

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 1976

BY: MITCHELL

AS INTRODUCED

AN ACT RELATING TO TOURISM AND RECREATION; AMENDING 37 O.S. 1991, SECTION 231, WHICH RELATES TO NONINTOXICATING BEVERAGES; PROHIBITING ACTS; AUTHORIZING CERTAIN OPEN ACCOUNT BASIS SALES; AMENDING 47 O.S. 1991, SECTION 1113, WHICH RELATES TO MOTOR VEHICLE LICENSE PLATES; REQUIRING THE NATIVE AMERICAN DESIGN ON CERTAIN LICENSE PLATES; AMENDING 74 O.S. 1991, SECTION 1831, WHICH RELATES TO EXEMPTIONS FROM THE CENTRAL PURCHASING ACT; MODIFYING CERTAIN EXEMPTIONS RELATING TO MERCHANDISE OF THE OKLAHOMA DEPARTMENT OF TOURISM AND RECREATION; SPECIFYING SUCH MERCHANDISE; AMENDING 74 O.S. 1991, SECTION 1824, WHICH RELATES TO LIMITATIONS ON CERTAIN FUND EXPENDITURES OF THE DEPARTMENT; MODIFYING LIMITS AND APPROVAL PROCESS; AMENDING 74 O.S. 1991, SECTION 840.8 (SECTION 3, CHAPTER 308, O.S.L. 1991), WHICH RELATES TO EXEMPTIONS FROM THE CLASSIFIED SERVICE; MODIFYING NUMBER OF HOURS NECESSARY TO BE CONSIDERED A TEMPORARY EMPLOYEE; AMENDING 74 O.S. 1991, SECTION 1861, WHICH RELATES TO BONDS ISSUED BY THE OKLAHOMA TOURISM AND RECREATION COMMISSION; AUTHORIZING THE ISSUANCE OF NEW REVENUE BONDS; STATING PURPOSE; AMENDING 51 O.S. 1991, SECTION 152, WHICH RELATES

TO DEFINITIONS UNDER THE GOVERNMENTAL TORT CLAIMS ACT; MODIFYING DEFINITION OF POLITICAL SUBDIVISION; AMENDING 74 O.S. 1991, SECTION 1813.3, WHICH RELATES TO OKLAHOMA TODAY ADVERTISING; MODIFYING TITLE OF PERSON AUTHORIZED TO APPROVE SUCH ADVERTISING; AMENDING 74 O.S. 1991, SECTION 500.18, WHICH RELATES TO STATE AGENCY REIMBURSEMENTS; AUTHORIZING ADDITIONAL REIMBURSEMENTS RELATING TO THE OKLAHOMA TOURISM AND RECREATION DEPARTMENT; DELETING CERTAIN APPROVAL AND DISAPPROVAL REQUIREMENTS; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY 37 O.S. 1991, Section 231, is amended to read as follows:

Section 231. From and after sixty (60) days from the passage of this act, it shall be unlawful for any person, firm, corporation, or others associated therein or employed thereby, engaged in business as a brewer, importer, or wholesaler, or other holder of a basic permit from the United States Secretary of the Treasury, of nonintoxicating malt beverages, individually or through or by affiliates, subsidiaries, associates, agents, or stockholders, directly or indirectly, to do or cause to be done any of the following acts:

1. Acquire, hold, or own any interest in the permit, license, premises, or business of a retail dealer in nonintoxicating malt beverages.

2. Acquire, hold, or own any interest in the real or personal property owned, occupied, or used by a retail dealer in nonintoxicating malt beverages in the conduct of his business.

3. Furnish, give, rent, lend, or sell to a retail dealer in nonintoxicating malt beverages any equipment, fixture, outside signs, supplies, or other things having a real or substantial value. Provided that this paragraph shall not be construed to prohibit the furnishing of normal point of purchase advertising matter to such retail dealer in nonintoxicating malt beverages.

4. Pay or credit a retail dealer in nonintoxicating malt beverages for any advertising display or distribution service.

5. Guarantee or procure another to guarantee any loan or the payment of any financial obligation of a retail dealer in nonintoxicating malt beverages.

6. Extend credit to a retail dealer in nonintoxicating malt beverages. Provided, however, a retail dealer may sell nonintoxicating malt beverages to Oklahoma Department of Tourism and Recreation outlets on an open account basis.

7. Offer or give any bonus, premium, or compensation to an officer, employee, associate, relative, or representative of a retail dealer in nonintoxicating malt beverages.

8. Sell, offer for sale, or contract to sell to any retail dealer in nonintoxicating malt beverages any malt beverages on consignment, or with the privilege of return, or on any basis other than a bona fide cash sale.

9. Use or employ any device or scheme to subsidize in any manner any retail dealer in nonintoxicating malt beverages.

10. Permit any retail dealer in nonintoxicating malt beverages to do for such brewer, importer, wholesaler, or other holder of a basic permit from the United States Secretary of the Treasury, of nonintoxicating malt beverages any of the above acts hereby made unlawful to be done on behalf of such retail dealer in nonintoxicating malt beverages.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 1113, is amended to read as follows:

Section 1113. A. Upon the filing of a registration application and the payment of the fees provided for in the Oklahoma Vehicle License and Registration Act, the Oklahoma Tax Commission shall assign to the vehicle described in the application a distinctive number, and issue the owner of the vehicle a certificate of registration and one license plate or a yearly decal for the year that a license plate is not issued. Such yearly decal shall have an identification number and the last two numbers of the registration year for which it shall expire. Except as provided by Section 1113A of this title, the license plate shall remain with the vehicle until a replacement license plate is applied for. The yearly decal will validate said license plate for each registration period other than the year the license plate is issued. The license plate and decal shall be of such size, color, design and numbering as the Commission may direct. The license plate shall be securely attached to the rear of the vehicle, except truck-tractor plates which shall be attached to the front of the vehicle. The Commission may, with the concurrence of the Department of Public Safety, by Joint Rule, change and direct the manner, place and location of display of any vehicle license plate when such action is deemed in the public interest. The license plate, decal and all letters and numbers must be clearly visible at all times. Upon payment of the annual registration fee provided in Section 1133 of this title, the Oklahoma Tax Commission may issue a permanent nonexpiring license plate to an owner of ten or more motor vehicles and for vehicles registered under the provisions of Section 1120 of this title. Upon payment of the annual registration fee, the Commission shall issue a certificate of registration that shall be carried at all times in the vehicle for which it is issued. The permanent nonexpiring license plate shall be returned to the Commission upon the sale of a vehicle by the owner to whom the permanent nonexpiring license plate is issued.

B. The license plates required under the provisions of this act shall conform to the requirements and specifications listed hereinafter:

1. Each license plate shall have a space for the placement of the yearly decals for each succeeding year of registration after the initial issue;

2. The provisions of this act regarding the issuance of yearly decals shall not apply to the issuance of apportioned license plates, including license plates for state vehicles, and exempt plates for governmental entities;

3. Within the limits herein prescribed the Commission shall design the official vehicle license plates with the legend "Oklahoma OK". Except for personalized license plates and license plates issued for motorcycles and mopeds, the emblem on the state flag of Oklahoma as provided for in Section 91 of Title 25 of the Oklahoma Statutes shall be a part of all license plates issued after December 31, 1988. The Commission may continue to issue license plates with the legend "Oklahoma is OK" until any inventory of such license plates is depleted. Except for personalized license plates and license plates issued for motorcycles and mopeds, the emblem of the "Native American" shall be a part of all license plates issued after December 31, 1993. The license plates shall be issued with the letters and numerals in the colors of green and white. All license plates and decals shall be made with reflectorized material as a background to the letters, numbers and characters impressed thereon. The reflectorized material shall be of such a nature as to provide effective and dependable brightness during the service period for which the license plate or decal is issued; and

4. The Commission shall design appropriate official license plates for all state vehicles. Such license plates shall be permanent in nature and designed in such manner as to remain with

the vehicle for the duration of the vehicle's life span or until the title is transferred to a nongovernmental owner.

C. Where the applicant has satisfactorily shown that he owns the vehicle sought to be registered but is unable to produce documentary evidence of his ownership a license plate may be issued upon approval by the Commission. In such instances the reason for not issuing a certificate of title shall be indicated on the receipt given to the applicant. It shall still be the duty of the applicant to immediately take all necessary steps to obtain his Oklahoma certificate of title and it shall be unlawful for him to sell said vehicle until such certificate has been obtained in his name.

D. The certificate of registration provided for in this section shall be in convenient form, and the certificate of registration, or a certified copy or photostatic copy thereof, duly authenticated by the Commission, shall be carried at all times in or upon commercial vehicles so registered, in such manner as to permit a ready examination thereof upon demand by any peace officer of the state or duly authorized employee of the Department of Public Safety. Any such officer or agent may seize and hold such commercial vehicle when the operator of the same does not have the registration certificate in his possession or when any such officer or agent determines that the registration certificate has been obtained by misrepresentation of any essential or material fact or when any number or identifying information appearing on such certificate has been changed, altered, obliterated or concealed in any way, until the proper registration or identification of such vehicle has been made or produced by the owner thereof.

E. For the first year that any manufactured home is registered in this state, the Commission shall issue a metal license plate which shall be affixed to the manufactured home. Manufactured homes previously registered and subject to ad valorem taxation as provided by law shall have the metal license plate affixed at the time ad

valorem taxes are paid for such manufactured home. The owner of the home shall be required to affix such plate to the home. The Commission shall make sufficient plates available to the various motor license agents of the state in order for an owner of a manufactured home to acquire the plate. A One Dollar (\$1.00) fee shall be charged for issuance of any plate. Such fee shall be apportioned each month to the General Revenue Fund of the State Treasury.

F. The manufactured home license plate shall be designed so that it is easily visible for purposes of verification by a county assessor that the manufactured home is properly assessed for ad valorem taxation. The plate shall be designed for a yearly decal. In the first year of registration a decal shall be issued for placement on the license plate indicating payment of applicable registration fees and excise taxes. In the second and all subsequent years for which the manufactured home is subject to ad valorem taxation, an annual decal shall be affixed to the license plate as evidence of ad valorem tax payment. The Commission shall issue decals to the various county treasurers of the state in order for a manufactured home owner to obtain such decal each year. Upon presentation of a valid ad valorem tax receipt, the manufactured home owner shall be issued the annual decal.

G. Upon the registration of a manufactured home in this state for the first time or upon discovery of a manufactured home previously registered within this state for which the information required by this subsection is not known, the Oklahoma Tax Commission shall obtain:

1. the name of the owner of the manufactured home;
2. the serial number or identification number of the manufactured home;
3. a legal description or address of the location for the home;

4. the actual retail selling price of the manufactured home excluding Oklahoma taxes;

5. the certificate of title number for the home; and

6. any other information which the Commission deems to be necessary.

The application for registration shall also include the school district in which the manufactured home is located or is to be located. Such information shall be entered into a computer data system which shall be used by the Oklahoma Tax Commission to provide information to county assessors upon request by the assessor. The assessor may request any information from the system in order to properly assess a manufactured home for ad valorem taxation.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 1831, is amended to read as follows:

Section 1831. Merchandise for resale or rental purchased for and sold or rented in Oklahoma Tourism and Recreation 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 ~~the state-operated parks and lodges~~ Department operated facilities and programs, is exempt from the Central Purchasing Act. This exemption includes component products or services whose character is changed, combined or otherwise altered to produce a resellable product.

SECTION 4. AMENDATORY 74 O.S. 1991, Section 1824, is amended to read as follows:

Section 1824. ~~It is the intent of the Legislature that the average number of employees utilized by the Division of Lodges and Division of Parks, Oklahoma Department of Tourism and Recreation during fiscal year 1974 be a number not greater than the average number of employees utilized in each of these Divisions during fiscal year 1973. Further, expenditure~~ Expenditure of funds for repair of facilities in excess of Two Thousand Five Hundred Dollars

~~(\$2,500.00), replacement of equipment or repair of equipment in excess of Five Hundred Dollars (\$500.00), or capital outlay projects all purchases in excess of Fifty Thousand Dollars (\$50,000.00) shall not be contracted except upon recommendation of the Director, Department of Tourism and Recreation, to the Oklahoma Tourism and Recreation Commission and the approval of each recommendation by a majority of the Commission.~~

SECTION 5. AMENDATORY 74 O.S. 1991, Section 840.8 (Section 3, Chapter 308, O.S.L. 1991), is amended to read as follows:

Section 840.8 The following offices, positions, and personnel comprise the exempt unclassified 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. Federally funded time-limited employees hired for the specific purpose of providing public service employment or one-time special or research project services for a limited period of time and 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 State Department of Vocational and Technical 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;

7. Election officials and employees;

8. Temporary employees employed to work less than ~~one thousand~~ one thousand six hundred (1,600) hours in any twelve-month period. This category of employees shall include persons employed on an intermittent, provisional, seasonal, temporary or emergency basis;

9. Temporary lake patrol officers, regardless of the number of hours worked, who are employed by the Department of Public Safety during the period March 16 through October 31 in any calendar year; provided, the hours worked shall be considered in determining the temporary employee's eligibility for subsequent employment in any other unclassified temporary employment category;

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 said State System of Higher Education (c) for purposes of this act a student shall be considered a regularly enrolled student if he is enrolled in a minimum of five (5) hours of accredited graduate courses or a minimum of ten (10) hours of accredited undergraduate courses, and regularly attending classes during that semester of employment or (d) 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 Employee Limit;

14. Employees of State Capitol cafeterias;

15. Employees of either the House of Representatives or the State Senate;

16. Grand River Dam Authority personnel occupying the following offices and positions:

- a. The general manager, assistant general managers, secretaries to the general manager, and assistant general managers,
- b. The chief engineer and the engineers, superintendents, and assistant superintendents,
- c. The general counsel and the attorneys on the general counsel's staff,
- d. The secretary,
- e. The treasurer,
- f. Rate analysts, and
- g. Unclassified employees hired prior to May 1, 1989, who hold engineering job titles but who are not registered engineers, provided said persons are reassigned nonengineering job titles. At such time as the positions occupied by said unclassified employees are vacated, the positions shall revert to the classified service;

17. Oklahoma Tax Commission personnel occupying the following offices and positions:

- a. All revenue administrators, the budget officer and the comptroller of the Tax Commission,
- b. All administrators and unit managers in the Management Information Services Division,
- c. All Computer Programming Systems Specialist positions,
- d. All Data Processing Programmer Analyst Supervisor and Data Processing Programmer Analyst III positions,
- e. All Public Affairs Officer and Assistant Public Affairs Officer positions,
- f. Public Information Officer, and
- g. All Tax Economist positions;

18. Corporation Commission personnel occupying the following offices and positions:

- a. Administrative assistant, administrative aides, and executive secretaries to the Commissioners,
- b. Directors of all the divisions, and
- c. General Counsel;

19. State Department of Education personnel occupying the following offices and positions:

- a. Administrative Assistants,
- b. Informational Representatives III,
- c. Driver Educational Electronics Technician,
- d. Media Technical Assistants,
- e. Executive Secretaries,
- f. Accounting Supervisor,
- g. Supervisor of Records,
- h. Supervisor of Printing Services,
- i. Migrant Records Transfer System Representative,
- j. Financial Managers, and

- k. 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, of any person employed by the Department of Education prior to May 1, 1989. No position shall become unclassified while it is occupied by a classified 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 in the unclassified service upon being vacated;

20. 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;

21. Bill Willis Community Mental Health Center personnel occupying the following offices and positions:

- a. Director of Facility,
- b. Deputy Director for Administration,
- c. Clinical Services Director, and
- d. Executive Secretary to Director;

22. The State Comptroller, Office of the Director of State Finance;

23. Employees of the Oklahoma Development Finance Authority;

24. Those positions so specified in the annual business plan of the Department of Commerce;

25. Those positions so specified in the annual business plan of the Oklahoma Center for the Advancement of Science and Technology;

26. 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 Personnel Management, 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 Section 840.10 of this title;

27. State Insurance Fund personnel occupying the following offices and positions:

- a. Commissioner,
- b. Deputy Commissioner,
- c. Administrative Assistants to the Commissioner,
- d. Executive Secretaries to the Commissioner and Deputy Commissioner,
- e. Law Clerks and Legal Assistants,
- f. Special Counsel,
- g. General Counsel,
- h. Medical Analysts Supervisor,
- i. Medical Analysts,
- j. Field Adjusters,
- k. Investment Officer, and
- l. Collections Attorneys;

28. The Carl Albert Internship Program Coordinator within the Office of Personnel Management;

29. Department of Corrections personnel occupying the following offices and positions:

- a. Associate Director,
- b. Executive Secretary,
- c. General Counsel,
- d. Assistant General Counsel,
- e. Deputy Director,
- f. Public Information Officer,
- g. Personnel Manager,
- h. Administrator of Planning and Research,
- i. Administrator of Finance and Accounting,
- j. Executive Assistant,
- k. Administrator of Information Services,
- l. Affirmative Action Officer,
- m. System Development Manager,
- n. Computer Operations Manager,
- o. Training Director,
- p. Assistant Training Director,
- q. Administrator of Construction and Maintenance,
- r. Administrative Assistant,
- s. Secretary,
- t. Administrator of Classification and Programs,
- u. Coordinator of Facility Classification,
- v. Mediation Coordinator,
- w. Inspector General,
- x. Medical Director,
- y. Psychiatrist,
- z. Physician,
- aa. Optometrist,
- ab. Dental Services Supervisor,
- ac. Dentist,
- ad. Psychologist,
- ae. Administrator of Dietary Services,
- af. Warden I,

- ag. Warden II,
- ah. Warden III,
- ai. Deputy Warden I,
- aj. Deputy Warden II,
- ak. Deputy Warden III,
- al. Community Treatment Center Superintendent,
- am. Community Treatment Center Assistant Superintendent,
- an. Probation and Parole District Supervisor,
- ao. Probation and Parole Assistant District Supervisor,
- ap. Administrator of Human Resources, and
- aq. Facility Staffing Pattern Analyst;

30. Department of Corrections personnel occupying the following offices and positions as representatives of the Oklahoma State Industries:

- a. Administrator of Industrial Production,
- b. Administrator of Agriculture Production,
- c. OSI Sales Representative,
- d. OSI Sales Manager, and
- e. Marketing Manager.

The positions listed in this paragraph shall be funded from the Department of Corrections Industries' Revolving Fund only. In addition to the regular salary, any unclassified sales representative 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 Five Thousand Dollars (\$5,000.00) 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 in positions listed in paragraph 29 of this section and in this paragraph that are classified under the Merit System of Personnel Administration on the effective date of this act shall have the option of remaining in their classified status under the Merit System of Personnel Administration. Incumbents that choose to accept unclassified appointments shall so signify in writing. All future appointees to these positions shall be unclassified. Incumbents that choose to remain in the classified service under the Merit System of Personnel Administration shall be subject to all rules and procedures of the Merit System of Personnel Administration. By the end of the first full work week of each month, the Director of the Department of Corrections shall submit to the Director of State Finance a report listing the total number of part-time employees employed during the preceding month, the positions for which they were employed, and the number of hours worked for each part-time position;

31. Department of Labor personnel occupying the following offices and positions:

- a. Deputy Commissioner,
- b. Executive Secretary to the Commissioner,
- c. Chief of Staff, and
- d. Administrative Assistant, Legal; and

32. The State Bond Advisor and his employees.

SECTION 6. AMENDATORY 74 O.S. 1991, Section 1861, is amended to read as follows:

Section 1861. A. The Oklahoma Tourism and Recreation Commission shall have the power and is authorized from time to time 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 distribute eighty percent (80%) of the net bond proceeds to existing state parks. The eighty percent (80%) share of funds will be allocated to parks according to the following procedure: fifty percent (50%) of a park's allocation will be derived by dividing a park's annual revenues by the sum of the total of annual revenues from all parks and multiplying this percentage by fifty percent (50%) of the eighty percent (80%) share of funds. Fifty percent (50%) of a park's allocation from the eighty percent (80%) share will be derived by dividing a park's annual attendance by the sum of the annual attendance from all parks and multiplying this percentage by fifty percent (50%) of the eighty percent (80%) share of funds. The remaining twenty percent (20%) of the net proceeds shall be distributed for capital improvements in new parks or to improve existing parks with low revenue generation. The Commission shall pledge, to the payment of the interest and principal on the principal of such bonds, all or any part of the revenues derived from the operation of the parks controlled and operated by the Commission.

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 such rate or rates not exceeding ten percent (10%) per annum;
4. Contain such terms, covenants and conditions.

Said bonds may be sold in such manner and upon such terms as the Commission shall determine; provided, the interest cost yield to

maturity of any issue of said bonds shall not exceed ten percent (10%) per annum, payable semi-annually.

C. 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 the 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 Section 1834 of Title 74 of the Oklahoma Statutes; 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.

D. In 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 such 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 such trust indenture or any 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 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.

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 Commission. Any such 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 such trust indenture may contain such 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 such trust indenture may be treated as a part of the cost of operation of the improvements for which the bonds are authorized.

E. 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, such monies shall be

paid, shall act as trustee of such 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.

F. The Oklahoma Tourism and Recreation Commission is hereby authorized to issue revenue bonds on and after the effective date of this act and in conformity with the provisions of Sections 1861 through 1875 of this title for the purpose of state park improvements.

SECTION 7. AMENDATORY 51 O.S. 1991, Section 152, is amended to read as follows:

Section 152. As used in this act, Section 151 et seq. of this title:

1. "Action" means a proceeding in a court of competent jurisdiction by which one party brings a suit against another.

2. "Agency" means any board, commission, committee, department or other instrumentality or entity designated to act in behalf of the state or a political subdivision.

3. "Claim" means any written demand presented by a claimant or his authorized representative in accordance with this act to recover money from the state or political subdivision as compensation for an act or omission of a political subdivision or the state or an employee.

4. "Claimant" means the person or his authorized representative who files notice of a claim in accordance with this act. Only the following persons and no others may be claimants:

- a. any person holding an interest in real or personal property which suffers a loss, provided that the claim of said person shall be aggregated with claims of all other persons holding an interest in the property and the claims of all other persons which are derivative of the loss, and that multiple claimants shall be considered a single claimant,

- b. the individual actually involved in the accident or occurrence who suffers a loss, provided that he shall aggregate in his claim the losses of all other persons which are derivative of his loss, or
- c. in the case of death, an administrator, special administrator or a personal representative who shall aggregate in his claim all losses of all persons which are derivative of the death.

5. "Employee" means any person who is authorized to act in behalf of a political subdivision or the state whether that person is acting on a permanent or temporary basis, with or without being compensated or on a full-time or part-time basis. Employee also includes:

- a. all elected or appointed officers, members of governing bodies and other persons designated to act for an agency or political subdivision, but the term does not mean a person or other legal entity while acting in the capacity of an independent contractor or an employee of an independent contractor,
- b. from September 1, 1991, through June 30, 1996, licensed physicians, licensed osteopathic physicians and certified nurse-midwives providing prenatal, delivery or infant care services to State Department of Health clients pursuant to a contract entered into with the State Department of Health in accordance with paragraph (3) of subsection (b) of Section 1-106 of Title 63 of the Oklahoma Statutes but only insofar as services authorized by and in conformity with the terms of the contract and the requirements of Section ~~3 of this act~~ 1-233 of Title 63 of the Oklahoma Statutes.

For the purpose of this act, the following are employees of this state, regardless of the place in this state where duties as employees are performed:

- a. physicians acting in an administrative capacity,
- b. resident physicians and resident interns participating in a graduate medical education program of the University of Oklahoma Health Sciences Center or the College of Osteopathic Medicine of Oklahoma State University,
- c. faculty members and staff of the University of Oklahoma Health Sciences Center and the College of Osteopathic Medicine of Oklahoma State University, while engaged in teaching duties.

Physician faculty members and staff of the University of Oklahoma Health Sciences Center and the College of Osteopathic Medicine of Oklahoma State University not acting in an administrative capacity or engaged in teaching duties are not employees or agents of the state. However, in no event shall the state be held liable for the tortious conduct of any physician, resident physician or intern while practicing medicine or providing medical treatment to patients.

6. "Loss" means death or injury to the body or rights of a person or damage to real or personal property or rights therein.

7. "Municipality" means any incorporated city or town, and all institutions, agencies or instrumentalities of a municipality.

8. "Political subdivision" means:

- a. a municipality,
- b. a school district,
- c. a county,
- d. a public trust where the sole beneficiary or beneficiaries are a city, town, school district or county. For purposes of the Governmental Tort Claims

Act, a public trust shall include a municipal hospital created pursuant to Section 30-101 et seq. of Title 11 of the Oklahoma Statutes, a county hospital created pursuant to Section 781 et seq. of Title 19 of the Oklahoma Statutes, or is created pursuant to a joint agreement between such governing authorities, that is operated for the public benefit by a public trust created pursuant to Section 176 et seq. of Title 60 of the Oklahoma Statutes and managed by a governing board appointed or elected by the municipality, county, or both, who exercises control of the hospital, subject to the approval of the governing body of the municipality, county, or both, provided, this subparagraph shall not apply to hospitals or trusts which purchase advertising or which belong to organizations which purchase advertising, in which public funds have been used, in any media the purpose of which is to influence legislation on the civil justice system or to advocate support for or opposition to a candidate for public office,

e. for the purposes of the Governmental Tort Claims Act, Section 151 et seq. of this title, only, a housing authority created pursuant to the provisions of the Oklahoma Housing Authority Act, Section 1051 et seq. of Title 63 of the Oklahoma Statutes,

f. for the purposes of the Governmental Tort Claims Act only, corporations organized not for profit pursuant to the provisions of the Oklahoma General Corporation Act for the primary purpose of developing and providing rural water supply and sewage disposal facilities to serve rural residents,

- g. for the purposes of the Governmental Tort Claims Act only, districts formed pursuant to the Rural Water, Sewer, Gas and Solid Waste Management Districts Act,
- h. for the purposes of the Governmental Tort Claims Act, Section 151 et seq. of this title, only, a fire protection district created pursuant to the provisions of Section 901.1 et seq. of Title 19 of the Oklahoma Statutes,
- i. for the purposes of the Governmental Tort Claims Act, Section 151 et seq. of this title, only, a benevolent or charitable corporate volunteer or full-time fire department for an unincorporated area created pursuant to the provisions of Section 592 et seq. of Title 18 of the Oklahoma Statutes,
- j. for purposes of the Governmental Tort Claims Act, Section 151 et seq. of this title, only, an Emergency Services Provider rendering services within the boundaries of a Supplemental Emergency Services District pursuant to an existing contract between the Emergency Services Provider and the Oklahoma State Department of Health. Provided, however, that the acquisition of commercial liability insurance covering the activities of such Emergency Services Provider performed within the State of Oklahoma shall not operate as a waiver of any of the limitations, immunities or defenses provided for political subdivisions pursuant to the terms of the Governmental Tort Claims Act,
- k. for purposes of the Governmental Tort Claims Act only, a conservation district created pursuant to the provisions of Section 1501-101 of Title 82 of the Oklahoma Statutes,

1. for purposes of the Governmental Tort Claims Act only,  
state park stable lease concessionaires contracting  
with the Oklahoma Department of Tourism and Recreation  
for the purpose of providing equestrian activities.  
Provided, however, that the acquisition of commercial  
liability insurance covering the activities of such  
state park stable lease concessionaire performed  
within the State of Oklahoma shall not operate as a  
waiver of any of the limitations, immunities or  
defenses provided for political subdivisions pursuant  
to the terms of the Governmental Tort Claims Act,

and all their institutions, instrumentalities or agencies.

9. "Scope of employment" means performance by an employee acting in good faith within the duties of his office or employment or of tasks lawfully assigned by a competent authority including the operation or use of an agency vehicle or equipment with actual or implied consent of the supervisor of the employee, but shall not include corruption or fraud.

10. "State" means the State of Oklahoma or any office, department, agency, authority, commission, board, institution, hospital, college, university, or other instrumentality thereof.

11. "Tort" means a legal wrong, independent of contract, involving violation of a duty imposed by general law or otherwise, resulting in a loss to any person, association or corporation as the proximate result of an act or omission of a political subdivision or the state or an employee acting within the scope of employment.

SECTION 8. AMENDATORY 74 O.S. 1991, Section 1813.3, is amended to read as follows:

Section 1813.3 A. The Oklahoma Today magazine is hereby authorized to sell advertising, provided that all such advertising shall be approved by the magazine ~~Editor-in-Chief~~ Publisher prior to acceptance for publication.

B. One additional full-time-equivalent position is authorized to Oklahoma Today magazine for the purpose of managing the advertising program authorized by this section.

SECTION 9. AMENDATORY 74 O.S. 1991, Section 500.18, is amended to read as follows:

Section 500.18 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 as to 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. State Department of Agriculture:

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 Department of Agriculture shall be reimbursed to the employee incurring such expenses. Reimbursement of such expenses shall be in accordance with rules and regulations

adopted by the Board. Such expenses claimed shall, prior to reimbursement, be reviewed by the Board at each regular meeting and individually approved or disapproved.

2. Wheat Utilization, Research and Market Development

Commission:

The actual and reasonable expenses of travel, lodging and subsistence in pursuing and developing markets for Oklahoma wheat and wheat products incurred by the Commission, staff and such persons authorized by the Commission shall be reimbursed to the person incurring such expenses. Expenses of wheat trade officials on wheat trade missions from foreign countries and from other states can be reimbursed to the person previously authorized by the Commission to incur the expense. No actual and reasonable expenses shall be paid except for time spent working with wheat trade officials on wheat trade missions. Reimbursement of such expenses shall be made in accordance with rules and regulations adopted by the Commission. Such expenses claimed shall, prior to reimbursement, be reviewed by the Commission at each regular meeting and individually approved or disapproved.

3. Department of Public Safety:

Not more than seven personnel assigned by the Commissioner for executive security shall be allowed their actual and necessary traveling expenses, upon claims approved by the Commissioner, when traveling with the Governor or at his request.

4. 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 Title 74 of the Oklahoma Statutes, when such rental is by a Correctional Officer or Transportation Officer for the limited purpose of transporting inmates. Reimbursement for such expense shall be on the basis of actual cost.

5. Oklahoma Tourism and Recreation Department:

Authorization is provided the Oklahoma Tourism and Recreation Commission and Department staff who promote in-state and out-of-state business to Oklahoma's state-operated parks and lodges and the tourism and recreation industry, the actual and necessary expense of travel, subsistence and entertainment for this purpose. Authorization is also provided the Director of the Oklahoma Tourism and Recreation Department to reimburse the Publisher of The Oklahoma Today magazine and its staff for expenses for meals and other entertainment in order to gain advertising and promotion for the Oklahoma Today magazine. Reimbursement of all actual and necessary expenses shall be in accordance with rules and regulations adopted by the Commission on Tourism and Recreation. ~~Such expenses claimed shall prior to reimbursement be reviewed by the Commission at each regular meeting and individually approved or disapproved.~~

6. 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 to such employee. Reimbursement of such expenses shall be in accordance with rules and regulations adopted by the Director of the Oklahoma Department of Commerce. Such 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 to implement 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 State Finance 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 was 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 herein claimed.

7. Office of Public Affairs:

The actual expenses of travel and subsistence incurred by the Director, Assistant Director and any employee approved by the Director of the Office of Public Affairs outside the state in recruiting and evaluating professional money managers for the state's pension funds shall be reimbursed to the employee 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.

8. 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 and regulations adopted by Oklahoma Futures.

9. 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.

10. 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.

11. 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 and regulations adopted by the Director of the Center for International Trade Development. Such 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.

12. 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 and regulations 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.

13. 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. Such 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.

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.

SECTION 10. This act shall become effective July 1, 1992.

SECTION 11. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-2-7005

MCD