

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 1600

By: Roach and Satterfield of
the House

and

Long of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the real property and improvements formerly known as the Hissom Memorial Treatment Center; requiring Department of Central Services to enter into certain lease agreement with Greater Sand Springs Trust Authority; prescribing term of lease; prescribing lease requirements; authorizing agreements without express consent of Department of Central Services; providing for access, use and development; providing for construction of capital improvements; providing for conveyances of property by the Department of Central Services; providing for certification by trustees of Authority; providing for rebuttable presumption regarding conveyance; prescribing powers of Authority with respect to real property; providing for conveyances of property by Authority; providing for certification by trustees of Authority; providing for rebuttable presumption regarding conveyance; prescribing procedures regarding sale of property by Authority; providing for payment of certain amounts to Department of Central Services; requiring remission of certain amounts to Hissom Memorial Treatment Center Surplus Fund; requiring reservation of certain parcel of real property; describing nonprofit organization entitled to reserved use of parcel; describing purposes of nonprofit organization; describing parcel of real property reserved for use; prescribing terms regarding rental or sale; imposing requirements regarding eligibility of nonprofit organization; prescribing certain period of time within which use required; providing exception; authorizing release of interest by nonprofit organization; providing for construction of capital improvements; providing for rights of use, access, ingress, egress, and enjoyment with respect to certain property; prescribing procedures governing maintenance of real property and improvements; prescribing terms of lease; prescribing terms regarding sale of real property; prohibiting certain requirements; prohibiting certain expense; providing exception; providing description of real property and improvements; providing for right of Authority to access, ingress, egress, use and enjoyment of certain roads; imposing requirements with respect to use of roads; requiring Authority to use best efforts to obtain certain consent; providing for powers of Authority with respect to access

road construction; providing for agreements and conveyances with respect to road usage; providing exemptions from certain statutory provisions governing use or lease of real property; creating the Hissom Memorial Treatment Center Oversight Committee; providing for membership; prescribing duties; providing for applicability of Oklahoma Open Meeting Act; providing for applicability of Oklahoma Open Records Act; providing exception to provisions governing holding of certain public office; providing for certain economic interest; providing for recommendations under certain circumstances; requiring reports and recommendations; providing for advisory powers of Committee; providing for relationship between Hissom Memorial Treatment Center Oversight Committee and Authority; providing for relationship between Hissom Memorial Treatment Center Oversight Committee and Department of Central Services; creating the Hissom Memorial Treatment Center Surplus Fund; amending 60 O.S. 1991, Section 387, which relates to real property given to the state; modifying references; amending 64 O.S. 1991, Section 241, which relates to public lands under jurisdiction of the Commissioners of the Land Office; providing exception to requirement governing lease of real property; amending 74 O.S. 1991, Sections 126.1, 126.2, as amended by Section 8, Chapter 250, O.S.L. 1992, 129.4 and 456.7 (74 O.S. Supp. 1996, Section 126.2), which relate to procedures governing real property owned by the state; modifying references; providing exceptions for certain requirements applicable to real property owned by the state; amending 63 O.S. 1991, Section 1-1902, as last amended by Section 1, Chapter 118, O.S.L. 1996 (63 O.S. Supp. 1996, Section 1-1902), which relates to certain definitions; modifying definitions; amending Section 7, Chapter 332, O.S.L. 1993, as last amended by Section 22, Chapter 1, O.S.L. 1995 (63 O.S. Supp. 1996, Section 5009), which relates to the Oklahoma Medicaid Program; imposing requirement on Oklahoma Health Care Authority with respect to certain reimbursement rate; 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 6201 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Department of Central Services shall enter into a lease agreement with the Greater Sand Springs Trust Authority for a term of ninety-nine (99) years with respect to the real property and improvements constituting the former Hissom Memorial Treatment Center, as more particularly described by subsection C of this section.

B. The lease agreement described in subsection A of this section:

1. Shall allow the Greater Sand Springs Trust Authority to enter into agreements regarding the property described in subsection C of this section with third parties without the express consent of the Department of Central Services, including the right of the Authority to sublease all or any part of the real property described in subsection C of this section;

2. Shall provide for the unrestricted access, use and development of the real property described in subsection C of this section by the Greater Sand Springs Trust Authority in order for the Authority to fulfill its purposes according to the terms of its trust indenture, including, but not limited to, the right of the Authority to construct capital improvements on, above or under the property to fulfill the purposes stated in the indenture of the Authority. The lease shall provide that the Authority owns and maintains capital improvements constructed upon the real property with the funds of the Authority;

3. Shall provide for the conveyance by the Department of Central Services to the Greater Sand Springs Trust Authority, by quit claim deed or by such other instrument of conveyance as the Department of Central Services and the Authority may mutually agree, for not more than a payment by the Authority to the Department of a nominal consideration not to exceed Ten Dollars (\$10.00), of any parcel of real property described by the Authority and certified, by a majority of the trustees of the Authority, to be necessary for a complete development of the property described in subsection C of this section and necessary for the Authority to fulfill any purpose specified in its trust indenture. A rebuttable presumption shall exist that any conveyance made pursuant to the provisions of this paragraph shall be considered to have been made for the general economic benefit of the residents of the beneficiary of the Greater Sand Springs Trust Authority and that the disposition of the parcel by the Authority is in furtherance of an essential governmental function by making a productive use of the parcel. After conveyance of a

parcel of real property to the Authority pursuant to this paragraph, the Authority shall have the exclusive right to exercise all powers, rights and privileges with respect to the parcel as authorized by law to the owner of any real property, including, but not limited to, the right to sell the parcel as provided by paragraph 4 of this subsection;

4. Shall provide for the conveyance by the Authority to another legal entity, by quit claim deed or by such other instrument of conveyance as the Authority and the other legal entity may mutually agree, of any parcel of real property described by the Authority the proposed conveyance of which to be certified, by a majority of the trustees of the Authority, as necessary for a complete development of the property described in subsection C of this section and necessary for the Authority to fulfill any purpose specified in its trust indenture. A rebuttable presumption shall exist that any conveyance made pursuant to the provisions of this paragraph shall be considered to have been made for the general economic benefit of the residents of the beneficiary of the Greater Sand Springs Trust Authority and that the disposition of the parcel by the Authority is in furtherance of an essential governmental function by making a productive use of the parcel. If the Authority sells any part or all of the real property or improvements described in subsection C of this section subsequent to the conveyance to the Authority by the Department of Central Services, the Authority shall determine the value of the real property sold separate and apart from the value of the improvements, if any. The Authority shall determine its direct and indirect costs for acquisition, maintenance, improvement, marketing and sale of any parcel of real property conveyed to a legal entity pursuant to this paragraph. The Authority shall pay to the Department of Central Services the amount of consideration received by the Authority from the sale of the real property in excess of the direct and indirect costs incurred by the Authority. The Department of Central Services shall remit the amount for deposit to the credit of the Hisson

Memorial Treatment Center Surplus Fund for appropriation pursuant to law;

5. Shall provide that the Authority shall reserve, for the purposes of a sublease granted by the Authority, a parcel consisting of at least forty (40) acres of the real property described in subsection C of this section for use and occupancy by a nonprofit organization, the principal purpose of which is to establish a comprehensive, multifaceted approach to Alzheimer's disease and other dementia, including but not limited to components for medical, environmental and behavioral research, education and training of family members, care givers and other health care professionals, the assessment and diagnosis of the disease, and treatment at various stages of the disease in order to maintain and restore functioning to the extent possible. The lease shall also provide that:

- a. the real property described by paragraph 6 of this subsection shall be subleased by the Authority for a rent not to exceed One Dollar (\$1.00) per year, and
- b. any purchase price for the real property described by paragraph 6 of this subsection in a transaction between the Authority and the nonprofit organization shall not exceed the sum of Ten Dollars (\$10.00);

6. Shall provide that the parcel reserved for the nonprofit organization pursuant to paragraph 5 of this subsection be described as a tract of land containing forty-one (41) acres, more or less, and beginning at the SE corner of the SE pillar of Residence Building Number 18, going West approximately 25 feet along the North Property Line; thence South along the West Property Line approximately 920 feet to the South chain-link fence; thence going in a Southeasterly direction along the South Property Line approximately 1619 feet; thence going North along the East Property Line approximately 1531 feet; thence going West along the above described North Property Line approximately 1381 feet to the SE corner of the SE pillar of Residence Building Number 18 to the point of beginning. As used in this paragraph:

- a. "North Property Line" means a line running East and West along the exact South edge of the South row of pillars of the Residence Buildings Number 17 and 18,
- b. "South Property Line" means a line of the chain-link fence that runs East to West along the entire South side of the Hissom property. This fence runs parallel to the railroad track and Highway 51 bordering the South side of the property,
- c. "East Property Line" means an approximate North/South line that is exactly 35.3 feet East of the East curb of the North/South road that is located on the East side of the parking lot on the East side of the Infirmary Building Number 1 and parallel with the North/South road located on the East side of the parking lot on the East side of the Infirmary Building Number 1, and
- d. "West Property Line" means an approximate North/South line that is exactly 50 feet West of the West curb of the parking lot located just West of the Activities Building and running parallel with the West Curb;

7. Shall provide that, in order to qualify for the use and occupancy of the parcel described by paragraph 6 of this subsection, the organization eligible to enter into the sublease agreement shall:

- a. have been incorporated in the State of Oklahoma,
- b. have the principal purpose of demonstrating a comprehensive approach to the treatment of Alzheimer's disease and other dementia,
- c. have a board of directors consisting of not more than thirteen (13) members having the following qualifications:
 - (1) two medical researchers in the field or fields of Alzheimer's disease and related dementia prevention, treatment or diagnosis;
neuropathology with emphasis on Alzheimer's

disease and other dementia; gerontological medicine; or other closely related field to Alzheimer's disease or other dementia. One of the researchers shall be associated with the Oklahoma State University College of Osteopathic Medicine. One of the researchers shall be associated with the University of Oklahoma College of Medicine,

- (2) two health care professional educators with experience in training direct care staff to work with patients with Alzheimer's disease or other dementia. One educator shall specialize in training health care professionals for employment at the baccalaureate level or higher. One educator shall specialize in training health care professionals for employment at a level below the baccalaureate level, including certificate and associate degree programs,
- (3) two professional health care providers with experience treating patients with Alzheimer's disease or other dementia and working with their families. One provider shall have experience in the field of long-term care, such as nursing facility and residential care. One provider shall have experience in community-based treatment, such as adult day services and home health,
- (4) two private health care practitioners, not engaged in research, with specialties in geriatrics, gerontology, Alzheimer's disease or other dementia or related categories. One practitioner shall be a family practice or internal medicine doctor or a nurse practitioner. One practitioner shall be a licensed clinical social worker, a licensed psychologist or a registered nurse,

- (5) two persons who are family members or relatives of someone who has or has had Alzheimer's disease or related dementia and are recommended by the Tulsa Green Country or Central Oklahoma Chapters of the Alzheimer's Disease and Related Disorders Association, Incorporated,
- (6) one senior citizen over the age of sixty-five (65), and
- (7) two other individuals, and

d. either:

- (1) make use of the parcel described in paragraph 6 of this subsection:
 - (a) within five (5) years from the date as of which the organization enters into a lease or other agreement regarding use or occupancy of the parcel with the Authority if such lease is executed within ninety (90) days after the effective date of this act, or
 - (b) within five (5) years from the effective date of this act if the lease between the Authority and the organization is not executed within ninety (90) days after the effective date of this act, or
- (2) release to the Authority all right, title, interest or claim to the parcel if the nonprofit organization determines prior to the expiration of the five-year period that no use of the parcel will be made;

8. Shall provide that the qualified organization described in paragraph 7 of this subsection shall have the right, pursuant to the terms of the lease, to enter the premises and construct such capital improvements as may be required in order to make the parcel suitable for the purposes described in the instrument organizing the entity or in the bylaws of the entity. The nonprofit organization shall maintain capital improvements

constructed by the organization on the parcel described by paragraph 6 of this subsection. The Authority, pursuant to the terms of the sublease agreement with the qualified nonprofit organization, shall provide for the conveyance of the parcel described in the sublease agreement from the Department of Central Services to the Authority at the appropriate time and under the circumstances pursuant to which title to this parcel is required to be held by the nonprofit organization;

9. Shall provide that the Authority and the nonprofit organization described in paragraph 7 of this subsection shall have equal rights of access, ingress, egress, use, burden and other rights of use and enjoyment with respect to utilities and other improvements located upon the real property described in subsection C of this section. The nonprofit organization described in paragraph 7 of this subsection shall pay its proportionate share of utilities used. If the Authority acquires title to any parcel of real property from the Department of Central Services containing all or any part of utilities or other improvements during the term of the sublease agreement with the nonprofit organization and the tract of real property described by paragraph 6 of this subsection contains any part or all of such utilities or improvements, the Authority and the nonprofit organization shall incorporate into the sublease agreement between the Authority and the nonprofit organization the identical requirements regarding equal rights of access, ingress, egress, use, burden and other rights of use and enjoyment applicable to the lease between the Department of Central Services and the Authority;

10. Shall provide that the Department of Central Services shall maintain the real property and the improvements located on the real property described in subsection C of this section in a manner conducive to the preservation of existing economic value of the real property and improvements, subject to the ordinary depreciation of the improvements, until such time as the Authority acquires ownership of a parcel whereupon the Authority and the Department of Central Services, by mutual written agreement, shall

Req. No. 7751 Page 9

amend the lease to provide for proportionately diminished maintenance expenses to be incurred by the Department of Central Services or some other legal entity;

11. Shall not require the payment of rent by the Greater Sand Springs Trust Authority in excess of One Dollar (\$1.00) per year;

12. Shall not require a purchase price for any option granted to the Greater Sand Springs Trust Authority to acquire any parcel of the property described by subsection C of this section in excess of Ten Dollars (\$10.00);

13. Shall not require the Department of Central Services to consent to a sublease of the property described by subsection C of this section by the Authority to any other legal entity; and

14. Shall not impose the expense of maintenance or repair of the real property or improvements located on the property described by subsection C of this section upon the Greater Sand Springs Trust Authority, except as otherwise provided by paragraph 10 of this subsection.

C. The real property and improvements which shall be leased by the Department of Central Services to the Greater Sand Springs Trust Authority as required by subsection A of this section are described as follows:

1. "Tract 2" identified as:

- a. a part of the North Half (N 1/2) of Section 16 and Part of the South Half (S 1/2) of Section 9, Township 19 North, Range 11 East of Indian Meridian, Tulsa County, Oklahoma, more particularly described as follows: beginning at a point that is 430.00 feet east and 330.00 feet south of the northwest corner of the northeast quarter (NE 1/4) of Section 16, said point is 20.00 feet east of the east edge of an existing road; thence south and 20.00 feet east of the east edge of an existing road and said line extended south to a point on the northerly right-of-way line of the Burlington North Railroad right-of-way (formerly the S.L. & S.F. Railroad right-of-way); thence northwesterly on the northerly

right-of-way line of said railroad right-of-way to a point on the west line of the northeast quarter (NE 1/4), said point being approximately 880.00 feet north from the center of Section 16; thence north on the west line of the northeast quarter (NE 1/4) to a point that is approximately 935.00 feet north of the center of Section 16 and said point is also on the northerly right-of-way line of said railroad right-of-way; thence northwesterly on said northerly right-of-way line of a point that is south 71 degrees 00' 59" east and 376.44 feet from the westerly line of Section 16; thence north 01 degrees 13' 03" west for a distance of 691.51 feet; thence south 88 degrees 57' 23" west for a distance of 353.00 feet to a point on the west line of said Section 16; thence north a distance of 85.00 feet on the west line of Section 16 to the northwest corner of Section 16; thence east on the north line of said Section 16 to the northeast corner of the northwest quarter (NW 1/4) of the northwest quarter (NW 1/4) of Section 16, same being the southwest corner of the southeast quarter (SE 1/4) of the southwest quarter (SW 1/4) of Section 9, Township 19 North, Range 11 East of I.M.; thence north on the west line of government lots 7 and 5 to the south bank (Meander Line of Right Bank) of the Arkansas River; thence southeasterly on the south bank (Meander Line of Right Bank) of the Arkansas River thru government lots 4, 7 & 8 in Section 9 to the south line of Section 9; thence continuing southeasterly south bank (Meander Line of Right Bank) of Arkansas River and along the northeasterly line of government lot 2 (Meander Line of Right Bank) of Arkansas River and into the northeast quarter (NE 1/4) of Section 16 to a point that is 330.00 feet south of the north line of Section 16; thence west and parallel to the north

line of a point that is 430.00 feet east and 330.00 feet south of the northwest corner of Section 16 to the point or place of beginning, and

- b. together with all the improvements thereon and the appurtenances thereto belonging to such property; and

2. "Tract A" identified as:

- a. a part of the northeast quarter (NE 1/4) of Section 16, Township 19 North, Range 11 East of Indian Meridian, Tulsa County, Oklahoma, more particularly described as follows: beginning at a point 430.00 feet east and 330.00 feet south of the northwest corner of the northeast quarter (NE 1/4); thence east and parallel to the north line of said northeast quarter (NE 1/4) to the south bank (Meander Line of Right Bank) of the Arkansas River; thence southeasterly on said south bank (Meander Line of Right Bank) of the Arkansas River to a point that is 20.00 feet northerly of an existing concrete channel; thence southwesterly parallel with and 20.00 feet northerly of said concrete channel for a distance of approximately 370.00 feet; thence west on a line that is 1100.00 feet south of the north line of said northeast quarter (NE 1/4) to a point that is 20.00 feet east of the east edge of an existing road, said point also being 430.00 feet east of the west line of said northeast quarter (NE 1/4); thence northerly and 20 feet east of the east edge of said road to the point or place of beginning, and
- b. together with all the improvements thereon and the appurtenances thereto belonging to such property.

D. The Authority shall have the right to access, ingress, egress, use and enjoyment of the roads existing on the property described by subsection C of this section as of the effective date of this act, subject to the following requirements:

1. Except as provided by this subsection, the Authority shall have full rights with respect to access, ingress, egress, use and enjoyment of:

- a. the existing gated entrance to the real property described in subsection C of this section,
- b. the existing access road extending north from State Highway 51,
- c. the continuation of the entrance road west across the parcel described by paragraph 6 of subsection A of this section,
- d. the continuation of the entrance road east across the parcel described by paragraph 6 of subsection A of this section, and
- e. the road extending north along the east boundary of the real property described by subsection C of this section;

2. If the nonprofit organization described by paragraph 7 of subsection B of this section begins to conduct activities related to the functions described by paragraph 5 of subsection B of this section, the rights of the Authority provided for by paragraph 1 of this subsection for use of the existing roads located on the parcel described by paragraph 6 of subsection B of this section shall be limited so that the vehicular traffic, use or enjoyment of the access roads does not interfere with the activities or functions of the nonprofit organization. After the nonprofit organization begins to conduct the activities described by paragraph 5 of subsection B of this section, the access road abutting the east boundary of the real property described by subsection C of this section shall be reserved for use by the nonprofit organization, its invitees, licensees, successors or assigns;

3. The Authority shall use its best efforts to obtain, by donation or a reasonable price therefor, such permission, consent, license or other right of use as may be required to construct an access road at a location west of the western boundary of the tract described by paragraph 6 of subsection B of this section and

to construct such an access road for use by the Authority, its successors, assigns, grantees, invitees or licensees;

4. If the Authority cannot obtain the consent required to construct the access road described by paragraph 3 of this subsection, then the Authority shall have the express power and right to cause an access road to serve all remaining portions of the real property described in subsection C of this section which shall be constructed in a location parallel to the existing State Highway 51 in a direction permitting vehicular access to the area of the real property described in subsection C of this section via such roadway being located west of the west boundary of the tract of real property described in paragraph 6 of subsection B of this section. The Authority shall maintain any road constructed pursuant to this paragraph. The Authority shall have full right of access, ingress, egress or such use of the existing gated entrance to the real property described in subsection C of this section as required in order to construct the access road described by this paragraph; and

5. The Authority and the nonprofit organization shall enter into such agreements or make such conveyances as may be authorized by law or by the instruments pursuant to which the entities are legally organized to provide for access, ingress, egress, use and enjoyment of roads as may be conducive to the proper development of the respective tracts owned or occupied by the entities, subject to the requirement that no such access, ingress, egress, use or enjoyment unduly interfere with the existing or proposed uses of the respective tracts as the entities may mutually agree.

E. With respect to the real property and improvements described in subsection C of this section and the lease agreement required by subsection A of this section, or any transfer of the property to the Authority, the Department of Central Services shall not be subject to the requirements of:

1. Section 387 of Title 60 of the Oklahoma Statutes;
2. Section 241 of Title 64 of the Oklahoma Statutes;
3. Section 126.2 of Title 74 of the Oklahoma Statutes;
4. Section 129.4 of Title 74 of the Oklahoma Statutes; or

5. Section 456.7 of Title 74 of the Oklahoma Statutes.

F. With respect to the lease or sale of any part or all of the real property or improvements described in subsection C of this section, the Greater Sand Springs Trust Authority shall not be subject to the requirements of:

1. Section 387 of Title 60 of the Oklahoma Statutes;
2. Section 241 of Title 64 of the Oklahoma Statutes;
3. Section 129.4 of Title 74 of the Oklahoma Statutes; or
4. Section 456.7 of Title 74 of the Oklahoma Statutes.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6202 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Hissom Memorial Treatment Center Oversight Committee.

B. The Committee shall consist of the following persons:

1. One person appointed by the Governor from a list of three nominees submitted by the Speaker of the House of Representatives;
2. One person appointed by the Governor from a list of three nominees submitted by the President Pro Tempore of the Senate; and
3. One person appointed by the Governor from a list of three nominees submitted by the City Council of the City of Sand Springs.

C. The duties of the Committee shall be to:

1. Monitor the continued maintenance of the real property and improvements described in subsection C of Section 1 of this act to ensure that the improvements do not diminish in economic value further than is reasonable to be expected given the condition of the improvements and available financial resources;
2. Assist the Greater Sand Springs Trust Authority and the Department of Central Services in providing for the orderly and beneficial development of the real property and improvements constituting the former Hissom Memorial Treatment Center; and
3. Serve as an additional resource of information for persons or legal entities that express an interest in occupying, using or purchasing any part or all of the real property constituting the former Hissom Memorial Treatment Center.

D. The Committee shall be subject to the provisions of the Oklahoma Open Meeting Act.

E. The Committee shall be subject to the provisions of the Oklahoma Open Records Act, including the provisions regarding information that may be kept confidential pursuant to Section 24A.10 of Title 51 of the Oklahoma Statutes.

F. No person appointed to any of the positions constituting the Committee who is, at the time of the appointment to the Committee or subsequent to the date of appointment, a public official or officer shall be deemed to be serving in a dual capacity and such person shall be specifically exempt from the provisions of Section 6 of Title 51 of the Oklahoma Statutes.

G. The Committee shall:

1. Act in the interest of and for the economic benefit of persons and business entities in the region of the facility formerly known as the Hissom Memorial Treatment Center with the objective of economic development;

2. Make recommendations in the event of disputes or issues regarding the development, use or occupancy of the real property described by subsection C of Section 1 of this act, but shall not have the power to bind any party to such recommendation; and

3. Make such reports or recommendations to the Board of Trustees of the Greater Sand Springs Trust Authority at such times and regarding such topics as may be pertinent to the development of the real property and improvements described in subsection C of Section 1 of this act.

H. The Committee shall act in an advisory capacity only and shall not have the power or authority to require the Greater Sand Springs Trust Authority to obtain permission or consent from the Committee in order to take any action with respect to the real property or improvements described in subsection C of Section 1 of this act. No power or authority conferred upon the Committee shall in any way be construed as a limit or modification of the powers granted to the Greater Sand Springs Trust Authority pursuant to its trust indenture.

I. The Committee shall not have authority or power to perform any act that is inconsistent with the powers, rights or duties of the Department of Central Services with respect to the real property described by subsection C of Section 1 of this act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6203 of Title 74, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a fund for the Department of Central Services to be designated the "Hissom Memorial Treatment Center Surplus Fund". The fund shall be subject to legislative appropriation and shall consist of all monies deposited into the fund by law.

SECTION 4. AMENDATORY 60 O.S. 1991, Section 387, is amended to read as follows:

Section 387. Except as may be otherwise provided in Sections 391 through 396 of this title, any real property involved in any gift, testamentary or otherwise, given to this state for public purposes generally or without designation of any particular purpose to which the same shall be devoted, when accepted by the Governor and delivered to the ~~Office~~ Department of Public Affairs Central Services, as provided for in Section 383 of this title, which may not be occupied and used advantageously, as determined by the ~~Office~~ Department of Public Affairs Central Services, by any particular state institution, department, or agency as contemplated by Section 386 of this title, and any tangible personal property involved in any gift, testamentary or otherwise, given to this state for public purposes generally or without designation of any particular purpose to which the same shall be devoted, when accepted by the Governor and delivered to the ~~Office~~ Department of Public Affairs Central Services, as provided for in Section 383 of this title, which is determined to be, by the ~~Office~~ Department of Public Affairs Central Services, not especially suited to the special needs of any particular state institution, department, or agency, or may not be used advantageously by any particular state institution, department, or agency in performing its assigned duties or functions, as

contemplated by Section 386 of this title, shall be sold by the ~~Office Department of Public Affairs~~ Central Services as required by law. If, in the judgment of the ~~Office Department of Public Affairs~~ Central Services, any such real property which is or becomes subject to sale may not be sold immediately to advantage, it may be leased or otherwise rented, until such time as, in the opinion of said ~~Office Department~~, it may be sold to advantage.

SECTION 5. AMENDATORY 64 O.S. 1991, Section 241, is amended to read as follows:

Section 241. ~~All~~ Except as otherwise provided by law, all the public lands of this state shall be subject to lease in the manner provided herein. The Commissioners of the Land Office shall have charge of the leasing of such lands.

SECTION 6. AMENDATORY 74 O.S. 1991, Section 126.1, is amended to read as follows:

Section 126.1 A. The Director of ~~Public Affairs~~ the Department of Central Services is hereby authorized to grant easements, rights-of-way, and enter into contracts authorizing the construction and maintenance of telephone, electric transmission and distribution lines, railroad lines, telegraph lines, and pipelines across any state lands under the management of said Director, and all lands set apart for the use and benefit of any state agency, department, or institution including all lands set apart for use of colleges, universities, hospitals, and eleemosynary institutions. Said easements and rights-of-way grants shall be for a period not to exceed twenty (20) years and shall provide for such considerations, terms, and conditions including privileges and conditions of renewal, as the Director of ~~Public Affairs~~ the Department of Central Services may determine advisable for the best interests of the state institutions in possession thereof. This section and Section 126.2 of this title shall not affect the lands under the jurisdiction and control of the Commissioners of the Land Office of this state.

~~Further, the~~ B. The Oklahoma Ordnance Works Authority and the Midwestern Oklahoma Development Authority and their lands shall be exempt from the application of this section.

SECTION 7. AMENDATORY 74 O.S. 1991, Section 126.2, as amended by Section 8, Chapter 250, O.S.L. 1992 (74 O.S. Supp. 1996, Section 126.2), is amended to read as follows:

Section 126.2 A. The Director of Central Services is hereby authorized to lease for a temporary period of time the surface of any of the lands belonging to the state described in Section 126.1 of this title, which are not needed or required for the proper maintenance of the institutions or departments in possession thereof.

~~Said~~ B. Except as otherwise provided by Section 1 of this act, said leases shall be for a period of time not exceeding three (3) years and upon such other terms and conditions as said Director may determine to be in the best interests of the state.

~~Said~~ C. Except as otherwise provided by Section 1 of this act, said leases shall provide for a termination of the lease upon reasonable notice in writing whenever the needs of the state or the institution in possession thereof requires said land.

~~Said~~ D. Except as otherwise provided by Section 1 of this act, said lease contracts shall not become effective until they are submitted to and approved by the Governor of this state or his designee.

~~Said~~ E. The Director may also execute lease contracts for said lands to any institution or agency or department, commission, or municipal subdivision that requires the need of said land in conjunction with cooperation or participation in any city or state project authorized by law, if said contracts or agreements will not interfere with or restrict in any manner, the proper use of said lands by the state institution in possession thereof, and shall not become effective until after approval by the Governor or his designee.

F. The Oklahoma Ordnance Works Authority and the Midwestern Oklahoma Development Authority and their lands shall be exempt from the application of this section.

G. Lands leased to private prison contractors pursuant to Section 561 of Title 57 of the Oklahoma Statutes shall be exempt from the application of this section.

SECTION 8. AMENDATORY 74 O.S. 1991, Section 129.4, is amended to read as follows:

Section 129.4 A. Unless procedures for the disposal of real property owned by this state are otherwise provided for by law, no department, board, commission, institution, or agency of this state shall sell, exchange, or otherwise dispose of such real property subject to its jurisdiction except as provided for in subsection B of this section.

B. 1. Every department, board, commission, institution, or agency, upon legislative authorization to dispose of a parcel of real property or upon a determination, in writing, by said department, board, commission, institution, or agency that a parcel of real property subject to its jurisdiction is no longer needed by said department, board, commission, institution, or agency, shall request the ~~Office Department of Public Affairs~~ Central Services to dispose of said real property.

2. Upon notification by the department, board, commission, institution, or agency to sell a parcel of real property, the ~~Office Department of Public Affairs~~ Central Services shall:

- a. obtain three new and complete appraisals of such property. The appraisals shall be made by three disinterested persons, knowledgeable in real estate costs, who shall ascertain:
 - (1) the present fair value of the property, and
 - (2) the present value of the improvements on such property, and
 - (3) the actual condition of the improvements on the property~~†~~ and
- b. cause notice of such sale to be published for at least one (1) day in a newspaper of general statewide circulation authorized to publish legal notices, and for at least three (3) consecutive weeks in a newspaper of general circulation published in the county or counties in which the property is located. The notice shall contain the legal description of each parcel of real property to

be offered for sale, the appraised value thereof, the time and location of the sale or opening of the bids, and terms of the sale including the fact that no parcel of property shall be sold for less than ninety percent (90%) of the appraised value of the real property~~+~~, and

- c. offer said property through public auction or sealed bids within three (3) weeks after the last publication of the notice in said newspapers. The property shall be sold to the highest bidder. The ~~Office~~ Department of Public Affairs Central Services shall not accept a bid of less than ninety percent (90%) of the appraised fair value of the property and the improvements on such property. The ~~Office~~ Department of Public Affairs Central Services is authorized to reject all bids.

3. The cost of the appraisements required by the provisions of this section, together with other necessary expenses incurred pursuant to this section, shall be paid by the department, board, commission, institution, or agency for which the real property is to be sold from funds available to said department, board, commission, institution, or agency for such expenditure. All monies received from the sale or disposal of said property, except those monies necessary to pay the expenses incurred pursuant to this section, shall be deposited in the General Revenue Fund.

C. This section shall not be construed to authorize any department, board, commission, institution, or agency, not otherwise authorized by law, to sell, lease, or otherwise dispose of any real property owned by the state.

D. The Oklahoma Ordnance Works Authority and its lands shall be exempt from the application of this section.

SECTION 9. AMENDATORY 74 O.S. 1991, Section 456.7, is amended to read as follows:

Section 456.7 A. For purposes of this section, the term "unit of state government" shall mean the state, or any department, board, commission, institution or agency thereof.

B. A copy of the inventory required pursuant to Section 204 of Title 61 of the Oklahoma Statutes shall be sent to the Director of the Division of Planning and Management Analysis in the Office of the Governor.

C. Upon the determination, by any unit of state government that:

1. Any real property owned or under its control is surplus;
2. It is anticipated that such property will no longer be used for its current purpose; or
3. The operation of such property is no longer necessary or economically feasible;

the unit of state government shall send written notice of such determination to the ~~Office~~ Department of ~~Public Affairs~~ Central Services. Upon receipt of such determination, the ~~Office~~ Department of ~~Public Affairs~~ Central Services shall notify the Director of the Division of Planning and Management Analysis in the Office of the Governor of the information. The Director of the Division of Planning and Management Analysis shall then conduct a study, in cooperation with any affected community in which the real property is located, detailing and prescribing alternate uses of such real property. The Director of the Division of Planning and Management Analysis shall provide for the public notification of such study and shall notify other units of state government, and the county governmental officials and any officers of the municipality in which such real property is located. The study shall also include whether the real property is especially suited to the special needs of any particular unit of state government or may be used advantageously by a particular unit of state government in carrying out its assigned duties or functions. Upon completion of such study, the Director of the Division of Planning and Management Analysis shall submit a written report to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Governor and the affected unit of state government detailing his findings and recommendations concerning such real property.

D. The provisions of this section shall apply to all real property and interests in real property except railroad and highway right-of-ways owned by the state or by any department, board, commission, institution or agency thereof or the real property and improvements described in subsection C of Section 1 of this act.

SECTION 10. AMENDATORY 63 O.S. 1991, Section 1-1902, as last amended by Section 1, Chapter 118, O.S.L. 1996 (63 O.S. Supp. 1996, Section 1-1902), is amended to read as follows:

Section 1-1902. As used in the Nursing Home Care Act:

1. "Abuse" means the willful infliction of injury, unreasonable confinement, intimidation or punishment, with resulting physical harm, impairment or mental anguish;
2. "Access" means the right of a person to enter a facility to communicate privately and without unreasonable restriction when invited to do so by a resident. The state or local "ombudsman", as that term is defined by the Aging Services Division of the Department of Human Services pursuant to the Older Americans' Act, 42 U.S.C.A., Section 3001 et seq., as amended, and a case manager employed by the Department of Mental Health and Substance Abuse Services or one of its contract agencies shall have right of access to enter a facility, communicate privately and without unreasonable restriction with any resident who consents to the communication, to seek consent to communicate privately and without restriction with any resident, and to observe all areas of the facility that directly pertain to the patient care of the resident without infringing upon the privacy of the other residents without first obtaining their consent;
3. "Administrator" means the person licensed by the State of Oklahoma who is in charge of a facility. An administrator must devote at least one-third (1/3) of such person's working time to on-the-job supervision of the facility; provided that this requirement shall not apply to an administrator of an intermediate care facility for the mentally retarded with sixteen or fewer beds (ICF-MR/16), in which case the person licensed by the state may be in charge of more than one ICF-MR/16 facility, if such facilities

are located within a circle that has a radius of not more than fifteen (15) miles, the total number of facilities and beds does not exceed six facilities and sixty-four beds, and each ICF-MR/16 facility is supervised by a qualified mental retardation professional. The facilities may be free-standing in a community or may be on campus with a parent institution. The ICF-MR/16 may be independently owned and operated or may be part of a larger institutional ownership and operation;

4. "Advisory Board" means the Long-Term Care Facility Advisory Board;

5. "Adult companion home" means any home or establishment, funded and certified by the Department of Human Services, which provides homelike residential accommodations and supportive assistance to three or fewer mentally retarded or developmentally disabled adults;

6. "Board" means State Board of Health;

7. "Commissioner" means State Commissioner of Health;

8. "Department" means the State Department of Health;

9. "Facility" means a nursing facility and a specialized home; provided this term shall not include a residential care home or an adult companion home;

10. "Nursing facility" means a home, an establishment or an institution, a distinct part of which is primarily engaged in providing:

- a. skilled nursing care and related services for residents who require medical or nursing care,
- b. rehabilitation services for the rehabilitation of injured, disabled, or sick persons, or
- c. on a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services beyond the level of care provided by a residential care home and which can be made available to them only through a nursing facility.

"Nursing facility" does not mean, for purposes of Section 1-851.1 of this title, a facility constructed or operated by an entity

described in paragraph 7 of subsection B of Section 1 of this act or the nursing care component of a continuum of care facility, as such term is defined under the Continuum of Care and Assisted Living Act, to the extent that the facility constructed or operated by an entity described in paragraph 7 of subsection B of Section 1 of this act contains such a nursing care component;

11. "Specialized facility" means any home, establishment, or institution which offers or provides inpatient long-term care services on a twenty-four-hour basis to a limited category of persons requiring such services, including but not limited to a facility providing health or habilitation services for mentally retarded or developmentally disabled persons, but does not mean, for purposes of Section 1-851.1 of this title, a facility constructed or operated by an entity described in paragraph 7 of subsection B of Section 1 of this act or the nursing care component of a continuum of care facility, as such term is defined under the Continuum of Care and Assisted Living Act, to the extent that the facility constructed or operated by an entity described in paragraph 7 of subsection B of Section 1 of this act contains such a nursing care component;

12. "Residential care home" means any home, establishment, or institution licensed pursuant to the provisions of the Residential Care Act other than a hotel, motel, fraternity or sorority house, or college or university dormitory, which offers or provides residential accommodations, food service, and supportive assistance to any of its residents or houses any resident requiring supportive assistance. The residents shall be persons who are ambulatory and essentially capable of managing their own affairs, but who do not routinely require nursing care; provided, the term "residential care home" shall not mean a hotel, motel, fraternity or sorority house, or college or university dormitory, if the facility operates in a manner customary to its description and does not house any person who requires supportive assistance from the facility in order to meet an adequate level of daily living;

13. "Licensee" means the person, a corporation, partnership, or association who is the owner of the facility which is licensed by the Department pursuant to the provisions of the Nursing Home Care Act;

14. "Maintenance" means meals, shelter, and laundry services;

15. "Neglect" means failure to provide goods and/or services necessary to avoid physical harm, mental anguish, or mental illness;

16. "Owner" means a person, corporation, partnership, association, or other entity which owns a facility or leases a facility. The person or entity that stands to profit or lose as a result of the financial success or failure of the operation shall be presumed to be the owner of the facility;

17. "Personal care" means assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision of the physical and mental well-being of a person, who is incapable of maintaining a private, independent residence, or who is incapable of managing his person, whether or not a guardian has been appointed for such person;

18. "Resident" means a person residing in a facility due to illness, physical or mental infirmity, or advanced age;

19. "Representative of a resident" means a court-appointed guardian or, if there is no court-appointed guardian, the parent of a minor, a relative, or other person, designated in writing by the resident; provided, that any owner, operator, administrator or employee of a facility subject to the provisions of the Nursing Home Care Act, the Residential ~~Home~~ Care Act, or the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act shall not be appointed guardian or limited guardian of a resident of the facility unless the owner, operator, administrator or employee is the spouse of the resident, or a relative of the resident within the second degree of consanguinity and is otherwise eligible for appointment; and

20. "Supportive assistance" means the service rendered to any person which is less than the service provided by a nursing facility but which is sufficient to enable the person to meet an

adequate level of daily living. Supportive assistance includes but is not limited to housekeeping, assistance in the preparation of meals, assistance in the safe storage, distribution, and administration of medications, and assistance in personal care as is necessary for the health and comfort of such person. Supportive assistance shall not include medical service.

SECTION 11. AMENDATORY Section 7, Chapter 332, O.S.L. 1993, as last amended by Section 22, Chapter 1, O.S.L. 1995 (63 O.S. Supp. 1996, Section 5009), is amended to read as follows:

Section 5009. A. On and after July 1, 1993, the Oklahoma Health Care Authority shall be the state entity designated by law to assume the responsibilities for the preparation and development for converting the present delivery of the Oklahoma Medicaid Program to a managed care system. The system shall emphasize:

1. Managed care principles, including a capitated, prepaid system with either full or partial capitation, provided that highest priority shall be given to development of prepaid capitated health plans;
2. Use of primary care physicians to establish the appropriate type of medical care a Medicaid recipient should receive; and
3. Preventative care.

The Authority shall also study the feasibility of allowing a private entity to administer all or part of the managed care system.

B. On and after January 1, 1995, the Authority shall be the designated state agency for the administration of the Oklahoma Medicaid Program.

1. The Authority shall contract with the Department of Human Services for the determination of Medicaid eligibility and other administrative or operational functions related to the Oklahoma Medicaid Program as necessary and appropriate.

2. To the extent possible and appropriate, upon the transfer of the administration of the Oklahoma Medicaid Program, the Authority shall employ the personnel of the Medical Services Division of the Department of Human Services.

3. The Department of Human Services and the Authority shall jointly prepare a transition plan for the transfer of the administration of the Oklahoma Medicaid Program to the Authority. The transition plan shall include provisions for the retraining and reassignment of employees of the Department of Human Services affected by said transfer. The transition plan shall be submitted to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives on or before January 1, 1995.

C. In order to provide adequate funding for the unique training and research purposes associated with the demonstration program conducted by the entity described in paragraph 7 of subsection B of Section 1 of this act, and to provide services to persons without regard to their ability to pay, the Oklahoma Health Care Authority shall analyze the feasibility of establishing a Medicaid reimbursement methodology for nursing facilities to provide a separate Medicaid payment rate sufficient to cover all costs allowable under Medicare principles of reimbursement for the facility to be constructed or operated, or constructed and operated, by the organization described in paragraph 7 of subsection B of Section 1 of this act.

SECTION 12. This act shall become effective July 1, 1997.

SECTION 13. 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.

46-1-7751

MAH