eff. July 1, 1991. Amended by Laws 1995, c. 337, § 15, emerg. eff. June 9, 1995; Laws 2000, c. 201, § 1, eff. Nov. 1, 1999; Laws 2012, c. 361, § 1, emerg. eff. June 8, 2012.

#### §74-5085.8. Investment of capital.

A. Except as otherwise provided by subsections F and G of this section, the Oklahoma Capital Investment Board shall have the power to solicit proposals from qualified investor groups for investment of capital in accordance with the requirements of the Oklahoma Capital Formation Act. The Board shall establish criteria for selection of persons, firms, corporations or other entities deemed qualified to generate capital for investment in a manner which will result in a significant potential to create jobs and to diversify and stabilize the economy of the State of Oklahoma. Such criteria shall include the applicant's level of experience, quality of management, investment philosophy and process, historical investment performance, probability of success in fund raising, the amount and timing of fees to be paid, and such other investment criteria as may be commonly used in professional portfolio management as the Board may deem appropriate.

B. Except as otherwise provided by subsections F and G of this section, the Board shall have the power to extend a guarantee in the form of a put option or such other method as selected by the Board. Guarantees may extend to principal plus interest over the term of the guarantee at a rate set by Board resolution from time to time. Guarantees in whatever form negotiated by the Board may be made for any period of time, but no term shall expire prior to January 1, 1992. The Board may charge a reasonable fee for costs and the fair compensation of risk associated with its guarantee. The guarantees extended by the Board shall in no way be an obligation of the state and may be restricted to specific funds or assets of the Board; provided, however, proceeds from the sale of any tax credits shall be sufficient to meet contractual guarantee obligations of the Board. The Board shall have the right to contract freely to protect the interests of the State of Oklahoma. The Board shall ensure that at least Two Dollars (\$2.00) will be invested in Oklahoma businesses or projects for every One Dollar (\$1.00) of principal guaranteed by the Board.

C. If the Board purchases any security pursuant to an agreement with an investor group, the Board shall acquire such securities and may invest, manage, transfer or dispose of such securities in accordance with policies for management of assets adopted by the Board.

D. Except as otherwise provided by subsections F and G of this section, the Board shall have the power to make any contract, execute any document, perform any act or enter into any financial or other transaction necessary in order to carry out its mission. The Board may employ such persons as may be required for the performance of any function authorized or required by the Oklahoma Capital Formation Act or necessary for the accomplishment of any such function. Such persons shall be selected based upon outstanding knowledge and leadership in the field for which the person performs services for the Board. In selecting such persons, the Board shall hire persons who meet standards applicable to persons responsible for investment of equity and near-equity securities.

E. In carrying out the mission of the Board as authorized in the Oklahoma Capital Formation Act, neither the Board nor its officers, directors or employees shall be considered to be broker-dealers, agents, investment advisors or investment adviser representatives under Title 71 of the Oklahoma Statutes. The tax credits issued or transferred pursuant to the Oklahoma Capital Formation Act and Section 2357.7 of Title 68 of the Oklahoma Statutes shall not be considered to be securities under Title 71 of the Oklahoma Statutes.

F. On and after the effective date of this act, except for the investment of funds required by provisions in a contract executed by the Board or by any subsidiary or affiliate of the Board prior to the effective date of this act, or executed by an entity that was not a subsidiary or affiliate of the Board at the time such contract was executed but which became a subsidiary or affiliate of the Board subsequent to the execution of such contract, but prior to the effective date of this act, neither the Board nor any entity which is a subsidiary or affiliate of the Board nor any entity which is controlled either directly or indirectly by the Board or which acts under the authority of or pursuant to the direction of the Board shall:

1. Enter into any contract authorizing or requiring the investment of any funds obtained by the Board, or commitment binding the Board to make any investment of any funds obtained by the Board, or the investment of any funds obtained by a subsidiary, affiliate or any entity under the direct or indirect control of the Board, in any corporation, general partnership, limited partnership, limited liability company, private equity or hedge fund or other lawfully recognized business entity; or

2. Modify any agreement executed prior to the effective date of this act by the Board or executed by any subsidiary or affiliate of the Board or executed by any entity that was not a subsidiary or affiliate of the Board at the time such contract was executed, but which subsequently became a subsidiary or affiliate, in any manner that would have the effect of increasing the amount of any contractual commitment to make an investment of funds in a general or limited partnership, corporation, limited liability company, private equity or hedge fund or any other lawfully recognized entity.

G. On and after the effective date of this act, except for the use of funds required by provisions in a contract executed by the Board or by any subsidiary or affiliate of the Board prior to the effective date of this act, or executed by an entity that was not a subsidiary or affiliate of the Board at the time such contract was executed but which became a subsidiary or affiliate of the Board subsequent to the execution of such contract, but prior to the effective date of this act, neither the Board nor any entity which is a subsidiary or affiliate of the Board nor any entity which is controlled either directly or indirectly by the Board or which acts under the authority of or pursuant to the direction of the Board shall:

1. Enter into any contract for the purpose of guaranteeing, in whole or in part, the repayment of obligations owed by a business entity, other than a subsidiary of the Board, in connection with a loan of money from a bank, financial institution or any other entity; or

2. Modify any contract described by paragraph 1 of this subsection executed prior to the effective date of this act by the Board or executed by any subsidiary or affiliate of the Board or executed by any entity that was not a subsidiary or affiliate of the Board at the time such contract was executed, but which subsequently became a subsidiary or affiliate, in a manner that would increase any existing obligation of the Board or its subsidiary or affiliate or extend the term of any such contract.

Added by Laws 1991, c. 188, § 8, eff. July 1, 1991. Amended by Laws 2012, c. 361, § 2, emerg. eff. June 8, 2012.

§74-5085.9. Annual report - Evaluation by Oklahoma Futures.

A. The Board shall publish a separate annual report in conjunction with its annual audit and present the report to the Governor, the Legislature and Oklahoma Futures. The annual report shall review the mission of the Board and programs implemented according to objective measures set forth in the Board's business plan. The Board shall distribute this annual report by such means that will make it available to the financial community.



B. Seven (7) years after the Board has begun operations, Oklahoma Futures shall review, analyze and evaluate the extent to which the Board has achieved its statutory mission. The evaluation shall include, but not be limited to, an examination of quantified results of the Board's programs and plans.  
Added by Laws 1991, c. 188, § 9, eff. July 1, 1991.

§74-5085.10. Spending authority.

Notwithstanding other provisions of law, the Board or any entity designated by the Board, shall have the authority to expend funds to administer and operate the programs of the Oklahoma Capital Investment Board.

Added by Laws 1991, c. 188, § 10, eff. July 1, 1991.

§74-5085.11. Oklahoma Capital Formation Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Department of Commerce to be designated the "Oklahoma Capital Formation Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of appropriated funds. All monies accruing to the credit of said fund are hereby appropriated and, as authorized by the Oklahoma Capital Investment Board, shall be expended by the Oklahoma Department of Commerce to perform the duties imposed upon the Oklahoma Capital Investment Board by law. Expenditures of appropriated funds from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. On the effective date of this act, any unencumbered funds remaining in the Oklahoma Capital Investment Board Revolving Fund shall be transferred to the credit of the Oklahoma Capital Formation Revolving Fund. Any unexpended funds remaining in the Oklahoma Capital Investment Board Revolving Fund after November 15, 1991, shall be transferred to the credit of the Oklahoma Capital Formation Revolving Fund.

Added by Laws 1991, c. 188, § 11, eff. July 1, 1991. Amended by Laws 2012, c. 304, § 1043.

§74-5085.12. Construction of act.

Nothing contained herein is or shall be construed as a restriction or limitation upon any powers which the Oklahoma Capital Investment Board might otherwise have under any other law of this state heretofore or hereafter enacted and the provisions of this act are cumulative to such powers. The provisions hereof do and shall be construed to provide a complete, additional and alternative method for the doing of the things authorized and shall be regarded

as supplemental and additional to powers conferred by any other laws.

Added by Laws 1991, c. 188, § 12, eff. July 1, 1991.

§74-5085.14. Adoption of rules, policies, procedures and regulatory and administrative measures - Enforceability of guarantees of Board unaffected.

A. The Oklahoma Capital Investment Board may adopt rules, policies, procedures and regulatory and administrative measures necessary to administer the programs of the Board or convenient for the organization and internal management of Board responsibilities.

B. The level, timing or degree of success of the Oklahoma Capital Investment Board in mobilizing or ensuring investment in Oklahoma businesses or projects, accomplishing other economic development objectives or achieving any other statutory duty shall not compromise, diminish, invalidate or affect the enforceability of any guarantee of the Board.

Added by Laws 1993, c. 275, § 37, eff. July 1, 1994.

§74-5085.15. Distribution of remaining monies - General revenue fund.

Within thirty (30) days after the Oklahoma Capital Investment Board or any subsidiary or affiliate of the Board has made payment of any remaining expense or obligation created by the Board or by the subsidiary or affiliate, pursuant to the terms of any promissory note, loan agreement, guaranty agreement, investment agreement or other contract or agreement, any remaining monies paid to either the Board or any subsidiary or affiliate of the Board pursuant to the terms of an agreement or contract entered into prior to the effective date of this act shall be paid by the Board or by its subsidiary or affiliate to the General Revenue Fund of the State Treasury.

Added by Laws 2012, c. 361, § 3, emerg. eff. June 8, 2012.

§74-5085.16. Effect.

None of the provisions of this act shall alter, amend, modify, affect, diminish or impair the enforceability of, or any obligation or liability of the Oklahoma Capital Investment Board or any entity which is a subsidiary or affiliate of the Oklahoma Capital Investment Board or any entity which is controlled either directly or indirectly by the Oklahoma Capital Investment Board under any contract, agreement, guarantee or instrument entered into or delivered by such party with any business entity or bank, financial institution or any other entity existing as of the effective date of this act, including, without limitation, any guarantee extended by the Oklahoma Capital Investment Board and any assignment of any third-party commitments to purchase, and proceeds released from the

sale of, tax credits, all of which shall remain in full force and effect.

Added by Laws 2012, c. 361, § 4, emerg. eff. June 8, 2012.

§74-5086.1. Repealed by Laws 1994, c. 285, § 11, eff. July 1, 1994.

§74-5086.2. Repealed by Laws 1994, c. 285, § 11, eff. July 1, 1994.

§74-5086.3. Repealed by Laws 1994, c. 285, § 11, eff. July 1, 1994.

§74-5086.4. Repealed by Laws 1994, c. 285, § 11, eff. July 1, 1994.

§74-5086.5. Repealed by Laws 1994, c. 285, § 11, eff. July 1, 1994.

§74-5086.6. Repealed by Laws 1994, c. 285, § 11, eff. July 1, 1994.

§74-5086.7. Repealed by Laws 1994, c. 285, § 11, eff. July 1, 1994.

§74-5086.8. Repealed by Laws 1994, c. 285, § 11, eff. July 1, 1994.

§74-5086.9. Repealed by Laws 1994, c. 285, § 11, eff. July 1, 1994.

§74-5086.10. Repealed by Laws 1994, c. 285, § 11, eff. July 1, 1994.

§74-5100. Repealed by Laws 1994, c. 100, § 6, eff. Sept. 1, 1994.

§74-5101. Repealed by Laws 1994, c. 100, § 6, eff. Sept. 1, 1994.

§74-5102. Short title - Purpose - Definitions.

A. Sections 1 through 3 of this act shall be known and may be cited as the "Local Development Financing Act".

B. The purpose of the Local Development Financing Act shall be to augment and enhance Section 6C of Article X of the Oklahoma Constitution by:

1. Assisting communities, especially small and rural towns and counties, by providing a financial resource for economic development endeavors; and

2. Creating marketability for tax apportionment financing vehicles under the Local Development Act.

C. As used in this act:

1. "Administrator" means an organization authorized by an issuer of a debt obligation pursuant to the Local Development Act, which undertakes the performance of the responsibilities contained in subsection C of Section 3 of this act; and

2. "Pooling issuer" means any state or local public entity authorized to issue notes or bonds pursuant to the Oklahoma Statutes

for economic development financing of state industries and public facilities.

Added by Laws 2004, c. 527, § 1, eff. July 1, 2004.

§74-5103. Pooling issuer - Authority.

A pooling issuer is authorized to:

1. Issue a debt obligation which pools issuances of other public entities authorized by a municipality, town or county to issue tax apportionment or tax increment bonds, notes, or other forms of obligations pursuant to the Local Development Act; and
2. Attract private investment into the pooled issuance by either the direct investment of funds or by providing a guarantee for debt service for the purpose of implementing the Local Development Financing Act.

Added by Laws 2004, c. 527, § 2, eff. July 1, 2004.

§74-5104. Pooling issuer - Primary activities.

A. The primary activities of the pooling issuer may include:

1. Credit enhancement of local community development financing pursuant to the Local Development Act;
2. Utilization of private and public resources to improve the financing infrastructure for communities in this state;
3. Acting as an investor, insurer and/or guarantor of business capital and debt financing on behalf of communities in this state;
4. Marketing public obligations resulting from pooled obligations as provided in this act; and
5. Serving as a purchaser of, and as a guarantor for, the obligations of designated public entities to be repaid in whole or in part with the apportioned tax increments pursuant to the Local Development Act.

B. A pooling issuer may amend its indenture or authorizing document in accordance with the Oklahoma Statutes for purposes of issuing a pooled debt obligation pursuant to this act.

C. The Administrator shall be responsible for establishing, implementing, and coordinating economic development and financing programs for communities pursuant to this act and proposing such financing programs to the pooling issuer.

D. The pooling issuer may invest funds directly in its own pooled obligations pursuant to this section.

E. The following persons and legal entities may legally invest funds belonging to them or within their control in any notes, bonds, or other obligations issued under the Local Development Financing Act:

1. All banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking or investment business;

2. All insurance companies, insurance associations, and other persons carrying on an insurance business; and

3. All executors, administrators, curators, trustees, and other fiduciaries.

Such notes, bonds and other obligations shall be authorized security for all public deposits.

F. The state and its political subdivisions are authorized to use any funds owned or controlled by them for the purchase of any such notes, bonds or other obligations issued under the Local Development Financing Act.

G. Nothing contained in subsections E and F with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities.

Added by Laws 2004, c. 527, § 3, eff. July 1, 2004.

§74-5151. Short title - Oklahoma Public and Private Facilities and Infrastructure Act.

This act shall be known and may be cited as the "Oklahoma Public and Private Facilities and Infrastructure Act".

Added by Laws 2017, c. 251, § 1, eff. Nov. 1, 2017.

§74-5152. Definitions.

A. As used in the Oklahoma Public and Private Facilities and Infrastructure Act:

1. "Contract" means any purchase and sale agreement, lease, service agreement, franchise agreement, concession agreement or other written agreement entered into under this act with respect to the provision of a public service and any project related thereto;

2. "Improvement" means any instruction, reconstruction, rehabilitation, renovation, installation, improvement, enlargement or extension of property or improvements to property;

3. "Partnership Committee" means a committee consisting of nine (9) members, three members appointed by the President Pro Tempore of the Senate, three members appointed by the Speaker of the House of Representatives and three representatives of the Office of Management and Enterprise Services (OMES), to be appointed by the Governor. Five members of the Partnership Committee shall constitute a quorum. The Partnership Committee shall act only upon a decision of a majority of appointed members;

4. "Private sector entity" means any corporation, whether for profit or not for profit, limited liability company, partnership, limited liability partnership, sole proprietorship, business trust, joint venture or other entity, but shall not mean the state, a political subdivision of the state, or a public or governmental entity, agency or instrumentality of the state;

5. "Project" means real or personal property, or both, and improvements thereto or in support thereof, including undivided and

other interests therein, used for or in the provision of a public service;

6. "Proposer" means a private sector entity, a local or regional public entity or agency, or any group or combination thereof, submitting qualifications or a proposal for a public-private partnership contract;

7. "Public service" means a service provided for a public purpose of a responsible state agency and identified in an invitation for qualifications or proposals under this act; and

8. "Responsible state agency" means the agency, department, commission, authority or other instrumentality of the state responsible for the provision of the public service which is or is proposed to be the subject of a contract. Any such agency that is subject to the Oklahoma Central Purchasing Act, the Public Competitive Bidding Act, the Oklahoma State Finance Act and the Oklahoma Privatization of the State Functions Act shall comply with these laws.

B. The Oklahoma Department of Transportation and the Oklahoma Turnpike Authority shall be exempt from this act. However, the Oklahoma Department of Transportation and the Oklahoma Turnpike Authority may utilize the general provisions and process described herein to develop a public-private partnership contract for a transportation improvement in consultation with the Director of the Office of Management and Enterprise Services (OMES) and subject to the approval of the Oklahoma Transportation Commission or the Oklahoma Turnpike Authority Board as applicable.

Added by Laws 2017, c. 251, § 2, eff. Nov. 1, 2017.

§74-5153. Eminent domain.

The Oklahoma Public and Private Facilities and Infrastructure Act does not alter the eminent domain laws of this state or grant the power of eminent domain to any person who is not expressly granted that power under other state law.

Added by Laws 2017, c. 251, § 3, eff. Nov. 1, 2017.

§74-5154. Partnership Committee - Office of Public-Private Partnership - Scope of authority.

A. The Partnership Committee shall have the ability to identify potential public-private partnerships, to review and endorse a short list of qualified bidders, to approve requests for proposals and to approve template contracts before they are sent to bidders. The Partnership Committee shall operate with the assistance of the Office of Public-Private Partnerships. In order to protect the Separation of Power set out in Article IV of the Oklahoma Constitution, the Partnership Committee shall not have the power to enter into any contract, nor shall it have the power to block any contract negotiated by the Director of the Office of Management and

Enterprise Services (OMES) and the authorized representative of any responsible state agency.

B. There shall be established within OMES an Office of Public-Private Partnerships, which shall have the authority to charge fees for services it shall render as part of the procedures to establish partnerships in accordance with this act and to receive money to cover its operating expenses and to accomplish the purposes of this act.

C. The Director of OMES and the authorized representative of a responsible state agency shall jointly take any action and execute any public-private partnership contract, authorized under this act, for the provision of a public service in order to more efficiently and effectively provide public services, including by generating additional resources in support of those public services and related projects.

Added by Laws 2017, c. 251, § 4, eff. Nov. 1, 2017.

§74-5155. Selection of projects - Public-sector comparators.

A. Selection of Projects. Any proposer or responsible state agency may submit to the Partnership Committee one or more proposals for partnership projects in connection with any public service. The Partnership Committee shall identify potential projects and public services for which a public-private partnership may be appropriate from those received from a proposer, a responsible state agency or those identified by the Partnership Committee itself. The Partnership Committee shall select such projects based on the partnership's potential to improve public operational efficiencies, improve environmental performance, promote public safety, attract private investment in the state and minimize governmental liabilities.

B. Public-Sector Comparators. After the Partnership Committee identifies a potential partnership for a public project or public service, the Office of Public-Private Partnerships shall conduct a public-sector comparator study of the potential partnership. The Partnership Committee shall determine the scope of each public sector comparator, which scope shall depend on the type of proposed partnership and the nature of the public service under consideration for the partnership. The following issues shall be considered as components of a public sector comparator:

1. The definition of the need served by the proposed partnership;

2. The cost required to meet the public need served by the public service under traditional procurements or traditional state agency operations;

3. An analysis of alternative methods for providing the public services under consideration, including but not limited to design-build, design-build-finance, design-build-finance-operate-maintain,

service contracts or leases and how the alternative method(s) would meet the need served by the public service; and

4. An evaluation of the cost/benefit of using an alternative method or public-private partnership to render a public service, which cost/benefit analysis shall include:

- a. the potential cost of utilizing an alternative method,
- b. the operational and technological risks involved in utilizing an alternative method,
- c. a comparative analysis of rendering the public service by allowing the responsible state agency to utilize traditional methods,
- d. the financial impact the partnership will have on the responsible state agency, and
- e. the impact a partnership would have on job formation, economic growth and the community in which the public service is to be rendered.

C. The Partnership Committee shall use the results of the public sector comparator to determine which public services and projects are appropriate for partnership. The Office of Public-Private Partnerships shall publish on its website the public sector comparator for each project to provide a public service for which a request for qualifications is initiated.

D. The Office of Public-Private Partnerships shall publish notice of the intent to enter into a contract for a partnership for public service or related project and shall prepare a request for qualifications for private sector entities interested in serving as proposers for the partnership. The notice shall notify interested parties of the opportunity to submit their qualifications for consideration and shall be published at least sixty (60) days prior to the deadline for submitting those qualifications. The Office also may advertise the information contained in the notice in appropriate trade journals and otherwise notify parties believed to be interested in providing the public service and in any related project.

E. After inviting proposers to bid on the project, the Partnership Committee shall evaluate the qualifications submitted and may hold discussions with proposers to further explore their qualifications. Following this evaluation, the Partnership Committee may determine a list of qualified proposers based on criteria in the invitation and invite only those proposers to submit a proposal.

F. The Office of Public-Private Partnerships shall prepare a request for proposal, which may include proposal stipends and the proposed partnership contract, both of which shall be approved by the Partnership Committee. After the Partnership Committee's approval of the request for proposal and the partnership contract, the project shall be deemed an Approved Partnership Procurement.



G. Partnership contracts may contain the terms and conditions to carry out and effect the purposes of this act, including the duration of the contract, which shall not exceed ninety-nine (99) years, rates or fees for the public services to be provided or methods or procedures for the determination of such rates or fees, standards for the public services to be provided, responsibilities and standards for operation and maintenance of any related project, required financial assurances, financial and other data reporting requirements, bases and procedures for termination of the contract and retaking of possession or title to the project, and events of default and remedies upon default, including mandamus, a suit in equity, an action at law or any combination of those remedial actions. Partnership contracts may also include a requirement for the delivery of performance and payment bonds required for all construction activities and letters of credit, surety bonds or other security in connection with the development or operation of the qualifying project in the forms and amounts satisfactory to the responsible governmental entity.

H. After proposals are received, the Office of Public-Private Partnerships, using the criteria established in the request for proposal by the Partnership Committee, shall evaluate the proposals submitted and may hold discussions with proposers to further explore their proposals, the scope and nature of the public service(s) they would provide and the various technical approaches they may take regarding the public service and any related project. Following this evaluation, the Partnership Committee shall select and rank no fewer than three proposers that the Partnership Committee considers to be the most qualified to enter into the contract, except when the Partnership Committee determines that fewer than three qualified proposers are available, in which case the Partnership Committee shall select and rank them.

I. After the proposers have been ranked by the Partnership Committee, the Director of the Office of Management and Enterprise Services (OMES) and the authorized representative of the responsible state agency shall negotiate the contract with the proposer ranked most qualified to provide the public service at a compensation determined in writing to be fair and reasonable and to purchase, lease or otherwise take a legal interest in the project.

J. Upon failure to negotiate a contract with the proposer ranked most qualified, the Director of OMES shall inform the proposer in writing of the termination of negotiations and may enter, with the responsible state agency, into negotiations with the proposer ranked next most qualified. If negotiations again fail, the same procedure may be followed with each next most qualified proposer selected and ranked, in order of ranking, until a contract is negotiated and executed or the request for proposal is withdrawn.

K. If the Director of OMES and the authorized representative of the responsible state agency fail to negotiate a contract with any of the ranked proposers, the Director of OMES, in consultation with the responsible state agency, may terminate the process or select and rank additional proposers based on their qualifications or proposals, and negotiations shall continue as with the proposers selected and ranked initially until a contract is negotiated.

L. The Director of OMES and the authorized representative of the responsible state agency may jointly reject any and all submissions of qualifications or proposals and may jointly terminate the procurement process at any point.

M. The Director of OMES and the authorized representative of the responsible state agency shall have the authority to make commercially reasonable changes to the partnership contract approved by the Partnership Committee. Any such contract may contain the terms and conditions to carry out and effect the purposes of this act.

N. Any submission not selected by the responsible state agency shall be considered intellectual property that shall remain the property of the proposer.

Added by Laws 2017, c. 251, § 5, eff. Nov. 1, 2017.

§74-5156. Signature requirements for partnership contracts- Receipt and deposit of money received under contracts - Value report to the House and Senate.

A. Partnership contracts shall be signed by both the Director of the Office of Management and Enterprise Services (OMES) and the authorized representative of the responsible state agency for which the public service at issue in the contract relates.

B. The Director of OMES is authorized to receive and deposit any money received under the contract. Any such contract shall be sufficient to effect its purpose notwithstanding any provision of law to the contrary, including other laws governing the sale, lease or other disposition of property or interests therein, service contracts or financial transactions by or for the state.

C. The Office of Public-Private Partnerships shall provide a report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate explaining the value of the contract to the state and describing the procurement process by which the contract was reached.

Added by Laws 2017, c. 251, § 6, eff. Nov. 1, 2017.

§74-5157. Exemption from taxation and assessments.

The exercise of the powers granted by this act will be for the benefit of the people of the state and shall be liberally construed to effect the purposes thereof. As the performance of public services will constitute the performance of essential government

functions, any project or part thereof owned by the state and used for performing any public service pursuant to a contract entered into under this act that would be exempt from taxation or assessments in the absence of such contract shall remain exempt from taxation and assessments levied by the state and its subdivisions to the same extent as if not subject to that contract. The gross receipts and income of a successful proposer derived from providing public services under a contract through a project owned by the state shall be exempt from taxation levied by the state and its subdivisions. Any transfer or lease between a proposer and the state of a project or part thereof, or item included or to be included in the project, shall be exempt from any taxes levied if the state is retaining ownership of the project or part thereof that is being transferred or leased.

Added by Laws 2017, c. 251, § 7, eff. Nov. 1, 2017.

§74-5158. Services from outside providers to carry out the Director's powers and duties.

The Director of the Office of Management and Enterprise Services (OMES), in consultation with the responsible state agency, may retain or contract for the services of commercial appraisers, engineers, investment bankers, financial advisers, accounting experts and other consultants, independent contractors or providers of professional services as are necessary in the judgment of the Director to carry out the Director's powers and duties under this act. This may include the identification of public services and any related projects to be subject to invitations for qualifications or proposals under this act, the development of those invitations and related evaluation criteria, the evaluation of those invitations and the negotiation of any contract under this act.

Added by Laws 2017, c. 251, § 8, eff. Nov. 1, 2017.

§74-5161. Short title - Oklahoma Local Public and Private Facilities and Infrastructure Act.

This act shall be known and may be cited as the "Oklahoma Local Public and Private Facilities and Infrastructure Act".

Added by Laws 2017, c. 332, § 1, eff. Nov. 1, 2017.

NOTE: Editorially renumbered from § 5151 of this title to avoid duplication in numbering.

§74-5162. Definitions.

As used in the Oklahoma Local Public and Private Facilities and Infrastructure Act:

1. "Contract" means any purchase and sale agreement, lease or other written agreement entered into under this act with respect to the provision of a public project;

2. "Improvement" means any instruction, reconstruction, rehabilitation, renovation, installation, improvement, enlargement or extension of property or improvements to property;

3. "Private sector entity" means any corporation, whether for profit or not for profit, limited liability company, partnership, limited liability partnership, sole proprietorship, business trust, joint venture or other entity, but shall not mean the state, a political subdivision of the state, or a public or governmental entity, agency or instrumentality of the state;

4. "Proposer" means a private sector entity, a local or regional public entity or agency, or any group or combination thereof, submitting qualifications or a proposal for a public-private partnership contract;

5. "Public project" means the improvement of real or personal property, or both, and associated services provided for a public purpose of a responsible governmental entity and identified in an invitation for qualifications or proposals under this act; and

6. "Responsible governmental entity" means a local governmental entity that is responsible for the provision of the public project which is or is proposed to be the subject of a contract.

Added by Laws 2017, c. 332, § 2, eff. Nov. 1, 2017.

NOTE: Editorially renumbered from § 5152 of this title to avoid duplication in numbering.

§74-5163. Eminent domain.

The Oklahoma Local Public and Private Facilities and Infrastructure Act does not alter the eminent domain laws of this state or grant the power of eminent domain to any person who is not expressly granted that power under other state law.

Added by Laws 2017, c. 332, § 3, eff. Nov. 1, 2017.

NOTE: Editorially renumbered from § 5153 of this title to avoid duplication in numbering.

§74-5164. Authority to execute contracts - Public purpose.

A responsible governmental entity may take any action and execute any Public-Private Partnership contract, authorized under this act, for the provision of a public purpose in order to more efficiently and effectively provide public services, including by generating additional resources in support of the public project.

Added by Laws 2017, c. 332, § 4, eff. Nov. 1, 2017.

NOTE: Editorially renumbered from § 5154 of this title to avoid duplication in numbering.

§74-5165. Approved Partnership Procurement process - Contract terms and conditions.

A. The responsible governmental entity may prepare a request for proposal, which may include proposal stipends, and the proposed

partnership contract, both of which shall be approved by the responsible governmental entity. After the responsible governmental entity's approval of the request for proposal and the partnership contract, the public project shall be deemed an Approved Partnership Procurement.

B. Partnership contracts may contain the terms and conditions to carry out and effect the purposes of this act, including the duration of the contract, rates or fees for the public project to be provided or methods or procedures for the determination of such rates or fees, standards for the public project to be provided, responsibilities and standards for operation and maintenance of any related public project, required financial assurances, financial and other data reporting requirements, bases and procedures for termination of the contract and retaking of possession or title to the public project, and events of default and remedies upon default, including mandamus, a suit in equity, an action at law, or any combination of those remedial actions.

C. Partnership contracts may also include a requirement for the delivery of performance and payment bonds required for all construction activities, and letters of credit, surety bonds or other security in connection with the development or operation of the qualifying public project, in the forms and amounts satisfactory to the responsible governmental entity.

D. After proposals are received, the responsible governmental entity, using the criteria established in the request for proposal, shall evaluate the proposals submitted and may hold discussions with proposers to further explore their proposals, the scope and nature of the public project, and the various technical approaches they may take regarding the public project.

E. The responsible governmental entity may reject any and all submissions of qualifications or proposals and may terminate the procurement process at any point.

F. The responsible governmental entity shall have the authority to make commercially reasonable changes to the partnership contract. Any such contract may contain the terms and conditions to carry out and effect the purposes of this act.

G. Any submission not selected by the responsible governmental entity shall be considered intellectual property that shall remain the property of the proposer.

Added by Laws 2017, c. 332, § 5, eff. Nov. 1, 2017.

NOTE: Editorially renumbered from § 5155 of this title to avoid duplication in numbering.

§74-5166. Signature requirement - Receipt and deposit of money received under contracts.

A. Partnership contracts shall be signed by an assigned representative of the governmental entity for which the public project at issue in the contract relates.

B. The responsible governmental entity is authorized to receive and deposit any money received under the contract. Any such contract shall be sufficient to effect its purpose notwithstanding any provision of law to the contrary, including other laws governing the sale, lease or other disposition of property or interests therein, service contracts or financial transactions by or for the responsible governmental entity.

Added by Laws 2017, c. 332, § 6, eff. Nov. 1, 2017.

NOTE: Editorially renumbered from § 5156 of this title to avoid duplication in numbering.

§74-5167. Services from outside providers to carry out the governmental entity's powers and duties.

The responsible governmental entity may retain or contract for the services of commercial appraisers, engineers, investment bankers, financial advisers, accounting experts and other consultants, independent contractors or providers of professional services as are necessary in the judgment of the responsible governmental entity to carry out the powers and duties under this act. This may include the identification of public projects to be subject to invitations for qualifications or proposals under this act, the development of those invitations and related evaluation criteria, the evaluation of those invitations and the negotiation of any contract under this act.

Added by Laws 2017, c. 332, § 7, eff. Nov. 1, 2017.

NOTE: Editorially renumbered from § 5157 of this title to avoid duplication in numbering.

§74-5201. Short Title.

This act shall be known and may be cited as the "Oklahoma Space Industry Development Act".

Added by Laws 1999, c. 164, § 1, eff. July 1, 1999.

§74-5202. Definitions.

As used in this act:

1. "Authority" means the Oklahoma Space Industry Development Authority as authorized to be created by this act;
2. "Board" or "Board of Directors" means the governing body of the Authority as authorized to be created in Section 7 of this act;
3. "Bonds" means revenue bonds or other obligations issued by the Authority for the purpose of financing its projects;
4. "Complementary activity" means any space business incubator, space tourism activity, or space-related research and development;

5. "Cost" means all costs, fees, charges, expenses and amounts associated with the development of projects by the Authority;

6. "Federal aid" means any funding or other financial assistance provided by the federal government to the Authority for its projects;

7. "Financing agreement" means a lease, lease-purchase agreement, lease with option to purchase, sale or installment sale agreement, whether title passes in whole or in part at any time prior to, at, or after completion of the project, loan agreement, or other agreement forming the basis for the financing under this act, including any agreements, guarantees, or security instruments forming part of or related to providing assurance of payment of the obligations under such financing agreement;

8. "Landing area" means the geographical area designated by the Authority within or outside any spaceport territory for or intended for the landing and surface maneuvering of any launch or other space vehicles;

9. "Launch pad" means the launch pad or pads or spacecraft launch structure used by the spaceport or spaceport user for launching of space vehicles;

10. "Payload" means all property and cargo to be transported aboard any vehicle launched or flown, by or from any spaceport;

11. "Person" means individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, nations, federal, state or local governments, government or other agencies, subdivisions of the state, municipalities, counties, business entities, and all other groups or combinations;

12. "Project" means any development, improvement, property, launch, utility, facility, system, works, road, sidewalk, enterprise, service or convenience sponsored or promoted by the Authority and conducted or performed from any spaceport territory;

13. "Range" means the geographical area designated by the Authority or other appropriate body as the area for the launching of space vehicles, rockets, missiles, launch vehicles, shuttles, satellites and other vehicles designed to reach high altitudes, suborbital and orbital, or possessing space flight capacity;

14. "Recovery" means the recovery of space vehicles and payload or payloads which have been launched from or by any spaceport;

15. "Spaceport" means any area of land or water, or any man-made object or facility located therein, developed by the Authority under this act and located within spaceport territory, which area is intended for public use, or for the launching, takeoff and landing of spacecraft and aircraft; such areas may include appurtenant areas which are used or intended for public use, for spaceport buildings or other spaceport facilities or for rights-of-way, or any space

facility, space propulsion system, or station of any kind possessing space flight capacity;

16. "Spaceport system" means the organizations and infrastructure developed by the Authority for the development of spaceports and the commercialization of the space industry;

17. "Spaceport territory" means the site of any launch pad and the geographic area contiguous thereto as determined by the Authority to be necessary to protect the area from health and safety hazards from the operation of the spaceport, but not to exceed the geographic areas designated in Section 13 of this act and as amended or changed in accordance with Section 20 of this act; and

18. "Spaceport user" means any person that uses the facilities or services of any spaceport. For the purposes of any exemptions or rights granted hereafter, the spaceport user shall be deemed a spaceport user only during the time period in which the person actually uses any spaceport, and such rights and exemptions shall be granted with respect to transactions relating to spaceport projects only.

Added by Laws 1999, c. 164, § 2, eff. July 1, 1999.

§74-5203. Oklahoma Space Industry Development Authority - Purpose, function, and responsibility.

A. Subject to the requirements of Section 6 of this act, there is hereby created for the purpose of establishing commercial and public-use spaceports a body corporate and politic, to be known as the "Oklahoma Space Industry Development Authority", and by that name the Authority may sue and be sued, and plead and be impleaded. The Authority is hereby constituted an agency of this state, and the exercise by the Authority of the powers conferred by this act shall be deemed to be essential governmental functions of this state with all the attributes thereof.

B. It shall be the purpose, function, and responsibility of the Authority to plan spaceport systems and projects in this state, to promote the development and improvement of space exploration and spaceport facilities, to stimulate the development of space commerce and education, including, but not limited to, the commercialization of the space industry and the development of space-related industries, to promote research and development related to space and space-related industry, and to promote tourism in connection with the foregoing. In carrying out this duty and responsibility, the Authority may advise and cooperate with municipalities, counties, regional authorities, state agencies and organizations, appropriate federal agencies and organizations, and other interested persons and groups.

Added by Laws 1999, c. 164, § 3, eff. July 1, 1999.

§74-5204. Powers of Authority.



Subject to the requirements of Section 5206 of this title, the Oklahoma Space Industry Development Authority is hereby granted, has and may exercise all powers necessary to carry out and effectuate its purpose, including, but not limited to, the following:

1. Sue and be sued by its name in any court of competent jurisdiction;

2. Adopt and use an official seal and alter the same at pleasure;

3. Make and execute any and all contracts and other instruments necessary or convenient to the exercise of its powers;

4. Issue revenue bonds or other obligations as authorized by the provisions of this act or any other law, or any combination of the foregoing, to pay all or part of the cost of the acquisition, construction, reconstruction, extension, repair, improvement, maintenance or operation of any project or combination of projects, to provide for any facility, service or other activity of the Authority and to provide for the retirement or refunding of any bonds or obligations of the Authority, or for any combination of the foregoing purposes;

5. Acquire property, real, personal, intangible, tangible, or mixed, in fee simple or any lesser interest or estate, by purchase, gift, devise, or lease, on such terms and conditions as the Authority may deem necessary or desirable, and sell or otherwise dispose of the same and of any of the assets and properties of the Authority;

6. Lease as lessor or lessee to or from any person, public or private, any facilities or property of any nature for the use of the Authority and to carry out any of the purposes of the Authority;

7. Subject to the limitations prescribed by Section 5210 of this title, acquire by condemnation land and such interest therein as may be necessary in its determination for the purpose of establishing, constructing, maintaining, or operating a spaceport;

8. Own, acquire, construct, develop, create, reconstruct, equip, operate, maintain, extend and improve launch pads, landing areas, ranges, payload assembly buildings, payload processing facilities, laboratories, space business incubators, launch vehicles, payloads, space flight hardware, facilities and equipment for the construction of payloads, space flight hardware, rockets, and other launch vehicles, and spaceport facilities and systems, including educational, recreational, cultural, and other space-related initiatives;

9. Undertake a program of advertising to the public and promoting the businesses, facilities and attractions within any spaceport territory or at any spaceport and the projects of the Authority, and expend monies and undertake such activities to carry out such advertising and promotional programs as the Board from time to time may determine;

10. Own, acquire, construct, reconstruct, equip, operate, maintain, extend and improve transportation facilities appropriate to meet the transportation requirements of the Authority and activities conducted within a spaceport territory;

11. Own, acquire, construct, reconstruct, equip, operate, maintain, collect fees for services provided, extend and improve public utilities within a spaceport territory, including the following: electric power plants, transmission lines and related facilities, gas mains and facilities of any nature for the production or distribution of natural gas or hydrogen, telephone lines and related plants and systems, other communication systems of any nature including closed-circuit, cable television and computer systems, transmission lines and related facilities and plants, and facilities for the generation and transmission of power; and purchase electric power, natural gas and other sources of power for distribution within any spaceport territory;

12. Own, acquire, construct, reconstruct, equip, operate, maintain, collect fees for services provided, extend and improve within any spaceport territory water systems and sewer systems or combined water and sewer systems; regulate the use of sewers, septic tanks and other sanitary structures and appliances, and the supply of water within any spaceport; and regulate the pretreatment of waste and sell or otherwise dispose of the effluent, sludge, or other by-products as a result of sewage treatment;

13. Own, acquire, construct, reconstruct, equip, operate, maintain, collect fees for services provided, extend and improve waste collection, recycling and disposal systems, and to sell, recycle or otherwise dispose of any effluent, residue or other by-products of such systems consistent with the laws of the state;

14. Adopt a plan of reclamation, and own, acquire, construct, reconstruct, equip, operate, maintain, extend and improve canals, ditches, drains, dikes, levees, pumps, plants and pumping systems and other works for drainage purposes, and irrigation works, machinery and plants;

15. Own, acquire, construct, reconstruct, equip, operate, maintain, extend and improve water and flood control facilities and regulate the supply and level of water within any spaceport territory which may include diverting waters from one area or body of water to another, regulating, controlling or restricting the development and use of natural and artificial streams or bodies of water, lakes or ponds, and taking all measures determined by the Authority to be necessary or desirable to prevent or alleviate land erosion; provided, in exercising any of its powers pertaining to the use, control, or diversion of water, the Authority is subject to all permitting requirements and procedures of the Oklahoma Water Resources Board as set forth by law or by rule of the Board; and

16. Own, acquire, construct, reconstruct, equip, operate, maintain, collect fees for services provided, extend and improve public safety facilities for any spaceport, including police station, police vehicles, medical facilities, fire stations, water mains and plugs, fire trucks and other vehicles and equipment; hire employees, police officers and fire fighters; and undertake such works and construct such facilities determined by the Board to be necessary or desirable to promote and ensure public safety within any spaceport territory.

Added by Laws 1999, c. 164, § 4, eff. July 1, 1999. Amended by Laws 2000, c. 145, § 1, emerg. eff. April 28, 2000.

§74-5205. Acts to which Authority subject - Exceptions - Sovereign immunity - Exemption from Public Competitive Bidding Act.

A. The Oklahoma Space Industry Development Authority shall be subject to the Administrative Procedures Act, the Oklahoma Open Meeting Act, and the Oklahoma Open Records Act, except as provided in subsection B of this section.

B. Any information held by the Authority which is a trade secret, as defined in the Uniform Trade Secrets Act, including trade secrets of the Authority, any spaceport user, or the space industry, is confidential and may not be disclosed. If the Authority determines that any information requested by the public will reveal a trade secret, it shall, in writing, inform the person making the request of that determination. The Authority may hold executive sessions, as authorized by the Oklahoma Open Meeting Act, when trade secrets are discussed, and any minutes, recordings, or notes from such sessions are deemed confidential.

C. The Authority shall be granted sovereign immunity in the same manner as this state, and the liability of the Authority and its members, officers, and employees shall be governed by the provisions of the Governmental Tort Claims Act. Provided, however, the Authority is authorized to carry liability insurance to the extent authorized by the Authority.

D. The Authority shall be exempt from the provisions of the Public Competitive Bidding Act of 1974 and the competitive bidding provisions set forth in Section 85.7 of Title 74 of the Oklahoma Statutes.

Added by Laws 1999, c. 164, § 5, eff. July 1, 1999.

§74-5206. Activation of Authority - Communication and transmission of recommendation - Memorialization of motion.

A. The Secretary of Commerce and the Secretary of Transportation shall monitor events and transactions related to the need for the State of Oklahoma to activate the Oklahoma Space Industry Development Authority. Upon a determination and a recommendation by both the Secretary of Commerce and the Secretary

of Transportation that because of a site location announcement, actual investment by a business enterprise, acquisition of real or personal property, or both, having relevance for the establishment of a spaceport or in preparation for the establishment of a spaceport within the State of Oklahoma, the Secretaries shall communicate their recommendation to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate. The communication shall be in writing and shall be transmitted by certified mail, with return receipt requested.

B. Upon receipt of the recommendation for activation of the Authority, the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall confer and if two of such officials agree to do so, pursuant to a record of their affirmative vote, then the officials who vote affirmatively to do so shall cause the motion for the activation of the Authority to be memorialized and to be transmitted by certified mail, with return receipt requested, to the Secretary of Commerce and to the Secretary of Transportation. For purposes of the action authorized by this subsection, the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall not be subject to the Oklahoma Open Meeting Act and may confer by telephonic or other electronic means.

C. Upon memorialization of the motion to activate the Authority, the Governor shall take such actions as are required, including, but not limited to, the appointment of members of the Board of Directors, in order to create and activate the Authority. After the appointments of its board of directors, the Authority shall be legally authorized to perform all actions and exercise all powers provided to the Authority and to the Board of Directors by law.

Added by Laws 1999, c. 164, § 6, eff. July 1, 1999.

§74-5207. Board of Directors of Authority - Appointments - Terms - Vacancies - Removal - Chair - Meetings - Chief executive officer - Bond.

A. Subject to the provisions of Section 5206 of this title, there is created within the Oklahoma Space Industry Development Authority, the Board of Directors consisting of seven (7) members who shall be appointed by the Governor with advice and consent of the Senate. All but one Board member shall be a resident of this state. Each member appointed to serve on the Board shall have experience in the aerospace or commercial space industry or finance, or have other significant relevant experience.

B. 1. Initially, the Governor shall appoint four members for terms of three (3) years and three members for terms of four (4) years. Thereafter, each member shall serve a term of four (4) years or until a successor is appointed and qualified. Initial

appointments shall be made no later than sixty (60) days after the motion to activate the Authority is memorialized pursuant to Section 5206 of this title. The term of the members shall commence on the date of appointment and terminate on June 30 of the year of the end of the term. No member shall serve on the Board for more than two full four-year terms. Except as prohibited by the Oklahoma Constitution, appointment to the Board shall not preclude any member from holding any other private or public position.

2. An appointment to fill a vacancy in a member's office shall be made by the Governor for the unexpired portion of the term of the member who vacated that office.

C. The Governor has the authority to remove from the Board any member in the manner and for cause as defined by the laws of this state and applicable to situations which may arise before the Board. Unless excused by the chair of the Board, a member's absence from two or more consecutive Board meetings creates a vacancy in the office to which the member was appointed.

D. The Governor shall designate a member to serve as chair of the Board who, if such person remains a member of the Board, shall serve as chair until the expiration of the three-year terms of those members of the Board appointed initially for three-year terms. Each subsequent chair shall be selected by the Board members and shall serve a two-year term.

E. 1. The Board shall hold its initial meeting no later than twenty (20) days after the members have been appointed. Meetings shall be held quarterly or more frequently at the call of the chair. A majority of the members on the Board shall constitute a quorum, and a majority vote of the members present is necessary for any action taken by the Board.

2. At its initial meeting, or as soon thereafter as is practicable, the Board shall appoint a chief executive officer who shall serve at the pleasure of the Board. A member of the Board may be appointed as chief executive officer; provided, if a member of the Board is so appointed, the member shall resign as a member of the Board and the vacancy shall be filled as provided in paragraph 2 of subsection B of this section. The Board shall determine the annual salary of the chief executive officer.

F. Each member shall be reimbursed for expenses incurred in the performance of duties on behalf of the Authority as provided for in the State Travel Reimbursement Act.

G. Before the issuance of any revenue bonds under the provisions of the Oklahoma Space Industry Development Act, each member of the Board shall execute a surety bond in the penal sum of Twenty-five Thousand Dollars (\$25,000.00). Each such surety bond shall be conditioned upon the faithful performance of the duties of the member's office, shall be executed by a surety company

authorized to transact business in the State of Oklahoma as surety, and shall be filed in the office of the Secretary of State.

Added by Laws 1999, c. 164, § 7, eff. July 1, 1999. Amended by Laws 2000, c. 145, § 2, emerg. eff. April 28, 2000; Laws 2001, c. 266, § 4, emerg. eff. May 24, 2001 and Laws 2001, c. 420, § 4, emerg. eff. June 5, 2001.

NOTE: Laws 2001, c. 266, § 4, emerg. eff. May 24, 2001 and Laws 2001, c. 420, § 4, emerg. eff. June 5, 2001 are duplicate amendments, and therefore are not listed as separate versions.

§74-5208. Treasurer of Authority - Disbursement of funds - Depositories - Investments.

A. 1. The Board of Directors shall employ a person who is a resident of this state or may appoint a member of the Board to serve as treasurer of the Oklahoma Space Industry Development Authority, who shall have charge of the funds of the Authority. Such funds shall be disbursed only upon the order of or pursuant to the resolution of the Board by warrant, check, authorization or automatic deposit signed or authorized by the treasurer or the treasurer's representative or by such other persons as may be authorized by the Board. The Board may give the treasurer such other powers and duties as the Board may deem appropriate, and shall establish the treasurer's compensation.

2. The Board shall require the treasurer to give a bond in a minimum amount of One Hundred Thousand Dollars (\$100,000.00) and on such terms and with such sureties as may be deemed satisfactory to the Board to secure the performance by the treasurer of the powers and duties of the treasurer. Provided, if the treasurer is a member of the Board, such bond shall be in lieu of the bond required under Section 5207 of this title.

3. The Board shall audit or have audited the books of the treasurer at least once a year.

B. The Board is authorized to select as depositories in which the funds of the Board and of the Authority shall be deposited any bank or other financial institution organized under the laws of this state or under the laws of the United States, doing business in this state, upon such terms and conditions as to the payment of interest by such depository upon the funds so deposited as the Board may deem just and reasonable.

C. The Board of Directors may in its discretion invest funds of the Authority in the following:

1. Direct obligations of or obligations guaranteed by the United States of America or for the payment of the principal and interest of which the faith and credit of the United States is pledged;

2. Bonds or notes issued by any of the following federal agencies: Bank for Cooperatives; Federal Intermediate Credit Banks;

Federal Home Loan Bank System; Federal Land Banks; or the Federal National Mortgage Association, including debentures or participating certificates issued by such Association;

3. Public housing bonds issued by public housing authorities and secured by a pledge or annual contributions under an annual contribution contract or contracts with the United States of America;

4. Bonds or other interest-bearing obligations of any county, district, city or town located in this state for which the full faith and credit of such political subdivision is pledged; or

5. Any investment authorized for insurers under the Oklahoma Insurance Code.

Added by Laws 1999, c. 164, § 8, eff. July 1, 1999. Amended by Laws 2000, c. 286, § 1, emerg. eff. June 5, 2000.

#### §74-5208.1. Oklahoma Space Industry Development Authority Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Space Industry Development Authority to be designated the "Oklahoma Space Industry Development Authority Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Authority from private and public donations, contributions, gifts, and any monies appropriated or directed by law to be deposited thereto. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Authority for the purpose of creating, operating, staffing and maintaining an Oklahoma Space Industry Development Authority, and any legitimate expenses of the Authority. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2000, c. 400, § 7, eff. July 1, 2000. Amended by Laws 2012, c. 304, § 1044.

#### §74-5208.2. Oklahoma Spaceport Management Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Space Industry Development Authority to be designated as the "Oklahoma Spaceport Management Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received from any lease agreement or contract for management services of such facilities as may be owned by or occupied by the Oklahoma Space Industry Development Authority. All monies accruing to the fund are hereby appropriated and shall be budgeted and expended by the Oklahoma Space Industry Development Authority to pay the expenses incurred as a result of the lease

agreement or contract and for the purpose of making lease payments on bond indebtedness or any other outstanding obligation on spaceport facilities.

Added by Laws 2002, c. 44, § 1, emerg. eff. April 11, 2002.

§74-5209. Powers and duties of board.

The powers and duties of the Oklahoma Space Industry Development Authority shall be exercised by and through the Board of Directors. Without limiting the generality of the foregoing, the Board shall have the power and authority to:

1. Adopt, amend, and repeal rules to carry out the purposes of this act;
2. Maintain an office at such place or places as it may designate;
3. Execute all contracts and other documents necessary or desirable to carry out the purposes of this act; provided, the Board may authorize one or more members of the Board to execute contracts and other documents on behalf of the Board or the Authority;
4. Hire employees, including a person to act as the chief executive officer of the Authority with such duties and power as the Board may prescribe and designate up to five positions as being in the unclassified service;
5. Contract for the services of attorneys, underwriters or other financial professionals for the purpose of issuing and marketing the obligations of the Authority, notwithstanding the provisions of Section 18c of Title 74 of the Oklahoma Statutes;
6. Engage in the planning for spaceports and the spaceport system;
7. Execute intergovernmental agreements as provided by law;
8. Establish reserve funds for future Board operations;
9. Enter into agreements for the joint development of properties necessary or convenient for, the operation of spaceports and the spaceport system; and
10. Prepare an annual report of operations.

Added by Laws 1999, c. 164, § 9, eff. July 1, 1999. Amended by Laws 2000, c. 286, § 2, emerg. eff. June 5, 2000.

§74-5210. Acquisition of property by purchase or condemnation - Compensation.

A. The Oklahoma Space Industry Development Authority is hereby authorized and empowered to acquire by purchase, or condemnation, real property and such interest therein as may be necessary in its determination for the purpose of establishing, constructing, maintaining, or operating a spaceport and spaceport facilities, upon such terms and at such price as may be considered by the Authority to be reasonable and can be agreed upon between the Authority and the owner of the land. The Authority shall take title to the



property in its name; provided, however, such right and title shall be limited to the surface rights only and shall not include oil or other mineral rights.

B. 1. The Authority shall not acquire through the power of condemnation a total area of real property for purposes of establishing a spaceport in excess of twenty-five (25) acres. The total acreage acquired by the Authority pursuant to the power of condemnation shall be specifically identified in the records of the Authority and the Authority shall maintain a separate record of such acreage open to public inspection. If the Authority attempts to acquire an area through the power of condemnation that would exceed the acreage limit provided by this subsection, the proceeding for such acquisition shall be subject to an order for a temporary injunction which may be issued ex parte. Upon an adequate showing of proof, the Authority shall be permanently enjoined from acquiring real property pursuant to its powers of condemnation if the acquisition would exceed the maximum acreage authorized by this subsection.

2. Except in instances where there are nonresident owners, unknown heirs, imperfect titles, and owners whose whereabouts cannot be ascertained with reasonable diligence, the Oklahoma Space Industry Development Authority shall give the owner an opportunity to sell the necessary real property or interests therein to the Authority before exercising the power of condemnation.

3. In cases where the Authority exercises the power of condemnation, the Authority shall be governed by the provisions of Section 1708 of Title 69 of the Oklahoma Statutes.

C. The Authority shall pay compensation to the owners of any and all real property located wholly or partially within the area required to be evacuated for the launch of any vehicle from spaceport territory for the economic value of the lost value of the beneficial use of such property as a result of requirements imposed by the Authority pursuant to its powers for the establishment, maintenance and safe operation of a spaceport or spaceport facility. Compensation for such economic value shall be made according to the requirements of Section 24 of Article 2 of the Constitution of the State of Oklahoma.

Added by Laws 1999, c. 164, § 10, eff. July 1, 1999.

§74-5211. Exclusive power and authority to regulate operation, maintenance, and safety of spaceports and space launches.

This act specifically provides that the Oklahoma Space Industry Development Authority shall have exclusive power and authority to regulate the operation, maintenance, and safety of spaceports and space launches in this state. No other person shall participate in or exercise control in the management and operation of any spaceport and space launch, except when officially requested by the Authority.

Added by Laws 1999, c. 164, § 11, eff. July 1, 1999.

§74-5212. Repealed by Laws 2013, c. 227, § 47, eff. Nov. 1, 2013.

§74-5213. Geographic area for establishment of spaceport territory.

Without limiting the ability of the Oklahoma Space Industry Development Authority to establish other space industry facilities, the following property shall constitute the geographic area within which the spaceport territory is to be established:

Certain real property located in Washita County within and above all of the following areas:

Sections 1 through 36 inclusive, Township 10 North, Range 19 West, I.M.

Sections 1 through 36 inclusive, Township 10 North, Range 20 West, I.M.

Sections 1 through 18 inclusive, Township 9 North, Range 19 West, I.M.

Sections 1 through 18 inclusive, Township 9 North, Range 20 West, I.M.

Sections 7 through 36 inclusive, Township 11 North, Range 19 West, I.M.

Sections 7 through 36 inclusive, Township 11 North, Range 20 West, I.M.

Added by Laws 1999, c. 164, § 13, eff. July 1, 1999.

§74-5214. Power to operate projects within boundaries of municipality or other political subdivision or without boundaries of geographic limits of spaceport territory - Cooperative agreements.

A. The Oklahoma Space Industry Development Authority shall have the power to construct, develop, create, maintain and operate its projects within the geographic limits of any spaceport territory, including any portions of any spaceport territory located inside the boundaries of any municipality or other political subdivision, and to offer, supply and furnish the facilities and services provided for in this act to, and to collect fees, rentals and other charges from persons, public or private, within the geographic limits of any spaceport territory and for the use of the Authority itself.

Provided, the Authority may not exercise any of the powers authorized under paragraphs 11 through 16 of Section 5204 of this title within any portion of a spaceport territory located within the boundaries of a municipality unless the Authority has entered into a cooperative agreement with the governing body of the municipality regarding the terms and conditions under which services or facilities may be offered or provided.

B. The Authority shall have the power to construct, maintain, and operate space industry facilities outside the boundaries of the geographic limits of any spaceport territory, and to offer, supply

and furnish the facilities and services provided for in this act that are necessary to the construction, maintenance, or operation of such space industry facilities, and to collect fees, rental and other charges from, persons, firms, corporations, municipalities, counties, political subdivisions and other public or private agencies or bodies for the use of such space industry facilities or services located or provided outside of the geographic limits of any spaceport territory; provided, however, the Authority shall not construct any space industry facility or offer, furnish or supply facilities and services outside of the territorial limits of any spaceport territory except upon the consent, approval, or certification of any regulatory agency or governing body of this state or of any municipality or other political subdivision thereof whose consent, approval, or certification may be required by law.

C. The Authority shall have the power to negotiate with governing bodies of political subdivisions located outside of the geographic limits of any spaceport territory agreements for the overflight or recovery of space vehicles or payloads and related materials, debris or parts.

Added by Laws 1999, c. 164, § 14, eff. July 1, 1999. Amended by Laws 2000, c. 145, § 3, emerg. eff. April 28, 2000.

§74-5215. Roads - Acquisition, construction, sale or lease - Lease-purchase agreements.

A. Within the geographic limits of any spaceport territory, the Oklahoma Space Industry Development Authority has the right to acquire, through purchase or interagency agreement, or as otherwise provided in law, and to construct, control, and maintain roads deemed necessary by the Authority and connections thereto and extensions thereof now or hereafter acquired, constructed, or maintained in accordance with established highway safety standards; provided that, in the event a road being addressed by the Authority is owned by another agency or jurisdiction, the Authority, prior to proceeding with the proposed project or work activity, shall have either coordinated the desired work with the owning agency or jurisdiction or shall have successfully executed an interagency agreement with the owning agency or jurisdiction.

B. The Board shall have the authority to sell or lease any road to the Department of Transportation, enter into lease-purchase agreements with respect thereto with the Department of Transportation, and contract with the same for the construction or maintenance of any road, on such terms and conditions as the Board and the Department of Transportation may agree. The Department of Transportation is hereby authorized to purchase or lease any road from the Authority, enter lease-purchase agreements with respect to the same and construct or maintain any road within any spaceport territory pursuant to such agreement with the Board.

Added by Laws 1999, c. 164, § 15, eff. July 1, 1999.

§74-5216. Cooperation and assistance of departments, agencies, and political subdivisions of state - Cooperative agreements - Joint undertakings.

A. The departments, agencies, and political subdivisions of this state are authorized to aid and cooperate with the Oklahoma Space Industry Development Authority in carrying out any of the purposes and projects of the Authority and to enter into cooperative agreements with the Authority for such purposes. These agreements may include the furnishing by the Authority to the departments, agencies, or political subdivisions of this state of any of the facilities and services of the Authority. These agreements also may include the furnishing by the departments, agencies, or political subdivisions of this state to the Authority and to persons within a spaceport territory of facilities and services of the type that the Authority is authorized to furnish or undertake. Such cooperative agreements may provide for the furnishing by any county, municipality, or other political subdivision of this state of fire and police protection for the Authority and persons and property within the Authority.

B. Without limitation of the foregoing, the Authority may undertake and finance any of the projects of the Authority, in whole or in part, jointly with any municipality or municipalities, or in any other manner combine the projects of the Authority with the projects of such municipality or municipalities.

Added by Laws 1999, c. 164, § 16, eff. July 1, 1999.

§74-5217. Exclusive jurisdiction and power within spaceport territory - Limitations on power.

A. 1. Except as provided in subsection B of this section, consistent with the laws of this state, and any other laws of this state to the contrary notwithstanding, the jurisdiction and powers of the Board of Directors of the Oklahoma Space Industry Development Authority within the spaceport territory with respect to the matters provided for in this act pertaining to the operation, maintenance, and safety of the spaceport shall be exclusive of any and all codes, ordinances, requirements, plans or other regulations of the boards of county commissioners or of any other agency or authority of any county or municipality in this state. All land, properties and activities within any spaceport territory pertaining to the operation, maintenance, and safety of the spaceport, shall be exempt from any and all such codes, ordinances, requirements, plans and regulations, and any and all requirements for building and construction permits and licenses pertaining to the same, promulgated by the boards of county commissioners of any county or city councils of any municipality in the state; provided, however,

nothing herein shall exempt any general contractor, electrical contractor, builder, owner-builder or specialty contractor from the provisions and requirements of any laws of this state, with respect to examination and licensing, or from any of the fees and bonds required of such contractors or builders by law.

2. The Board may by appropriate rule provide that any spaceport territory, or such areas or parts thereof pertaining to the operation, maintenance, and safety of the spaceport, as the Board may designate from time to time, shall, for such time or times as the Board may determine, remain or become subject to such county or municipal zoning, building and safety codes and regulations, and regulations and controls with respect to subdivisions and plats and the vacating thereof, or any of them, as the Board may determine.

3. The jurisdiction and powers of the Board provided for herein shall within the spaceport territory also be exclusive of any law now or hereafter enacted providing for land use regulation, zoning or building codes by this state or any agency or authority of the state, and the provisions of any such law shall not be applicable within the territorial limits of any spaceport territory.

4. The Board may exercise the powers granted to it in this subsection within the city limits of any municipality now or hereafter organized or existing within the limits of any spaceport territory.

B. The Authority may not exercise any of its powers as provided for in this section in a manner that prohibits:

1. The agricultural use of land that is located within a spaceport territory and is not acquired by the Authority under the provisions of Section 5210 of this title;

2. Continued access to water for such land for agricultural purposes; and

3. The erection of outbuildings and personal residences on such land, subject to population density restrictions prescribed by the Authority to comply with federal requirements for licensure as a spaceport; provided, erection of personal residences shall not include subdivision of land for the purpose of constructing and selling houses.

Added by Laws 1999, c. 164, § 17, eff. July 1, 1999. Amended by Laws 2000, c. 145, § 4, emerg. eff. April 28, 2000.

§74-5218. Comprehensive general plans - Safety or sanitary codes - Building permits - Other restrictions.

A. Except as provided in subsection B of this section, for the purposes of operating, maintaining, and providing for the safety of a spaceport the Board of Directors of the Oklahoma Space Industry Development Authority shall have the power within any spaceport territory to:

1. Adopt, and from time to time review, amend, supplement or repeal, a comprehensive general plan for the physical development of the area within any spaceport territory in accordance with the objectives and purposes of this act;

2. Adopt, and from time to time review, amend, supplement or repeal, codes regulating the following matter within any spaceport territory: building safety, elevators, escalators and similar devices, the prevention of fire hazards, plumbing and electrical installations, the operation and development of missile ranges, launch pads, payload procession and assembly facilities, the operation of amusement and recreation installations, parks and facilities, water supply wells and drainage wells, and such other safety or sanitary codes as the Board may determine to be necessary or desirable;

3. Prohibit within any spaceport territory the construction, alteration, repair, removal or demolition, or the commencement of the construction, alteration, repair except for emergency repairs, removal or demolition, of any building or structure, including but not limited to, public utility poles, lines, pipes and facilities, without first obtaining a permit from the Board or such other officer or agency as the Board may designate, and to prescribe the procedure with respect to the obtaining of such permit; and

4. Provide for the manner in which such comprehensive general plans, codes, regulations and restrictions shall be determined, established and enforced, and from time to time amended, supplemented, charged or repealed within the spaceport territory, as the Board may determine.

B. The Authority may not exercise any of its powers as provided for in this section in a manner that prohibits:

1. The agricultural use of land that is located within a spaceport territory and is not acquired by the Authority under the provisions of Section 5210 of this title;

2. Continued access to water for such land for agricultural purposes; and

3. The erection of outbuildings and personal residences on such land, subject to population density restrictions prescribed by the Authority to comply with federal requirements for licensure as a spaceport; provided, erection of personal residences shall not include subdivision of land for the purpose of constructing and selling houses.

Added by Laws 1999, c. 164, § 18, eff. July 1, 1999.

§74-5219. Additional powers of Board - Limitation on powers.

A. Except as provided in subsection B of this section, in addition to other powers granted by this act, for the purposes of operating, maintaining, and providing for the safety of a spaceport

the Board of Directors shall have the power within any spaceport territory to:

1. Regulate, restrict and determine the location, height, number of stories, size, cubic contents, area and design, and the erection, construction, reconstruction, alteration and repair of buildings and other structures for space industry development, trade, industry, commerce, residence and other purposes, and the materials used in the construction thereof; the number, location, height, size, appearance and use of billboards and all other advertising signs, banners, handbills and devices; the percentage and portion of lots and land that may be occupied or built on; setback lines; the density of population; the use of buildings, structures, land and water for trade, industries, commerce, and residences and any and all other purposes; the location, size and plan of spaceport facilities, launch pads, ranges, payload assembly and processing facilities, parks and recreational areas, commercial and industrial facilities, public and private utilities, traffic, parking facilities and drainage and water control facilities; and to appoint inspectors;

2. Adopt rules to prohibit or control the pollution of air and water, and to require certain location and placement of electrical power, telephone and other utility lines, cables, pipes and ducts; and

3. Divide any spaceport territory into zones or districts of such number, shape and area as the Board may deem best suited to carry out the purposes of this act, and within and for each such district adopt rules and restrictions as provided for in this section.

B. The Authority may not exercise any of its powers as provided for in this section in a manner that prohibits:

1. The agricultural use of land that is located within a spaceport territory and is not acquired by the Authority under the provisions of Section 5210 of this title;

2. Continued access to water for such land for agricultural purposes; and

3. The erection of outbuildings and personal residences on such land, subject to population density restrictions prescribed by the Authority to comply with federal requirements for licensure as a spaceport; provided, erection of personal residences shall not include subdivision of land for the purpose of constructing and selling houses.

Added by Laws 1999, c. 164, § 19, eff. July 1, 1999. Amended by Laws 2000, c. 145, § 6, emerg. eff. April 28, 2000.

§74-5220. Striking out or correcting of land description -  
Enlarging and contracting of geographical limits - Application for  
exclusion - Consent to organization or establishment of municipality

- Furnishing of telephone service and electric power to annexed areas.

A. The Board of Directors may at any time strike out or correct the description of any land within or claimed to be within the boundary lines of any spaceport territory upon the consent and writing of the owners of all the land that would be included or excluded from the boundary lines of any spaceport territory or otherwise affected by the taking of such action, and of the owners of not less than the majority in acreage of all lands within any spaceport territory. The Board may enlarge the geographical limits of any spaceport territory to include lands not then within any spaceport territory as follows:

1. Upon the written consent of the simple majority of owners of all the land to be included in any spaceport territory and of not less than a majority in acreage of all the land then within any spaceport territory; or

2. By resolution of the Board approved at a special election called for such purpose, by vote of a majority of landowners residing within the area to be annexed and a majority of landowners residing within any spaceport territory.

B. The Board may contract the geographical limits of any spaceport territory so as to exclude from any spaceport territory any land then within any spaceport territory as follows:

1. Upon the written consent of the owners of all of the land to be so excluded and of the owners of not less than a majority in acreage of all the land within any spaceport territory;

2. By resolution of the Board approved at a special election called for any purposes, by vote of a majority of landowners residing within the area to be excluded and a majority of the landowners residing within any spaceport territory; or

3. By resolution of the Board approved by the owners of not less than a majority in acreage of the land within the spaceport territory.

C. Any owner of land located within the geographic limits of the spaceport territory may within ninety (90) days following the initial meeting of the Board, held pursuant to Section 7 of this act, make written application to the Board to have the land of such owner excluded from the boundaries of the spaceport territory. In the event such written application is made within the ninety-day period, the Board shall exclude the land of such owner from the spaceport territory and revise the boundaries thereof accordingly. No application under this subsection shall be granted if made later than the ninety-day period.

D. Nothing in this section shall permit the annexation or exclusion of lands contrary to the terms, covenants or conditions of any of the bonds or obligations of the Oklahoma Space Industry Development Authority, or in any manner that would impair the



security of the holders of any bonds or other obligations of the Authority.

E. No town, city or other municipality having any of the powers of the Authority, or any like powers, shall hereafter be organized or established by any proceedings under the general laws of this state if upon such organization or establishment the territorial limits of such municipality would lie wholly or partly within the geographic boundaries of any spaceport territory, except upon the consent in writing given by the owners of a majority in acreage of the lands within such spaceport territory proposed to be so incorporated within such municipality. No land within the geographic boundaries of any spaceport territory shall be annexed to or incorporated by any proceeding under any general or special law, now or hereafter enacted into any town, city or other municipality, now existing or hereafter created, except upon the consent in writing given by the owners of a majority in acreage of the lands within such spaceport territory to be so annexed or incorporated.

F. In the event that the geographic boundaries of the spaceport territory, as set forth in Section 13 of this act, are revised so as to include within the spaceport territory any areas not presently contained within the spaceport territory, the Authority shall not engage in the business of furnishing telephone service in such annexed area unless the Authority offers to purchase from any telephone company that is at the time engaged in the business of furnishing telephone service within such annexed area such portion of its plant and property suitable and used for such business in connection therewith as lies within the limits of such annexed area.

G. In the event that the geographic limits of the spaceport territory, as set forth in Section 13 of this act, are revised so as to include within any spaceport territory any areas not presently contained within any spaceport territory, the Authority shall not engage in the business of furnishing electric power for sale in such annexed area, unless the Authority offers to purchase from any person who is at the time engaged in the business of making, generating or distributing electricity for sale within such annexed area, such portion of its electric plant and property suitable and used for business in connection therewith as lies within the limits of such annexed area.

Added by Laws 1999, c. 164, § 20, eff. July 1, 1999.

§74-5221. Charges and penalties - Contracts - Default - Shutting off and discontinuance of services and facilities.

A. 1. To recover the costs of a spaceport facility or system, the Oklahoma Space Industry Development Authority shall have the power to prescribe, fix, establish, and collect rates, fees, rentals, tolls, fares, or other charges, hereinafter referred to as "revenues", and to revise the same from time to time, for the

facilities and service furnished or to be furnished by the Authority and a spaceport, including, but not limited to, launch pads, ranges, payload assembly and processing facilities, visitor and tourist facilities, transportation facilities, and parking and other related facilities, and shall have the power to provide for reasonable penalties against any user or property for any such rates, fees, rentals, tolls, fares, or other charges that are delinquent.

2. The Authority shall have the power to enter into contracts for the use of the projects of the Authority and for the services and facilities furnished or to be furnished by the Authority, including, but not limited to, launch services, payload assembly and processing, and other space-related services, for such consideration and on such other terms and conditions as the Authority may approve. Such contracts, and revenues or service charges received or to be received by the Authority thereunder, may be pledged as security for any of the bonds of the Authority.

B. In the event that the rates, fees, rentals, tolls, fares, or other charges, or delinquent penalties shall not be paid as and when due and shall be in default for thirty (30) days or more, the unpaid balance thereof and all interest accrued thereon, together with attorney fees and costs, may be recovered by the Authority in a civil action.

C. In the event that the rates, fees, rentals, tolls, fares, or other charges for the services and facilities of any project are not paid when due, the Authority shall have the power to discontinue and shut off the same until such rates, fees, rentals, tolls, fares, or other charges, including interest, penalties, and charges for the shutting off and discontinuance and the restoration of such services and facilities, are fully paid. Such delinquent rates, fees, rentals, tolls, fares, or other charges, together with interest, penalties, and charges for the shutting off and discontinuance and the restoration of such services and facilities, and reasonable attorney fees and other expenses, may be recovered by the Authority by suit in any court of competent jurisdiction. The Authority may also enforce payment of such delinquent rates, fees, rentals, tolls, fares, or other charges by any other lawful method of enforcement. Added by Laws 1999, c. 164, § 21, eff. July 1, 1999.

§74-5222. Acceptance of federal and other monies.

A. Except as provided in subsection B of this section, the Oklahoma Space Industry Development Authority is authorized to accept and receive federal monies, and other monies, either public or private, for the acquisition, development, construction, enlargement, improvement, maintenance, equipment, or operation of spaceports and other facilities, and sites therefor, and to comply with the provisions of the laws of the United States and any rules

and regulations made thereunder for the expenditure of federal monies upon such spaceports and other facilities.

B. The Authority is not authorized to accept or receive from any source whatsoever any monies under any terms or conditions which limit, curtail, or preempt the power or prerogatives of the state or its political subdivisions.

Added by Laws 1999, c. 164, § 22, eff. July 1, 1999.

§74-5223. Issuance of bonds - Disposition of proceeds.

A. 1. The Oklahoma Space Industry Development Authority may provide by resolution, at one time or from time to time, for the issuance of revenue bonds of the Authority for the purpose of paying all or any part of the cost of any one or more projects. The Authority, when it finds that it would be economical and beneficial to do so, may combine two or more, or any part thereof, or all of its proposed projects into one unit and consider the same as one project to the same extent and with like effect as if the same were a single project.

2. The principal of and the interest on the bonds shall be payable solely from the funds provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates not exceeding the limitations pertaining to public trust indebtedness from time to time expressed in subsection F of Section 176 of Title 60 of the Oklahoma Statutes, shall mature at such time or times not exceeding forty (40) years from their date or dates, as may be determined by the Authority, and may be made redeemable before maturity at the option of the Authority at such price or prices and pursuant to such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds.

3. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state.

4. If any officer whose signature or facsimile of whose signature appears on any bonds or coupons shall cease to be the officer before the delivery of the bonds, the signature or the facsimile shall nevertheless be valid and sufficient for all purposes the same as if the person had remained in office until such delivery.

5. All bonds issued pursuant to the provisions of this act shall have all the qualities and incidents of negotiable instruments subject to the negotiable instruments law of this state. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as

to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Authority may sell the bonds in such amounts and in such manner, either at public or private sale, and for such price, as it may determine to be in the best interest of this state, but in no event at a discount in excess of that from time to time expressed in subsection F of Section 176 of Title 60 of the Oklahoma Statutes.

B. The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project for which the bonds have been issued, and shall be disbursed in such manner and pursuant to such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of the bonds or in the trust agreement securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds, or shall be used by the Authority in implementing any other power expressly granted to the Authority in this act.

C. Prior to the preparation of definitive bonds, the Authority, subject to like restrictions, may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which have become mutilated or were destroyed or lost. Bonds may be issued pursuant to the provisions of this act without obtaining the consent of any department, division, commission, board, bureau, or agency of this state, and without any other proceedings or the occurrence of any other conditions or things other than those proceedings, conditions, or things that are specifically required by this act; provided, however, bonds and other obligations of the Authority shall be subject to the provisions of Section 695.1 et seq. of Title 62 of the Oklahoma Statutes.

D. The Authority is hereby authorized to provide that the bonds:

1. Be made payable from time to time on demand or tender for purchase by the owner provided a credit facility supports such bonds, unless the Authority specifically determines that a credit facility is not required;

2. Be additionally supported by a credit facility;

3. Be made subject to redemption prior to maturity, with or without premium, on such notice and at such time or times and with such redemption provisions as may be determined by the Authority or with such variations as may be permitted in connection with a par formula;

4. Bear interest at a rate or rates that may vary as permitted pursuant to a par formula and for such period or periods of time, all as may be determined by the Authority; and

5. Be made the subject of a remarketing agreement whereby an attempt is made to remarket the bonds to new purchasers prior to their presentment for payment to the provider of the credit facility or to the Authority.

No credit facility, repayment agreement, par formula or remarketing agreement shall become effective without the approval of the Authority.

E. As used in this section, the following terms shall have the following meanings:

1. "Credit facility" means an agreement entered into by the Authority with any bank, savings and loan association or other banking institution; an insurance company, reinsurance company, surety company, or other insurance institution; a corporation, investment banker or other investment institution; or any other financial institution providing for prompt payment of all or any part of the principal, whether at maturity, presentment for purchase, redemption or acceleration, redemption premium, if any, and interest on any bonds payable on demand or tender by the owner issued in accordance with this section, in consideration of the Authority's agreeing to repay the provider of such credit facility in accordance with the terms and provisions of such repayment agreement, provided, that any such repayment agreement shall provide that the obligation of the Authority thereunder shall have only such sources of payment as are permitted for the payment of the bonds issued under this act; and

2. "Par formula" means any provision or formula adopted by the Authority to provide for the adjustment, from time to time, of the interest rate or rates borne by any such bonds so that the purchase price of such bonds in the open market would be as close to par as possible.

F. Any other provision of law notwithstanding, the Authority shall have the right to issue bonds or other obligations the interest income, in whole or in part, on which is subject, directly or indirectly, to federal income taxation.

Added by Laws 1999, c. 164, § 23, eff. July 1, 1999.

§74-5224. Trust agreements.

In the discretion of the Oklahoma Space Industry Development Authority, any bonds issued under the provisions of this act may be

secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without this state. The trust agreement may pledge or assign the revenues to be received from the project constructed by the use of the proceeds of the bonds, but shall not convey or mortgage any project or any part thereof. The trust agreement or resolution providing for the issuance of the bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the project in connection with which the bonds shall have been authorized, and the custody, safeguarding and application of all monies, and provisions for the employment of consulting engineers in connection with the construction or operation of such project or projects. It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds and debentures of corporations. In addition to the foregoing, any such trust agreement may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of the trust agreement may be treated as a part of the cost of the operation of the project or projects.

Added by Laws 1999, c. 164, § 24, eff. July 1, 1999.

§74-5225. Bond proceeds and revenue deemed to be trust funds.

All monies received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds, to be held and applied solely as provided in this act. The resolution authorizing the bonds of any issue or the trust agreement securing such bonds shall provide that any officer to whom, or any bank or trust company to which, such money shall be paid shall act as trustee of the monies and shall hold and apply the same for the purposes hereof, subject to such regulations as this act and such resolution or trust agreement may provide.

Added by Laws 1999, c. 164, § 25, eff. July 1, 1999.

§74-5226. Enforcement of rights by bondholder or trustee.

Any holder of bonds issued under the provisions of this act or any of the coupons appertaining thereto, and the trustee under the

trust agreement, except to the extent the rights herein given may be restricted by such trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceeding protect and enforce any and all rights under the laws of this state or granted hereunder or under such trust agreement or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this act or by such trust agreement or resolution to be performed by the Oklahoma Space Industry Development Authority or by any officer thereof.  
Added by Laws 1999, c. 164, § 26, eff. July 1, 1999.

§74-5227. Bonds made investment securities.

Bonds issued under the provisions of this act are hereby made securities in which all public officers and public bodies, agencies, and instrumentalities of the state and its political subdivisions, all banks, trust companies, trust and loan associations, investment companies, and others carrying on a banking business, and all insurance companies and insurance associations, and others carrying on an insurance business, may legally and properly invest funds including capital in their control or belonging to them.  
Added by Laws 1999, c. 164, § 27, eff. July 1, 1999.

§74-5228. Application to Supreme Court for approval of bonds - Jurisdiction - Notice of hearing - Protest - Determination of validity.

The Oklahoma Space Industry Development Authority is authorized in its discretion to file an application with the Supreme Court of Oklahoma for the approval of any bonds to be issued hereunder, and exclusive original jurisdiction is hereby conferred upon the Supreme Court to hear and determine each such application. It shall be the duty of the Court to give such applications precedence over the other business of the Court and to consider and pass upon the applications and any protests which may be filed thereto as speedily as possible. Notice of the hearing on each application shall be given by a notice published in a newspaper of general circulation in this state that on a day named the Authority will ask the Court to hear its application and approve the bonds. Such notice shall inform all persons interested that they may file protests against the issuance of the bonds and be present at the hearing and contest the legality thereof. Such notice shall be published one time not less than ten (10) days prior to the date named for the hearing and the hearing may be adjourned from time to time in the discretion of the Court. If the Court shall be satisfied that the bonds have been properly authorized in accordance with this act and that when issued, they will constitute valid obligations in accordance with their terms, the Court shall render its written opinion approving the bonds and shall fix the time within which a petition for

rehearing may be filed. The decision of the Court shall be a judicial determination of the validity of the bonds, shall be conclusive as to the Authority, its officers and agents, and thereafter the bonds so approved and the revenues pledged to their payment shall be incontestable in any court in this state. Added by Laws 1999, c. 164, § 28, eff. July 1, 1999.

§74-5229. Issuance of revenue refunding bonds - Purposes - Investment of proceeds pending application of proceeds - Interest-bearing time deposits.

A. The Oklahoma Space Industry Development Authority is hereby authorized to provide by resolution for the issuance of revenue refunding bonds of the Authority for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this act including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if the Authority shall so determine, for the additional purpose of constructing improvements, extensions, or enlargements of the project or projects in connection with which the bonds to be refunded shall have been issued. The Authority is further authorized to provide for the issuance of its revenue bonds for the combined purpose of:

1. Refunding any bonds then outstanding which shall have been issued under the provisions of this act, including the payment of any redemption premium thereon and any interest accrued, or to accrue to the date of redemption of such bonds; and

2. Paying all or any part of the cost of any additional project or projects as authorized by this act. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the Authority in respect of the same, shall be governed by the provisions of this act insofar as the same may be applicable.

B. Bonds may be issued by the Authority under the provisions of this section at any time prior to the maturity or maturities or the date selected for the redemption of the bonds being refunded thereby. Pending the application of the proceeds of such refunding bonds, with any other available funds, to the payment of the principal, accrued interest, and any redemption premium of the bonds being refunded, and if so provided or permitted in the resolution authorizing the issuance of such refunding bonds or in the trust agreement securing the same, to the payment of any interest on such refunding bonds, and any expenses in connection with such refunding, such proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America which shall mature or which shall be subject to redemption by the holder thereof at the option of such holder, not later than the respective



dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended. In lieu of such investments, all or any part of such proceeds may be placed in interest bearing time deposits or other similar arrangements may be made with regard thereto which will assure that such proceeds, together with the interest accruing thereon, will be available when required for the purposes intended.

Added by Laws 1999, c. 164, § 29, eff. July 1, 1999.

§74-5230. Report to Governor.

The Oklahoma Space Industry Development Authority shall make and submit to the Governor, within ninety (90) days of the close of the Authority's fiscal year, a full report showing anticipated projects, projects under construction and projects in operation, and the financial condition of the Authority and the sinking fund of each separate project, and such other information as the Governor shall require. The annual financial statements must be audited and filed in accordance with the requirements set forth for financial statement audits in Section 212A of Title 74 of the Oklahoma Statutes.

Added by Laws 1999, c. 164, § 30, eff. July 1, 1999.

§74-5231. Projects declared essential governmental functions - Exemption from taxation.

The exercise of the powers granted by this act to the Oklahoma Space Industry Development Authority will be in all respects for the benefit of the people of the state. The operation and maintenance of projects by the Authority will constitute the performance of essential governmental functions, and the Authority shall not be required to pay any taxes or assessments upon any project or any property acquired or used by the Authority under the provisions of this act or upon the income therefrom, and the bonds issued under the provisions of this act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the state.

Added by Laws 1999, c. 164, § 31, eff. July 1, 1999.

§74-5232. Application for designation of spaceport territory as foreign trade zone.

The Oklahoma Space Industry Development Authority shall have the power to apply to the federal government for a grant allowing the designation of any spaceport territory as a foreign trade zone.

Added by Laws 1999, c. 164, § 32, eff. July 1, 1999.

§74-5233. Disclosure of interest in contracts - Statement by board members.

No member of the Board of Directors shall be deemed to have an interest in any contract of the Oklahoma Space Industry Development Authority with any person by reason of the fact that such Board member is related to such person or is a director, officer, employee, stockholder, partner or agent of such person. Contracts of the Authority with any such person shall not be invalid or unenforceable by reason of such interest, provided that each member of the Board shall have submitted to the Board a statement of the member's interest in or relationship to such person prior to the approval or authorization of the contract by the Authority. The statement shall be maintained as part of the permanent record book of the Authority for as long as the contract continues in effect and for not less than one (1) year thereafter.

Added by Laws 1999, c. 164, § 33, eff. July 1, 1999.

§74-5234. Remedies to ensure compliance with act - Injunction.

The Board of Directors or any aggrieved person may have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of this act, including injunctive relief to enjoin or restrain any person from violating the provisions of this act, and any rules, resolutions, procedures, and orders adopted under this act. The court shall, upon proof of any such violation, have the duty to issue temporary and permanent injunctions as are necessary to prevent further violation thereof. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, land or water is used, in violation of this act, or of any rules, resolutions, procedures, or orders adopted under authority conferred by this act or under law, the Board may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or avoid such violations, to prevent the occupancy of such building, structure, land or water, and to prevent any illegal act, conduct, business or use in or about such premises, land or water.

Added by Laws 1999, c. 164, § 34, eff. July 1, 1999.

§74-5235. Involvement of women, minorities and disadvantaged business enterprises in Authority projects - Legislative intent and public policy.

It is the intent of the Legislature and the public policy of this state that women, minorities, and socially, physically and economically disadvantaged business enterprises be encouraged to participate fully in all phases of economic and community development. Accordingly, to achieve such purpose, the Oklahoma Space Industry Development Authority shall, in accordance with applicable state and federal law, involve and utilize women,

minorities, and socially, physically and economically disadvantaged business enterprises in all phases of the design, development, construction, maintenance, and operation of spaceports developed under this act.

Added by Laws 1999, c. 164, § 35, eff. July 1, 1999.

§74-5236. Conflict with other provisions - Act controls.

If any provision of this act is in conflict with any other provision, limitation, or restriction pertaining to areas located within the spaceport territory which is now in effect under a law of this state or an ordinance of a local government, political subdivision, or municipality, or a rule or regulation adopted under such law or ordinance, this act controls.

Added by Laws 1999, c. 164, § 36, eff. July 1, 1999.

§74-5237. Construction of act.

The provisions of this act shall be liberally construed to effect its purposes and shall be deemed cumulative, supplemental and alternative authority for the exercise of the powers provided herein.

Added by Laws 1999, c. 164, § 37, eff. July 1, 1999.

§74-5301. Oklahoma Military Base Closure Prevention Task Force - Established.

A. There is hereby created the Oklahoma Military Base Closure Prevention Task Force. The Task Force shall be composed of seventeen (17) members as follows:

1. Four persons to be appointed by the Speaker of the Oklahoma House of Representatives;
2. Four persons to be appointed by the President Pro Tempore of the Oklahoma State Senate;
3. One person to be appointed, respectively, by the mayor of each of the following municipalities:
  - a. Altus,
  - b. Enid,
  - c. Lawton,
  - d. McAlester,
  - e. Oklahoma City,
  - f. Del City, and
  - g. Midwest City; and
4. Two persons to be appointed by the Governor.

B. The Task Force shall hold its first meeting not later than ninety (90) days after the effective date of this act. The members of the Task Force shall select a person from among its membership to serve as chair. The Task Force is authorized to meet as often as required in order to perform the duties imposed upon it.

Added by Laws 2001, c. 238, § 1, eff. July 1, 2001.

§74-5302. Oklahoma Military Base Closure Prevention Task Force - Purpose - Recommendations for change - Prevention or mitigation of reduction - Relocation - Report.

A. The purpose of the Oklahoma Military Base Closure Prevention Task Force shall be to analyze state policies affecting military facilities currently in use by the United States Department of Defense located within the state and by their related communities. In addition, the Task Force shall also examine methods for improving the potential private sector market value or potential for such military facilities.

B. The Task Force shall develop recommendations for changes in state policies which would:

1. Prevent Oklahoma's military facilities from being targeted for closing or downsizing;

2. Maximize Oklahoma's input into the federal base closing and realignment process;

3. Protect, to the greatest extent possible, the interests of the communities and residents of areas located within and adjacent to such military facilities in connection with such process;

4. Mitigate the effect of a reduction in military personnel housed or assigned to such facilities, reduction in military activity associated with such facilities, or other changes in either civilian or military activity which have the potential to reduce employment, business activity, personal income or other economic growth in the affected areas; and

5. Encourage and facilitate the relocation of mission responsibilities and resources to Oklahoma military facilities from military bases located outside Oklahoma.

C. The Task Force shall submit a written report of its findings, conclusions and recommendations to the Speaker of the Oklahoma House of Representatives, the President Pro Tempore of the Oklahoma State Senate and the Governor not later than December 31, 2002.

D. The Oklahoma Department of Commerce, the Oklahoma Tax Commission, the Oklahoma Employment Security Commission and other agencies of state government shall provide such assistance to the Task Force as the Task Force may require in order to perform the duties imposed upon it.

E. The Oklahoma House of Representatives and the Oklahoma State Senate shall provide such staff assistance to the Task Force as may be required.

F. Members of the Task Force shall be reimbursed by their appointing authority, except that members appointed from the municipalities shall be reimbursed by the Oklahoma Department of Commerce, for travel to meetings of the Task Force pursuant to the State Travel Reimbursement Act. Legislators who serve as members of

the Task Force shall be reimbursed for travel to meetings pursuant to Section 456 of Title 74 of the Oklahoma Statutes.  
Added by Laws 2001, c. 238, § 2, eff. July 1, 2001.

§74-5401. Creation - Members - Meetings - Sunset - Authority of members.

A. There is hereby re-created the Oklahoma Strategic Military Planning Commission.

B. The Oklahoma Strategic Military Planning Commission shall consist of nine (9) members as follows:

1. Five persons to be appointed by the Governor, each of whom shall represent, respectively, the interests of communities that would be affected by realignment or closure of the following military installations:

- a. Altus Air Force Base,
- b. Vance Air Force Base,
- c. Fort Sill,
- d. the Army Ammunition Plant located near McAlester, and
- e. Tinker Air Force Base;

2. One person to be appointed by the Speaker of the House of Representatives from the membership of the House and one person to be appointed by the President Pro Tempore of the Senate from the membership of the Senate. The members appointed pursuant to this paragraph shall be ex officio and nonvoting members of the Commission; and

3. The Secretary of Veterans Affairs, or successor member of the Governor's Executive Cabinet who has responsibility for Veterans Affairs, and the Adjutant General of the Oklahoma Army and Air National Guard. The members appointed pursuant to this paragraph shall be ex officio and nonvoting members of the Commission.

C. The members of the Commission shall serve at the pleasure of the appointing authority. The members of the Commission shall select from among their membership a chair and vice-chair. The chair and vice-chair shall serve for a period of one (1) year and may succeed themselves in office.

D. The Commission shall be subject to the provisions of the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

E. The Commission shall be authorized to meet at such times as may be required in order to fulfill the duties and responsibilities imposed upon it by law.

F. The provisions of this section shall cease to have the force and effect of law and the Commission shall be dissolved by operation of law on December 31, 2020.

G. The members of the Commission shall not be deemed to be officers or to hold public office for purposes of Section 6 of Title 51 of the Oklahoma Statutes.

Added by Laws 2003, c. 303, § 1, emerg. eff. May 27, 2003. Amended by Laws 2010, c. 359, § 2; Laws 2011, c. 209, § 6, eff. Nov. 1, 2011; Laws 2014, c. 58, § 1.

§74-5402. Purpose - Advice and recommendations - Administrative direction, coordination and support - Reports.

A. The purpose of the Oklahoma Strategic Military Planning Commission shall be to analyze state policies affecting military facilities currently in use by the United States Department of Defense and the Oklahoma Army and Air National Guard located within the state and such infrastructure as may support or be affected by these Department of Defense or National Guard facilities or any activity therein. Provided further that the Commission may assist financially with projects designed to enhance the operation, security, or support of such facilities and associated activities, pursuant to the provisions of Section 5403 of this title. The Commission shall also examine methods for improving the private sector market value or potential for such military facilities.

B. The Commission shall advise and recommend to the Governor and to the Legislature, by reporting to the Speaker of the House of Representatives and the President Pro Tempore of the Senate, state policies which would:

1. Prevent Oklahoma's military facilities from being targeted for closing or downsizing;

2. Maximize Oklahoma's input into the federal base closing and realignment process;

3. Protect, to the greatest extent possible, the interests of the communities and residents of areas located within and adjacent to such military facilities in connection with such process;

4. Mitigate the effect of a reduction in military personnel housed or assigned to such facilities, reduction in military activity associated with such facilities, or other changes in either civilian or military activity which have the potential to reduce employment, business activity, personal income or other economic growth in the affected areas; and

5. Encourage and facilitate the relocation of mission responsibilities and resources to Oklahoma military facilities from military bases located outside Oklahoma.

C. Responsibility for the administrative direction, coordination and support of the Commission shall be with the Office of the Governor.

D. The Commission shall submit an annual written report of its findings, conclusions and recommendations to the Governor, the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the Oklahoma State Senate not later than December 31.

E. The Oklahoma Department of Commerce, the Oklahoma Tax Commission, the Oklahoma Employment Security Commission and other

agencies of state government shall provide such assistance to the Commission as the Commission may require in order to perform the duties imposed upon it.

F. Members of the Commission shall be reimbursed by their appointing authority, except that members appointed from the municipalities shall be reimbursed by the Oklahoma Department of Commerce, for travel to meetings of the Commission pursuant to the State Travel Reimbursement Act.

Legislators who serve as members of the Commission shall be reimbursed for travel to meetings pursuant to Section 456 of Title 74 of the Oklahoma Statutes.

Added by Laws 2003, c. 303, § 2, emerg. eff. May 27, 2003. Amended by Laws 2011, c. 209, § 7, eff. Nov. 1, 2011.

§74-5403. Retention and expansion of military installations - Oklahoma Strategic Military Planning Commission Incentive Fund.

A. The Legislature finds that the five military installations in this state, Tinker Air Force Base, Vance Air Force Base, Altus Air Force Base, Fort Sill Army Post and the McAlester Army Ammunition Plant, are vital to the economic health of Oklahoma businesses and communities and an integral and important part of the state economy. It is therefore in the state interest that these installations not only be retained but if possible, be expanded from their current substantial workforces.

B. There is hereby established a fund within the State Treasury for the Department of Commerce to be known as the "Oklahoma Strategic Military Planning Commission Incentive Fund". The fund shall consist of all monies deposited into the fund by law. The fund shall be a continuing fund not subject to fiscal year limitations. Monies in the fund shall be distributed by the Department to voluntary associations of Oklahoma local governmental jurisdictions or other legal entities which perform functions for the benefit of or which exist for the primary benefit of Oklahoma local governmental entities, for distribution to eligible local governments, as approved by the Oklahoma Strategic Military Planning Commission.

C. In order for an entity to be eligible to obtain funds from the Oklahoma Strategic Military Planning Commission Incentive Fund, a local governmental entity shall be required to:

1. Demonstrate that it would be affected by realignment or closure of a military installation specified in subsection A of this section; and

2. Develop a plan, and file it and have it approved by the Oklahoma Strategic Military Planning Commission, to expend funds from local sources, matched in whole or in part with monies in the fund, for public projects necessary to protect the interests of the

entity and its residents with respect to realignment or closure of the military installation.

D. In order to be filed with and approved by the Commission, the plan shall have first been approved by an affirmative vote of two-thirds (2/3) of the members of the governing board of the local governmental entity. The vote shall be memorialized in a document, executed under oath, that states that the record of the vote is a true and accurate account of the proceedings conducted by the governing board to be filed with the Department.

E. Any entity which qualifies for funds pursuant to this section shall be required to provide matching funds or to provide equivalent value in order to obtain available funds or funds for planning expenditures. No funds available pursuant to the provisions of this section shall be used to pay any administrative expenses of the entity requesting the funds. The Department shall monitor expenditures made pursuant to this section to ensure compliance with the provisions of this section. Misuse of funds by an entity shall disqualify the entity from further funding for a period of one (1) year from the date as of which any report by the Department is issued revealing a violation of the requirements of this section.

F. An entity which violates the provisions of this section shall be liable to the State of Oklahoma for treble the amount of funds identified as having been impermissibly used for the payment or reimbursement of administrative expenses. The payment shall be made to the Department for deposit in the Oklahoma Strategic Military Planning Commission Incentive Fund and such funds shall become available for distribution as otherwise provided by this section; provided, no such funds shall be paid to an entity which has been required to make the treble damage payment.

G. The expenditures from the Oklahoma Strategic Military Planning Commission Incentive Fund, made in accordance with the requirements of this section, shall be construed as an expenditure of public funds in furtherance of governmental functions and for the purpose of conferring general and uniform benefits resulting from the expenditures.

Added by Laws 2003, c. 402, § 1, eff. July 1, 2003.

§74-6001. Repealed by Laws 1992, c. 259, § 5, emerg. eff. May 22, 1992.

§74-6002. Designations of technology transfer centers.

Rural Enterprises, Inc. and the Central Industrial Applications Center are hereby designated as technology transfer centers.

Added by Laws 1988, c. 330, § 17.

§74-6101. Repealed by Laws 2002, c. 112, § 14, eff. Dec. 31, 2002.



§74-6102. Repealed by Laws 2002, c. 112, § 14, eff. Dec. 31, 2002.

§74-6103. Repealed by Laws 2002, c. 112, § 14, eff. Dec. 31, 2002.

§74-6104. Repealed by Laws 2002, c. 112, § 14, eff. Dec. 31, 2002.

§74-6105. Red River Boundary Compact - Adoption of compact..

RED RIVER BOUNDARY COMPACT

ADOPTION OF COMPACT

This state enacts the Red River Boundary Compact into law and enters into the compact with the State of Texas if that state legally joins in the compact in substantially the form provided by Section 2 of this act.

Added by Laws 1999, c. 316, § 1, emerg. eff. June 4, 1999.

§74-6106. Text of compact.

TEXT OF COMPACT

The Red River Boundary Compact reads as follows:

RED RIVER BOUNDARY COMPACT

ARTICLE I. PURPOSE

A. The States of Oklahoma and Texas recognize that:

1. There are actual and potential disputes, controversies, criminal proceedings, and litigation arising, or that may arise, out of the location of the boundary line between the states along the Red River;

2. The south bank of the Red River is the boundary between the states along the Red River;

3. The boundary between the states changes as a result of the natural action of the river and, because of those changes and the nature of the land, the south bank of the river is often not readily or easily identified;

4. While the south bank, at any given time, may be located through expensive and time-consuming survey techniques, such surveys can, at best, identify the south bank only as it exists at the time of the survey;

5. Locating the south bank through survey techniques is of minimal aid when agencies of the party states must locate the state boundary line for law enforcement, administrative and taxation purposes; and

6. The interests of the party states are better served by establishing the boundary between the states through use of a readily identifiable natural landmark than through use of an artificial survey line.

B. It is the principal purpose of the party states in entering into this compact to establish an identifiable boundary between the states of Oklahoma and Texas along the Red River as of the effective

date of this compact without changing title of any person or entity, public or private, to land adjacent to the Red River. In addition, this compact serves the compelling purposes of:

1. Creation of a friendly and harmonious interstate relationship;
2. Avoidance of multiple exercise of sovereignty and jurisdiction, including matters of taxation, judicial and police powers, and exercise of administrative authority;
3. Avoidance of lack of exercise of sovereignty and jurisdiction over any lands along the boundary;
4. Avoidance of questions of venue in civil and criminal proceedings that may arise as a result of incidents along the boundary and avoidance or minimization of future disputes and litigation;
5. Promotion of economic and political stability; and
6. Placement of the boundary at a location that can be visually identified or located without the necessity of a current survey and that is close to the historical boundary location.

#### ARTICLE II. ESTABLISHMENT OF BOUNDARY

##### A. As used in this article:

1. "Vegetation" means trees, shrubs, grasses, and other plant species that substantially cover the ground. Whether the vegetation substantially covers the ground is determined by reference to the density of the coverage of the ground by trees, shrubs, grasses, and other plant species in the area adjacent to the relevant portion of the riverbed; and
2. "Vegetation line" means the visually identifiable continuous line of vegetation that is adjacent to that portion of the riverbed kept practically bare of vegetation by the natural flow of the river and is continuous with the vegetation beyond the riverbed. Stray vegetation, patches of vegetation, or islands of vegetation within the riverbed that do not form such a line are not considered part of the vegetation line. Where the riverbed is entered by the inflow of another watercourse or is otherwise interrupted or disturbed by a man-made event, the line constituting the boundary is an artificial line formed by extending the vegetation line above and below the other watercourse or interrupted or disturbed area to connect and cross the watercourse or area.

B. The permanent political boundary line between the states of Oklahoma and Texas along the Red River is the vegetation line along the south bank of the Red River except for the Texoma area, where the boundary does not change. For purposes of this compact:

1. The Texoma area extends from the east bank of Shawnee Creek (which flows into the Red River from the south approximately one-half (1/2) mile below the Denison Dam) at its mouth to the upper end of the normal pool elevation of Lake Texoma (which is six hundred seventeen (617) feet); and

2. The upper end of the normal pool elevation of Lake Texoma is along the latitude of 33 degrees 54 minutes as it crosses the watercourse at the approximate location of longitude 96 degrees 59 minutes.

C. The party states agree that the existing boundary within the Texoma area begins at the intersection of the vegetation line on the south bank of the Red River with the east bank of Shawnee Creek. From this point, the boundary extends west along the south bank of the Red River. From Shawnee Creek to Denison Dam, this boundary line is within the current channel of the Red River. The boundary line from Shawnee Creek to the Denison Dam may be established using the Lake Texoma Fishing and Boating Map, No. A353, published by "FHS Maps"™, containing acknowledgments for the data source to the United States Geological Survey and the U.S. Army Corps of Engineers, hereinafter referred to as "Reference Map". From the east bank of Shawnee Creek to the base of the Denison Dam, the boundary between the State of Oklahoma and the State of Texas may be the line which is depicted by the Reference Map as an extension of a black dashed line comprised of the following repeating characters ("-.-.") east from the body of Lake Texoma across the depiction of the Denison Dam, thence continuing eastward until the line connects to a point at the intersection of the east bank of Shawnee Creek and the south bank of the Red River. Within Lake Texoma, this boundary line follows the south bank of the Red River as the bank was located and marked by the United States Army Corps of Engineers.

D. Within one (1) year after the date the United States Congress consents to this compact, the Commissioner of the General Land Office of Texas and a designated member of the Oklahoma Red River Boundary Commission, as chosen by the Commission, shall:

1. Locate the boundary line within the Texoma area as described by subsection C of this article, using the survey that the United States Army Corps of Engineers prepared in connection with the construction of Lake Texoma and any other surveys, historical maps, or other information that may be available;

2. Prepare a map of the boundary line; and

3. Prepare a document styled "Lake Texoma Area Boundary Agreement", which shall incorporate by reference and have attached as an exhibit a map of the boundary in the Lake Texoma area. Upon agreement, signature and acknowledgment by both persons, the "Lake Texoma Area Boundary Agreement" shall have the legal effect of establishing the boundary within the Lake Texoma area. The "Lake Texoma Area Boundary Agreement", when adopted pursuant to a resolution of the Contingency Review Board acting on behalf of the State of Oklahoma and when adopted pursuant to the applicable requirements of laws of the State of Texas, shall amend the provisions of the Red River Boundary Compact and constitute part of the terms of the Red River Boundary Compact. The governors of the

respective party states shall file the "Lake Texoma Area Boundary Agreement" in the state library and archives of each party state and with the Oklahoma Secretary of State.

E. Within one (1) year after the date the "Lake Texoma Area Boundary Agreement" is filed under paragraph 3 of subsection D of this article, there shall be a permanently marked boundary line within the Texoma area as shown on the map constituting the exhibit to the "Lake Texoma Area Boundary Agreement". The boundary line shall be maintained with markers annually, or more frequently if necessary subject to any requirement or restriction of law or resulting from a judgment of a court of competent jurisdiction.

F. The party states may:

1. Agree to equally share the cost of monumenting and maintaining the lines demarking both the boundary within the Texoma area and the upper limit of the normal pool elevation in a manner designed to make the boundary readily identifiable to the using public; or

2. Seek funding from other sources for monumenting and maintaining the lines.

G. Should there be a change in the watercourse of the Red River, the party states recognize the rules of accretion, erosion, and avulsion. The states agree that accretion or erosion may cause a change in the boundary between the states if it causes a change in the vegetation line. With regard to avulsion, the states agree that a change in the course of the Red River caused by an immediately perceivable natural event that changes the vegetation line will change the location of the boundary between the states.

#### ARTICLE III. SOVEREIGNTY

On the effective date of this compact, the party states agree that the State of Oklahoma possesses sovereignty over all lands north of the boundary line established by this compact and that the State of Texas possesses sovereignty over all lands south of the boundary line established by this compact. This compact does not change or affect in any manner the sovereign rights of federally recognized Indian tribes over tribal lands on either side of the boundary line established by this compact. Tribal sovereignty rights continue to be established and defined by controlling federal law.

#### ARTICLE IV. PENDING LITIGATION

This compact does not affect the jurisdiction of any litigation concerning the title to any of the lands bordering the Red River pending in the courts of either of the party states or the United States as of the effective date of this compact. The states intend that such litigation, if any, continue in the trial and appellate courts of the jurisdiction where pending, until the litigation is finally determined.

#### ARTICLE V. PUBLIC RECORDS

A. All public records in either party state concerning any lands the sovereignty over which is changed by this compact are accepted as evidence of record title to such lands, to and including the effective date of this compact, by the courts of the other state and the federal courts.

B. As to lands the sovereignty over which is changed by this compact, the recording officials of the counties of each party state shall accept for filing certified copies of documents of title previously filed in the other state and documents of title using legal descriptions derived from the land descriptions of the other state. The acceptance of a document for filing has no bearing on its legal effect or sufficiency. The legal sufficiency of a document's form, execution, and acknowledgments and the document's ability to convey or otherwise affect title, are determined by the document itself and the real estate laws of the jurisdiction in which the land was located at the time the document was executed or took effect.

#### ARTICLE VI. TAXES

A. Except as provided by subsections B and C of this article, the lands the sovereignty over which is changed by this compact are, after the effective date of this compact, subject to taxation only by the state gaining sovereignty over the lands by this compact.

B. Taxes for the year of adoption of this compact for property the jurisdiction over which is changed by this compact may be lawfully imposed only by the state in which the property was located on January 1 of the year of adoption of this compact. The taxes for the year of adoption may be levied and collected by that state or its authorized governmental subdivisions or agencies, and any liens or other rights accrued or accruing, including the right of collection, are fully recognized, except that all liens or other rights arising out of the imposition of those taxes must be claimed or asserted within five (5) years after this compact takes effect or they are barred.

C. The party states recognize that the boundary between the states will change from time to time as a result of the natural actions of accretion, erosion, and avulsion and agree that for years subsequent to the year of adoption of this compact, the state within which lands adjoining the boundary line are located on January 1 of each year has the right to levy and collect taxes for the entire ensuing year.

D. All taxes currently assessed by governmental entities in each party state as to lands that border or cross the boundary line established by this compact are presumed to be correct as to acreage within the particular jurisdiction, absent competent proof to the contrary presented in writing by the property owner or owners to the appropriate taxing agencies. All such proof must be presented to the appropriate taxing agencies before May 1 of the year following

the year in which this compact takes effect. In subsequent years it is presumed that the acreage taxed in each jurisdiction for the previous year was correct unless evidence of change is furnished to or obtained by the various taxing agencies under rules and regulations adopted by those taxing agencies.

#### ARTICLE VII. PROPERTY AND WATER RIGHTS

This compact does not change:

1. The title of any person or entity, public or private, to any of the lands adjacent to the Red River;
2. The rights, including riparian rights, if any, of any person or entity, public or private, that exist as a result of the person's or entity's title to lands adjacent to the Red River; or
3. The boundaries of those lands.

#### ARTICLE VIII. EFFECTIVE DATE

This compact takes effect when enacted by the states of Oklahoma and Texas and consented to by the United States Congress.

#### ARTICLE IX. ENFORCEMENT

A. This compact does not limit or prevent either party state from instituting or maintaining any action or proceeding, legal or equitable, in any court having jurisdiction, for the protection of any right under this compact or the enforcement of any of its provisions.

B. This compact is not binding or obligatory on either party state unless and until it has been enacted by both states and consented to by the United States Congress. Notice of enactment of this compact by each state shall be given by the Governor of that state to the Governor of the other state and to the President of the United States. The president is requested to give notice to the governors of the party states of the consent to this compact by the United States Congress.

#### ARTICLE X. AMENDMENTS

This compact remains in full force and effect unless amended in the same manner as it was created.

Added by Laws 1999, c. 316, § 2, emerg. eff. June 4, 1999.

§74-6107. Negotiations to resolve differences.

#### NEGOTIATIONS TO RESOLVE DIFFERENCES

A. If the State of Texas enters into the Red River Boundary Compact in substantially the form provided in Section 2 of this act, the designee of the Oklahoma Red River Boundary Commission has the authority to negotiate with the appropriate Texas representative to resolve any differences between the States of Oklahoma and Texas regarding matters covered by the compact. The designee shall conduct the negotiations in cooperation with the Oklahoma Red River Boundary Commission.

B. The designee shall report annually to the Governor of this state, or more frequently if necessary, on the status of the negotiations.

Added by Laws 1999, c. 316, § 3, emerg. eff. June 4, 1999.

§74-6108. Implementation of compact.

#### IMPLEMENTATION OF COMPACT

A. If the State of Texas enters into the Red River Boundary Compact in substantially the form provided by Section 2 of this act, the designee of the Oklahoma Red River Boundary Commission has the authority to negotiate with the appropriate Texas representative to establish procedures for implementing the compact's provisions. The designee shall conduct the negotiations in cooperation with the Oklahoma Red River Boundary Commission.

B. The designee shall report annually to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate, or more frequently if necessary, on the status of the negotiations.

C. A procedure for implementing a provision of the compact must be approved by the Governor of this state.

Added by Laws 1999, c. 316, § 4, emerg. eff. June 4, 1999.

§74-6109. Relation to other law and litigation.

#### RELATION TO OTHER LAW AND LITIGATION

The Red River Boundary Compact does not affect:

1. The Red River Compact, the text of which is set out in Section 1431 of Title 82 of the Oklahoma Statutes;

2. The riparian rights, if any, of adjacent landowners to access and use the waters of the Red River; or

3. Litigation pending in either state involving title to land or boundaries of rivers or water bodies of that state.

Added by Laws 1999, c. 316, § 5, emerg. eff. June 4, 1999.

§74-6201. Lease agreement with Greater Sand Springs Trust Authority.

A. The Office of Management and Enterprise Services shall enter into a lease agreement with the Greater Sand Springs Trust Authority for a term of ninety-nine (99) years with respect to the real property and improvements constituting the former Hissom Memorial Treatment Center, as more particularly described by subsection C of this section.

B. The lease agreement described in subsection A of this section:

1. Shall allow the Greater Sand Springs Trust Authority to enter into agreements regarding the property described in subsection C of this section with third parties without the express consent of the Office of Management and Enterprise Services, including the

right of the Authority to sublease all or any part of the real property described in subsection C of this section;

2. Shall provide for the unrestricted access, use and development of the real property described in subsection C of this section by the Greater Sand Springs Trust Authority in order for the Authority to fulfill its purposes according to the terms of its trust indenture, including, but not limited to, the right of the Authority to construct capital improvements on, above or under the property to fulfill the purposes stated in the indenture of the Authority. The lease shall provide that the Authority owns and maintains capital improvements constructed upon the real property with the funds of the Authority;

3. Shall provide for the conveyance by the Office of Management and Enterprise Services to the Greater Sand Springs Trust Authority, by quit claim deed or by such other instrument of conveyance as the Office of Management and Enterprise Services and the Authority may mutually agree, for not more than a payment by the Authority to the Department of a nominal consideration not to exceed Ten Dollars (\$10.00), of any parcel of real property described by the Authority and certified, by a majority of the trustees of the Authority, to be necessary for a complete development of the property described in subsection C of this section and necessary for the Authority to fulfill any purpose specified in its trust indenture. A rebuttable presumption shall exist that any conveyance made pursuant to the provisions of this paragraph shall be considered to have been made for the general economic benefit of the residents of the beneficiary of the Greater Sand Springs Trust Authority and that the disposition of the parcel by the Authority is in furtherance of an essential governmental function by making a productive use of the parcel. After conveyance of a parcel of real property to the Authority pursuant to this paragraph, the Authority shall have the exclusive right to exercise all powers, rights and privileges with respect to the parcel as authorized by law to the owner of any real property, including, but not limited to, the right to sell the parcel as provided by paragraph 4 of this subsection;

4. Shall provide for the conveyance by the Authority to another legal entity, by quit claim deed or by such other instrument of conveyance as the Authority and the other legal entity may mutually agree, of any parcel of real property described by the Authority the proposed conveyance of which to be certified, by a majority of the trustees of the Authority, as necessary for a complete development of the property described in subsection C of this section and necessary for the Authority to fulfill any purpose specified in its trust indenture. A rebuttable presumption shall exist that any conveyance made pursuant to the provisions of this paragraph shall be considered to have been made for the general economic benefit of the residents of the beneficiary of the Greater Sand Springs Trust



Authority and that the disposition of the parcel by the Authority is in furtherance of an essential governmental function by making a productive use of the parcel. If the Authority sells any part or all of the real property or improvements described in subsection C of this section subsequent to the conveyance to the Authority by the Office of Management and Enterprise Services, the Authority shall determine the value of the real property sold separate and apart from the value of the improvements, if any. The Authority shall determine its direct and indirect costs for acquisition, maintenance, improvement, marketing and sale of any parcel of real property conveyed to a legal entity pursuant to this paragraph. The Authority shall pay to the Office of Management and Enterprise Services the amount of consideration received by the Authority from the sale of the real property in excess of the direct and indirect costs incurred by the Authority. The Office of Management and Enterprise Services shall budget all funds received from the sale of any parcel pursuant to this section. These funds shall be expended by the Office of Management and Enterprise Services for the sole purpose of additional maintenance or improvements for the remainder of the real property or for improvements at the property described in this section. Upon sale of the final parcel or real property and improvements pursuant to this section, the Office of Management and Enterprise Services shall remit the amount received and all remaining funds from previous sales for deposit to the credit of the Hisson Memorial Treatment Center Surplus Fund for appropriation pursuant to law;

5. Shall provide that the Office of Management and Enterprise Services shall maintain the real property and the improvements located on the real property described in subsection C of this section in a manner conducive to the preservation of existing economic value of the real property and improvements, subject to the ordinary depreciation of the improvements, until such time as the Authority acquires ownership of a parcel whereupon the Authority and the Office of Management and Enterprise Services, by mutual written agreement, shall amend the lease to provide for proportionately diminished maintenance expenses to be incurred by the Office of Management and Enterprise Services or some other legal entity;

6. Shall not require the payment of rent by the Greater Sand Springs Trust Authority in excess of One Dollar (\$1.00) per year;

7. Shall not require a purchase price for any option granted to the Greater Sand Springs Trust Authority to acquire any parcel of the property described by subsection C of this section in excess of Ten Dollars (\$10.00);

8. Shall not require the Office of Management and Enterprise Services to consent to a sublease of the property described by subsection C of this section by the Authority to any other legal entity; and

9. Shall not impose the expense of maintenance or repair of the real property or improvements located on the property described by subsection C of this section upon the Greater Sand Springs Trust Authority, except as otherwise provided by paragraph 5 of this subsection.

C. The real property and improvements which shall be leased by the Office of Management and Enterprise Services to the Greater Sand Springs Trust Authority as required by subsection A of this section are described as follows:

1. Governmental lots 5, 7, and 8 in Section 9; and
2. The part of Governmental Lots 6 and 7 lying north of the centerline of the Burlington Northern Santa Fe Railroad right-of-way, formerly the S.L. & S.F. Railroad right-of-way, in Section 15; and
3. Lots 1 and 2, and that part of Governmental Lot 3 lying north of the centerline of said railroad right-of-way and those parts of each of the following tracts lying north of the centerline of said railroad right-of-way:
  - a. the Southwest Quarter (SW/4) of the Northeast Quarter (NE/4);
  - b. the Northwest Quarter (NW/4); and
  - c. the Northeast Quarter (NE/4) of the Southeast Quarter (SE/4) in Section 16;
4. All in Township 19 North, Range 11 East of the Indian Meridian, Tulsa County, Oklahoma; and
5. Together with all the appurtenances thereto belonging to such property.

D. The Authority shall have the right to access, ingress, egress, use and enjoyment of the roads existing on the property described by subsection C of this section as of July 1, 1997.

E. With respect to the real property and improvements described in subsection C of this section and the lease agreement required by subsection A of this section, or any transfer of the property to the Authority, the Office of Management and Enterprise Services shall not be subject to the requirements of:

1. Section 387 of Title 60 of the Oklahoma Statutes;
2. Section 1056 of Title 64 of the Oklahoma Statutes;
3. Section 126.2 of this title;
4. Section 129.4 of this title; or
5. Section 456.7 of this title.

F. With respect to the lease or sale of any part or all of the real property or improvements described in subsection C of this section, the Greater Sand Springs Trust Authority shall not be subject to the requirements of:

1. Section 387 of Title 60 of the Oklahoma Statutes;
2. Section 241 of Title 64 of the Oklahoma Statutes;
3. Section 129.4 of this title; or

4. Section 456.7 of this title.

Added by Laws 1997, c. 292, § 1, eff. July 1, 1997. Amended by Laws 2000, c. 339, § 22, emerg. eff. June 6, 2000; Laws 2005, c. 96, § 1, eff. Nov. 1, 2005; Laws 2007, c. 53, § 1, eff. Nov. 1, 2007; Laws 2012, c. 304, § 1045.

§74-6202. Hissom Memorial Treatment Center Oversight Committee.

A. There is hereby created the Hissom Memorial Treatment Center Oversight Committee.

B. The Committee shall consist of the following persons:

1. One person appointed by the Governor from a list of three nominees submitted by the Speaker of the House of Representatives;

2. One person appointed by the Governor from a list of three nominees submitted by the President Pro Tempore of the Senate; and

3. One person appointed by the Governor from a list of three nominees submitted by the City Council of the City of Sand Springs.

C. The duties of the Committee shall be to:

1. Monitor the continued maintenance of the real property and improvements described in subsection C of Section 6201 of this title to ensure that the improvements do not diminish in economic value further than is reasonable to be expected given the condition of the improvements and available financial resources;

2. Assist the Greater Sand Springs Trust Authority and the Office of Management and Enterprise Services in providing for the orderly and beneficial development of the real property and improvements constituting the former Hissom Memorial Treatment Center; and

3. Serve as an additional resource of information for persons or legal entities that express an interest in occupying, using or purchasing any part or all of the real property constituting the former Hissom Memorial Treatment Center.

D. The Committee shall be subject to the provisions of the Oklahoma Open Meeting Act.

E. The Committee shall be subject to the provisions of the Oklahoma Open Records Act, including the provisions regarding information that may be kept confidential pursuant to Section 24A.10 of Title 51 of the Oklahoma Statutes.

F. No person appointed to any of the positions constituting the Committee who is, at the time of the appointment to the Committee or subsequent to the date of appointment, a public official or officer shall be deemed to be serving in a dual capacity and such person shall be specifically exempt from the provisions of Section 6 of Title 51 of the Oklahoma Statutes.

G. The Committee shall:

1. Act in the interest of and for the economic benefit of persons and business entities in the region of the facility formerly

known as the Hissom Memorial Treatment Center with the objective of economic development;

2. Make recommendations in the event of disputes or issues regarding the development, use or occupancy of the real property described by subsection C of Section 6201 of this title, but shall not have the power to bind any party to such recommendation; and

3. Make such reports or recommendations to the Board of Trustees of the Greater Sand Springs Trust Authority at such times and regarding such topics as may be pertinent to the development of the real property and improvements described in subsection C of Section 6201 of this title.

H. The Committee shall act in an advisory capacity only and shall not have the power or authority to require the Greater Sand Springs Trust Authority to obtain permission or consent from the Committee in order to take any action with respect to the real property or improvements described in subsection C of Section 6201 of this title. No power or authority conferred upon the Committee shall in any way be construed as a limit or modification of the powers granted to the Greater Sand Springs Trust Authority pursuant to its trust indenture.

I. The Committee shall not have authority or power to perform any act that is inconsistent with the powers, rights or duties of the Office of Management and Enterprise Services with respect to the real property described by subsection C of Section 6201 of this title.

Added by Laws 1997, c. 292, § 2, eff. July 1, 1997. Amended by Laws 2012, c. 304, § 1046.

#### §74-6203. Hissom Memorial Treatment Center Surplus Fund.

There is hereby created in the State Treasury a fund for the Office of Management and Enterprise Services to be designated the "Hissom Memorial Treatment Center Surplus Fund". The fund shall be subject to legislative appropriation and shall consist of all monies deposited into the fund by law.

Added by Laws 1997, c. 292, § 3, eff. July 1, 1997. Amended by Laws 2012, c. 304, § 1047.

#### §74-6204. Lease-purchase agreement authority - Funding.

The Office of Management and Enterprise Services shall have the authority to enter into a lease-purchase agreement for a period not to exceed twenty (20) years for the purposes of providing funding in the amount of Three Million Dollars (\$3,000,000.00) for additional repairs, construction, and remediation to the land and improvements formerly known as the Hissom Memorial Treatment Center. The Legislature shall appropriate sufficient funds each year to the Hissom Memorial Treatment Center Surplus Fund to satisfy the obligations under the lease-purchase agreement authorized pursuant

to this section. Upon the sale of the land or improvements funded through the lease-purchase agreement, the proceeds of the sale shall be used first to satisfy the remaining payments under the lease-purchase agreement, and then the balance of the proceeds shall be applied as otherwise provided by law.

Added by Laws 2009, c. 450, § 1. Amended by Laws 2012, c. 304, § 1048.

§74-7001. Short title.

This act, Section 7001 et seq. of this title, shall be known and may be cited as the "Oklahoma State Employee Charitable Contribution Act".

Added by Laws 1989, c. 142, § 1, emerg. eff. May 1, 1989. Amended by Laws 1993, c. 103, § 1, eff. Jan. 1, 1995.

§74-7002. State Charitable Campaign.

In an effort to provide the employees of the State of Oklahoma with a convenient and responsible system which will allow them to contribute through payroll deduction to several fully accountable private nonprofit social, health and welfare organizations on a voluntary basis, there is hereby created a combined charitable solicitation to be called the "State Charitable Campaign".

Added by Laws 1989, c. 142, § 2, emerg. eff. May 1, 1989. Amended by Laws 1993, c. 103, § 2, eff. Jan 1, 1995; Laws 2004, c. 312, § 13, eff. July 1, 2004.

§74-7003. Definitions.

As used in the Oklahoma State Employee Charitable Contribution Act:

1. "Federation" means a legally constituted grouping of at least five health and social service agencies that are bound together to raise and distribute charitable contributions;

2. "State presence" means a test to determine whether the agency actually provides service to people in the State of Oklahoma;

3. "Local advisory review committee" means a group of state employees in a facility or agency assisting in the local involvement of state employees in the campaign;

4. "Principal combined fund raising organization" means the organization in the State of Oklahoma responsible for the charitable contribution campaign; and

5. "Oversight Committee for State Employee Charitable Contributions" means a group of state employees responsible for overseeing at the state level the conducting of the State Charitable Campaign.

Added by Laws 1989, c. 142, § 3, emerg. eff. May 1, 1989. Amended by Laws 1993, c. 103, § 3, eff. Jan 1, 1995; Laws 2004, c. 312, § 14, eff. July 1, 2004; Laws 2006, c. 121, § 1, eff. Nov. 1, 2006.

§74-7004. Administration of Campaign - Legal compliance.

The State Charitable Campaign shall be administered in accordance with the provisions of the Oklahoma State Employee Charitable Contribution Act and shall comply with all applicable federal, state and local statutes and ordinances.

Added by Laws 1989, c. 142, § 4, emerg. eff. May 1, 1989. Amended by Laws 1993, c. 103, § 4, eff. Jan 1, 1995; Laws 2004, c. 312, § 15, eff. July 1, 2004.

§74-7005. Oversight Committee for State Employee Charitable Contributions - Chairman - Duties and responsibilities.

A. The Oversight Committee for State Employee Charitable Contributions shall be composed of the Director of the Office of Management and Enterprise Services, or designee and six state employees, of which two shall be appointed by the Governor, two shall be appointed by the President Pro Tempore of the Senate and two shall be appointed by the Speaker of the House of Representatives. Members shall serve at the pleasure of their appointing authorities. The provisions of Section 6 of Title 51 of the Oklahoma Statutes shall not apply to appointments to the Committee. The Committee is re-created to continue until July 1, 2022, in accordance with the provisions of the Oklahoma Sunset Law.

B. The Committee annually shall elect a chairman from its membership. The Director of the Office of Management and Enterprise Services shall serve as chairman until the first such election.

C. The Oversight Committee for State Employee Charitable Contributions shall have the following duties and responsibilities:

1. Arrange for publication of information about the application process;

2. Review applications of federations electing to participate in the State Charitable Campaign and certify that a federation and each of its member agencies meet the eligibility criteria set forth in Sections 7009 and 7010 of this title;

3. Notify in writing each of the applying federations of its acceptance or rejection. Provided, if a federation is rejected, the Committee shall provide the reason for rejection of each of the member agencies of the federation;

4. Hear appeals of rejected agencies;

5. Delegate to the principal combined fund-raising organization the primary responsibility for the staffing and the financial obligations necessary to comply with the provisions of this subsection;

6. Develop a pledge card to be used throughout the State Charitable Campaign;

7. Select a principal combined fund-raising organization to assist the Committee in gathering and accumulating the applications; and

8. Promulgate rules to implement the provisions of the Oklahoma State Employee Charitable Contribution Act.

D. The Office of Management and Enterprise Services shall provide such staff support as is required by the Committee.

E. The Oversight Committee for State Employee Charitable Contributions is authorized to appoint such advisory councils and task forces as it deems necessary for counsel, advice and review concerning the formulation and administration of the rules, application review process and the implementation of the Oklahoma State Employee Charitable Contribution Act.

Added by Laws 1989, c. 142, § 5, emerg. eff. May 1, 1989. Amended by Laws 1990, c. 291, § 2, eff. Sept. 1, 1990; Laws 1994, c. 109, § 1, emerg. eff. April 24, 1994; Laws 2000, c. 20, § 1; Laws 2004, c. 312, § 16, eff. July 1, 2004; Laws 2006, c. 121, § 2, eff. Nov. 1, 2006; Laws 2012, c. 304, § 1049; Laws 2013, c. 15, § 121, emerg. eff. April 8, 2013; Laws 2016, c. 109, § 1, eff. Nov. 1, 2016.

NOTE: Laws 1993, c. 103, § 5 repealed by Laws 1994, c. 109, § 2, emerg. eff. April 24, 1994. Laws 2012, c. 301, § 2 repealed by Laws 2013, c. 15, § 122, emerg. eff. April 8, 2013.

§74-7006. Repealed by Laws 1993, c. 103, § 11, emerg. eff. April 23, 1993.

§74-7007. State principal combined fund raising organization - Definition - Duties and responsibilities.

A. The state principal combined fund raising organization shall be a local federation in the State of Oklahoma that provides, through one specific annual public solicitation for funds, substantial voluntary financial support for charitable agencies that depend on public subscription for support in the state and that has the necessary staff and volunteer support to administer the charitable contribution campaign.

B. The state principal combined fund raising organization shall have the following duties and responsibilities:

1. Work with the Oversight Committee for State Employee Charitable Contributions to develop the charitable contribution campaign plan for the State Charitable Campaign;

2. Develop the charitable contribution campaign materials and publicity for the State Charitable Campaign;

3. Recruit and train the volunteers, departmental coordinators and solicitors in a bipartisan manner; develop and keep records on all the accounts to be solicited; and cultivate the accounts to encourage participation in the charitable contribution campaign;

4. Keep all fiscal and financial records of the activities and submit to the Oversight Committee for State Employee Charitable Contributions a separate accounting of all proceeds of the State Charitable Campaign;

5. Submit to the participating federations a detailed accounting of the amount of money designated to the federation and to each of its member agencies; and

6. Disperse the allocation checks to the participating agencies.

C. Each state employee shall receive from the state principal combined fund raising organization general information material with each federation listed and each of its member agencies listed under the federation. Each agency and federation shall be identified by a code number. If descriptions of each agency are used in the general information material, they shall be provided to the state principal combined fund raising organization by the federations.

D. Each state employee shall be given the option to designate his or her gifts. Undesignated gifts shall be allocated pursuant to the provisions of subsection E of this section.

E. Undesignated money shall be distributed in the same proportion as designated dollars within the State of Oklahoma.

F. Allocations shall be distributed quarterly; provided, for campaigns of One Hundred Thousand Dollars (\$100,000.00) or less, allocations shall be distributed semiannually. Any interest earned from funds held prior to distribution will be distributed proportionally to the distribution of undesignated funds.

Added by Laws 1989, c. 142, § 7, emerg. eff. May 1, 1989. Amended by Laws 1990, c. 291, § 3, eff. Sept. 1, 1990; Laws 1993, c. 103, § 6, eff. Jan. 1, 1995; Laws 2004, c. 312, § 17, eff. July 1, 2004; Laws 2006, c. 121, § 3, eff. Nov. 1, 2006.

§74-7008. Reimbursement cost of administration of local campaigns - Limit.

The reimbursement cost for developing the charitable contribution campaign materials, training the solicitors and the overall administration of the campaign by the state principal combined fund organization shall be no greater than ten percent (10%) of the charitable contribution campaign proceeds or actual cost, whichever is less. The cost shall be borne by each of the federations or organizations proportionally. A charitable campaign budget shall be presented to the Oversight Committee for State Employee Charitable Contributions by the state principal combined fund raising organization.

Added by Laws 1989, c. 142, § 8, emerg. eff. May 1, 1989. Amended by Laws 1993, c. 103, § 7, eff. Jan 1, 1995; Laws 2006, c. 121, § 4, eff. Nov. 1, 2006.



§74-7009. Participating agencies - Qualifications - Criteria - Applications.

A. Participation in the State Charitable Campaign shall be limited to voluntary, charitable, health and welfare agencies that provide or support direct health and welfare services to individuals or their families and meet the criteria set out in this section. The health and welfare services shall be available to state employees, unless they are rendered to needy persons overseas. The services shall directly benefit human beings, whether children, youth, adults, the aged, the ill and infirm, or the mentally or physically handicapped. The services shall consist of care, research, or education in the fields of human health or social adjustment and rehabilitation; relief for victims of natural disasters and other emergencies; or assistance to those who are impoverished and, therefore, in need of food, shelter, clothing, and basic human welfare services.

B. For the purposes of the State Charitable Campaign, basic human welfare service shall not include:

1. Organizations whose primary purpose is the direct or indirect support of institutions of higher education;
2. Lobbying; and
3. Religious activities.

C. To be included in the State Charitable Campaign, a voluntary charitable agency, in addition to meeting the other requirements set forth in this section, shall:

1. Be a nonprofit, tax-exempt charitable organization and submit to the participating federation a 501(c)(3) exemption from the Internal Revenue Service;
2. Be incorporated or authorized to do business in this state as a private, nonprofit organization;
3. Register, annually, with the Secretary of State to solicit or accept contributions in this state;
4. Submit to the participating federation an audit of the agency, conducted by an accounting firm or individual holding a permit to practice public accounting in this state according to the generally accepted standards of accounting for nonprofit organizations; and
5. Submit to the participating federation a copy of the annual form 990.

D. Applications to the State Charitable Campaign shall be submitted to the Oversight Committee for State Employee Charitable Contributions from local federations which shall include United Ways, United Funds, Combined Health Appeals, International Social Service Agencies and any other local federation consisting of at least five local agencies which meet the requirements of this section. Each federation shall certify the application for its member agencies and shall give state charitable agencies precedence

over national agencies if both qualify for the charitable contribution campaign. Applications from individual agencies shall not be accepted.

Added by Laws 1989, c. 142, § 9, emerg. eff. May 1, 1989. Amended by Laws 1990, c. 291, § 4, eff. Sept. 1, 1990; Laws 1991, c. 68, § 1, emerg. eff. April 12, 1991; Laws 1993, c. 103, § 8, eff. Jan. 1, 1995; Laws 1999, c. 421, § 42, eff. Nov. 1, 1999; Laws 2004, c. 312, § 18, eff. July 1, 2004; Laws 2006, c. 121, § 5, eff. Nov. 1, 2006.

§74-7009.1. Voluntary charitable agencies with budget of less than \$50,000 - No audit required.

Notwithstanding the provisions of Section 7009 of Title 74 of the Oklahoma Statutes, if the annual budget of a voluntary charitable agency is less than Fifty Thousand Dollars (\$50,000.00), no annual audit shall be required.

Added by Laws 1993, c. 103, § 9, emerg. eff. April 23, 1993.

§74-7010. Admission of agencies to campaign - State presence test - Exemptions.

A. A charitable agency wishing to be admitted to the State Charitable Campaign shall be required to demonstrate state presence. The agency must comply with all of the following criteria in order to meet the state presence test:

1. The agency must provide or procure direct human care services for persons residing in the state in which the charitable contribution campaign will be conducted;

2. The agency shall have a board of directors that serves without compensation;

3. A majority of the members of the board of directors shall be residents of the state;

4. Consumers of service from the state shall be represented within the membership of the board of directors; and

5. A substantial portion of the agency's annual budget shall be derived from public solicitations in the State of Oklahoma.

B. Agencies whose primary focus is the providing of services to the needy overseas and Combined Health Agencies operating in this state shall be exempt from complying with the criteria set out in subsection A of this section and need not demonstrate state presence.

C. The Armed Forces Veterans Homes Foundation shall be exempt from the provisions of this section and shall be authorized to participate in the State Charitable Campaign.

Added by Laws 1989, c. 142, § 10, emerg. eff. May 1, 1989. Amended by Laws 1990, c. 291, § 5, eff. Sept. 1, 1990; Laws 1993, c. 103, § 10, eff. Jan. 1, 1995; Laws 2004, c. 312, § 19, eff. July 1, 2004.

§74-7011. Repealed by Laws 1993, c. 103, § 11, emerg. eff. April 23, 1993.

§74-7050. Repealed by Laws 2001, c. 303, § 3, eff. July 1, 2001.

§74-7051. Repealed by Laws 2001, c. 303, § 3, eff. July 1, 2001.

§74-7052. Repealed by Laws 2001, c. 303, § 3, eff. July 1, 2001.

§74-7053. Repealed by Laws 2001, c. 303, § 3, eff. July 1, 2001.

§74-7054. Repealed by Laws 2001, c. 303, § 3, eff. July 1, 2001.

§74-7055. Repealed by Laws 2001, c. 303, § 3, eff. July 1, 2001.

§74-7056. Repealed by Laws 2001, c. 303, § 3, eff. July 1, 2001.

§74-7057. Repealed by Laws 2001, c. 303, § 3, eff. July 1, 2001.

§74-7058. Repealed by Laws 2001, c. 303, § 3, eff. July 1, 2001.

§74-7059. Repealed by Laws 2001, c. 303, § 3, eff. July 1, 2001.

§74-7060. Repealed by Laws 2001, c. 303, § 3, eff. July 1, 2001.

§74-7061. Repealed by Laws 2001, c. 303, § 3, eff. July 1, 2001.

§74-7062. Repealed by Laws 2001, c. 303, § 3, eff. July 1, 2001.

§74-7063. Repealed by Laws 2001, c. 303, § 3, eff. July 1, 2001.

§74-7064. Repealed by Laws 2001, c. 303, § 3, eff. July 1, 2001.

§74-7065. Repealed by Laws 2001, c. 303, § 3, eff. July 1, 2001.

§74-7066. Repealed by Laws 2001, c. 303, § 3, eff. July 1, 2001.

§74-7067. Repealed by Laws 2001, c. 303, § 3, eff. July 1, 2001.

§74-7068. Abolition of Medical Technology and Research Authority - Transfer of powers, duties, and responsibilities to University of Oklahoma.

A. The Medical Technology and Research Authority of Oklahoma is hereby abolished. Effective July 1, 2001, the powers, duties, and responsibilities of the Authority as set forth in subsection C of this section shall be transferred to the University of Oklahoma. All employees, property, records, unexpended funds, and outstanding

financial obligations and encumbrances of the Authority are hereby transferred to the University of Oklahoma.

B. 1. Employees transferred to the University of Oklahoma pursuant to this section shall retain pay and benefits, to the extent possible, including longevity, insurance benefits for themselves and their dependents, seniority, and rights and other privileges and benefits.

2. a. An employee transferred pursuant to the provisions of this section may elect to remain as a member of the Oklahoma Public Employees Retirement System and, if the employee elects to do so, shall file an election on a form prescribed for that purpose with the Oklahoma Public Employees Retirement System not later than December 31, 2001, or the employee may elect to become a member of the Teachers' Retirement System of Oklahoma and, if the employee elects to do so, shall file an election on a form prescribed for that purpose with the Teachers' Retirement System of Oklahoma not later than December 31, 2001.
- b. If an employee files the election provided for in this paragraph to continue membership in the Oklahoma Public Employees Retirement System, the University of Oklahoma shall pay the required employer contributions applicable to the participating employers in the Oklahoma Public Employees Retirement System pursuant to Section 920 of Title 74 of the Oklahoma Statutes and the employee shall continue to pay employee contributions as required by Section 919.1 of Title 74 of the Oklahoma Statutes.
- c. Until an employee files an election pursuant to this paragraph, the employee shall continue to be a member of the Oklahoma Public Employees Retirement System and the University of Oklahoma shall make required employer contributions pursuant to Section 920 of Title 74 of the Oklahoma Statutes.
- d. If an employee transferred pursuant to this section elects a vested benefit to be paid from the Oklahoma Public Employees Retirement System, and if the employee has accumulated sick leave, on June 30, 2001, equal to or in excess of one hundred thirty (130) days then, notwithstanding the actual amount of accumulated sick leave the employee has accrued on the date as of which the vested benefit is elected, the provisions of Section 913 of Title 74 of the Oklahoma Statutes shall be applicable to the computation of participating service credit based upon accumulated sick leave for such employee.

3. a. An employee transferred pursuant to the provisions of this section may elect to become a member of the Teachers' Retirement System of Oklahoma pursuant to the election authorized by this section. If the employee makes an election to become a member of the Teachers' Retirement System of Oklahoma, the employee may acquire service credit in the Teachers' Retirement System of Oklahoma pursuant to the provisions of Section 17-116.2 of Title 70 of the Oklahoma Statutes.
- b. On and after the date that an employee makes an election to become a member of the Teachers' Retirement System of Oklahoma pursuant to subparagraph a of paragraph 2 of this subsection, the University of Oklahoma shall make required contributions pursuant to Section 17-108.1 of Title 70 of the Oklahoma Statutes and the employee shall make required contributions imposed pursuant to Section 17-116.2 of Title 70 of the Oklahoma Statutes.
- c. On and after the date that an employee files the election to become a member of the Teachers' Retirement System of Oklahoma, the University of Oklahoma and the employee making the election shall be subject to all requirements of the provisions of Sections 17-101 et seq. of Title 70 of the Oklahoma Statutes governing the Teachers' Retirement System of Oklahoma.

C. The following powers, duties, and responsibilities of the Authority shall be transferred to the University of Oklahoma:

1. The regulation and control of all vehicular parking within the district, including vehicular parking in parking garages, on parking lots, along driveways and along public or private streets, and at all other locations within the district. The University of Oklahoma is specifically empowered to regulate the number of vehicular parking spaces within the district, the hours of operation and availability of vehicular parking spaces, the charges to be assessed to the users of vehicular parking spaces and standards of construction and operation with respect to all vehicular parking facilities or areas within the district. In furtherance of the foregoing, the University may enter into agreements with the City of Oklahoma City or other governmental agencies with respect to enforcement of parking regulations; however, in all cases, the jurisdiction, power and authority to regulate vehicular parking granted by this act to the University shall be superior to and shall control over any parking jurisdiction possessed by any other agency of state government, political subdivision or municipality. No vehicular parking spaces shall be created or allowed to continue within the district unless authorized by the University.

Notwithstanding anything contained herein to the contrary, vehicular parking garages and hard-surfaced parking lots existing on May 1, 1990, not within public streets or rights-of-way, and having individual capacities in excess of ten (10) vehicular parking spaces, shall not be subject to the powers of the University as granted by this paragraph as to parking regulation unless, with respect to an individual property, the holder of same shall consent to such regulation by the University. Those parties not consenting to regulation by the University shall be responsible for the maintenance and operation of their respective parking garages; and

2. The regulation and control of vehicular parking within the secondary district as follows: No parking garages or parking lots shall be constructed or used without the prior approval of the University; however, vehicular parking accessory to a building, provided to meet the minimum vehicular parking requirements of the City of Oklahoma City for such building, need not obtain approval of the University; provided further, all parking in excess of such minimum requirements shall obtain the approval of the University. University approval shall not be required for vehicular parking garages or parking lots existing on May 1, 1990. Parking accessory to a residence shall not require University approval.

D. As used in this section:

1. "District" means an area of Oklahoma County described as follows: Beginning at a point on the centerline of the Centennial Expressway which intersects N.E. 11th Street, extended, thence east along the north right-of-way line of N.E. 11th Street and N.E. 11th Street extended to the west right-of-way line of Stiles Avenue, thence north along the west right-of-way line of Stiles Avenue to the north right-of-way line of N.E. 13th Street, thence east along the north right-of-way of N.E. 13th Street to the east right-of-way of Lincoln Boulevard, thence north along the west right-of-way line of Lincoln Boulevard to the intersection of the north right-of-way line of the east-west alley, extended, located in Block 7, Howe's Capitol Addition, thence east along the north right-of-way line of said alley and said alley, extended, to the west right-of-way line of Lindsay Avenue, thence north along the west right-of-way line of Lindsay Avenue to the north right-of-way line of N.E. 14th Street, thence east along the north right-of-way line of N.E. 14th Street to the west right-of-way line of Phillips Avenue, thence north along the west right-of-way line of Phillips Avenue to the north right-of-way line of N.E. 16th Street, thence east along the north right-of-way line of N.E. 16th Street to the east right-of-way line of McMecham Parkway, McMecham Parkway, also known as McMechan Parkway, also known as McMeachan Parkway, thence south along the east right-of-way line of McMecham Parkway, thence south along the east right-of-way line of McMecham Parkway to the north right-of-way line of N.E. 15th Street, thence east along the north right-of-way line of

N.E. 15th Street to the east right-of-way line of Kelley Avenue, thence south along the east right-of-way line of Kelley Avenue to the north right-of-way line of N.E. 13th Street, thence northeasterly and east along the north right-of-way line of N.E. 13th Street to the east right-of-way line of Lottie Avenue, thence south along the east right-of-way line of Lottie Avenue to the south right-of-way line of N.E. 8th Street, thence west along the south right-of-way line of N.E. 8th Street to the east right-of-way line of North Lindsay Avenue, thence south along the east right-of-way line of Lindsay Avenue to the south right-of-way line of N.E. 6th Street and N.E. 6th Street, extended, thence west along the south right-of-way line of N.E. 6th Street to the east right-of-way line of Lincoln Boulevard, thence south along the east right-of-way line of Lincoln Boulevard to the south right-of-way line of N.E. 4th Street, thence west along the south right-of-way line of N.E. 4th Street to the centerline of the Centennial Expressway, thence north along the centerline of the Centennial Expressway to intersect with the north right-of-way line of N.E. 11th Street extended, being the point of beginning; and

2. "Secondary district" means an area extending one thousand five hundred (1,500) feet beyond the boundaries of the district, but in no case west of the centerline of the Centennial Expressway. Added by Laws 2001, c. 303, § 2, eff. July 1, 2001.

§74-7101. Renumbered as § 840-2.10 of this title by Laws 1994, c. 242, § 54.

§74-8000.1. Tulsa Race Riot - Legislative findings and intent.

The Oklahoma Legislature hereby finds, pursuant to the final report of The 1921 Tulsa Race Riot Commission regarding the 1921 Tulsa Race Riot of May 31-June 1, 1921, and the riot's place in the history of race relations in Oklahoma:

1. The root causes of the Tulsa Race Riot reside deep in the history of race relations in Oklahoma and Tulsa which included the enactment of Jim Crow laws, acts of racial violence (not the least of which was the 23 lynchings of African-Americans versus only one white from 1911) against African-Americans in Oklahoma, and other actions that had the effect of "putting African-Americans in Oklahoma in their place" and to prove to African-Americans that the forces supportive of segregation possessed the power to "push down, push out, and push under" African-Americans in Oklahoma;

2. Official reports and accounts of the time that viewed the Tulsa Race Riot as a "Negro uprising" were incorrect. Given the history of racial violence against African-Americans in Oklahoma, including numerous lynchings by white mobs, and the breakdown of the rule of law in Tulsa on May 31-June 1, 1921, it is understandable that African-Americans believe they needed to assist Tulsa police in

protecting Dick Rowland, an African-American accused of attempting to rape a white woman, against an assembled white mob. The documentation assembled by The 1921 Tulsa Race Riot Commission provides strong evidence that some local municipal and county officials failed to take actions to calm or contain the situation once violence erupted and, in some cases, became participants in the subsequent violence which took place on May 31 and June 1, 1921, and even deputized and armed many whites who were part of a mob that killed, looted, and burned down the Greenwood area;

3. The staggering cost of the Tulsa Race Riot included the deaths of an estimated 100 to 300 persons, the vast majority of whom were African-Americans, the destruction of 1,256 homes, virtually every school, church and business, and a library and hospital in the Greenwood area, and the loss of personal property caused by rampant looting by white rioters. The Tulsa Race Riot Commission estimates that the property costs in the Greenwood district was approximately \$2 million in 1921 dollars or \$16,752,600 in 1999 dollars. Nevertheless, there were no convictions for any of the violent acts against African-Americans or any insurance payments to African-American property owners who lost their homes or personal property as a result of the Tulsa Race Riot. Moreover, local officials attempted to block the rebuilding of the Greenwood community by amending the Tulsa building code to require the use of fire-proof material in rebuilding the area thereby making the costs prohibitively expensive;

4. Perhaps the most repugnant fact regarding the history of the 1921 Tulsa Race Riot is that it was virtually forgotten, with the notable exception of those who witnessed it on both sides, for seventy-five (75) years. This "conspiracy of silence" served the dominant interests of the state during that period which found the riot a "public relations nightmare" that was "best to be forgotten, something to be swept well beneath history=s carpet" for a community which attempted to attract new businesses and settlers;

5. The work of many individual Oklahomans and now of The 1921 Tulsa Race Riot Commission has forever ended the "conspiracy of silence" surrounding the events in Tulsa of May 31-June 1, 1921, and their aftermath. The Commission has subsequently turned the responsibility for how the State of Oklahoma will respond to the historical record to the 48th Oklahoma Legislature; and

6. The 48th Oklahoma Legislature in enacting the 1921 Tulsa Race Riot Reconciliation Act of 2001 concurs with the conclusion of The 1921 Tulsa Race Riot Commission that the reason for responding in the manner provided by this act is not primarily based on the present strictly legal culpability of the State of Oklahoma or its citizens. Instead, this response recognizes that there were moral responsibilities at the time of the riot which were ignored and has been ignored ever since rather than confront the realities of an



Oklahoma history of race relations that allowed one race to "put down" another race. Therefore, it is the intention of the Oklahoma Legislature in enacting the 1921 Tulsa Race Riot Reconciliation Act of 2001 to freely acknowledge its moral responsibility on behalf of the state of Oklahoma and its citizens that no race of citizens in Oklahoma has the right or power to subordinate another race today or ever again.

Added by Laws 2001, c. 315, § 2.

§74-8001. Renumbered as § 683.25 of Title 63 by Laws 1996, c. 244, § 11, eff. July 1, 1996.

§74-8002. Renumbered as § 683.26 of Title 63 by Laws 1996, c. 244, § 11, eff. July 1, 1996.

§74-8003. Renumbered as § 683.28 of Title 63 by Laws 1996, c. 244, § 11, eff. July 1, 1996.

§74-8004. Repealed by Laws 1996, c. 244, § 10, eff. July 1, 1996.

§74-8005. Repealed by Laws 1996, c. 244, § 10, eff. July 1, 1996.

§74-8006. Renumbered as § 683.32 of Title 63 by Laws 1996, c. 244, § 11, eff. July 1, 1996.

§74-8007. Renumbered as § 683.33 of Title 63 by Laws 1996, c. 244, § 11, eff. July 1, 1996.

§74-8008. Renumbered as § 683.34 of Title 63 by Laws 1996, c. 244, § 11, eff. July 1, 1996.

§74-8101. Legislative findings and declarations.

A. The Oklahoma State Legislature hereby finds and declares that:

1. Statistical studies chronicling the status of African-American males in American society reveal startling and disturbing conditions and trends;

2. By every indicia measuring achievement, success and quality of life in American society, African-American males are facing a prodigious struggle for survival while fighting formidable opponents;

3. African-American males make up only three and two-tenths percent (3.2%) of the population of Oklahoma, but are victims of twenty-one and eight-tenths percent (21.8%) of the state's homicides and comprise twenty-one and five-tenths percent (21.5%) of all persons under the control of the State Department of Corrections;

4. National statistics indicate that one of every twenty-two African-American males will die as a result of homicide and that one of every six African-American males will be arrested by the age of nineteen years;

5. African-American males make up only three percent (3%) of Oklahoma's total college and university enrollment;

6. African-American males suffer from more debilitating health problems, a higher death rate and a lower life expectancy than males in other ethnic and racial groups;

7. Between the years 1973 and 1988, the average real annual income for African-American males in the United States between the ages of twenty and twenty-four years fell by more than fifty percent (50%); and

8. There is no statewide repository of data available on the status of African-American males.

Added by Laws 1993, c. 96, § 1, emerg. eff. April 18, 1993.

§74-8102. Creation.

There is hereby established the Oklahoma Task Force on the Status of African-American Males.

Added by Laws 1993, c. 96, § 2, emerg. eff. April 18, 1993.

§74-8103. Repealed by Laws 2007, c. 93, § 15, eff. Nov. 1, 2007.

§74-8104. Duties and responsibilities.

A. It shall be the duty and responsibility of the Oklahoma Task Force on the Status of African-American Males to:

1. Appoint advisory committees with recognized expertise in the targeted areas listed in paragraph 2 of this section;

2. Conduct research to determine the nature and extent of the problems concerning African-American males in targeted areas which shall include, but not be limited to, employment, education, criminal justice, social services, health, economic empowerment and the media;

3. Hold public hearings for the purpose of collecting data;

4. Identify existing federal, state and local programs that address problems and solutions relevant to the targeted areas of study;

5. Develop community education and public awareness programs especially designed for African-American males; and

6. Develop strategies to improve the social condition of African-American males.

B. Staffing for the Task Force shall be provided by the staffs of the Senate and the House of Representatives.

C. The Task Force may meet or consult with any persons as may be able to assist the Task Force in carrying out its duties pursuant to this act.

D. The Task Force shall report its findings to the Legislature and the Governor, upon request, beginning January 31, 1994, and annually thereafter, through January 31, 1996.

Added by Laws 1993, c. 96, § 4, emerg. eff. April 18, 1993.

§74-8121. Repealed by Laws 2014, c. 191, § 1, eff. Nov. 1, 2014.

§74-8151. Repealed by Laws 2000, c. 251, § 4, eff. July 1, 2000.

§74-8201. Repealed by Laws 2001, c. 277, § 16, eff. July 1, 2001.

§74-8201.1. Repealed by Laws 2017, c. 185, § 2, eff. Nov. 1, 2017.

§74-8201.2. Repealed by Laws 2017, c. 185, § 2, eff. Nov. 1, 2017.

§74-8202. Repealed by Laws 2001, c. 277, § 16, eff. July 1, 2001.

§74-8203. Repealed by Laws 2017, c. 185, § 2, eff. Nov. 1, 2017.

§74-8204. Repealed by Laws 2017, c. 185, § 2, eff. Nov. 1, 2017.

§74-8205. Repealed by Laws 2017, c. 185, § 2, eff. Nov. 1, 2017.

§74-8206. Operation and maintenance of the 1921 Tulsa Race Riot Memorial of Reconciliation.

A. The 1921 Tulsa Race Riot Memorial of Reconciliation created pursuant to the procedures set forth in Sections 8201.1 through 8204 of Title 74 of the Oklahoma Statutes and all real property acquired and held for construction and operation of the Memorial, which is owned by the State of Oklahoma and developed and operated by the Oklahoma Historical Society may be transferred to the City of Tulsa, Oklahoma.

B. The City of Tulsa shall operate and maintain the Memorial as provided for in Section 8204 of Title 74 of the Oklahoma Statutes. Added by Laws 2009, c. 243, § 1, eff. Nov. 1, 2009.

§74-8207. Tulsa Race Riot Centennial Memorial Revolving Fund

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Historical Society to be designated the "1921 Tulsa Race Riot Centennial Memorial Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Historical Society from appropriations, donations or any other source and designated for the purpose set forth in this section. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Historical Society for the purpose of commemoration of the centennial of the 1921 Tulsa Race

Riot. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. Any funds in the revolving fund created in Section 8201.2 of Title 74 of the Oklahoma Statutes on the effective date of this act shall be transferred to the 1921 Tulsa Race Riot Centennial Memorial Revolving Fund.

Added by Laws 2017, c. 185, § 1, eff. Nov. 1, 2017. Amended by Laws 2017, c. 328, § 1, eff. July 1, 2017.

§74-8221. Short title.

Sections 8221 through 8226 of this title shall be known and may be cited as the "Greenwood Area Redevelopment Authority Act".

Added by Laws 2001, c. 315, § 8. Amended by Laws 2002, c. 395, § 2, eff. Nov. 1, 2002.

§74-8222. Definitions.

As used in this act:

1. "Authority" means the Greenwood Area Redevelopment Authority; and

2. "Greenwood Area" means those portions of the City of Tulsa sustaining significant damage during the period of civil unrest occurring during the months of May and June 1921, and further identified as follows:

That area of the City of Tulsa bordered on the west by the Tulsa County-Osage County line, on the south by Archer Street, on the east by Lewis Avenue, and on the north the boundary extended beyond Pine Street to approximately 56th Street.

Added by Laws 2001, c. 315, § 9. Amended by Laws 2004, c. 74, § 1.

§74-8223. Greenwood Area Redevelopment Authority - Board of Trustees.

A. There is hereby created the Greenwood Area Redevelopment Authority. The Authority shall be an instrumentality of the state.

B. The Authority is created in order to provide a method to facilitate the redevelopment of the Greenwood Area.

C. In addition to other responsibilities imposed pursuant to the Greenwood Area Redevelopment Authority Act, the mission of the Authority shall be to assist in finding methods for other entities, both in the private sector and public sector, to promote the investment, reinvestment, development and revitalization of qualified metropolitan areas.

D. The Authority shall be governed by a board of trustees which shall consist of twenty (20) members to be appointed or who shall serve on the board of trustees for the Authority as follows:

1. Two members to be appointed by the Speaker of the House of Representatives, one of whom shall be a legislator from the area of the City of Tulsa;

2. Two members to be appointed by the President Pro Tempore of the Oklahoma State Senate, one of whom shall be a legislator from the area of the City of Tulsa;

3. Two members to be appointed by the Governor;

4. Five members to be appointed by the mayor of the City of Tulsa;

5. The executive director, or a designee, of the Tulsa Metropolitan Chamber of Commerce;

6. The executive director, or a designee, of the Chamber of Commerce serving the Greenwood Area;

7. The executive director, or a designee, of the Oklahoma Department of Commerce;

8. The executive director, or a designee, of the Oklahoma Bankers' Association;

9. Two persons to be selected by the Oklahoma Municipal League with the following qualifications:

- a. a person with experience in the use of venture capital or seed capital to promote investment or reinvestment in metropolitan areas, and
- b. a person with qualifications deemed suitable for the purposes of the Authority as determined by the Oklahoma Municipal League;

10. Two persons to be appointed by the board of county commissioners of Tulsa County; and

11. The President of Oklahoma State University - Tulsa, or a designee.

E. The Authority shall be authorized to conduct its meetings as required in order to perform the duties imposed upon the Authority pursuant to law. The Authority shall be subject to the provisions of the Oklahoma Open Meeting Act.

F. A simple majority of the members present shall be required to approve any actions taken by the Authority.

G. No person appointed to or otherwise serving on the board of trustees of the Authority shall be required to vacate any public office otherwise subject to the requirements of Section 6 of Title 51 of the Oklahoma Statutes and for purposes of such requirements, the position of trustee shall not be considered a public office. Added by Laws 2001, c. 315, § 10. Amended by Laws 2002, c. 395, § 3, eff. Nov. 1, 2002.

#### §74-8224. Powers of Authority.

A. The Authority shall have the power to:

1. Adopt a seal for its official use;
2. Contract;

3. Own property;
4. Accept gifts and donations;
5. Invest funds under its control; and
6. Such other powers as are not inconsistent with the duties and responsibilities imposed upon the Authority.

B. The Authority shall not have the power to:

1. Acquire property through the use of eminent domain;
2. Become indebted in any manner; or
3. Take any action in derogation of the rights, whether based on contract or otherwise, established pursuant to any agreements entered into between private entities, between public entities or by one or more private and one or more public entities.

Added by Laws 2001, c. 315, § 11.

§74-8225. Long-term development plan.

A. In addition to other responsibilities imposed upon it by law, the Greenwood Area Redevelopment Authority shall develop a long-term plan for the redevelopment of the Greenwood Area. The Authority may engage the services of such advisors, consultants or other persons or business entities as may be required in order to formulate the plan.

B. The plan shall include:

1. An assessment of the existing conditions of the Greenwood Area, including, but not limited to:

- a. population,
- b. per capita income,
- c. employment or unemployment rates,
- d. workforce characteristics,
- e. assessed value,
- f. existing land use regulations or restrictions,
- g. available utilities such as water, electricity, solid and other waste disposal and access to telecommunication services, including but not limited to conventional or fiber optic cable,
- h. identification of persons or entities doing business within the Greenwood Area,
- i. identification of existing infrastructure such as water, sewer, roads, and other public sector assets which are material to business location, business investment and business reinvestment decisions,
- j. traffic volume and characteristics,
- k. any existing economic development incentives applicable to persons or entities within the Greenwood Area, including but not limited to areas which qualify as enterprise zones pursuant to Section 690.1 et seq. of Title 62 of the Oklahoma Statutes and any existing or proposed increment or incentive districts pursuant

to the Local Development Act, Section 850 et seq. of Title 62 of the Oklahoma Statutes, and

1. such other demographic data or characteristics as the Authority or its consultants or advisors consider to be relevant to the mission and responsibilities imposed upon the Authority pursuant to this section;

2. Specific recommendations regarding the redevelopment and reinvestment of capital within the Greenwood Area, including, but not limited to recommendations regarding the uses of real property most conducive to the redevelopment and reinvestment of the Greenwood Area, whether for residential dwellings, wholesale or retail business activity, commercial and industrial activity, governmental uses, community assets such as parks and similar development, and such other uses of the Greenwood Area real property most conducive to a sustained and viable redevelopment and reinvestment resulting in a productive use of the real property and improvements located within the Greenwood Area;

3. An analysis of the efforts of other states or political subdivisions with respect to the redevelopment and reinvestment of areas with economic characteristics similar to the Greenwood Area with recommendations to duplicate successful models or programs, whether through the stimulation of private investment, the use of government resources to stimulate private investment, community development programs and other methods as deemed advisable by the Authority;

4. A specific list of resources that might be utilized in the redevelopment and reinvestment effort, including, but not limited to:

- a. federal grants or loans or programs offered through any federal agency such as the United States Department of Commerce and the United States Department of Housing and Urban Development,
- b. state programs available to individuals or business entities, whether in the form of grants or loans or other programs, which would have the effect of stimulating redevelopment and reinvestment in the Greenwood Area,
- c. local programs available to individuals or business entities which would have the effect of stimulating redevelopment and reinvestment in the Greenwood Area, and
- d. any program or resource available through private not-for-profit organizations that would be compatible with the goals and objectives of the Authority with respect to its duties for the development of the long-term plan and the identification of specific actions which

could be taken to stimulate redevelopment and reinvestment in the Greenwood Area; and

5. A projected timetable with specific dates to achieve the recommended development of the Greenwood Area including specific actions to be taken by persons, business entities, financial service providers, contractors, consultants, or other persons or entities in order to achieve the recommendations of the Authority within a realistic period of time.

C. The long-term plan of the Authority shall be presented to the mayor of the City of Tulsa, the Speaker of the Oklahoma House of Representatives, the President Pro Tempore of the Oklahoma State Senate and the Governor not later than September 1, 2003.

Added by Laws 2001, c. 315, § 12. Amended by Laws 2002, c. 395, § 4, eff. Nov. 1, 2002; Laws 2003, c. 269, § 2, emerg. eff. May 26, 2003.

§74-8226. Assistance to Authority by other entities.

The Oklahoma Department of Commerce, the Oklahoma Tax Commission, the Oklahoma Employment Security Commission and all other state agencies, boards, commissions, departments and other entities shall provide such assistance to the Authority as may be required in order for the Authority to perform the duties imposed upon it pursuant to law.

Added by Laws 2001, c. 315, § 13.

§74-8301. Contributions for construction of World War II memorial in Washington, D.C.

A. It is the intent of the Oklahoma Legislature to honor all individuals and specifically Oklahomans who served in the Armed Forces of the United States during World War II, the many who died, and those who supported the war effort from home by committing to contribute to the construction of a World War II memorial to be located in Washington, D.C.

B. If funds are made available for such purpose, the Department of Veterans Affairs shall provide an amount of not less than Two Hundred Sixty-five Thousand Dollars (\$265,000.00) to the World War II memorial, which represents approximately One Dollar (\$1.00) for every person from Oklahoma who served in the war.

C. The Department may accept contributions of money on behalf of Oklahoma World War II veterans from veterans' organizations or other private organizations, entities, or persons to meet the state's commitment as set forth in subsection B of this section for the construction of the World War II memorial. The Department may request contributions from the Oklahoma Historical Society, the Oklahoma Tourism and Recreation Department, the State Regents for Higher Education, the Department of Human Services, and any other state agency or public entity the Department deems appropriate.



D. The Department shall pay the money collected or credited for the purpose of the World War II memorial to the American Battle Monuments Commission for the construction of a memorial on federal land in the District of Columbia to honor members of the United States Armed Forces who served in World War II.  
Added by Laws 2000, c. 284, § 1, eff. July 1, 2000.

§74-8302. Rural Area Development Task Force.

A. There is hereby created the Rural Area Development Task Force. The Task Force shall consist of eleven (11) members to be selected as follows:

1. One member to be appointed by the Speaker of the House of Representatives;

2. One member to be appointed by the President Pro Tempore of the Senate;

3. Five members to be appointed by the Governor, each of whom shall have demonstrated experience or interest in one or more issues affecting rural development, including, but not limited to, private sector financial expertise, economic development at the state or local level, agricultural economics, health care services, communications technology, business site location decisions, rural housing or such other areas of expertise as the Governor deems to be in the best interests of service as a member of the Task Force;

4. One member who shall be the Executive Director of the Oklahoma Department of Commerce or a designee;

5. One member who shall be the Director of the Oklahoma Department of Agriculture, Food and Forestry or a designee;

6. One member to be selected by the board of directors of Rural Enterprises, Inc.; and

7. One member to be selected by Oklahoma Association of Regional Councils, with the advice and consent of each of the substate planning districts.

B. The Task Force shall select from among its membership a chair and vice-chair. The Task Force shall be authorized to meet at such times as may be required in order to perform the duties imposed upon it by law.

C. Except as otherwise provided by this subsection, the Task Force shall be subject to the Oklahoma Open Meeting Act and the Oklahoma Open Records Act. For purposes of providing assistance to the Advisory Team for the Rural Action Partnership Program, the Rural Area Development Task Force shall be authorized to conduct meetings by teleconference or videoconference, if required. For purposes of any action requiring a vote of the Task Force to provide such assistance to the Advisory Team, the Task Force may take such action by affirmative vote of a simple majority of the members of the Task Force present or participating in such teleconference or videoconference.

D. The Task Force shall study and examine ways in which the State of Oklahoma:

1. Can effectively develop its rural economy;
2. Promote rural areas of the State of Oklahoma for purposes of business site location efforts;
3. Support the Oklahoma Department of Commerce in implementation of the Rural Action Partnership Program and existing efforts to assist rural areas of the state with economic development efforts;
4. Can modify existing incentives or create additional incentives that are likely to result in the formation of business capital and job creation which directly benefits the communities located in primarily rural areas of the state;
5. Can modify existing incentives or create additional incentives that promote and support individuals engaged in agriculture, aquaculture, farming, ranching, agricultural product processing and all forms of business activity that add significant value to inputs developed with labor and capital originating from the state; and
6. Take such other actions as may be conducive to the improvement of the rural Oklahoma economy and creation of quality employment in rural areas and to enhance the quality of life for rural residents.

E. The Task Force may request such assistance as it may require from the Oklahoma Department of Commerce, the Oklahoma Department of Agriculture, Food and Forestry, the Oklahoma Employment Security Commission, the Oklahoma Tax Commission, the Oklahoma Tourism and Recreation Department, the Oklahoma Department of Career and Technology Education, and such other entities of state government as the Task Force may deem relevant to its mission and duties.

F. Staff assistance for the Task Force shall be provided by the Oklahoma House of Representatives and the State Senate.

G. The Task Force shall examine the final recommendations of any previous Task Force, Commission, working group, association or other entity that has previously undertaken a study of rural economic development efforts within the ten (10) years preceding the effective date of this act. The Task Force shall determine the extent to which any of such recommendations have been implemented, either pursuant to changes in state law or policy, and to the extent possible, the Task Force shall determine whether the implementation of the recommendation from such prior studies was effective.

H. The Task Force shall develop recommendations specifically designed to improve the economic development of rural areas of the State of Oklahoma, whether through formation of business capital, job creation, job training, agricultural development, small business formation and entrepreneurship programs, or other method identified

by the Task Force as having potential for improvement of economic and related conditions in rural areas of the state.

I. On and after the effective date of this act, the Task Force shall provide such assistance to the Advisory Team for the Rural Action Partnership Program as may be required.

Added by Laws 2003, c. 269, § 1, emerg. eff. May 26, 2003. Amended by Laws 2004, c. 471, § 3, eff. July 1, 2004.

§74-8303. Rural Action Partnership Program - Duties - Annual evaluation - Purpose.

A. There is hereby created within the Oklahoma Department of Commerce the Rural Action Partnership Program.

B. The Rural Action Partnership Program shall be responsible for coordinating and assisting in:

1. Establishing a statewide toll free telephone program to serve as a point of first contact between persons, business entities, groups, associations, organizations, state and local government officials and others for purposes of facilitating contact with service providers, providing information regarding primarily rural economic development entities, programs, resources and activities and to provide assistance to persons, firms and representatives of governmental entities attempting to establish or expand a for-profit business in a rural area of the state;

2. Assisting in the coordination of primarily rural economic development programs offered within the state;

3. Administering a rural economic development and employer regional outreach program that divides the state into at least four areas with each such area to be served by at least one rural regional economic development coordinator who shall assist in the establishment and coordination of rural economic development partnerships;

4. The accumulation and organization of information to be used as a rural economic development resource database, including, but not limited to, contact information for persons, firms, groups, organizations and others involved in rural economic development issues, availability of federal, state and local incentive programs, and, subject to available funding, the development and maintenance of a rural development Internet web site to promote access to such information;

5. A comprehensive survey of natural resources located or available in primarily rural areas of the state in order to match potential value-added business activity with such resources;

6. The sponsorship, with key economic development partners, of periodic rural development summits or conferences for purposes of communicating about the existence of the Rural Action Partnership Program, availability of assistance, development of additional services consistent with the mission of the Program and such matters

as may be conducive to improving the delivery of services with respect to rural development programs and rural economic development; and

7. Providing such services and developing such programs, functions or initiatives that may be necessary for or that would promote the development of rural resources and the rural economy.

C. The mission of the Rural Action Partnership Program shall be to foster healthy and sustainable rural communities through small business retention, expansion, and entrepreneurial development.

D. The primary emphasis for the regional economic development outreach specialists shall be to serve the needs of the communities or regions with declining populations or with economic indicators that suggest additional information and resources would be of benefit to improve the economic conditions of such community.

E. The Oklahoma Department of Commerce, in support of the mission of the Rural Action Partnership Program, may request the assistance of the Oklahoma Water Resources Board, Department of Environmental Quality, Oklahoma Corporation Commission, Oklahoma Tax Commission, Oklahoma Employment Security Commission, Oklahoma Department of Agriculture, Food, and Forestry, Oklahoma Department of Tourism, Department of Transportation, the Oklahoma State Regents for Higher Education, the Oklahoma Department of Career and Technology Education or such other agencies, boards, commissions, departments or other entities of state government as may be required in order to assist with the implementation of the programs for which the Rural Action Partnership Program is responsible.

F. The Oklahoma Department of Commerce shall conduct an annual evaluation of the Rural Action Partnership Program. Not later than December 31, 2007, the Executive Director of the Oklahoma Department of Commerce shall make a report regarding the actions and functions of the Rural Action Partnership Program to the Governor, Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the State Senate. The report shall summarize the activity and results of the Program and may contain recommendations for changes in the functions of the Program, including changes in funding.

Added by Laws 2004, c. 471, § 1, eff. July 1, 2004.

§74-8304. Rural Action Partnership Program - Advisory team.

A. There shall be an Advisory Team for the Rural Action Partnership Program.

B. The Advisory Team shall not have any direct control or policy making authority with respect to the Rural Action Partnership Program. The Rural Action Partnership Program shall be the responsibility of the Executive Director of the Oklahoma Department of Commerce.

C. The Advisory Team shall consist of:

1. The Executive Director of the Oklahoma Department of Commerce or a designee;

2. A person to be selected by action of the Board of Directors of Rural Enterprises of Oklahoma, Inc.;

3. A person to be selected by action of the Board of Directors of the Oklahoma Association of Regional Councils;

4. A person to be selected by the governing entity for the Oklahoma Small Business Development Centers;

5. A person to be selected by the Oklahoma Association of R.C. and D. Councils;

6. A person to be designated by the Commissioner of the Department of Agriculture, Food, and Forestry;

7. A person to be designated by the Governor's Council of Workforce and Economic Development;

8. A person to be selected by the Board of the Oklahoma Alliance for Manufacturing Excellence;

9. A person to be selected by the Oklahoma Department of Career and Technology Education;

10. A person to be selected by the Oklahoma State Regents for Higher Education;

11. A person to be selected by the Oklahoma Department of Transportation; and

12. Three persons to be selected by the Governor to represent rural businesses and rural communities.

D. For purposes of the Oklahoma Open Meeting Act, the Advisory Team shall be deemed a public body, but shall be authorized to conduct its meetings by teleconference.

E. The Advisory Team shall be authorized to meet as often as may be required to assist in the development of the Rural Action Partnership Program and may request assistance from the Rural Area Development Task Force for such purpose.

Added by Laws 2004, c. 471, § 2, eff. July 1, 2004.

§74-8401. Repealed by Laws 2013, c. 227, § 48, eff. Nov. 1, 2013.

§74-8402. Korean War Veterans Memorial.

A. The Office of Management and Enterprise Services is hereby authorized to negotiate with an Internal Revenue Code Section 501(c)(3) tax-exempt corporation for the purpose of designating a site within the State Capitol Complex Park for the Korean War Veterans Memorial.

B. Any contract, pursuant to this section, must be approved by the Oklahoma Capitol Improvement Authority.

Added by Laws 2005, c. 380, § 2, eff. Nov. 1, 2005. Amended by Laws 2012, c. 304, § 1053.

§74-8403. African-American Centennial Plaza Design Committee - Creation - Membership - Compensation - Staffing.

A. There is hereby created the African-American Centennial Plaza Design Committee. The purpose of the Committee shall be to recommend the design of the African-American Centennial Plaza and to provide oversight and advice to the Oklahoma Historical Society in the design, construction, and funding sources of the Plaza which shall be located in the median of Lincoln Boulevard between 18th Street and the State Capitol Building; provided, however, such construction shall begin only when the total amount of non-state-appropriated funds necessary to complete the Plaza has been raised or secured. Should the total amount of non-state-appropriated funds not be raised or secured within two (2) years after the effective date of this act, the site referred to in this section shall no longer be reserved for the Plaza.

B. The Committee shall consist of seven (7) members as follows:

1. The President Pro Tempore of the Senate, or a designee;
2. The Speaker of the House of Representatives, or a designee;
3. The Governor, or a designee;
4. The Lieutenant Governor, or a designee;
5. The Executive Director of the Oklahoma Historical Society, or a designee;
6. The Director of the Office of Management and Enterprise Services, or a designee; and
7. The Executive Director of the Oklahoma Arts Council, or a designee.

C. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall annually appoint a chair and a vice-chair, respectively, from among the membership. The Committee may elect other officers as deemed necessary. Meetings of the Committee shall be subject to the provisions of the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

D. Members of the Committee shall receive no compensation for their service on the Committee, but may receive travel reimbursement as follows:

1. Legislative members of the Committee may be reimbursed for necessary travel expenses incurred in the performance of their duties in accordance with the provisions of Section 456 of Title 74 of the Oklahoma Statutes;
2. Nonlegislative state agency members of the Committee may be reimbursed by their agencies pursuant to the provisions of the State Travel Reimbursement Act; and
3. Other members of the Committee may be reimbursed by the Oklahoma Historical Society pursuant to the provisions of the State Travel Reimbursement Act.

E. Staffing for the Committee shall be provided by the staffs of the:

1. Oklahoma Historical Society;
2. Oklahoma State Senate; and
3. Oklahoma House of Representatives.

F. The duties of the Committee shall be to:

1. Develop criteria for and solicit public comment and input on the development and design of the Plaza;

2. Develop and implement criteria for a design competition which shall include, but not be limited to, solicitation of designs from appropriate persons or entities, and incorporation of any work that may already have been initiated on the design of the Plaza. The Committee shall select three designs as finalists from among the designs submitted through the competition and shall present the selected designs to the public for comment and input. The Committee shall give due consideration to the comments received from the public in choosing the design that, in the opinion of a majority of the Committee members, is most appropriate to commemorate the unique history and contributions of African Americans in Oklahoma;

3. From the three finalists, select the design winner and an alternate whose designs shall be forwarded to the Executive Director of the Oklahoma Historical Society; and

4. Provide oversight and advice to the Oklahoma Historical Society during the design and construction of the Plaza.

G. The Director of the Office of Management and Enterprise Services shall be responsible for awarding all contracts related to the construction of the Plaza. The Director, in consultation with the Committee, may elect to use the alternate design or recommend the reopening of the award process if the winning design construction exceeds the anticipated budget for the Plaza.

H. Upon completion of the Plaza, the Office of Management and Enterprise Services shall be responsible for the maintenance and upkeep of the Plaza.

Added by Laws 2006, c. 241, § 1, eff. July 1, 2006. Amended by Laws 2012, c. 304, § 1054.

§74-9001. Repealed by Laws 2014, c. 188, § 1, eff. Nov. 1, 2014.

§74-9002. Repealed by Laws 2014, c. 188, § 1, eff. Nov. 1, 2014.

§74-9003. Repealed by Laws 2014, c. 188, § 1, eff. Nov. 1, 2014.

§74-9004. Repealed by Laws 2005, c. 108, § 6, eff. July 1, 2005.

§74-9030. Short title.

This act shall be known and may be cited as the "Oklahoma Art in Public Places Act".

Added by Laws 2004, c. 254, § 1.

§74-9030.1. Legislative findings - Purpose - Administering agency.

A. The Legislature recognizes the responsibility of Oklahoma to foster culture and the arts and declares that a portion of expenditures for capital projects including, but not limited to, bond issues for state construction be set aside for the acquisition of works of art to be placed in public construction or on public lands.

B. The purpose of the Oklahoma Art in Public Places Act is to enhance public construction and encourage state cultural development.

C. The administering agency shall be the Oklahoma Arts Council which is authorized to promulgate rules to administer the Oklahoma Art in Public Places Act.

Added by Laws 2004, c. 254, § 2. Amended by Laws 2015, c. 196, § 2, eff. July 1, 2015.

§74-9030.2. Definitions.

As used in the Oklahoma Art in Public Places Act:

1. "Art", "artwork", or "work of art" means all forms of original creations of visual art, except for blasphemous material as defined by Section 901 of Title 21 of the Oklahoma Statutes or indecent or obscene material as defined by Section 1024.1 of Title 21 of the Oklahoma Statutes, including, but not limited to:

- a. sculpture, in any material or combination of materials, whether in the round, bas-relief, high relief, mobile, fountain, kinetic, or electronic,
- b. painting, including murals and frescoes,
- c. mosaic,
- d. photography,
- e. fine crafts made from clay, fiber and textiles, wood, glass, metal, plastics or any other material, or any combination thereof,
- f. drawing,
- g. calligraphy,
- h. mixed media composed of any combination of forms or media,
- i. unique architectural stylings or embellishments, including architectural crafts,
- j. ornamental gateways, and
- k. restoration or renovation of existing works of art of historical significance;

2. "Artist" means a practitioner in the visual arts committed to producing high quality work, as recognized by the peers and critics of the artist, on a regular basis. The term "artist" shall not include the architect of a public building under construction or any member of the architectural firm of the architect;

3. "Council" means the Oklahoma Arts Council;



4. "Division" means the Art in Public Places Division;
  5. "Maintenance" means the ongoing upkeep required for artworks to retain their structural and aesthetic integrity;
  6. "Appointing authority" shall be the Director or designee of the Project Agency;
  7. "Project" means any capital expenditure, including, but not limited to, bond issues, with the purpose of renovating or constructing public buildings costing Two Hundred Fifty Thousand Dollars (\$250,000.00) or more;
  8. "Project agency" means institutions within The Oklahoma State System of Higher Education or the department, board, commission, institution, or agency of the state subject to the Oklahoma Art in Public Places Act. The legislative and judicial branches of the State of Oklahoma shall be subject to the procedures of the Oklahoma Art in Public Places Act or shall implement another process to include art in locations subject to the control of those branches. Provided, that the expenditure for commissioning art by the legislative and judicial branches shall be no less than that established by Section 9030.5 of this title;
  9. "Project architect" means the person or firm designing the public construction project;
  10. "Public construction" or "public building" means any state building, facility, structure or park constructed, including any state-owned lands or space surrounding or integral to the building, facility, structure or park. The term "public construction" or "public building" shall not include:
    - a. water, sewer, public utility projects, prisons, projects with the primary purpose of complying with the standards of the Americans with Disabilities Act, and data processing purchases which are not part of a public construction project and any capital projects undertaken by political subdivisions of the state as defined by paragraph 11 of Section 152 of Title 51 of the Oklahoma Statutes on buildings or land that they control, and
    - b. capital projects subject to federal public art laws. Participation in the Oklahoma Art in Public Places Act shall be permissive for road, highway, turnpike, and bridge construction projects of the Department of Transportation and the Oklahoma Turnpike Authority;
  11. "Public land" means a site owned by the State of Oklahoma with major public access and visibility that serves a business, social, or environmental need; and
  12. "Repair" means those extraordinary activities required to repair or restore a malfunctioning or damaged work of art.
- Added by Laws 2004, c. 254, § 3. Amended by Laws 2015, c. 196, § 3, eff. July 1, 2015.

§74-9030.3. Administration of act - Art in Public Places Oversight Committee.

A. The Oklahoma Arts Council may create an Art in Public Places Division to administer the Oklahoma Art in Public Places Act.

B. There is hereby created an Art in Public Places Oversight Committee comprised of:

1. The Director of the Office of Management and Enterprise Services, or designee;

2. The Director of the Oklahoma Arts Council, or designee;

3. The Director of the Oklahoma Historical Society, or designee;

4. The Director of the Department of Transportation, or designee;

5. The Chancellor of the Oklahoma State Regents for Higher Education, or designee;

6. One artist appointed by the Director of the Oklahoma Arts Council;

7. One architect appointed by the Director of the Office of Management and Enterprise Services;

8. One engineer appointed by the Director of the Office of Management and Enterprise Services; and

9. One museum director/curator appointed by the Director of the Oklahoma Arts Council.

C. 1. All appointed members shall serve a term of three (3) years and may be reappointed for one additional three-year term.

2. The officers of the Committee shall be a chair, a vice-chair, and a secretary elected at the last meeting of each fiscal year. Appointments to fill officer vacancies shall be made by the chair between elections.

3. Meetings shall be held at the call of the chair, and for the initial appointments, a majority of the members present shall constitute a quorum.

D. Except as provided for in subsections E and G of this section, the Oversight Committee is empowered with overseeing each of the following phases of the development and management of the Oklahoma Art in Public Places Act:

1. Develop job specifications for a Division Director of the Art in Public Places Division, who shall not be subject to the Merit System of Personnel Administration;

2. Make recommendations for the implementation of the Art in Public Places Program to the Executive Director of the Oklahoma Arts Council; and

3. Develop methods of selection of artists, criteria for selection, final approval of site projects, maintenance and repair of works of art, and periodic evaluation of the Program.

E. Artwork or art restoration projects in the administrative control of the Oversight Committee pursuant to the Oklahoma Art in Public Places Act shall not be subject to The Oklahoma Central Purchasing Act, but the projects shall be subject to a call for entries process established by the Oversight Committee.

F. Members shall be reimbursed for necessary travel expenses in accordance with the State Travel Reimbursement Act.

G. The State Capitol Preservation Commission shall retain its administrative control over art projects for the Capitol and the Governor's Mansion as provided for in Section 4104 of Title 74 of the Oklahoma Statutes.

H. The governing boards for institutions of higher education or local boards of trustees shall perform the duties of the Oversight Committee for art projects on the campuses that they oversee.  
Added by Laws 2004, c. 254, § 4. Amended by Laws 2012, c. 304, § 1055; Laws 2015, c. 196, § 4, eff. July 1, 2015.

§74-9030.4. Site committee - Capitol and Governor's Mansion - Recommendations to oversight committee - Division Directors - Art to be property of state.

A. 1. A site committee shall be appointed by the appointing authority of the project agency, except for art projects on higher education campuses, for each project and, if the project involves a facility with more than one agency, a representative from each agency shall be appointed.

2. The site committee for the Capitol and the Governor's Mansion shall be the State Capitol Preservation Commission. The Commission shall be exempt from oversight provisions of the Public Places Oversight Committee.

3. The site committee is charged with making recommendations to the Oversight Committee, selection of the location for the artwork, media for the artwork, artist selection, development of a project-specific educational program for tourism and public school curriculum, and coordination of the dedication ceremony. The site committee shall report back to the Oversight Committee which has final approval authority.

4. Each site committee shall include the Art in Public Places Division Director, the project agency appointing authority or designee, and the project architect. The site committee shall also be comprised of not less than one local arts professional, one local artist, two community representatives, and one art educator who will be appointed by the project agency director.

5. The committee is limited to the duration of the project.

B. Upon completion of installation and final acceptance, any work of art commissioned shall become property of the State of Oklahoma.

Added by Laws 2004, c. 254, § 5.

\$74-9030.5. Funding by state agencies - Maximum assessment - Allocation to Art in Public Places Administrative and Maintenance Revolving Fund.

A. 1. Except as otherwise provided by subsection C of this section, all state agencies, including institutions within The Oklahoma State System of Higher Education, all state departments, boards, councils, and commissions shall allocate, as a nondeductible item out of any expenditures for capital projects including, but not limited to, bond issues for state construction excluding costs for bond issuance and related reserves, an amount of one and one-half percent (1 1/2%) of the expenditure to the Oklahoma Arts Council for the purpose of funding the Oklahoma Art in Public Places Act, except as otherwise provided by subsection B of this section.

2. The maximum assessment for any project shall not exceed Five Hundred Thousand Dollars (\$500,000.00). This assessment shall not apply to any private donations for a capital project. This allocation shall be applicable to all state agency capital projects approved by the appointing authority after September 1, 2004. The works of art commissioned pursuant to the Oklahoma Art in Public Places Act may be placed on public lands, integral to or attached to a public building or structure, or detached within or outside a public building or structure.

B. 1. Of the assessment provided for in subsection A of this section, four-fifths (4/5) shall be placed in the Commissioning of Art in Public Places Revolving Fund, created in Section 9030.6 of this title, for the commission of any work of art for the Oklahoma Art in Public Places Act. Institutions within The Oklahoma State System of Higher Education shall remain in complete administrative control of their four-fifths (4/5) assessment pursuant to this subsection for the acquisition of art. The remaining one-fifth (1/5) of the assessment shall be reserved for the Art in Public Places Administrative and Maintenance Revolving Fund created by Section 9030.7 of this title.

2. Monies deposited in the Art in Public Places Administrative and Maintenance Revolving Fund for the purpose of this moratorium, shall be used for continued administration, educational costs, and maintenance.

C. The provisions of subsection A of this section shall not be applicable for the fiscal years ending:

1. June 30, 2012;
2. June 30, 2013; and
3. June 30, 2014.

Added by Laws 2004, c. 254, § 6. Amended by Laws 2004, c. 400, § 2, eff. Sept. 1, 2004; Laws 2011, c. 213, § 1; Laws 2015, c. 196, § 5, eff. July 1, 2015.

§74-9030.6. Commissioning of Art in Public Places Revolving Fund.

A. 1. There is hereby created in the State Treasury a revolving fund for the Oklahoma Arts Council to be designated the "Commissioning of Art in Public Places Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Council from the sources provided for in Section 9030.5 of this title.

2. The Council shall establish a separate subaccount for each project. Monies in these subaccounts may be used to match monies from other private and public sources for commissioning art in accordance with the Oklahoma Art in Public Places Act.

3. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Arts Council for the commissioning of art and insurance for the art in accordance with the Oklahoma Art in Public Places Act.

4. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. If there are monies from a project for the commissioning of art not spent, those monies may be pooled in the fund for the commissioning of art in, on, or near other state buildings.

Added by Laws 2004, c. 254, § 7. Amended by Laws 2012, c. 304, § 1056; Laws 2015, c. 196, § 6, eff. July 1, 2015.

§74-9030.7. Art in Public Places Administrative and Maintenance Revolving Fund - Transfer of funds in excess of One Million Dollars.

A. 1. There is hereby created in the State Treasury a revolving fund for the Oklahoma Arts Council to be designated the "Art in Public Places Administrative and Maintenance Revolving Fund". All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Council. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Council from the sources provided for in Section 9030.5 of this title.

2. This fund shall consist of two subaccounts, one account for maintenance and repair purposes and one account for administrative and education purposes. Monies accruing to the credit of the subaccount for maintenance and repair shall be used for the purpose of restoring art in all state public buildings including, but not limited to, public buildings at institutions within The Oklahoma State System of Higher Education.

3. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. Whenever the unencumbered balance in this fund exceeds One Million Dollars (\$1,000,000.00), the assessment shall be placed in the Commissioning of Art in Public Places Revolving Fund to the credit of the subaccount established for the project upon which the assessment was made.

Added by Laws 2004, c. 254, § 8. Amended by Laws 2012, c. 304, § 1057; Laws 2015, c. 196, § 7, eff. July 1, 2015.

§74-9030.8. Transfer to Oklahoma Arts Council.

A. On the effective date of this act, all powers, duties, responsibilities, records and equipment of the Oklahoma Historical Society relating exclusively to the implementation and administration of the Oklahoma Art in Public Places Act are hereby transferred and shall be placed under the authority of the Oklahoma Arts Council. To the extent practicable, the transfer shall include all computer hardware and software used in regulating the functions listed in this subsection.

B. The Oklahoma Historical Society and the Oklahoma Arts Council may contract for additional legal and administrative services as necessary to effectuate the transfers as provided for in this section.

C. 1. All unexpended funds, property, furnishings, equipment, supplies, records, and outstanding financial obligations and encumbrances of the Oklahoma Historical Society relating to the implementation and administration of the Oklahoma Art in Public Places Act shall be transferred to the Oklahoma Arts Council for the continuing performance of duties relating to the implementation and administration of the Oklahoma Art in Public Places Act. No funds, property, furnishings, equipment, supplies or records may be expended or used for any purpose other than the performance of duties and responsibilities as directed and required in this act.

2. Any funds, properties, furnishings, equipment, supplies, or records related in any manner to the implementation and administration of the Oklahoma Art in Public Places Act which may not be in the current possession of the Oklahoma Historical Society on the effective date of this act, but which come into the possession of the Oklahoma Historical Society after the transfer of authority to the Oklahoma Arts Council as provided in this act, shall immediately be transferred to the Oklahoma Arts Council.

D. The Oklahoma Historical Society shall not enter into any contract or agreement relating to the implementation and administration of the Oklahoma Art in Public Places Act extending beyond the effective date of the transfer without approval by the Oklahoma Arts Council.

E. The Director of the Office of Management and Enterprise Services shall coordinate the transfer of funds, purchase orders and outstanding financial obligations and encumbrances relating to the

implementation and administration of the Oklahoma Art in Public Places Act as transferred pursuant to the provisions of this act.

F. Upon the effective date of this act, all administrative rules promulgated by the Oklahoma Historical Society relating to the implementation and administration of the Oklahoma Art in Public Places Act shall be enforceable by the Oklahoma Arts Council. The rules shall continue in force and effect after the effective date of this act, and the Oklahoma Arts Council shall have authority to amend, repeal, recodify or make additions to the rules pursuant to the Administrative Procedures Act.

Added by Laws 2015, c. 196, § 1, eff. July 1, 2015.

§74-10001. Government contracts with third-party vendors - Employment screening, background and credit checks.

Any agency, board, commission, higher education institution, career technology or common education institution may contract with a third-party vendor who is a member in good standing with the National Association of Professional Background Screeners to perform any and all employment screenings, background checks and credit checks.

Added by Laws 2012, c. 297, § 1, eff. Nov. 1, 2012.