

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2449

BY: RICE

AS INTRODUCED

AN ACT RELATING TO UNITED STATES; CREATING THE OKLAHOMA SURPLUS PROPERTY REGULATION ACT; DEFINING TERMS; CREATING THE OFFICE OF SURPLUS PROPERTY; PROVIDING PURPOSE; PROVIDING FOR ADMINISTRATIVE HEAD; DESIGNATING OFFICE TO ADMINISTER CERTAIN FEDERAL PROGRAM; PROVIDING DUTIES; REQUIRING SUBMISSION OF LISTS OF SURPLUS PROPERTY; REQUIRING COMPLIANCE WITH ACT; PROVIDING EXCEPTIONS; AMENDING 80 O.S. 1991, SECTIONS 34.1, 34.2, 34.3, 34.4, 34.5, 34.6 AND 34.7, WHICH RELATE TO SURPLUS PROPERTY; AUTHORIZING CERTAIN USE AND PURCHASE OF FEDERAL PROPERTY; PROVIDING FOR APPOINTMENT, DUTIES AND COMPENSATION OF SURPLUS PROPERTY AGENT; MODIFYING DUTIES; MODIFYING PROCEDURES; ADDING TO ELIGIBILITY OF PERSONS WHICH MAY PURCHASE PROPERTY; CLARIFYING LANGUAGE; PROVIDING FOR DEPOSIT OF CERTAIN FUNDS; PROVIDING FOR PROCEDURE OF DISPOSAL OF PROPERTY; SPECIFYING METHODS; AUTHORIZING CERTAIN ASSESSMENTS; PROVIDING FOR CERTAIN DEPOSITS; AUTHORIZING CENTRAL WAREHOUSING AND DISTRIBUTION; AMENDING 20 O.S. 1991, SECTION 1314, WHICH RELATES TO POWERS AND DUTIES OF SUPREME COURT; AMENDING 44 O.S. 1991, SECTION 233.3, WHICH RELATES TO THE OKLAHOMA MILITARY DEPARTMENT;

AMENDING 47 O.S. 1991, SECTIONS 159.1 AND 159.3, WHICH RELATE TO THE STATE MOTOR POOL; AMENDING 47 O.S. 1991, SECTION 154.6, WHICH RELATES TO FLEET MANAGEMENT; AMENDING 66 O.S. 1991, SECTION 304, WHICH RELATES TO THE DEPARTMENT OF TRANSPORTATION; AMENDING 74 O.S. 1991, SECTIONS 78 AND 85.9B, WHICH RELATE TO THE OFFICE OF PUBLIC AFFAIRS; REQUIRING DISPOSAL OF SURPLUS PROPERTY TO BE MADE PURSUANT TO OKLAHOMA SURPLUS PROPERTY REGULATION ACT; AMENDING 74 O.S. 1991, SECTION 840.8 (SECTION 3, CHAPTER 308, O.S.L. 1991), WHICH RELATES TO UNCLASSIFIED SERVICE; MAKING CERTAIN EMPLOYEES OF OFFICE AND AGENT UNCLASSIFIED; PROVIDING FOR CONSTRUCTION OF ACT; REPEALING 80 O.S. 1991, SECTION 44, WHICH RELATES TO PARTIAL INVALIDITY AND SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.1 of Title 80, unless there is created a duplication in numbering, reads as follows:

Sections 2 through 14 of this act shall be known and may be cited as the Oklahoma Surplus Property Regulation Act.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.2 of Title 80, unless there is created a duplication in numbering, reads as follows:

For purposes of the Oklahoma Surplus Property Regulation Act,

1. "Surplus property" means any item, commodity, material, supplies or equipment determined by a state agency to be excess, obsolete, antiquated, unused or not needed.

2. "State agency" means any state board, bureau, commission, department, authority, public trust, interstate commission, the Judiciary, the Legislature, the Office of the Governor and institutions of higher learning and school districts.

3. "Eligible participants" means any individuals and entities within this state that are authorized to participate in the federal surplus property program pursuant to the Federal Property and Administrative Services Act of 1949.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.3 of Title 80, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Office of Surplus Property. The Office shall be subject to the administrative direction of the Secretary of Administration and Regulation or its successor cabinet area. The purpose of the Office is to effectively and efficiently manage and dispose of state and federal surplus property and provide greater cash savings and accountability in the use and sale of surplus property.

B. The administrative head of the Office shall be the Surplus Property Agent appointed pursuant to Section 34.2 of Title 80 of the Oklahoma Statutes.

C. The Office of Surplus Property is hereby designated as the state agency for purposes of administering the Federal Property and Administrative Services Act of 1949 and for administering the State Surplus Property Program.

D. The Surplus Property Agent is authorized and it shall be his duty to dispose of surplus property by transfer to other state agencies, or to sell to the highest responsible bidder for cash, or trade in such surplus property on the purchase of new equipment if

the Surplus Property Agent determines that such action is for the best interest of the state, or, where the Surplus Property Agent determines that the surplus property has no value, he shall order its destruction and disposal and order its removal from the inventory of the agency with such action noted thereon.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.4 of Title 80, unless there is created a duplication in numbering, reads as follows:

A. It shall be the duty and responsibility of the head of each state agency to furnish, upon written request by the state purchasing agent on such forms as provided by him, a list of all surplus personal property held by that state agency at the time of the request. These requests may be made by the state purchasing agent as often as he deems necessary.

B. Except as provided in subsection C of this section, all sales, trade-ins or other disposition of surplus property owned by state agencies shall be made in accordance with the Oklahoma Surplus Property Regulation Act and rules and regulations promulgated pursuant thereto.

C. Subject to rules and regulations promulgated by the State Surplus Property Agent, state agencies may transfer or loan surplus property to other state agencies with or without charging a fee therefor. In accordance with procedures prescribed by the State Surplus Property Agent, a state agency may trade in surplus property in conjunction with a purchase by the state agency. The state agency shall give the State Surplus Property Agent notice of the proposed trade-in. The State Surplus Property Agent may elect to provide for disposition of the property under the surplus property program in lieu of permitting the state agency to trade in the property.

SECTION 5. AMENDATORY 80 O.S. 1991, Section 34.1, is amended to read as follows:

Section 34.1 The State of Oklahoma, its departments, boards, ~~commission~~ commissions, institutions, and agencies, and any of the counties, cities, and towns, and school districts of the state, and other eligible entities are hereby authorized to purchase, lease, or receive as gifts or donations, any surplus property offered for sale, lease, or donation by the United States Government or any of the agencies thereof, pursuant to the applicable provisions of the "Surplus Property Act of 1944", or amendments thereto, or any act providing for the disposal of surplus property enacted by the Congress of the United States. ~~Existing laws requiring the state or any of its political subdivisions to purchase property, goods, wares, or merchandise under the terms of competitive bid statutes existing at the time of the passage of this act, shall not be applicable to the purchase of surplus property as provided in this act.~~

SECTION 6. AMENDATORY 80 O.S. 1991, Section 34.2, is amended to read as follows:

Section 34.2 ~~The Director of Public Affairs~~ Secretary of Administration and Regulation or its successor cabinet area shall appoint and fix the duties and compensation of a Surplus Property Agent. ~~The Purchasing Division of the Office of Public Affairs shall purchase for the Surplus Property Agent a bond payable to the State of Oklahoma in the sum of Fifty Thousand Dollars (\$50,000.00), conditioned for the faithful performance of his duties~~ The Surplus Property Agent shall be appointed by the Secretary on the basis of education, training, experience and demonstrated ability. The Surplus Property Agent shall serve at the pleasure of the Secretary.

SECTION 7. AMENDATORY 80 O.S. 1991, Section 34.3, is amended to read as follows:

Section 34.3 A. The Surplus Property Agent shall, ~~under the supervision and direction of the Director of Public Affairs:~~

~~(1)~~ 1. Ascertain from the federal government through any of its agencies, and state agencies any surplus property available for sale, lease, or donation either within or outside this state ~~and shall notify;~~

2. Notify the state ~~departments, boards, commissions,~~ institutions, and agencies, counties, cities, and towns, and school districts of the availability of such property as is deemed necessary according to the types and quantities of property available; ~~and~~

~~(2)~~ 3. Secure from state ~~departments, boards, commissions,~~ institutions, and agencies and from counties, cities, and towns, and school districts, estimates of their needs for surplus property and keep federal agencies and state agencies informed of such needs; ~~and~~

~~(3)~~ 4. Purchase, or accept as gifts or donations, any surplus property for redistribution, by sale or donation to any state department, board, commission, institution, or agency and to counties, cities, or towns, and school districts, and provide for the care and handling, transportation, and warehousing of such property if necessary; ~~and~~

~~(4)~~ 5. Distribute surplus property to state ~~departments,~~ boards, ~~commissions,~~ institutions, and agencies and to eligible counties, cities, towns, school districts, and other entities ~~authorized by the Federal Government to receive federal surplus property, provided, any such entity reimburses the Surplus Property Agent for the purchase price and expenses incurred in connection with acquiring, warehousing, and distributing such surplus property. A reasonable charge, the criteria for which shall be established by administrative rule, shall be charged to such departments, agencies, or municipalities or other eligible entities by such Surplus Property Agent;~~

6. Assess a reasonable service charge or fee for such the  
acquiring, warehousing, distribution, and other administrative costs  
and expense; and

~~(5) 7. The Surplus Property Agent, with the approval of the~~  
~~Director of Public Affairs, shall employ~~ Employ such employees and  
assistants as may be necessary to carry out the purposes of ~~Sections~~  
~~34.1 through 34.7 of this title~~ the Oklahoma Surplus Property  
Regulation Act; and

8. Appoint advisory boards or committees as deemed necessary  
and suitable to administer the Oklahoma Surplus Property Regulation  
Act;

9. Disseminate information and assist potential applicants  
concerning availability of surplus property, to otherwise assist in  
the processing of such applications for acquisition of surplus  
property, and subsequently to assist in assuring utilization of the  
property;

10. Engage in activities relative to federal excess property in  
connection with the use of such property by other state agencies,  
institutions, or organizations engaging in or receiving assistance  
under federal programs;

11. Prescribe such rules and regulations as may be needed for  
the efficient operation of its activities or as may be required by  
law;

12. Make the necessary certifications and undertake necessary  
action including investigations, make expenditures and reports which  
may be required by law or which are otherwise necessary to provide  
for the proper and efficient management of the agency's functions,  
and provide such information and reports pertinent to the activities  
of the office as may be required;

13. Enter into contracts, and other agreements for and on  
behalf of the state including but not limited to the cooperative  
agreements with federal agencies, as well as agreements with other

State Agencies for Surplus Property or groups and associations thereof which will in any way promote the administration of the agency's functions; and

~~(6)~~ 14. Perform such other duties as are necessary for carrying out the purposes of ~~Sections 34.1 through 34.7 of this title~~ the Oklahoma Surplus Property Regulation Act.

SECTION 8. AMENDATORY 80 O.S. 1991, Section 34.4, is amended to read as follows:

Section 34.4 ~~Agencies of the state or any political subdivision,~~ Any state agency or eligible entity shall file requisitions with the Surplus Property Agent for any surplus property which they wish to acquire.

SECTION 9. AMENDATORY 80 O.S. 1991, Section 34.5, is amended to read as follows:

Section 34.5 The State Surplus Property Agent may acquire property for nonprofit tax-exempt institutions and for the trustees of every trust created for the benefit and furtherance of any public function with the state or any political or governmental subdivision as the beneficiary thereof and for any other eligible entity, under the same terms as for institutions of the state or any of its political subdivisions.

SECTION 10. AMENDATORY 80 O.S. 1991, Section 34.6, is amended to read as follows:

Section 34.6 There is hereby created in the State Treasury a revolving fund to be designated as the "State Surplus Property Revolving Fund" ~~which.~~ Such fund shall consist of all monies appropriated thereto by the Legislature and all monies received by the Surplus Property Agent from state ~~departments, boards, commissions, institutions, and~~ agencies and from counties, cities, and towns, and school districts as a reimbursement to the state of monies spent in acquiring surplus property for such state agencies, and for services to such agencies. The Surplus Property Fund shall

be expended by the Surplus Property Agent, ~~under the supervision of the Director of Public Affairs,~~ for any expense incurred in the handling, transportation, warehousing, and distribution of surplus property received by purchase or donation, including but not limited to the purchase of trucks, including the salary salaries of the Surplus Property Agent and other employees' salaries employees of the office, together with other necessary expenses incurred in administration and operation. The purchase of any passenger-type vehicle is specifically prohibited. Expenditures shall be made from said fund on claims signed by the State Surplus Property Agent and approved for payment by the Director of State Finance.

SECTION 11. AMENDATORY 80 O.S. 1991, Section 34.7, is amended to read as follows:

Section 34.7 The salary of the Surplus Property Agent and such other expenses, including personal services, as may be incurred by the office of the Surplus Property Agent shall be payable from ~~any appropriation made to the Office of Public Affairs~~ monies accruing to the State Surplus Property Revolving Fund.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 34.8 of Title 80, unless there is created a duplication in numbering, reads as follows:

A. The State Surplus Property Agent may dispose of surplus state property to eligible entities by:

1. Sale at fixed prices;
2. Sale at negotiated prices; or
3. Advertised public auction or advertised sealed bids.

B. The State Surplus Property Agent may:

1. Sell state surplus property to the general public by advertised public auction or advertised sealed bids; and

2. Sell property to the general public at fixed or negotiated prices if such property has been offered for a period of at least sixty (60) days to eligible entities.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 34.9 of Title 80, unless there is created a duplication in numbering, reads as follows:

A. Any state agency which transfers surplus property to the State Surplus Property Agent for sale, trade, or redistribution shall receive full credit for the value thereof, less any fees and charges assessed by the State Surplus Property Agent for costs incurred in such sale, trade, or redistribution.

B. Each state agency disposing of surplus property by sale, trade, or redistribution pursuant to the Oklahoma Surplus Property Regulation Act shall deposit the moneys received therefor, less fees and charges assessed by the State Surplus Property Agent, in the State Treasury to the credit of the appropriate fund of the state agency.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 34.10 of Title 80, unless there is created a duplication in numbering, reads as follows:

The commissioner may centrally acquire, warehouse, and distribute supplies, materials, and equipment for eligible entities. Expenses incurred in connection with acquiring, warehousing, and distributing may be charged as costs to the state agency owning the surplus property.

SECTION 15. AMENDATORY 20 O.S. 1991, Section 1314, is amended to read as follows:

Section 1314. The Supreme Court may provide by rule for the following:

1. The joint acquisition, maintenance and operation of equipment by two or more district courts or court clerks; and
2. ~~The disposition of surplus property acquired from local court funds; and~~
3. The guidelines and standards for the microfilming and storage of court records.

SECTION 16. AMENDATORY 44 O.S. 1991, Section 233.3, is amended to read as follows:

Section 233.3 A. The Oklahoma Military Department, with the approval of the Governor, attested by the Secretary of State thereon, is hereby authorized and directed to enter into contracts in the name of the State of Oklahoma for the purpose of carrying out the provisions of Section 233.2 et seq. of this title, provided that contracts for the construction, erection and completion of any armory buildings hereby authorized shall be awarded to the lowest responsible bidder, approved by the Department of the Army or other representative federal agency, and that any contractor, to whom a contract may be awarded hereunder, shall execute with a qualified surety company, doing business in this state, as surety, bonds in such amounts and with such conditions as prescribed by law and by the Department of the Army or other representative federal agency. Such bonds shall be upon a form with such conditions and in such amounts as may meet the requirements of the representative federal agency and in such further amounts as willfully protect and cover the construction contributions of the state.

B. The Oklahoma Military Department shall from time to time, as the occasion therefor arises, determine whether any real estate, armory or building belonging to the State of Oklahoma and under the control of the Oklahoma Military Department is needed by the Oklahoma Military Department. If the Department determines that there is no such need therefor, it shall so declare and sell or dispose of the same in such manner and upon such terms as approved by the ~~Office of Public Affairs and the Governor~~ Office of Surplus Property. Necessary deeds and other conveyances shall be executed by the Adjutant General in the name of the State of Oklahoma.

Proceeds of the sale or other disposition of such property shall be deposited in a revolving fund in the State Treasury designated as the Surplus Property Revolving Fund of the Oklahoma Military

Department. Monies deposited in such revolving fund may be expended by the Adjutant General, for construction, repairs, and maintenance, or equipment for facilities of the Oklahoma National Guard. No new armory shall be constructed unless authorized by the Legislature.

SECTION 17. AMENDATORY 47 O.S. 1991, Section 159.1, is amended to read as follows:

Section 159.1 A. There is hereby created under the direction and control of the Director of Public Affairs a division to be designated the State Motor Pool. The State Motor Pool Division shall control and regulate the acquisition, lease, operation, maintenance, repair, and disposal of such passenger motor vehicles as shall be necessary in the conduct of the state's business by the various agencies and departments of the state, and shall establish a motor pool for the common use of the agencies and departments located in Oklahoma City, and may establish in the state such subsidiary motor pools under the direct control or supervision of an agency or department of the state as may be found necessary with the consent of such agency or department.

B. Any vehicle shall be sold or otherwise disposed of pursuant to the Oklahoma Surplus Property Regulation Act.

SECTION 18. AMENDATORY 47 O.S. 1991, Section 159.3, is amended to read as follows:

Section 159.3 A. The State Motor Pool Division shall have the authority to acquire passenger motor vehicles, except those purchased, leased or transferred to the Department of Public Safety, by purchase, lease or transfer, and all motor vehicles transferred to or purchased for said Division shall become a "motor pool" from which, upon requisition and proper showing to the Division of need and use for official state business, there may be assigned suitable transportation, either on a temporary or permanent basis, to any state agency or department. Provided that all leases and purchases made shall be by competitive bids, under the Central Purchasing Act.

The State Motor Pool Division shall study and ascertain the present and continuing needs for passenger vehicles and shall authorize and direct transfer to the motor pool or the sale of vehicles found not to be required by any agency or department. Where any vehicle so transferred from any agency or department was purchased by the agency from a dedicated fund or trust fund, an amount equal to the current market value of the vehicle shall be paid the said agency or department or shall be entered upon the accounts of the "State Motor Pool Fund" as a credit in favor of the agency or department from which such vehicle was transferred, and any charges thereafter made to such agency or department for transportation furnished by the State Motor Pool Division shall be offset against such credit until the entire amount of the credit has been utilized.

B. Any vehicle shall be sold or otherwise disposed of pursuant to the Oklahoma Surplus Property Regulation Act.

SECTION 19. AMENDATORY 47 O.S. 1991, Section 156.4, is amended to read as follows:

Section 156.4 A. The Division of Fleet Management of the Office of Public Affairs shall be notified not less than thirty (30) days prior to any vehicle purchase or disposal by any state board, commission, department, or institution whether or not exempt from the Oklahoma Central Purchasing Act.

B. No passenger car, truck, pickup, or other vehicle purchased by any state board, commission, department, or institution shall be sold or disposed of unless 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 of Two Thousand Five Hundred Dollars (\$2,500.00) or more, or unless written permission to dispose of the vehicle is given by the Division of Fleet Management of the Office of Public Affairs.

C. Any vehicle shall be sold or otherwise disposed of pursuant to the Oklahoma Surplus Property Regulation Act.

SECTION 20. AMENDATORY 66 O.S. 1991, Section 304, is amended to read as follows:

Section 304. A. The Department is hereby authorized and empowered:

1. To acquire, construct, reconstruct, repair, replace, operate and maintain railroad rights-of-way and trackage projects at such locations and on such routes as it shall determine to be feasible and economically sound;

2. To enter into agreements with the owners of operating railroads for the acquisition and/or use of railroad rights-of-way and trackage on such terms, conditions, rates or rentals as the Department may consider to be in the best interests of the state;

3. To enter directly into agreements with owners of operating railroads or persons intending to operate as common carriers by rail to sell, lease, or sell by lease-purchase agreement any state-owned railroad property on such terms, conditions or amounts as the Department may consider to be in the best interests of the state and to promote the purposes of this act;

4. To acquire and hold real or personal property in the exercise of its powers for the performance of its duties as authorized by this act. ~~Surplus property may be disposed of by the Department, pursuant to the Oklahoma Surplus Property Regulation Act;~~

5. To acquire in the name of the Department, by purchase or otherwise on such terms and conditions and in such manner as it may deem proper, or by exercise of the right of condemnation, such public or private lands and personalty, including public parks, playgrounds, or reservations, or parts thereof or rights therein, rights-of-way, trackage, property, rights, easements, and interests,

as it may deem necessary for carrying out the provisions of this act;

6. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, and to employ rail planning and management consultants, consulting engineers, attorneys, accountants, construction and financial consultants, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation; provided, that all such expenses shall be payable solely from funds made available under and pursuant to the provisions of this act or from revenues; provided, further, no attorney employed by the Department, nor any member of any law firm of which he may be connected, shall ever be paid any fee or compensation for any special or extraordinary services;

7. To receive, accept and expend funds from the state, any federal agency, or from private sources, for rail planning and for administration of railroad assistance projects, and for or in aid of the acquisition, construction, reconstruction, replacement, repair, maintenance and operation of railroad rights-of-way and trackage and for rail service continuation payments to railroad companies for operating losses sustained by reasons of continuing service on a line which may otherwise be abandoned or which may experience a reduced level of service not in the public interest, where such continuation of service is carried out under a written agreement with the Department establishing the terms and conditions for such payments, and to receive and accept funds, 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 funds, aid or contributions may be made;

8. To adopt such rules and regulations and to do any and all things necessary to comply with rules, regulations or requirements

of the United States Department of Transportation, any successor thereof, the Interstate Commerce Commission or any federal agency administering any law enacted by the Congress of the United States or having funds available for the purpose of the Department that are not inconsistent with or contrary to the prohibitions and restrictions of Oklahoma law or public interest;

9. To expend income and funds from the Oklahoma Railroad Maintenance Revolving Fund in the exercise of any or all of the foregoing powers;

10. To do all things necessary or convenient to carry out the powers expressly granted in this act.

B. It shall be unlawful for any member, officer or employee of the Department to transact with the Department, either directly or indirectly, any business for profit of such member, officer or employee; and any person, firm or corporation knowingly participating therein shall be equally liable for violation of this provision.

The term "business for profit" shall include, but not be limited to, the acceptance or payment of any fee, commission, gift, or consideration to such member, officer or employee.

Violation of this provision shall constitute a felony and, upon conviction shall be punishable by a fine of not less than Five Hundred Dollars (\$500.00) and not more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the State Penitentiary for not more than five (5) years, or by both such fine and imprisonment.

C. All meetings of the Department shall be open public meetings, and all records shall be public records, except when considering personnel.

SECTION 21. AMENDATORY 74 O.S. 1991, Section 78, is amended to read as follows:

Section 78. A. There is hereby created within the Office of Public Affairs, the Division of Fleet Management. The purpose of

the Division shall be to provide oversight and direction to state agencies that own and operate motor vehicles.

B. The Division shall be administered by a Fleet Manager who shall be appointed by the Executive Director of the Office of Public Affairs.

C. The Division of Fleet Management shall:

1. Provide oversight of the fleet management practices of all state agencies.

2. Establish uniform written vehicle acquisition and disposal standards for use by all state agencies to justify actual need for vehicles provided any disposal of vehicles shall be made pursuant to the Oklahoma Surplus Property Regulation Act.

3. Develop minimum standards for proper record keeping of fleet operation, maintenance, and repair costs for use by all state agencies, and require all state agencies to report such records to the Division of Fleet Management on a monthly basis.

4. Determine the feasibility of contracting with a national vehicle maintenance account program, for state vehicles not being serviced and maintained by state facilities.

5. Review and make recommendations to state agencies on fleet management programs.

6. Conduct on-site inspections to verify agency compliance with Division recommendations.

7. Report to the Governor and the Joint Committee on Fiscal Operations, or their assigned representatives, all agency decisions made in contravention of recommendations by the Fleet Manager.

SECTION 22. AMENDATORY 74 O.S. 1991, Section 85.9B, is amended to read as follows:

Section 85.9B 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 ~~Public Affairs~~ Surplus Property.

SECTION 23. 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 (1,000) 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; and

33. The State Surplus Property Agent and employees of the Office of Surplus Property. Nothing in this paragraph is intended to change the status, whether classified or unclassified, of any person employed by the Office of Public Affairs and currently assigned to the Surplus Property Division. No position shall become unclassified while it is occupied by a classified employee.

SECTION 24. REPEALER 80 O.S. 1991, Section 44, is hereby repealed.

SECTION 25. This act shall become effective July 1, 1992.

SECTION 26. 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.

43-2-7089

KSM