ENROLLED SENATE
BILL NO. 1320

By: Smith of the Senate

and

Settle of the House

An Act relating to duplicate sections; merging duplicate sections; amending 11 O.S. 1991, Section 50-101, as last amended by Section 2 of Enrolled House Bill No. 2971 of the 2nd Session of the 45th Oklahoma Legislature, 59 O.S. 1991, Section 567.3a, as last amended by Section 4 of Enrolled Senate Bill No. 587 of the 2nd Session of the 45th Oklahoma Legislature, 59 O.S. 1991, Section 567.8, as last amended by Section 7 of Enrolled Senate Bill No. 587 of the 2nd Session of the 45th Oklahoma Legislature, 60 O.S. 1991, Section 176, as last amended by Section 1 of Enrolled Senate Bill No. 747 of the 2nd Session of the 45th Oklahoma Legislature, 68 O.S. 1991, Section 1361, as last amended by Section 2 of Enrolled Senate Bill No. 1258 of the 2nd Session of the 45th Oklahoma Legislature, 74 O.S. 1991, Section 85.7, as last amended by Section 3 of Enrolled Senate Bill No. 1315 of the 2nd Session of the 45th Oklahoma Legislature, 74 O.S. 1991, Section 85.12, as last amended by Section 5 of Enrolled Senate Bill No. 1315 of the 2nd Session of the 45th Oklahoma Legislature, and Section 11, Chapter 400, O.S.L. 1992, as last amended by Section 4 of Enrolled House Bill No. 2188 of the 2nd Session of the 45th Oklahoma Legislature, which are duplicate sections;

merging earlier-passed versions of each such duplicate section with last-passed version of the section; repealing 11 O.S. 1991, Section 50-101, as last amended by Section 1 of Enrolled House Bill No. 2089 of the 2nd Session of the 45th Oklahoma Legislature, 59 O.S. 1991, Section 567.3a, as last amended by Section 1 of Enrolled Senate Bill No. 537 of the 2nd Session of the 45th Oklahoma Legislature, 59 O.S. 1991, Section 567.8, as last amended by Section 2 of Enrolled Senate Bill No. 537 of the 2nd Session of the 45th Oklahoma Legislature, 60 O.S. 1991, Section 176, as last amended by Section 1 of Enrolled House Bill No. 1989 of the 2nd Session of the 45th Oklahoma Legislature, 68 O.S. 1991, Section 1361, as last amended by Section 1 of Enrolled House Bill No. 2233 of the 2nd Session of the 45th Oklahoma Legislature, 74 O.S. 1991, Section 85.7, as last amended by Section 1 of Enrolled House Bill No. 1555 of the 2nd Session of the 45th Oklahoma Legislature, 74 O.S. 1991, Section 85.12, as last amended by Section 2 of Enrolled Senate Bill No. 775 of the 2nd Session of the 45th Oklahoma Legislature, and Section 11, Chapter 400, O.S.L. 1992, as last amended by Section 3 of Enrolled Senate Bill No. 1040 of the 2nd Session of the 45th Oklahoma Legislature, which are the earlier-passed duplicate sections; providing effective dates; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 50-101, as last amended by Section 2 of Enrolled House Bill No. 2971 of the 2nd Session of the 45th Oklahoma Legislature, is amended to read as follows:

Section 50-101. As used in this article:

1. "System" means the Oklahoma Police Pension and Retirement System and all predecessor municipal Police Pension and Retirement Systems;

2. "Article" means Article 50 of this title;

3. "State Board" means the Oklahoma Police Pension and Retirement Board;

4. "Local board" means the local police pension and retirement boards;

5. "Fund" means the Oklahoma Police Pension and Retirement Fund;

6. "Officer" means any duly appointed and sworn full-time officer of the regular police department of a municipality whose duties are to preserve the public peace, protect life and property, prevent crime, serve warrants, enforce all laws and municipal ordinances of this state, and any political subdivision thereof, and who is authorized to bear arms in the execution of such duties;

7. "Member" means all eligible officers of a participating municipality and any person hired by a participating municipality who is undergoing police training to become a permanent police officer of the municipality;

8. "Normal retirement date" means the date at which the member is eligible to receive the unreduced payments of the member's accrued retirement benefit. Such date shall be the first day of the month coinciding with or following the date the member completes twenty (20) years of credited service. If the member's employment continues past the normal retirement date of the member, the actual retirement date of the member shall be the first day of the month after the member terminates employment with more than twenty (20) years of credited service;

9. "Credited service" means the period of service used to determine the eligibility for and the amount of benefits payable to a member. Credited service shall consist of the period during which the member participated in the System or the predecessor municipal systems as an active employee in an eligible membership classification, plus any service prior to the establishment of the predecessor municipal systems which was credited under the predecessor municipal systems or credited service granted by the State Board;

10. "Participating municipality" means a municipality which is making contributions to the System on behalf of its officers;

11. "Permanent total disability" means incapacity due to accidental injury or occupational disease, to earn any wages in the employment for which the member is physically suited and reasonably fitted through education, training or experience. Further, the member must be declared one hundred percent (100%) impaired as defined by the "American Medical Association's Guides to the Evaluation of Permanent Impairment" on the basis of a physical medical examination by a physician licensed to practice medicine in this state, as selected by the State Board;

12. "Permanent partial disability" means permanent disability which is less than permanent total disability as defined in this section. The member must be declared no greater than ninety-nine percent (99%) impaired as defined by the "American Medical Association's Guides to the Evaluation of Permanent Impairment" on

the basis of a physical medical examination by a physician licensed to practice medicine in this state, as selected by the State Board;

13. "Beneficiary" means a member's surviving spouse or any surviving children, including biological and adopted children, at the time of the member's death. The surviving spouse must have been married to the member for the thirty (30) continuous months immediately preceding the member's death, provided a surviving spouse of a member who died while in, and as a consequence of, the performance of the member's duty for a participating municipality, shall not be subject to the thirty-month marriage requirement for survivor benefits. A surviving child of a member shall be a beneficiary until reaching eighteen (18) years of age or twenty-two (22) years of age if the child is enrolled full time and regularly attending a public or private school or any institution of higher education. Any child adopted by a member after the member's retirement shall be a beneficiary only if the child is adopted by the member for the thirty (30) continuous months preceding the member's death. Any child who is adopted by a member after the member's retirement and such member dies accidentally or as a consequence of the performance of the member's duty as a police officer shall not be subject to the thirty-month adoption requirement. This definition of beneficiary shall be in addition to any other requirement set forth in this article;

14. "Executive Director" means the managing officer of the System employed by the State Board;

15. "Eligible employer" means any municipality with a municipal police department;

16. "Entry date" means the date as of which an eligible employer joins the System. The first entry date pursuant to this article shall be January 1, 1981;

17. "Final average salary" means the average paid gross salary of the member for normally scheduled hours over the highest salaried thirty (30) consecutive months of the last sixty (60) months of credited service.

Gross salary shall not include payment for accumulated sick and annual leave upon termination of employment or any uniform allowances. Provided, for purposes of determining the normal disability benefit, final average salary shall be based on the member's total service if less than thirty (30) months. Gross salary shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986, as amended, and any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986, as amended. Only salary on which required contributions have been made may be used in computing the final average salary;

18. "Accrued retirement benefit" means two and one-half percent (2 1/2%) of the member's final average salary multiplied by the member's years of credited service not to exceed thirty (30) years;

19. "Normal disability benefit" means two and one-half percent (2 1/2%) of the member's final average salary multiplied by twenty (20) years;

20. "Limitation year" means the year used in applying the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, which year shall be the calendar year; and

21. "Paid base salary" means compensation that shall include longevity, educational allowances, and normal compensation paid on a regularly scheduled pay period of which said pay period shall include holidays, annual leave and sick leave. Paid base salary shall not include overtime. This shall exclude any incremental increases due to reimbursement or payment of benefits or other allowances including but not limited to insurance premium reimbursements.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 567.3a, as last amended by Section 4 of Enrolled Senate Bill No. 587 of the 2nd Session of the 45th Oklahoma Legislature, is amended to read as follows:

Section 567.3a As used in the Oklahoma Nursing Practice Act, Section 567.1 et seq. of this title:

1. "Board" means the Oklahoma Board of Nursing;

2. "The practice of nursing" means the performance of services provided for purposes of nursing diagnosis and treatment of human responses to actual or potential health problems consistent with educational preparation. Knowledge and skill are the basis for assessment, analysis, planning, intervention, and evaluation used in the promotion and maintenance of health and nursing management of illness, injury, infirmity, restoration or optimal function, or death with dignity. Practice is based on understanding the human condition across lifespan and understanding the relationship of the individual within the environment. This practice includes execution of the medical regime including the administration of medications and treatments prescribed by any person authorized by state law to so prescribe;

3. "Registered nursing" means the practice of the full scope of nursing which includes, but is not limited to:

a. assessing the health status of individuals, families and groups,
b. analyzing assessment data to determine nursing care needs,
c. establishing goals to meet identified health care needs,
d. planning a strategy of care,
e. establishing priorities of nursing intervention to implement the strategy of care,
f. implementing the strategy of care,
g. delegating such tasks as may safely be performed by others, consistent with educational preparation and that do not conflict with the provisions of the Oklahoma Nursing Practice Act,
h. providing safe and effective nursing care rendered directly or indirectly,
i. evaluating responses to interventions,
j. teaching the principles and practice of nursing,
k. managing and supervising the practice of nursing,
l. collaborating with other health professionals in the management of health care,
m. performing additional nursing functions in accordance with knowledge and skills acquired beyond basic nursing preparation, and
n. delegating those nursing tasks as defined in the rules of the Board that may be performed by an advanced unlicensed assistive person;

4. "Licensed practical nursing" means the practice of nursing under the supervision or direction of a registered nurse, licensed physician or dentist. This directed scope of nursing practice includes, but is not limited to:

a. contributing to the assessment of the health status of individuals and groups,
b. participating in the development and modification of the plan of care,
c. implementing the appropriate aspects of the plan of care,
d. delegating such tasks as may safely be performed by others, consistent with educational preparation and that do not conflict with the Oklahoma Nursing Practice Act,

e. providing safe and effective nursing care rendered directly or indirectly,
f. participating in the evaluation of responses to interventions,
g. teaching basic nursing skills and related principles,
h. performing additional nursing procedures in accordance with knowledge and skills acquired through education beyond nursing preparation, and
i. delegating those nursing tasks as defined in the rules of the Board that may be performed by an advanced unlicensed assistive person;

5. "Advanced practice nurse" means a licensed registered nurse who:

a. has successfully completed a formal program of study approved by the Board which is designed to prepare registered nurses to perform in an expanded role in the delivery of health care,
b. is nationally certified by an appropriate certifying body, recognized by the Board, and
c. has received a certificate of recognition from the Board.

The term advanced practice nurse shall include advanced registered nurse practitioners, clinical nurse specialists, nurse-midwives and certified registered nurse anesthetists;

A registered nurse who has completed educational requirements as an advanced practice nurse and has registered for a Board-approved national certifying exam. Such registered nurse may apply for temporary recognition pending certification. Temporary recognition shall not exceed one (1) year from the date of graduation.

Temporary recognition shall expire when advanced practice status is granted or one hundred twenty (120) days following the test date, whichever comes first. If the temporary recognition certification holder fails to be certified, temporary recognition shall expire upon receipt of the test results. Temporary recognition shall not be renewable.

The registered nurse with temporary recognition to practice as an advanced practice nurse shall not be eligible to apply for prescriptive authority;

6. "Advanced registered nurse practitioner" means a licensed registered nurse who has met the requirements of paragraph 5 of this section. The advanced registered nurse practitioner performs in an expanded role in the delivery of health care that is:

a. consistent with advanced educational preparation as an advanced practice nurse in an area of specialty,
b. functions within the advanced registered nurse practitioner scope of practice denoted for the area of specialization, and
c. is in accord with the standards for advanced practice nurses as identified by the certifying body and approved by the Board.

An advanced registered nurse practitioner in accordance with the scope of practice of the advanced registered nurse practitioner shall be eligible to obtain recognition as authorized by the Board to prescribe, as defined by the rules promulgated by the Board pursuant to this section and subject to the medical direction of a supervising physician. This authorization shall not include dispensing drugs, but shall not preclude, subject to federal regulations, the receipt of, the signing for, or the dispensing of professional samples to patients.

The advanced registered nurse practitioner accepts responsibility, accountability, and obligation to practice in accordance with usual and customary advanced practice nursing standards and functions as defined by the scope of practice/role

definition statements for the advanced registered nurse practitioner.

Any person who is recognized by the Board as an advanced registered nurse practitioner and wishes to practice as an advanced registered nurse practitioner in this state shall have the right to use the title "Advanced Registered Nurse Practitioner" and to the abbreviation "ARNP". No other person shall assume such title or use such abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is an advanced registered nurse practitioner;

7. "Clinical nurse specialist" means a licensed registered nurse who holds:

a. a master's degree in nursing with clinical specialization preparation to function in an expanded role,
b. specialty certification from a national certifying organization recognized by the Board,
c. a certificate of recognition from the Board, and
d. any nurse holding a specialty certification as a clinical nurse specialist valid on January 1, 1994, granted by a national certifying organization recognized by the Board, shall be deemed to be a clinical nurse specialist under the provisions of the Oklahoma Nursing Practice Act.

In the expanded role, the clinical nurse specialist performs at an advanced practice level which shall include, but not be limited to:

a. practicing as an expert clinician in the provision of direct nursing care to a selected population of patients or clients in any setting, including private practice,
b. managing the care of patients or clients with complex nursing problems,
c. enhancing patient or client care by integrating the competencies of clinical practice, education, consultation, and research, and
d. referring patients or clients to other services.

A clinical nurse specialist in accordance with the scope of practice of such clinical nurse specialist shall be eligible to obtain recognition as authorized by the Board to prescribe, as defined by the rules promulgated by the Board pursuant to this section, and subject to the medical direction of a supervising physician. This authorization shall not include dispensing drugs, but shall not preclude, subject to federal regulations, the dispensing of professional samples to patients.

The clinical nurse specialist accepts responsibility, accountability, and obligation to practice in accordance with usual and customary advanced practice nursing standards and functions as defined by the scope of practice/role definition statements for the clinical nurse specialist.

Any person who is recognized by the Board as a clinical nurse specialist shall have the right to use the title "Clinical Nurse Specialist" and abbreviation "CNS". No other person shall assume such title or use such abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a clinical nurse specialist;

8. "Nurse-midwife" means a qualified registered nurse who has received a certificate of recognition from the Oklahoma Board of Nursing who possesses evidence of certification according to the requirements of the American College of Nurse-Midwives, and has the right to use the title "Certified Nurse-Midwife" and the abbreviation "CNM". No other person shall assume such title or use such abbreviation or any other words, letters, signs, or figures to

indicate that the person using the same is a certified nurse-midwife.

A certified nurse-midwife in accordance with the scope of practice of such certified nurse-midwife shall be eligible to obtain recognition as authorized by the Board to prescribe, as defined by the rules promulgated by the Board pursuant to this section and subject to the medical direction of a supervising physician. This authorization shall not include the dispensing of drugs, but shall not preclude, subject to federal regulations, the receipt of, the signing for, or the dispensing of professional samples to patients.

The certified nurse-midwife accepts responsibility, accountability, and obligation to practice in accordance with usual and customary advanced practice nursing standards and functions as defined by the scope of practice/role definition statements for the certified nurse-midwife;

9. "Nurse-midwifery practice" means providing management of care of normal newborns and women, antepartally, intrapartally, postpartally and gynecologically, occurring within a health care system which provides for medical consultation, medical management or referral, and is in accord with the standards for nurse-midwifery practice as defined by the American College of Nurse-Midwives;

10. "Certified registered nurse anesthetist" means any person who holds a license to practice as a registered nurse in this state and who:

a. has successfully completed the educational program of a school of nurse anesthetists accredited by the American Association of Nurse Anesthetists,

b. is certified by the American Association of Nurse Anesthetists as a Certified Registered Nurse Anesthetist within one (1) year following completion of such educational program, and continues to maintain such certification current,

c. administers anesthesia under the supervision of a medical doctor, an osteopathic physician or a dentist licensed in this state and under conditions in which timely onsite consultation by such doctor, osteopath or dentist is available, and

d. has received a certificate of recognition from the Board.

Any person who is recognized by the Board as a certified registered nurse anesthetist shall have the right to use both the title "Certified Registered Nurse Anesthetist" and the abbreviation "CRNA". No other person shall assume such title or use such abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a certified registered nurse anesthetist.

This paragraph shall not prohibit the administration of local or topical anesthetics as now permitted by law. Provided further, nothing in this paragraph shall limit the authority of the Board of Governors of Registered Dentists to establish the qualifications for dentists who direct the administration of anesthesia;

11. "Supervising physician" means an individual holding a current license to practice as a physician from the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners, who supervises an advanced practice nurse, and who is not in training as an intern, resident, or fellow. To be eligible to supervise an advanced practice nurse, such physician shall remain in compliance with the rules promulgated by the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners;

12. "Supervision of advanced practice nurses with prescriptive authority" means overseeing and accepting responsibility for the ordering and transmission of written, telephonic, electronic or oral

prescriptions for drugs and other medical supplies, subject to a defined formulary; and

13. "Advanced unlicensed assistive person" means any person who has successfully completed a certified training program developed by a working committee composed of representatives of the following entities:

a. State Department of Health,
b. Oklahoma State Regents for Higher Education,
c. State Department of Vocational and Technical Education,
d. Oklahoma Board of Nursing,
e. Oklahoma Hospital Association,
f. Oklahoma Nurses Association,
g. The Nursing Home Association of Oklahoma,
h. Oklahoma State Association of Licensed Practical Nurses, and
i. Oklahoma Home Care Association.

The working committee shall also develop a list of the functions that an advanced unlicensed assistive person shall be able to perform upon completion of the certification training program. The working committee shall submit the certification training program and list of functions to the Board for their review and approval. The Board shall promulgate rules to enact the provisions of this paragraph.

Any person who has successfully completed the certification training program provided for in this paragraph shall be certified by the Board as an advanced unlicensed assistive person and as such shall be qualified to assist a licensed nurse in providing patient or client care as defined in rules promulgated by the Board.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 567.8, as last amended by Section 7 of Enrolled Senate Bill No. 587 of the 2nd Session of the 45th Oklahoma Legislature, is amended to read as follows:

Section 567.8 A. The Oklahoma Board of Nursing shall have power to deny, revoke or suspend any license to practice registered nursing, or licensed practical nursing, or recognition for practice as an advanced practice nurse, or certification as an advanced unlicensed assistive person, or to otherwise discipline a licensee or advanced unlicensed assistive person upon proof that the person:

1. Is guilty of fraud or deceit in procuring or attempting to procure a license to practice registered nursing, or licensed practical nursing or advanced practice nursing;

2. Is guilty of a felony or of any offense that shall constitute a felony under the laws of this state;

3. Is unfit or incompetent by reason of negligence;

4. Is habitually intemperate or addicted to habit-forming drugs;

5. Exhibits actual or potential inability to practice nursing with sufficient knowledge or reasonable skills and safety due to impairment caused by illness, use of alcohol, drugs, chemicals or any other substance, or as a result of any mental or physical condition;

6. Has been adjudicated as mentally incompetent, mentally ill, chemically dependent or dangerous to the public or has been committed by a court of competent jurisdiction, within or without this state;

7. Is guilty of unprofessional conduct as defined in the rules of the Board;

8. Is guilty of any act that jeopardizes a patient's life, health or safety as defined in the rules of the Board;

9. Violated a rule adopted by the Board, an order of the Board, or a state or federal law relating to the practice of registered,

practical or advanced practice nursing, or a state or federal narcotics or controlled dangerous substance law; or

10. Has had disciplinary actions taken against the individual's registered or practical nursing license, or any health-related license, in this or any state, territory or country.

B. Any person who supplies the Board information in good faith shall not be liable in any way for damages with respect to giving such information.

C. The Board may cause to be investigated all reported violations of the Oklahoma Nursing Practice Act, Section 567.1 et seq. of this title.

D. All individual proceedings before the Board shall be conducted in accordance with the Administrative Procedures Act, Section 308a et seq. of Title 75 of the Oklahoma Statutes.

E. At a hearing the accused shall have the right to appear either personally or by counsel, or both, to produce witnesses and evidence on his or her behalf, to cross-examine witnesses and to have subpoenas issued by the Board. If the accused is found guilty of the charges the Board may refuse to issue a renewal of license to the applicant, revoke or suspend a license, or otherwise discipline a licensee.

F. A person whose license is revoked may not apply for reinstatement during the time period set by the Board, which shall not exceed five (5) years. The Board on its own motion may at any time reconsider its action.

G. Any person whose license is revoked or who applies for renewal of registration and who is rejected by the Board shall have the right to appeal from such action to the district court of the county of the person's residence.

SECTION 4. AMENDATORY 60 O.S. 1991, Section 176, as last amended by Section 1 of Enrolled Senate Bill No. 747 of the 2nd Session of the 45th Oklahoma Legislature, is amended to read as follows:

Section 176. A. Express trusts may be created to issue obligations and to provide funds for the furtherance and accomplishment of any authorized and proper public function or purpose of the state or of any county or municipality or any and all combinations thereof, in real or personal property, or either or both, or in any estate or interest in either or both, with the state, or any county or municipality or any and all combinations thereof, as the beneficiary thereof by:

1. The express approval of the Legislature and the Governor if the State of Oklahoma is the beneficiary;

2. The express approval of two-thirds (2/3) of the membership of the governing body of the beneficiary if a county is a beneficiary; or

3. The express approval of two-thirds (2/3) of the membership of the governing body of the beneficiary if a municipality is a beneficiary; provided, that no funds of a beneficiary derived from sources other than the trust property, or the operation thereof, shall be charged with or expended for the execution of the trust, except by express action of the legislative authority of the beneficiary prior to the charging or expending of the funds. The officers or any other governmental agencies or authorities having the custody, management, or control of any property, real or personal or mixed, of the beneficiary of the trust, or of a proposed trust, which property shall be needful for the execution of the trust purposes, are authorized and empowered to lease the property for those purposes, after the acceptance of the beneficial interest therein by the beneficiary as hereinafter provided.

B. A municipality may convey title to real property which is used for an airport to the trustees of an industrial development authority trust whose beneficiary is the municipality. The

industrial development authority trust must already have the custody, management, or control of the real property. The conveyance must be approved by a majority of the governing body of the municipality. A conveyance pursuant to this section may be made only for the sole purpose of allowing the authority to sell the property for fair market value when the property is to be used for industrial development purposes. Conveyances made pursuant to this subsection shall be made subject to any existing reversionary interest or other restrictions burdening the property and subject to any reversionary interest or other restriction considered prudent by the municipality.

C. The trustees of a public trust having the State of Oklahoma as beneficiary shall make and adopt bylaws for the due and orderly administration and regulation of the affairs of the public trust. All bylaws of a public trust having the State of Oklahoma as beneficiary shall be submitted in writing to the Governor of the State of Oklahoma. The Governor must approve the proposed bylaws before they take effect.

D. No public trust in which the State of Oklahoma is the beneficiary may be amended without a two-thirds (2/3) vote of approval of the trustees of the trust; provided, that any amendment is subject to the approval of the Governor of the State of Oklahoma. Any amendments shall be sent to the Governor within fifteen (15) days of their adoption.

E. No trust in which a county or municipality is the beneficiary shall hereafter create an indebtedness or obligation until the indebtedness or obligation has been approved by a two-thirds (2/3) vote of the governing body of the beneficiary. In the event a trust has more than one beneficiary, as authorized by this section, the trust shall not incur an indebtedness or obligation until the indebtedness or obligation has been approved by a two-thirds (2/3) vote of the governing body of two-thirds (2/3) of the beneficiaries of the trust.

F. All bonds described in subsection E of this section, after December 1, 1976, except bonds sold to the federal government or any agency thereof or to any agency of the State of Oklahoma, shall be awarded to the lowest and best bidder based upon open competitive public offering, advertised at least once a week for two (2) successive weeks in a newspaper of general circulation in the county where the principal office of the trust is located prior to the date on which bids are received and opened; provided, competitive bidding may be waived on bond issues with the approval of three-fourths (3/4) of the trustees, and a three-fourths (3/4) vote of the governing body of the beneficiary, unless the beneficiary is a county in which case a two-thirds (2/3) vote of the members of the governing body shall be required, or three-fourths (3/4) vote of the governing bodies of each of the beneficiaries of the trust, unless one of the beneficiaries is a county in which case a two-thirds (2/3) vote of the members of the governing body of such county shall be required. No bonds shall be sold for less than par value, except upon approval of three-fourths (3/4) of the trustees, unless the beneficiary is a county in which case a two-thirds (2/3) vote of the members of the governing body shall be required. In no event shall bonds be sold for less than sixty-five percent (65%) of par value; provided, however, in no event shall the original purchaser from the issuer of any bonds issued by any public trust for any purpose receive directly or indirectly any fees, compensation, or other remuneration in excess of four percent (4%) of the price paid for the bonds by the purchaser of the bonds from the original purchaser; and further provided, that the average coupon rate thereon shall in no event exceed fourteen percent (14%) per annum. No public trust shall sell bonds for less than ninety-six percent (96%) of par value until the public trust has received from the underwriter or

financial advisor or, in the absence of an underwriter or financial advisor, the initial purchaser of the bonds, an estimated alternative financing structure or structures showing the estimated total interest and principal cost of each alternative. At least one alternative financing structure shall include bonds sold to the public at par. Any estimates shall be considered a public record of the public trust. Bonds, notes or other evidences of indebtedness issued by any public trust shall be eligible for purchase by any state banking association or corporation subject to such limitations as to investment quality as may be imposed by regulations, rules or rulings of the State Banking Commissioner.

G. Public trusts created pursuant to this section shall file annually, with their respective beneficiaries, copies of financial documents and reports sufficient to demonstrate the fiscal activity of such trust, including, but not limited to, budgets, financial reports, bond indentures, and audits. Amendments to the adopted budget shall be approved by the trustees of the public trust and recorded as such in the official minutes of such trust.

H. Contracts for construction, labor, equipment, material or repairs in excess of Seven Thousand Five Hundred Dollars ($7,500.00) shall be awarded by public trusts to the lowest and best competitive bidder, pursuant to public invitation to bid, which shall be published in the manner provided in the preceding section hereof; the advertisements shall appear in the county where the work, or the major part of it, is to be done, or the equipment or materials are to be delivered, or the services are to be rendered; provided, however, should the trustee or the trustees find that an immediate emergency exists, which findings shall be entered in the journal of the trust proceedings, by reason of which an immediate outlay of trust funds in an amount exceeding Seven Thousand Five Hundred Dollars ($7,500.00) is necessary in order to avoid loss of life, substantial damage to property, or damage to the public peace or safety, then the contracts may be made and entered into without public notice or competitive bids; provided that the provisions of this subsection shall not apply to contracts of industrial and cultural trusts. Notwithstanding the provisions of this subsection, equipment or materials may be purchased by a public trust directly from any contract duly awarded by this state or any state agency under the Oklahoma Central Purchasing Act, or from any contract duly awarded by a governmental entity which is the beneficiary of the public trust.

I. Any public trust created pursuant to the provisions of this section shall have the power to acquire lands by use of eminent domain in the same manner and according to the procedures provided for in Sections 51 through 65 of Title 66 of the Oklahoma Statutes. Any exercise of the power of eminent domain by a public trust pursuant to the provisions of this section shall be limited to the furtherance of public purpose projects involving revenue-producing utility projects of which the public trust retains ownership; provided, for public trusts in which the State of Oklahoma is the beneficiary the exercise of the power of eminent domain may also be used for public purpose projects involving air transportation. Revenue-producing utility projects shall be limited to projects for the transportation, delivery, treatment, or furnishing of water for domestic purposes or for power, including, but not limited to the construction of lakes, pipelines, and water treatment plants. Any public trust formed pursuant to this section which has a county as its beneficiary shall have the power to acquire, by use of eminent domain, any lands located either inside the county, or contiguous to the county pursuant to the limitations imposed pursuant to this section.

J. Provisions of this section shall not apply to entities created under Sections 1324.1 through 1324.26 of Title 82 of the Oklahoma Statutes.

SECTION 5. AMENDATORY 68 O.S. 1991, Section 1361, as last amended by Section 2 of Enrolled Senate Bill No. 1258 of the 2nd Session of the 45th Oklahoma Legislature, is amended to read as follows:

Section 1361. Consumer to pay tax - Vendor to collect tax - Penalties for failure to collect.

A. Except as otherwise provided by subsection C of this section, the tax levied by Section 1350 et seq. of this title shall be paid by the consumer or user to the vendor as trustee for and on account of this state. Except as otherwise provided by subsection C of this section, each and every vendor in this state shall collect from the consumer or user the full amount of the tax levied by Section 1350 et seq. of this title, or an amount equal as nearly as possible or practicable to the average equivalent thereof. Every person required to collect any tax imposed by Section 1350 et seq. of this title, and in the case of a corporation, each principal officer thereof, shall be personally liable for the tax. In the case of a limited liability company, all managers and members under a duty to collect and remit taxes for the limited liability company shall be liable for the tax. If no managers or members have been specified to be under the duty of withholding and remitting taxes, then all managers and members shall be liable for the tax.

However, if the Oklahoma Tax Commission finds that a consumer or user improperly presented a sales tax permit or other certification or used the property purchased exempt from tax in a manner that would not have qualified for exemption, the purchaser shall be liable for the remittance of the tax, interest and penalty due thereon and the Tax Commission shall pursue collection thereof from the purchaser in any manner in which sales tax may be collected from a vendor. Upon such determination, the vendor shall be relieved of any liability for any sales tax imposed by the provisions of this section upon such vendor with respect to such sale.

B. Except as otherwise provided by subsection C of this section, vendors shall add the tax imposed by Section 1350 et seq. of this title, or the average equivalent thereof, to the sales price, charge, consideration, gross receipts or gross proceeds of the sale of tangible personal property or services taxed by Section 1350 et seq. of this title, and when added such tax shall constitute a part of such price or charge, shall be a debt from the consumer or user to vendor until paid, and shall be recoverable at law in the same manner as other debts.

C. A person who has obtained a direct payment permit as provided in Section 1364.1 of Title 68 of the Oklahoma Statutes shall accrue all taxes imposed pursuant to Sections 1354 or 1402 of this title on all purchases made by the person pursuant to the permit at the time the purchased items are first used or consumed in a taxable manner and pay the accrued tax directly to the Oklahoma Tax Commission on reports as required by Section 1365 of this title.

D. Except as otherwise provided by subsection C of this section, a vendor who willfully or intentionally fails, neglects or refuses to collect the full amount of the tax levied by Section 1350 et seq. of this title, or willfully or intentionally fails, neglects or refuses to comply with the provisions of Section 1350 et seq. of this title, or remits or rebates to a consumer or user, either directly or indirectly, and by whatsoever means, all or any part of the tax levied by Section 1350 et seq. of this title, or makes in any form of advertising, verbally or otherwise, any statement which implies that the vendor is absorbing the tax, or paying the tax for the consumer or user by an adjustment of prices or at a price including the tax, or in any manner whatsoever, shall be deemed

guilty of a misdemeanor, and upon conviction thereof shall be fined not more than Five Hundred Dollars ($500.00), and upon conviction for a second or other subsequent offense shall be fined not more than One Thousand Dollars ($1,000.00), or incarcerated for not more than sixty (60) days, or both. Provided, sales by vending machines may be made at a stated price which includes state and any municipal sales tax.

E. A consumer or user who willfully or intentionally fails, neglects or refuses to pay the full amount of tax levied by Section 1350 et seq. of this title or willfully or intentionally uses a sales tax permit or direct payment permit which is invalid, expired, revoked, canceled or otherwise limited to a specific line of business or willfully or intentionally issues a resale certificate to a vendor to evade the tax levied by Section 1350 et seq. of this title shall be subject to a penalty in the amount of Five Hundred Dollars ($500.00) per reporting period upon determination thereof, which shall be apportioned as provided for the apportionment of the tax.

F. Any sum or sums collected or accrued or required to be collected or accrued in Section 1350 et seq. of this title shall be deemed to be held in trust for the State of Oklahoma, and, as trustee, the collecting vendor or holder of a direct payment permit as provided for in Section 1364.1 of Title 68 of the Oklahoma Statutes shall have a fiduciary duty to the State of Oklahoma in regards to such sums and shall be subject to the trust laws of this state. Any vendor who willfully or intentionally fails to remit the tax, after the tax levied by Section 1350 et seq. of this title was collected from the consumer or user, and appropriates the tax held in trust to his or her own use, or to the use of any person not entitled thereto, without authority of law, shall be guilty of embezzlement. Any holder of a direct payment permit who willfully or intentionally fails to remit the tax levied by Section 1350 et seq. of this title and appropriates the tax held in trust to his or her own use, or to the use of any person not entitled thereto, without authority of law, shall be guilty of embezzlement.

SECTION 6. AMENDATORY 74 O.S. 1991, Section 85.7, as last amended by Section 3 of Enrolled Senate Bill No. 1315 of the 2nd Session of the 45th Oklahoma Legislature, is amended to read as follows:

Section 85.7 A. No acquisition or contract shall be made without the submission of competitive bids by the State Purchasing Director, except as provided in this section.

1. Any acquisition or contract for an amount of Two Thousand Five Hundred Dollars ($2,500.00) or less shall be exempted from competitive bidding procedures. Separate contracts or acquisitions for the individual components of a total project or service or split purchasing for the purpose of evading the requirement of competitive bidding shall be deemed a felony. The State Purchasing Director may waive or increase the two-thousand-five-hundred-dollar limit up to, but not to exceed, a contract or purchase price of ten percent (10%) above the open market limit to perfect an otherwise valid acquisition or contract inadvertently exceeding the two-thousand-five-hundred-dollar limit due to administrative error or unforeseeable circumstances. Requests for such waiver or increase shall be promptly submitted upon the discovery of such error or circumstance to the State Purchasing Director in a form prescribed by said Director setting forth the facts. All requests for such waiver or increase in amount, whether granted or denied, shall be reported monthly to the offices of the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives.

2. Contracts for master custodian banks or trust companies, investment managers and investment consultants for state retirement systems, the State Insurance Fund, and the State and Education

Employees Group Insurance Board, the pension fund management consultants of the Oklahoma State Pension Commission, the Commissioners of the Land Office and actuarial, architectural, engineering, legal, or other professional services as such term is defined in Section 803 of Title 18 of the Oklahoma Statutes shall be exempt from competitive bidding procedures. The Department of Central Services shall send a copy of such contracts or a list of such contracts to any member of the House or Senate Appropriations Committee, if requested by the member.

3. Competitive bids shall not be required for any emergency acquisitions or contracts involving Five Thousand Dollars ($5,000.00) or less, when, upon written request of the State Purchasing Director specifying the facts and circumstances giving rise thereto, the Governor certifies in writing the existence of an emergency authorizing the acquisition or contract.

4. Competitive bids for services to alleviate a serious environmental emergency shall not be required if, upon the request of the Chairman of the Corporation Commission and after having examined the facts and circumstances of the case, the Governor certifies in writing the existence of a serious environmental emergency. A serious environmental emergency for the purpose of this section means a situation within the jurisdiction of the Commission:

a. in which serious damage to the environment will quickly occur if immediate action is not taken, and the damage will be so significant that the urgent need for action outweighs the public policy strongly favoring competitive bids, or

b. a situation in which human life or safety is in imminent danger or significant property interests are threatened with imminent destruction.

5. Purchases or acquisitions for repairs of equipment and machinery in emergencies, or of livestock through a market agency, dealer, commission house, or livestock auction market bonded or licensed under federal or state law or the purchase or collection of semen or embryos and the placement of embryos into recipient livestock shall not be subject to the competitive bid requirements of this section or any other provisions of the Oklahoma Central Purchasing Act.

6. Purchases or acquisitions of human organs and internal prostheses for the Oklahoma Medical Center, shall not be subject to the competitive bid requirements of this section or any other provisions of the Oklahoma Central Purchasing Act.

7. Any contract for the restoration of historical sites and museums shall not be subject to the competitive bid requirements of this section or any other provision of the Oklahoma Central Purchasing Act. The procedures will be followed except contractor and bid selection will be the prerogative of the Oklahoma Historical Society Board and selection will be based on contractors' documented qualifications and experience.

8. Purchases of postage by state agencies shall be made in accordance with the provisions of Sections 90.1 through 90.4 of this title.

9. Any sole source contract shall not be subject to competitive bidding procedures. Any agency requesting products or services pursuant to a sole source contract shall comply with Section 89 of this title.

10. Contracts for the design, development, communication or implementation of the state employees flexible benefits plan shall not be subject to the requirements of this section; provided, that the Flexible Benefits Advisory Council shall use procedures consistent with the competitive bid requirements of the Oklahoma Central Purchasing Act.

11. a. Any contract for a service for which the Department of Central Services has approved as qualifying for a fixed and uniform rate shall not be subject to competitive bid procedures.

b. The Department of Central Services shall establish criteria and guidelines for those services which may be qualified for a fixed and uniform rate.

c. The exception to competitive bid procedures authorized by this paragraph shall be limited to contracts for those services furnished to persons directly benefiting from such services and shall not be used by any agency to employ consultants or to purchase products.

d. Any agency desiring to have a service qualified for a fixed and uniform rate shall make a request for such qualification to the Department of Central Services and shall submit any documentation necessary to support such request. The Department of Central Services shall either approve or deny the request. If the Department of Central Services qualifies such services for a fixed and uniform rate, the agency requesting such qualification shall establish a fixed and uniform rate for such service, provided no contracts shall be entered into by the agency until such rate has been approved by the agency in a public hearing. Prior to approval, the proposed rate shall be clearly and separately identified in the agenda of the agency for the hearing and shall be openly and separately discussed during such hearing. In addition, the agency shall notify the Director of the Department of Central Services of its pending consideration of the proposed rate at least thirty (30) days before the agency is to meet on the proposed rate. Along with such notice, the agency shall deliver to the Department of Central Services a copy of the agenda items concerning the proposed rate with all supporting documentation and materials. The Director of the Department of Central Services shall communicate any observation, reservation, criticism or recommendation to the agency, either in person at the time of the hearing or in writing delivered to the agency before or at the time of the hearing. The Director of the Department of Central Services shall specifically note in such written communications if the Director of the Department of Central Services has determined the rate to be excessive. Any such written communication presented in the absence of the Director of the Department of Central Services shall be presented orally during the public hearing. Whether made in person or in writing any comment made by the Director of the Department of Central Services shall be made a part of the minutes of the hearing in full.

e. Within two (2) weeks after the convening of the Legislature, the administrative officer of each state agency shall furnish to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and to any member of the House or Senate, if requested by such member, a complete list of all of the types of services paid for by uniform fixed rates, the amount of the rate last approved by the agency for the service, and the number of contracts then in existence for each type of service. Any rate which has been determined to be excessive by the Director of

the Department of Central Services shall be specifically identified in such list.

f. At any time, the Director of the Department of Central Services is authorized to review, suspend, or terminate a contract entered into pursuant to the provisions of this paragraph if the Director of the Department of Central Services determines the contract is not necessary, is excessive, or is not justified.

12. Purchases of or contracts for specifically prescribed nonmedical adaptive technology-related items for individuals with disabilities who are clients of the Department of Rehabilitation Services and which are prescribed by a physician, rehabilitation engineer, qualified rehabilitation technician, speech therapist, speech pathologist, occupational therapist, physical therapist or qualified sensory aids specialist and other client goods and services shall not be subject to the competitive bid requirements of this section. The Commission for Rehabilitation Services shall develop standards for the purchase of such goods and services and may elect to utilize Central Purchasing when appropriate. Such standards shall foster economy, short response time, and shall include appropriate safeguards and written records to assure appropriate competition and economical and efficient purchasing and shall be approved by the Director of Central Purchasing.

13. Purchases of or contracts for specifically prescribed nonmedical assistive technology-related items not exceeding Two Thousand Five Hundred Dollars ($2,500.00) for individuals under sixteen (16) years of age who are recipients of Supplemental Security Income and which are prescribed by a physician, qualified sensory aids specialists or qualified special education instructors shall not be subject to the competitive bid requirements. The Department of Human Services shall develop standards for the acquisition of such nonmedical assistive technology-related items and may elect to utilize Central Purchasing when appropriate. Such standards shall foster economy, short response time, and shall include appropriate safeguards and written records to assure appropriate competition and economical and efficient purchasing and shall be approved by the Director of Central Purchasing.

14. a. Structured settlement agreements entered into by the Attorney General's office in order to settle any lawsuit involving the state, the Legislature, any state board, agency, commission, or any employee or official of the state shall not be subject to the competitive bidding requirements of this section if:

(1) prior to entering into any contract for the services of an entity to administer a structured settlement agreement, the Attorney General receives proposals from at least three entities engaged in providing such services, and

(2) the selection of a particular entity is made on the basis of the response to the request which is the most economical and provides the most competent service which furthers the best interests of the state.

b. A list of any such structured settlement agreements entered into by the Attorney General with summary thereon for the previous calendar year shall be submitted to the Speaker of the House of Representatives and the President Pro Tempore of the Senate on January 31 of each year.

B. Acquisitions or contracts shall be awarded to the lowest and best bidder therefor at a specified time and place, which shall be open to the public, with such preference between bidders offering substantially the same products or services at substantially the

same prices, as may be set under the authority of Section 85.5 of this title.

C. Bids for professional service contracts shall be evaluated by the State Purchasing Director and the agency contracting for such service. Both cost and technical expertise shall be considered in determining the lowest and best bid. Further, such agency shall present its evaluation and recommendation to the State Purchasing Director. A documented evaluation report containing the evaluations of the State Purchasing Director and the agency contracting for such service shall be completed prior to the awarding of a professional service contract and such report shall be a matter of public record.

D. When requested by the governing body of a state retirement system, the State Insurance Fund or the State and Education Employees Group Insurance Board which are authorized to hire investment managers, the Department of Central Services shall assist the governing body of a state retirement system, the Fund or the Board in the process of selecting investment managers. When requested by the Flexible Benefits Advisory Council, the Department of Central Services shall assist the Council in the process of selecting contracts for the design, development, communication or implementation of the state employees flexible benefits plan.

E. Except as otherwise specifically provided by law, the acquisition of food items or food products by a state public agency from a public trust created pursuant to Sections 176 through 180.56 of Title 60 of the Oklahoma Statutes shall comply with competitive bidding procedures pursuant to the provisions of this section.

SECTION 7. AMENDATORY 74 O.S. 1991, Section 85.12, as last amended by Section 5 of Enrolled Senate Bill No. 1315 of the 2nd Session of the 45th Oklahoma Legislature, is amended to read as follows:

Section 85.12 A. The provisions of this section shall not be construed to affect any law relating to fiscal or accounting procedure except such as may be directly in conflict herewith; and all claims, warrants and bonds shall be examined, inspected and approved as now provided by law.

B. The following acquisitions shall not be included within the purview of the Oklahoma Central Purchasing Act, Section 85.1 et seq. of this title:

1. Food and other products produced by state institutions and agencies;

2. Contracts for construction of new buildings and for the repair, maintenance or modernization of old buildings by state educational institutions included within The Oklahoma State System of Higher Education;

3. The printing or duplication of publications or forms of whatsoever kind or character by state agencies, which service is performed upon their own equipment, by their own employees;

4. Acquisitions by institutions of The Oklahoma State System of Higher Education, the Oklahoma State Regents for Higher Education, or the University Centers subject to the State Regents insofar as such acquisitions relate to textbooks, laboratory supplies, instructional materials and specialized laboratory equipment or acquisitions for the telecommunications network known as OneNet, whether said network is governed or operated by the State Regents or any other state entity assigned responsibility for OneNet;

5. Department of Transportation and Transportation Commission contractual services or right-of-way purchases. Contracts awarded pursuant to bids let by the Transportation Commission for the maintenance or construction of streets, roads, highways, bridges, or underpasses, or any other transportation facilities under the control of the Department of Transportation, the acquisitions of equipment or materials accruing to the Department of Transportation required in Federal-Aid contracts, and contracts for public service

type announcements initiated by the Department of Transportation. Contractual services as used herein shall not include advertising or public relations services;

6. Utility services where rates therefor are regulated by a state or federal regulatory commission, or by city ordinance or by an Indian Tribal Council for use by the Department of Corrections only;

7. Acquisition of products and services by the University Hospitals and the University Hospitals Authority. The Authority shall develop standards for the acquisition of products and services and may elect to utilize Central Purchasing when appropriate. Such standards shall foster economy, short response time, and shall include appropriate safeguards and written records to assure appropriate competition and economical and efficient purchasing and shall be approved by the Director of Central Purchasing;

8. Contracts for custom harvesting by the Department of Corrections for the Department or its institutions;

9. Contracts with private prison contractors which are subject to the contracting procedures of Section 561 of Title 57 of the Oklahoma Statutes;

10. Acquisitions of aircraft by agencies authorized by the Legislature to purchase aircraft;

11. Purchases by the Oklahoma Municipal Power Authority;

12. Grand River Dam Authority;

13. Purchases by rural water, sewer, gas or solid waste management districts created pursuant to Section 1324.1 et seq. of Title 82 of the Oklahoma Statutes;

14. Purchases by the Oklahoma Ordnance Works Authority or Midwestern Oklahoma Development Authority, except that the Oklahoma Ordnance Works Authority and the Midwestern Oklahoma Development Authority shall remain subject to the provisions of Section 85.32 of this title;

15. Contracts entered into by the Oklahoma Industrial Finance Authority for the services of an appraiser or for acquisition of insurance when it is determined by its Board of Directors that an emergency exists and for the services of legal counsel when approved by the Attorney General;

16. Expenditure of monies appropriated to the State Board of Education for the purpose of Local, State-supported Programs and State-supported Programs except monies appropriated for the Administrative and Support Functions of the State Department of Education;

17. Contracts entered into by the State Department of Vocational and Technical Education for the development, revision or updating of vocational curriculum materials;

18. Contracts entered into by the Oklahoma Center for the Advancement of Science and Technology for professional services;

19. Contracts entered into by the Oklahoma Department of Commerce pursuant to the provisions of Section 5066.4 of this title;

20. Purchases made by the Oklahoma Historical Society from monies used to administer the White Hair Memorial;

21. Purchases of products available to an agency through a General Services Administration contract or other federal contract if the item is on current state contract and the terms of such contract are more favorable to the agency than the terms of a state contract for the same products as determined by the State Purchasing Director;

22. Contracts for managed health care services entered into by the state entity designated by law or the Department of Human Services, as specified in paragraph 1 of subsection A of Section 1010.3 of Title 56 of the Oklahoma Statutes;

23. Purchases of products by the Forestry Service of the State Department of Agriculture as authorized by the federal General

Services Administration through a General Services Administration contract or other federal contract if the item is not on current state contract or the terms of such federal contract are more favorable to the agency than the terms of a state contract for the same products;

24. Purchases amounting to less than that requiring competitive bid pursuant to Section 85.7 of this title. The Director of Central Services shall promulgate rules related to such purchases in excess of Seven Hundred Fifty Dollars ($750.00) and not exceeding Two Thousand Five Hundred Dollars ($2,500.00) to ensure competitiveness and fairness in such purchases;

25. Purchases or acquisitions of clothing for clients of the Department of Human Services and purchases and acquisitions of food for group homes operated by the Department of Human Services;

26. Purchases made or contracts entered into by the Oklahoma Energy Resources Board; and

27. Purchases made or contracts entered into by the Oklahoma Energy Resources Board.

C. Notwithstanding the exclusions provided herein, any agency or common schools of Oklahoma, any municipality of the state, any rural fire protection district and county officers may, unless the contract with the state specifies otherwise, avail themselves of the provisions of the Oklahoma Central Purchasing contracts and the services of the Purchasing Director. Provided further, however, that any subdivision of government and any rural fire protection district of the state may designate the office of Oklahoma Central Purchasing as its agent for the purchase or procurement of any item or service contracted or available to the state.

D. Further, notwithstanding the exclusions provided herein, the purchasing policies and procedures of the Oklahoma Ordnance Works Authority, the University Hospitals Authority and the Midwestern Oklahoma Development Authority shall be subject to approval by the Director of the Department of Central Services, and said Director shall make periodic audits of the purchasing policies and procedures of the Oklahoma Ordnance Works Authority, the University Hospitals Authority and the Midwestern Oklahoma Development Authority to ensure that said purchasing policies and procedures, as approved, are being followed.

SECTION 8. AMENDATORY Section 11, Chapter 400, O.S.L. 1992, as last amended by Section 4 of Enrolled House Bill No. 2188 of the 2nd Session of the 45th Oklahoma Legislature, is amended to read as follows:

Section 1371. A. All participants must use a portion or all of their flexible benefit allowance to purchase at least the basic plan. On or before January 1 of each year, the Council shall design the basic plan for the next plan year to insure that the basic plan provides adequate coverage to all participants. All benefit plans, whether offered by the Board, a health maintenance organization or other vendors shall at least meet the minimum requirements set by the Council for the basic plan.

B. The Board shall offer health, dental, disability, life and dental coverage to all participants and their dependents. For health, dental, disability and life coverage, the Board shall offer plans at the basic benefit level established by the Council, and in addition, may offer benefit plans that provide an enhanced level of benefits. The Board shall offer a high deductible health benefit plan which, after meeting the higher deductible amount, shall have the same coinsurance and benefit limits as the basic benefit plan but with a higher deductible amount and with copayments which are no greater than the basic benefit plan. The Board shall be responsible for determining the plan design and the benefit price for the plans that they offer. Effective for the plan year beginning July 1, 1997, and for each year thereafter, in setting health insurance

premiums for active employees and for retirees under sixty-five (65) years of age, the Board shall set the monthly premium for active employees at a maximum of Ninety Dollars ($90.00) less than the monthly premium for retirees under sixty-five (65) years of age.

The benefits price for the basic plan during a plan year shall not exceed the flexible benefits allowance for the same plan year. The Council shall approve the plan designs to assure that they meet the minimum benefit levels.

Nothing in this subsection shall be construed as prohibiting the Board from offering additional medical plans, provided that any medical plan offered to participants shall meet or exceed the benefits provided in the medical portion of the basic plan.

C. A participant may elect the high deductible health benefit plan offered by the Board and any excess flexible benefit allowance remaining after payment of the higher deductible benefit price may be deposited in a medical saving account established in accordance with the Medical Saving Account Act. Any excess flexible benefit allowance deposited in a medical saving account shall not be considered taxable compensation.

D. In lieu of electing any of the preceding medical benefit plans, a participant may elect medical coverage by any health maintenance organization made available to participants by the Council. The benefit price of any health maintenance organization shall be determined annually by a sealed bid process conducted through the Central Purchasing Division of the Department of Central Services. All plans offered by health maintenance organizations meeting the bid requirements as determined by the Council shall be accepted. Provided, however, the Council shall have the authority to reject the bid or restrict enrollment in any health maintenance organization for which the benefit price is determined to be excessive by the Council. In making such determination the Council shall examine the most recent financial data of the health maintenance organization and shall consider the prices charged for comparable plans offered to other groups. All bidders shall submit along with their bid a notarized, sworn statement as provided by Section 85.22 of this title. The Council shall have the authority to reject any plan that does not meet the bid requirements. Effective for the plan year beginning July 1, 1997, and for each year thereafter, in setting health insurance premiums for active employees and for retirees under sixty-five (65) years of age, HMOs, self-insured organizations and prepaid plans shall set the monthly premium for active employees at a maximum of Ninety Dollars ($90.00) less than the monthly premium for retirees under sixty-five (65) years of age.

E. Nothing in this section shall be construed as prohibiting the Council from offering additional qualified benefit plans or currently taxable benefit plans.

F. Each employee of a participating employer who meets the eligibility requirements for participation in the flexible benefits plan shall make an annual election of benefits under the plan during an enrollment period to be held prior to the beginning of each plan year. The enrollment period dates will be determined annually and will be announced by the Council, providing the enrollment period shall end no later than thirty (30) days before the beginning of the plan year.

Each such employee shall make an irrevocable advance election for the plan year or the remainder thereof pursuant to such procedures as the Council shall prescribe. Any such employee who fails to make a proper election under the plan shall, nevertheless, be a participant in the plan and shall be deemed to have purchased the default benefits described in this section.

G. The Council shall prescribe the forms that participants will be required to use in making their elections, and may prescribe deadlines and other procedures for filing the elections.

H. Any participant who, in the first year for which he or she is eligible to participate in the plan, fails to make a proper election under the plan in conformance with the procedures set forth in this section or as prescribed by the Council shall be deemed automatically to have purchased the default benefits. The default benefits shall be the same as the basic plan benefits. Any participant who, after having participated in the plan during the previous plan year, fails to make a proper election under the plan in conformance with the procedures set forth in this section or prescribed by the Council, shall be deemed automatically to have purchased the same benefits which the participant purchased in the immediately preceding plan year, except that the participant shall not be deemed to have elected coverage under the health care reimbursement account plan or the dependent care reimbursement account plan.

I. Benefit plan contracts with the Board, health maintenance organizations, and other third party insurance vendors shall provide for a risk adjustment factor for adverse selection that may occur, as determined by the Council, based on generally accepted actuarial principles.

SECTION 9. REPEALER 11 O.S. 1991, Section 50-101, as last amended by Section 1 of Enrolled House Bill No. 2089 of the 2nd Session of the 45th Oklahoma Legislature, 59 O.S. 1991, Section 567.3a, as last amended by Section 1 of Enrolled Senate Bill No. 537 of the 2nd Session of the 45th Oklahoma Legislature, 59 O.S. 1991, Section 567.8, as last amended by Section 2 of Enrolled Senate Bill No. 537 of the 2nd Session of the 45th Oklahoma Legislature, 60 O.S. 1991, Section 176, as last amended by Section 1 of Enrolled House Bill No. 1989 of the 2nd Session of the 45th Oklahoma Legislature, and 68 O.S. 1991, Section 1361, as last amended by Section 1 of Enrolled House Bill No. 2233 of the 2nd Session of the 45th Oklahoma Legislature, are hereby repealed.

SECTION 10. REPEALER 74 O.S. 1991, Section 85.7, as last amended by Section 1 of Enrolled House Bill No. 1555 of the 2nd Session of the 45th Oklahoma Legislature and Section 11, Chapter 400, O.S.L. 1992, as last amended by Section 3 of Enrolled Senate Bill No. 1040 of the 2nd Session of the 45th Oklahoma Legislature, are hereby repealed.

SECTION 11. REPEALER 74 O.S. 1991, Section 85.12, as last amended by Section 2 of Enrolled Senate Bill No. 775 of the 2nd Session of the 45th Oklahoma Legislature, is hereby repealed.

SECTION 12. Sections 4, 8 and 10 of this act shall become effective July 1, 1996.

SECTION 13. Sections 2, 3, 5 and 9 of this act shall become effective November 1, 1996.

SECTION 14. 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.