

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 SENATE BILL NO. 409

By: Mickle and Snyder of the  
Senate

6 and

7 Dunegan of the House

8  
9 COMMITTEE SUBSTITUTE

10 [ education and finance - Oklahoma Higher Education -  
11 - Finance Authority - codification -  
12 effective date ]

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16 SECTION 1. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 3921 of Title 70, unless there  
18 is created a duplication in numbering, reads as follows:

19 This act shall be known and may be cited as the "Oklahoma Higher  
20 Education Finance Authority Act".

21 SECTION 2. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 3922 of Title 70, unless there  
23 is created a duplication in numbering, reads as follows:

24 A. The Legislature finds an immediate and urgent need to  
25 provide alternative means and methods for providing financing for  
26 equipment and other personal property purchases by institutions  
27 within The Oklahoma State System of Higher Education.

28 B. The Oklahoma State Regents for Higher Education are hereby  
29 authorized to take the necessary actions to organize a public trust  
30 pursuant to Title 60 of the Oklahoma Statutes for the benefit of the  
31 entire state of Oklahoma for the purpose of providing equipment and  
32 other personal property for institutions and entities within The

1 Oklahoma State System of Higher Education. Such trust shall be  
2 known as the Oklahoma Higher Education Finance Authority as provided  
3 by this act. The indenture of such trust shall be drafted to  
4 conform with the provisions of this act and, upon certification by  
5 the Governor, such trust shall be known as and exercise all of the  
6 powers of the Oklahoma Higher Education Finance Authority as  
7 provided by law. The Oklahoma Higher Education Finance Authority is  
8 hereby constituted an instrumentality of the state and the exercise  
9 of the authority and powers conferred by this act shall be deemed  
10 and held to be the performance of an essential governmental  
11 function.

12 SECTION 3. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 3923 of Title 70, unless there  
14 is created a duplication in numbering, reads as follows:

15 A. The mission of the Oklahoma Higher Education Finance  
16 Authority shall be to take into account and develop a master lease  
17 program for institutions and entities within The Oklahoma State  
18 System of Higher Education based upon the following findings:

19 1. The processing of individual lease purchase requests by  
20 institutions and entities within The Oklahoma State System of Higher  
21 Education consumes a great deal of staff resources and time which  
22 could be more effectively utilized through a master lease program;

23 2. Individual lease purchases tend to have associated costs and  
24 rates which are higher than that which could be procured in a master  
25 lease program; and

26 3. Time delays implicit in the current structure should be  
27 significantly reduced to allow institutions to respond to their  
28 needs in a more timely fashion.

29 B. It is hereby found that the public policies and  
30 responsibilities of the state cannot be fully attained without the  
31 use of public financing and that such public financing can best be  
32 provided by the creation of a state educational finance authority

1 with comprehensive and extensive powers therein, which authority  
2 shall have the power to issue bonds to provide financing for  
3 qualified equipment and personal property purchases for institutions  
4 and entities within The Oklahoma State System of Higher Education.  
5 which is a public purpose and a use for which public moneys may be  
6 borrowed, expended, advanced, loaned and granted.

7 SECTION 4. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 3924 of Title 70, unless there  
9 is created a duplication in numbering, reads as follows:

10 As used in the Oklahoma Higher Education Finance Authority Act:

11 1. "Authority" means the Oklahoma Higher Education Finance  
12 Authority;

13 2. "Board of directors" means and includes the board of  
14 directors of the Authority created by this act;

15 3. "Bonds" means any bonds, notes, obligations, debentures,  
16 interim certificates, grant and revenue anticipation notes, interest  
17 in a lease, lease certificates of participation or other evidences  
18 of indebtedness, whether or not the interest on which is includable  
19 in the gross income of the recipients thereof for federal income tax  
20 purposes, issued by the Authority pursuant to this act;

21 4. "Financing assistance" or "financial assistance" means the  
22 making of, entering into or providing for guarantees, leases,  
23 insurance, financing credits, loans, letters of credit, financing  
24 assistance payments, grants or other financial aid;

25 5. "Financial document" means a lease, installment sale  
26 agreement, conditional sale agreement, note, mortgage, chattel  
27 mortgage, loan agreement or other instrument pertaining to an  
28 extension of financial assistance; and

29 6. "State" means the State of Oklahoma or any office,  
30 department, agency, authority, commission, board, institution,  
31 hospital, college, university, public trust where the state is the  
32 beneficiary, or other instrumentality thereof.

1 SECTION 5. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 3925 of Title 70, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. Upon certification by the Governor of the public trust as  
5 qualifying to become the Oklahoma Higher Education Finance  
6 Authority, the board of trustees of such trust shall become the  
7 governing board of the Oklahoma Higher Education Finance Authority.

8 B. The Authority shall be governed by a Board of Trustees  
9 composed of five (5) members, three of whom shall be appointed by  
10 the Oklahoma State Regents for Higher Education. Any or all of  
11 those appointive members may be staff members of the Office of the  
12 Oklahoma State Regents for Higher Education. One member shall be  
13 the State Treasurer or designee. One member shall be the Director  
14 of the Office of State Finance or designee.

15 C. Each appointive member may receive reimbursement for  
16 expenses pursuant to the provisions of the State Travel  
17 Reimbursement Act.

18 D. Members shall annually elect from among the membership a  
19 chair, vice-chair, secretary and treasurer, and may elect an  
20 assistant secretary or assistant secretaries who need not be members  
21 of the board. A majority of members of the board shall constitute a  
22 quorum and the affirmative vote of the majority of members present  
23 at a meeting of the board shall be necessary and sufficient for any  
24 action taken by the board, except that the affirmative vote of at  
25 least a majority of all members shall be required for the approval  
26 of any resolution authorizing the issuance of any bonds or approving  
27 any loan transaction pursuant to this act.

28 E. No vacancy in the membership of the board shall impair the  
29 right of a quorum to exercise all rights and perform all the duties  
30 of the board. Any action taken by the board may be authorized by  
31 resolution at any regular, special, or emergency meeting and shall  
32 take effect upon the date the chair or vice-chair certifies the

1 action of the Authority by signing the resolution unless some other  
2 date is provided in the resolution.

3 F. The board may delegate to its employees, persons under  
4 contract to provide administrative or staff services to the board,  
5 its members and/or officers of the Authority such duties as it deems  
6 necessary or convenient to carry out the purposes of this act. The  
7 board may contract with the Oklahoma State Bond Advisor to provide  
8 all or part of the board's administrative and staff services. Funds  
9 of the Oklahoma Higher Education Finance Authority may be paid to  
10 the Oklahoma State Bond Advisor for services reasonably attributable  
11 to the operation of the Oklahoma Higher Education Finance Authority.

12 G. Except as otherwise provided by law, no part of the funds of  
13 the Authority shall inure to the benefit of, or be distributed to  
14 its employees, officers, or board of directors, except that the  
15 Authority shall be authorized and empowered to pay its employees and  
16 agents reasonable compensation and benefits.

17 H. The meetings of the board of directors of the Oklahoma  
18 Higher Education Finance Authority shall be subject to the Open  
19 Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma  
20 Statutes, and the Open Records Act, Section 24A.1 et seq. of Title  
21 51 of the Oklahoma Statutes.

22 I. The Authority shall not be subject to state laws regulating  
23 the classification, employment, promotion, suspension, disciplinary  
24 action or dismissal of state employees. The Oklahoma Higher  
25 Education Finance Authority shall not be subject to the provisions  
26 of the Oklahoma Central Purchasing Act.

27 J. If a member of the board of directors, officer, agent or  
28 employee of the Oklahoma Higher Education Finance Authority has any  
29 direct or any indirect interest in any approval, contract or  
30 agreement upon which the member, officer, agent or employee may be  
31 called upon to act or vote, the board member, officer, agent or  
32 employee shall disclose the same to the secretary of the Authority

1 prior to the taking of final action by the Authority concerning such  
2 contract or agreement and shall so disclose the nature and extent of  
3 such interest and his or her acquisition thereof, which disclosure  
4 shall be publicly acknowledged by the Authority and entered upon the  
5 minutes of the Authority. If a board member, officer, agent or  
6 employee holds such an interest, he or she shall refrain from any  
7 further official involvement in regard to such contract or  
8 agreement, from voting on any matter pertaining to such contract or  
9 agreement, and from communicating with other board members,  
10 officers, agents or employees concerning said contract or agreement.  
11 Notwithstanding any other provision of law, any contract or  
12 agreement entered into in conformity with this subsection shall not  
13 be void or invalid by reason of the interest described in this  
14 subsection, nor shall any person so disclosing the interest and  
15 refraining from further official involvement as provided for in this  
16 subsection be guilty of an offense, be removed from office, or be  
17 subject to any other penalty on account of such interest. Provided,  
18 any approval, contract or agreement made in violation of this  
19 section shall give rise to no action against the Authority.

20 Indirect interest shall include pecuniary or competitive  
21 advantage which exists or could foreseeably accrue as a result of  
22 the act or forbearance of the Authority.

23 K. Board members and officers of the Authority shall be  
24 considered "public members" under the rules of the Ethics Commission  
25 and shall be subject to all rules and penalties promulgated pursuant  
26 to Article XXIX of the Oklahoma Constitution which relate to public  
27 members.

28 SECTION 6. NEW LAW A new section of law to be codified  
29 in the Oklahoma Statutes as Section 3926 of Title 70, unless there  
30 is created a duplication in numbering, reads as follows:

31 The Oklahoma Higher Education Finance Authority is hereby  
32 granted, has and may exercise all powers necessary or appropriate to

1 carry out and effectuate its corporate purposes, including without  
2 limiting the generality thereof, the following:

3 1. To adopt, amend, and repeal rules, policies and procedures  
4 for the regulation of its affairs and the conduct of its business;

5 2. To sue and be sued in its own name;

6 3. To have an official seal and power to alter that seal at  
7 will;

8 4. To maintain an office at such place or places within this  
9 state as it may designate;

10 5. To adopt, amend and repeal bylaws, rules and policies, not  
11 inconsistent with this act, to carry into effect the powers and  
12 purposes of the Authority and the conduct of its business;

13 6. To make and execute contracts with any individual,  
14 corporation, association or any other entity and all other  
15 instruments necessary or convenient for the performance of its  
16 duties and the exercise of its powers and functions under this act;

17 7. To employ underwriters, bond or other legal counsel,  
18 financial advisors, consultants, a financial institution to serve as  
19 trustee or paying agent or to serve in any fiduciary capacity in  
20 connection with any program, indenture or general resolution of the  
21 Authority, or any other experts and to determine their  
22 qualifications, duties and compensation subject to the provisions of  
23 this act for advice and oversight of the State Bond Advisor;  
24 provided, however, the Authority shall not employ or contract with  
25 any person, partnership, corporation, trust or other entity for  
26 underwriting services for issuance of bonded indebtedness if that  
27 entity has served as financial advisor to the Authority concerning  
28 the consideration of that issuance.

29 When engaging the services of underwriters, bond or other legal  
30 counsel, financial advisors, consultants, a financial institution to  
31 serve as trustee or paying agent or to serve in any fiduciary  
32 capacity in connection with any program, indenture or general

1 resolution of the Authority, or any other experts, the board shall  
2 be governed by the provisions of subsection C of Section 695.7 of  
3 Title 62 of the Oklahoma Statutes except when fees proposed for such  
4 services for the program shall fall within a range of fees as  
5 determined every six (6) months by the State Bond Advisor, based on  
6 industry studies and on fees for such services which have been  
7 negotiated and approved by the State Bond Advisor;

8 8. To procure insurance against any loss in connection with its  
9 property and other assets in such amounts and from such insurers as  
10 it deems desirable;

11 9. To borrow money and to issue bonds, whether or not the  
12 interest thereon is to be includable in the gross income of the  
13 recipients thereof for federal income tax purposes, including,  
14 without limitation, to provide on a pooled or consolidated basis  
15 financing for the purposes and projects herein provided and to  
16 provide for the security and sources of payments therefor;

17 10. To receive and accept aid or contributions from any source  
18 of money, property, labor, or other things of value to be held, used  
19 and applied to carry out the purposes of this act subject to the  
20 conditions upon which the grants and contributions are made,  
21 including, but not limited to, gifts or grants from any department,  
22 agency or instrumentality of the United States or of the state for  
23 any purpose consistent with this act;

24 11. To obtain from any department or agency of the United  
25 States of America or nongovernmental insurer any insurance or  
26 guaranty as to, or of, or for, the payment or repayment of interest  
27 or principal, or both, or any part thereof, on any bonds issued by  
28 the Authority, or on any municipal securities of political  
29 subdivisions purchased or held by the Authority; and,  
30 notwithstanding any other provisions of this act, to enter into any  
31 agreement or contract whatsoever with respect to any such insurance  
32 or guaranty, except to the extent that the same would in any way



1 impair or interfere with the ability of the Authority to perform and  
2 fulfill the terms of any agreement made with the owners of the bonds  
3 of the Authority;

4 12. To sell, convey, lease, exchange, transfer or otherwise  
5 dispose of, all or any of its property or any interest therein;

6 13. To provide financing assistance for the purposes and  
7 projects herein provided;

8 14. To acquire, purchase, hold, store, advertise, market, sell,  
9 trade, barter, exchange, distribute, transport, process, utilize and  
10 contract in all manner with respect thereto and for commodities,  
11 products and services, and real or personal property or any interest  
12 therein and to contract for, issue and utilize letters of credit and  
13 other credit facilities and incur indebtedness and to arrange, form,  
14 make, guarantee, issue, remit, receive, receipt, process and collect  
15 payments and equivalents, howsoever nominated, in connection with or  
16 for purposes of any of the foregoing and for the purpose of  
17 executing and fulfilling the purposes of the Authority;

18 15. To acquire, reacquire, construct, reconstruct, extend,  
19 rent, lease, purchase, use, loan, borrow, install, equip, maintain,  
20 operate, renovate, refurbish, enlarge, remodel, convey, sell, at  
21 public or private sale, encumber, alleviate, transfer, exchange,  
22 dispose of and/or resell, any property, real, personal or mixed,  
23 improvements, buildings, equipment, chattels, furnishings, fixtures,  
24 trade fixtures, and any and all other facilities and/or property of  
25 whatever nature, including any and all rights to or therein for use  
26 by corporations, individuals, cooperatives, partnerships,  
27 associations or proprietary companies for any of or for the purpose  
28 of executing and/or fulfilling the purposes of the Authority, and to  
29 plan, establish, develop, construct, enlarge, improve, extend,  
30 maintain, equip, operate, lease, furnish, provide, supply, regulate,  
31 hold, store and administer property, buildings, improvements, and  
32

1 facilities of every nature, which may be useful in pursuing,  
2 promoting, executing and/or fulfilling the aforementioned purposes;

3 16. To the extent permitted under its contract with the owners  
4 of bonds, to consent to any modification with respect to rate of  
5 interest, time, and payment of any installment of principal or  
6 interest security or any other term of any contract, mortgage,  
7 contract or agreement of any kind to which the Authority is a party;

8 17. To purchase its own bonds at such price or prices as the  
9 Authority shall determine, subject to any agreement with the owners  
10 of bonds;

11 18. To enter into financial documents with others for the  
12 purpose of receiving revenues to pay the bonds authorized by this  
13 act; to lease, sell, or otherwise dispose of any or all of its  
14 projects to others for such revenues and upon such terms and  
15 conditions as the Authority may deem advisable, and to grant options  
16 to renew any financing agreement with respect to any or all of its  
17 projects and to grant options to buy any project at such price or  
18 prices as the Authority deems desirable;

19 19. To purchase obligations of the state or political  
20 subdivisions;

21 20. To collect fees and charges in connection with its loans,  
22 commitments and servicing, including, but not limited to,  
23 reimbursement of costs of financing as the Authority shall determine  
24 to be reasonable and as shall be approved by the Authority;

25 21. To provide services, technical assistance and advice to  
26 this state and political subdivisions and to enter into contracts  
27 with this state and political subdivisions to provide such services.  
28 The State of Oklahoma and its political subdivisions are hereby  
29 authorized to enter into contracts with the Authority for such  
30 services and to pay for such services as may be provided them;

31 22. To contract, cooperate, or join with any one or more other  
32 governments or public agencies, or with the state, any political

1 subdivisions of this state, or the United States, to perform any  
2 administrative service, activity, or undertaking which any such  
3 contracting party is authorized by law to perform, including the  
4 issuance of bonds;

5 23. To lend money or otherwise extend credit to any person and  
6 exercise all powers of a lender or creditor;

7 24. To invest any funds available to the Authority, whether or  
8 not from the proceeds of bonds, in such securities or pursuant to  
9 such agreements or other arrangements as the Authority shall  
10 determine, subject to any agreements with bond owners or other  
11 creditors of the Authority; and

12 25. To exercise all other powers and functions necessary or  
13 appropriate to carry out the duties and purposes set forth in this  
14 act.

15 SECTION 7. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 3927 of Title 70, unless there  
17 is created a duplication in numbering, reads as follows:

18 No member of the Authority, no member of the board and no  
19 officer or employee of the Authority may be subject to any personal  
20 liability or accountability for having acted within the course and  
21 scope of his membership, office or employment to carry out any power  
22 or duty pursuant to this act. The Authority shall indemnify any  
23 member of the Authority, any member of the board of the Authority  
24 and any employee of the Authority against expenses actually and  
25 necessarily incurred in connection with the defense of any action or  
26 proceeding in which he or she is made a party by reason of past or  
27 present association with the Authority and the subject of which was  
28 within the course and scope of the membership, office or employment.

29 SECTION 8. NEW LAW A new section of law to be codified  
30 in the Oklahoma Statutes as Section 3928 of Title 70, unless there  
31 is created a duplication in numbering, reads as follows:

32

1       A. The Authority shall have the power and is hereby authorized  
2 to borrow money and to issue its bonds, notes, or other obligations  
3 in such principal amounts as the Authority determines shall be  
4 necessary to provide sufficient funds for:

5       1. The providing of financing assistance to institutions and  
6 entities within The Oklahoma State System of Higher Education as  
7 authorized under this act;

8       2. The establishment of reserves to secure the bonds; and

9       3. All other expenditures of the Authority incident to and  
10 necessary or convenient to carry out its purposes and powers,  
11 including the payment of any credit enhancement fees and costs of  
12 issuance incurred in connection with the issuance of bonds.

13       The Authority shall have the power to make expenditures for  
14 purposes of insuring and securing holders of bonds as provided in  
15 this act.

16       B. The Authority shall have the power to refund any bonds it  
17 issues, whether the bonds to be refunded have or have not matured,  
18 and to issue bonds partly to refund bonds then outstanding and  
19 partly for any of its corporate purposes. Refunding bonds may be  
20 issued in such amount as the Authority may determine, but not  
21 exceeding an amount sufficient to refund the principal amount of the  
22 bonds or notes to be refunded, together with any unpaid interest  
23 accrued and to accrue thereon and any premiums, expenses and  
24 commissions incurred in connection with the issuance of such  
25 refunding bonds and any reserve established in connection with the  
26 issuance of such refunding bonds. The refunding bonds may be sold  
27 and the proceeds applied to the purchase, redemption, or payment of  
28 the bonds to be refunded or exchanged for the bonds to be refunded,  
29 all as determined by the Authority.

30       C. All bonds of the Authority shall be either:

31       1. General obligations of the Authority, secured by any and all  
32 moneys and revenues of the Authority;

1       2. Special and limited obligations of the Authority, secured  
2 and payable solely out of the revenues and receipts derived pursuant  
3 to a financing agreement; or

4       3. Both general and special limited obligations, as may be  
5 designated in the proceedings of the Authority under which the bonds  
6 shall be authorized to be issued.

7       D. The bonds shall be authorized by resolution or resolutions  
8 of the Authority, shall be dated such date or dates, and shall  
9 mature at such time or times as such resolution or resolutions may  
10 provide. The bonds shall bear interest at such rate or rates or  
11 contain terms providing for the means of determining such rate or  
12 rates, including variations in such rates, but not to exceed an  
13 average interest rate of fourteen percent (14%) per annum if the  
14 interest thereon is not includable in the gross income of the  
15 recipients thereof for federal income tax purposes or eighteen  
16 percent (18%) per annum if the interest thereon is includable in the  
17 gross income of recipients thereof for federal income tax purposes,  
18 be in such denomination, be in such form, either coupon or  
19 registered, or in book-entry form, carry such registration  
20 privileges, be executed in such manner, be payable in such medium of  
21 payment, at such place or places, and be subject to such term of  
22 redemption, including redemptions prior to maturity, as such  
23 resolution or resolutions may provide. The bonds of the Authority  
24 may be sold by the Authority at public or private sale, and at the  
25 price or prices as the Authority shall determine.

26       E. Any resolution or resolutions authorizing any bonds or any  
27 issue thereof may contain provisions, which shall be a part of the  
28 contract or contracts with the owners thereof, as to:

29       1. Pledging all or any part of the revenues to secure the  
30 payment of the bonds or of any issue thereof, subject to such  
31 agreements with bondowners as may then exist;

- 1        2. Pledging all or any part of the assets of the Authority,  
2 including mortgages and obligations securing the same, to secure the  
3 payment of the bonds or of any issue of bonds, subject to the  
4 agreements with bondowners as may then exist;
- 5        3. The use and disposition of the gross income from assets of  
6 any type owned by the Authority and payment of principal of assets  
7 of any type owned by the Authority;
- 8        4. The setting aside of reserves or sinking funds and the  
9 regulations and disposition thereof;
- 10       5. Limitations on the purpose to which the proceeds of sale of  
11 bonds may be applied and pledging the proceeds to secure the payment  
12 of the bonds;
- 13       6. Limitations on the issuance of additional bonds; the terms  
14 upon which additional bonds may be issued and secured; and the  
15 refunding of outstanding or other bonds;
- 16       7. The procedure, if any, by which the terms of any contract  
17 with bondowners may be amended or abrogated, the amount of bonds the  
18 owners of which must consent thereto, and the manner in which the  
19 consent may be given;
- 20       8. Vesting in a trustee such property, rights, powers and  
21 duties in trust as the Authority may determine, which may include  
22 any or all of the rights, powers, and duties of the trustee  
23 appointed by the bondowners pursuant to this act and limiting or  
24 abrogating the right of bondowners to appoint a trustee under this  
25 act or limiting the rights, powers, and duties of the trustee;
- 26       9. Defining the acts or omissions to act which shall constitute  
27 a default in the obligations and duties of the Authority to the  
28 owners of the bonds and providing for the rights and remedies of the  
29 owners of the bonds in the event of default, including as a matter  
30 of right the appointment of a receiver; but the rights and remedies  
31 shall not be inconsistent with the general laws of the state and  
32 other provisions of this act; and

1 10. Any other matters, of like or different character, which in  
2 any way affect the security or protection of the owners of the  
3 bonds.

4 F. Any pledge made by the Authority shall be valid and binding  
5 from the time when the pledge is made. The revenues, monies, or  
6 property so pledged and thereafter received by the Authority shall  
7 immediately be subject to the lien of such pledge without any  
8 physical delivery thereof or further act, and the lien of any such  
9 pledge shall be valid and binding as against all parties having  
10 claims of any kind in tort, contract, or otherwise against the  
11 Authority, irrespective of trust indenture or whether the parties  
12 have notice thereof. Neither the resolution, trust indenture nor  
13 any other instrument by which a pledge is created need be recorded.

14 G. Bonds of the Authority may be secured by resolution of the  
15 Authority or a trust indenture or similar document by and between  
16 the Authority and a corporate trustee, which may be any bank having  
17 the power of a trust company or any trust company within or without  
18 the state. Such resolution, trust indenture or similar document may  
19 contain such provisions for protecting and enforcing the rights and  
20 remedies of the bondowners as may be reasonable and proper and not  
21 in violation of law, including covenants setting forth the duties of  
22 the Authority in relation to the exercise of its corporate powers  
23 and the custody, safeguarding and application of all monies. The  
24 Authority may provide by the resolution or trust indenture for the  
25 payment of the proceeds of the bonds and the revenues to the trustee  
26 under the trust indenture or other depository, and for the method of  
27 disbursement thereof, with such safeguards and restrictions as it  
28 may determine.

29 H. Whether or not the bonds are of the form and character as to  
30 be negotiable instruments under the terms of the Uniform Commercial  
31 Code, the bonds are hereby made negotiable instruments within the  
32 meaning of and for all the purposes of the Uniform Commercial Code,

1 subject only to the provisions of the bonds relating to  
2 registration.

3 I. In the event that any of the members or officers of the  
4 Authority shall cease to be members or officers of the Authority  
5 prior to the delivery of any bonds or coupons signed by them, their  
6 signatures or facsimiles thereof shall nevertheless be valid and  
7 sufficient for all purposes, the same as if such members or officers  
8 had remained in office until such delivery.

9 J. Neither the members of the Authority nor any other person  
10 executing the bonds issued under this act shall be subject to  
11 personal liability or accountability by reason of the issuance  
12 thereof.

13 K. The Authority shall have the power to provide for the  
14 replacement of lost, destroyed, or mutilated bonds.

15 L. Bonds issued pursuant to the provisions of this act shall  
16 never constitute an indebtedness of the state within the meaning of  
17 any state constitutional provision or statutory limitation, but such  
18 bonds shall be indebtedness payable solely from sources indicated on  
19 the bond documents, and shall never constitute nor give rise to a  
20 pecuniary liability of this state or unspecified funds of the  
21 Authority or a charge against the general credit of the state or  
22 taxing powers of the state, and such fact shall be plainly stated on  
23 the face of each bond.

24 M. 1. In no event shall the Authority enter into a lease-  
25 purchase agreement unless that agreement contains the following or  
26 similar language:

27 The State of Oklahoma reserves the right to approve any  
28 reoffering of this obligation to another investor either through  
29 private placement, issuance of certificates of participation, or any  
30 other mechanism. Such approval must be obtained, in writing, from  
31 the State Bond Advisor prior to any remarketing.

32



1           2. In the event that a remarketing of a lease-purchase  
2 agreement is proposed that includes the remarketing of securities or  
3 obligations to more than a single investor, any disclosure language  
4 prepared in connection with such marketing that describes the  
5 state's liability under the lease-purchase agreement must be  
6 approved in advance, in writing, by the Oklahoma State Bond Advisor.

7           SECTION 9.       NEW LAW       A new section of law to be codified  
8 in the Oklahoma Statutes as Section 3929 of Title 70, unless there  
9 is created a duplication in numbering, reads as follows:

10           The bonds authorized pursuant to the Oklahoma Higher Education  
11 Finance Authority Act and the income therefrom, whether or not the  
12 interest on which is subject to federal income taxation, shall be  
13 exempt from all taxation in this state; all legal instruments and  
14 all security agreements and financing agreements made pursuant to  
15 the provisions of this act shall be exempt from Oklahoma stamp,  
16 mortgage and transfer taxes.

17           SECTION 10.       NEW LAW       A new section of law to be codified  
18 in the Oklahoma Statutes as Section 3930 of Title 70, unless there  
19 is created a duplication in numbering, reads as follows:

20           The bonds, debentures, notes or other evidence of indebtedness  
21 of the Oklahoma Higher Education Finance Authority are hereby made  
22 securities in which all public officers and bodies of this state,  
23 all municipalities and municipal subdivisions, all insurance  
24 companies and associations and other persons carrying on an  
25 insurance business, all banks, bankers, trust companies, savings  
26 banks, savings associations, including savings and loan associations  
27 and building and loan associations, investment companies and other  
28 persons carrying on a banking business, all administrators,  
29 guardians, executors, trustees and other fiduciaries, and all other  
30 persons whatsoever who are now or who may hereafter be authorized to  
31 invest in bonds or other obligations of this state may properly and  
32 legally invest funds including capital in their control or belonging

1 to them. Notwithstanding any other provision of law, the bonds,  
2 debentures, notes or other evidence of indebtedness of the Authority  
3 are also hereby made securities which may be deposited with and may  
4 be received by all public officers and bodies of this state and all  
5 municipalities and municipal subdivisions for any purpose for which  
6 the deposit of bonds or other obligations of this state are  
7 authorized.

8 SECTION 11. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 3931 of Title 70, unless there  
10 is created a duplication in numbering, reads as follows:

11 The Oklahoma Higher Education Finance Authority shall be and is  
12 hereby exempt from all franchise, corporate, business and other  
13 taxes of any nature levied by the state,

14 SECTION 12. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 3932 of Title 70, unless there  
16 is created a duplication in numbering, reads as follows:

17 The Authority may pledge to and agree with the owners of any  
18 bonds issued under this act that the Authority will not limit or  
19 alter the rights contained in the bond instruments to fulfill the  
20 terms of any agreements made with the owners thereof or in any way  
21 impair the rights and remedies of the owners until the bonds,  
22 together with the interest thereon, with interest on any unpaid  
23 installments of interest, and all costs and expenses in connection  
24 with any action or proceeding by or on behalf of the owners, are  
25 fully met and discharged. The Authority is authorized to include  
26 this pledge in any agreement with the owners of the bonds.

27 SECTION 13. NEW LAW A new section of law to be codified  
28 in the Oklahoma Statutes as Section 3933 of Title 70, unless there  
29 is created a duplication in numbering, reads as follows:

30 The Authority may covenant and consent that the interest on  
31 certain of its bonds shall be includable under the Internal Revenue  
32 Code of 1986, as amended, or any subsequent corresponding internal

1 revenue law of the United States in the gross income of the owners  
2 thereof to the same extent and in the same manner that the interest  
3 on bills, bonds, notes or other obligations of the United States is  
4 includable in the gross income of the owners thereof under said  
5 Internal Revenue Code or any such subsequent law. Nothing contained  
6 herein shall be construed to covenant or consent or to authorize any  
7 covenant or consent to the application of any other provision of any  
8 other laws, federal or state, to the Authority or to its bonds or to  
9 the elimination or modification in any way of any other exemption,  
10 privilege or immunity thereof.

11 SECTION 14. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 3934 of Title 70, unless there  
13 is created a duplication in numbering, reads as follows:

14 This act shall be liberally construed. Nothing contained herein  
15 is or shall be construed as a restriction or limitation upon any  
16 powers which the Authority might otherwise have under any other law  
17 of this state heretofore or hereafter enacted, and the provisions of  
18 this act are cumulative to such powers. The provisions hereof do  
19 and shall be construed to provide a complete, additional and  
20 alternative method for the doing of the things authorized and shall  
21 be regarded as supplemental and additional to powers conferred by  
22 any other laws.

23 SECTION 15. NEW LAW A new section of law to be codified  
24 in the Oklahoma Statutes as Section 3935 of Title 70, unless there  
25 is created a duplication in numbering, reads as follows:

26 Notwithstanding any provision herein to the contrary, the  
27 Oklahoma Higher Education Finance Authority shall not participate in  
28 financing programs nor issue bonds for purposes which compete with  
29 or are similar in nature to those obligations authorized for  
30 issuance by the Oklahoma Turnpike Authority, the Oklahoma Housing  
31 Finance Agency, the Oklahoma Water Resources Board, the Grand River  
32 Dam Authority, the Oklahoma Student Loan Authority and the Oklahoma

1 Municipal Power Authority, without the prior consent of said  
2 authorities.

3 SECTION 16. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 3936 of Title 70, unless there  
5 is created a duplication in numbering, reads as follows:

6 The activities of the Oklahoma Higher Education Finance  
7 Authority shall be included in and subject to annual audits of the  
8 Oklahoma State Regents for Higher Education.

9 SECTION 17. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 3937 of Title 70, unless there  
11 is created a duplication in numbering, reads as follows:

12 The Oklahoma Higher Education Finance Authority shall publish  
13 and present an annual report to the Governor, the Speaker of the  
14 House of Representatives and the President Pro Tempore of the Senate  
15 setting forth in detail the operations and transactions conducted by  
16 it. The annual report shall specifically account for the ways the  
17 need, mission and programs of the Authority have been carried out,  
18 including but not limited to, a review of the results of the  
19 Authority's operations and transactions. The report shall recommend  
20 specific changes in the activities of the Authority which are  
21 necessary to better carry out its mission.

22 SECTION 18. AMENDATORY 60 O.S. 1991, Section 176, as  
23 last amended by Section 1, Chapter 173, O.S.L. 1998 (60 O.S. Supp.  
24 1998, Section 176), is amended to read as follows:

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

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

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

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

9 4. The express approval of two-thirds (2/3) of the membership  
10 of the governing body of each beneficiary in the event a trust has  
11 more than one beneficiary; provided, that no funds of a beneficiary  
12 derived from sources other than the trust property, or the operation  
13 thereof, shall be charged with or expended for the execution of the  
14 trust, except by express action of the legislative authority of the  
15 beneficiary prior to the charging or expending of the funds. The  
16 officers or any other governmental agencies or authorities having  
17 the custody, management, or control of any property, real or  
18 personal or mixed, of the beneficiary of the trust, or of a proposed  
19 trust, which property shall be needful for the execution of the  
20 trust purposes, are authorized and empowered to lease the property  
21 for those purposes, after the acceptance of the beneficial interest  
22 therein by the beneficiary as hereinafter provided.

23 B. A municipality may convey title to real property which is  
24 used for an airport to the trustees of an industrial development  
25 authority trust whose beneficiary is the municipality. The  
26 industrial development authority trust must already have the  
27 custody, management, or control of the real property. The  
28 conveyance must be approved by a majority of the governing body of  
29 the municipality. A conveyance pursuant to this section may be made  
30 only for the sole purpose of allowing the authority to sell the  
31 property for fair market value when the property is to be used for  
32 industrial development purposes. Conveyances made pursuant to this

1 subsection shall be made subject to any existing reversionary  
2 interest or other restrictions burdening the property and subject to  
3 any reversionary interest or other restriction considered prudent by  
4 the municipality.

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

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

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

27 F. All bonds described in subsection E of this section, after  
28 December 1, 1976, except bonds sold to the federal government or any  
29 agency thereof or to any agency of the State of Oklahoma, shall be  
30 awarded to the lowest and best bidder based upon open competitive  
31 public offering, advertised at least once a week for two (2)  
32 successive weeks in a newspaper of general circulation in the county

1 where the principal office of the trust is located prior to the date  
2 on which bids are received and opened; provided, competitive bidding  
3 may be waived on bond issues with the approval of three-fourths  
4 (3/4) of the trustees, and a three-fourths (3/4) vote of the  
5 governing body of the beneficiary, unless the beneficiary is a  
6 county in which case a two-thirds (2/3) vote of the members of the  
7 governing body shall be required, or three-fourths (3/4) vote of the  
8 governing bodies of each of the beneficiaries of the trust, unless  
9 one of the beneficiaries is a county in which case a two-thirds  
10 (2/3) vote of the members of the governing body of such county shall  
11 be required. No bonds shall be sold for less than par value, except  
12 upon approval of three-fourths (3/4) of the trustees, unless the  
13 beneficiary is a county in which case a two-thirds (2/3) vote of the  
14 members of the governing body shall be required. In no event shall  
15 bonds be sold for less than sixty-five percent (65%) of par value;  
16 provided, however, in no event shall the original purchaser from the  
17 issuer of any bonds issued by any public trust for any purpose  
18 receive directly or indirectly any fees, compensation, or other  
19 remuneration in excess of four percent (4%) of the price paid for  
20 the bonds by the purchaser of the bonds from the original purchaser;  
21 and further provided, that the average coupon rate thereon shall in  
22 no event exceed fourteen percent (14%) per annum. No public trust  
23 shall sell bonds for less than ninety-six percent (96%) of par value  
24 until the public trust has received from the underwriter or  
25 financial advisor or, in the absence of an underwriter or financial  
26 advisor, the initial purchaser of the bonds, an estimated  
27 alternative financing structure or structures showing the estimated  
28 total interest and principal cost of each alternative. At least one  
29 alternative financing structure shall include bonds sold to the  
30 public at par. Any estimates shall be considered a public record of  
31 the public trust. Bonds, notes or other evidences of indebtedness  
32 issued by any public trust shall be eligible for purchase by any

1 state banking association or corporation subject to such limitations  
2 as to investment quality as may be imposed by regulations, rules or  
3 rulings of the State Banking Commissioner.

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

11 H. Contracts for construction, labor, equipment, material or  
12 repairs in excess of Seven Thousand Five Hundred Dollars (\$7,500.00)  
13 shall be awarded by public trusts to the lowest and best competitive  
14 bidder, pursuant to public invitation to bid, which shall be  
15 published in the manner provided in the preceding section hereof;  
16 the advertisements shall appear in the county where the work, or the  
17 major part of it, is to be done, or the equipment or materials are  
18 to be delivered, or the services are to be rendered; provided,  
19 however, should the trustee or the trustees find that an immediate  
20 emergency exists, which findings shall be entered in the journal of  
21 the trust proceedings, by reason of which an immediate outlay of  
22 trust funds in an amount exceeding Seven Thousand Five Hundred  
23 Dollars (\$7,500.00) is necessary in order to avoid loss of life,  
24 substantial damage to property, or damage to the public peace or  
25 safety, then the contracts may be made and entered into without  
26 public notice or competitive bids; provided that the provisions of  
27 this subsection shall not apply to contracts of industrial and  
28 cultural trusts. Notwithstanding the provisions of this subsection,  
29 equipment or materials may be purchased by a public trust directly  
30 from any contract duly awarded by this state or any state agency  
31 under the Oklahoma Central Purchasing Act, or from any contract duly  
32



1 awarded by a governmental entity which is the beneficiary of the  
2 public trust.

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

23 J. Provisions of this section shall not apply to entities  
24 created under Sections 1324.1 through 1324.26 of Title 82 of the  
25 Oklahoma Statutes or Section 2 of this act.

26 SECTION 19. AMENDATORY 62 O.S. 1991, Section 41.14, is  
27 amended to read as follows:

28 Section 41.14 The Oklahoma State System of Higher Education,  
29 established by Article XIII-A of the Constitution of this state,  
30 shall operate an allotment system similar to the procedure set out  
31 in this act for other agencies of the state except that The Oklahoma  
32 State Regents for Higher Education shall be substituted for the

1 State Budget Director in connection with approving allotment  
2 requests of the constituent institutions comprising The Oklahoma  
3 State System of Higher Education. The account classification for  
4 The State System of Higher Education shall conform as nearly as  
5 possible with the classification of accounts recommended by the  
6 National Committee on Standard Reports for Institutions of Higher  
7 Education. The Board of Regents shall allocate to each institution  
8 under its control from the consolidated, or lump sum appropriation  
9 made by the Legislature, an amount sufficient to meet the needs and  
10 functions of each institution for the entire year as is now provided  
11 by law, or may hereafter be provided by law. The amount allocated  
12 to each institution for each fiscal year in accordance with Article  
13 XIII-A, Oklahoma Constitution, shall be made in a lump sum without  
14 regard to uniform budget or accounting classifications, but shall  
15 not be available for expenditure until subsequently allotted by the  
16 Regents in accordance with the uniform budget and accounting  
17 classifications recommended by the National Committee on Standard  
18 Reports. The amount of each allotment reserved pursuant to Section  
19 3210 of Title 70 of the Oklahoma Statutes for the purpose of  
20 fulfilling contractual obligations of each institution with the  
21 Oklahoma Higher Education Finance Authority shall be indicated and  
22 shall not be available for expenditure by the institution. The  
23 Regents, with the approval of the Budget Director, may allot money  
24 to any constituent institution under said Regents to set up and  
25 operate a petty cash fund at said institution, said fund to be  
26 reimbursed upon the filing of claims showing the purposes for which  
27 the funds were expended. The Division of Central Accounting and  
28 Reporting shall make cash allocations of revenue in accordance with  
29 Section 23, Article 10, Constitution of Oklahoma, to each of the  
30 constituent institutions, considering the total allocation made by  
31 the Regents from the lump sum legislative appropriations as the  
32 total appropriation for each institution, in lieu of legislative

1 appropriations. All institutional income available for educational  
2 and general purposes, as defined in the uniform budget and  
3 accounting classifications recommended by the National Committee on  
4 Standard Reports, and including income defined by law as revolving  
5 fund income, shall operate as a continuing nonfiscal appropriation  
6 which may be spent for any educational and general purposes for  
7 which appropriated funds may be spent, if allocated and allotted as  
8 provided in this section; provided that the obligations as they are  
9 incurred may not exceed the unencumbered balance of cash on hand in  
10 accordance with Section 23, Article 10, Constitution of the State of  
11 Oklahoma. At least thirty (30) days prior to the beginning of each  
12 fiscal year, each of the constituent institutions shall file with  
13 the Regents its request for appropriation allotments for each of the  
14 purposes for which expenditures are to be made. Such requests shall  
15 be broken down to conform to the uniform budget or accounting  
16 classifications recommended by the National Committee on Standard  
17 Reports. Each institution's request for appropriation allotments  
18 shall show the amount required to finance each item of the request  
19 for the entire year and for each quarter or each six-months period  
20 within the fiscal year, as required by the Budget Director. The  
21 Regents, or their designated official or employee who has been  
22 authorized to approve itemize allotment requests, shall consider the  
23 allotment requests for the purpose of making a determination of: (1)  
24 that the current financial requirements of the institution concerned  
25 justify the allotment to be made; (2) that the accounting  
26 classification is sufficient to reflect the purpose for which  
27 expenditures are to be made and that such classification is in  
28 accordance with the budget classifications adopted by the Budget  
29 Director and the Regents, which shall conform as nearly as possible  
30 to the account classification recommended by the National Committee  
31 on Standard Reports for Institutions of Higher Education; (3) that  
32 the realization of estimated revenues determined by the Budget

1 Director is sufficient to allow the commitments to be made. In  
2 allotting appropriations and other funds, and approving subsequent  
3 allotments which may be required by each institution, the Regents  
4 shall follow the same general procedure set forth in this act for  
5 other agencies of the state not under the control of said Regents,  
6 except as otherwise provided in this section. All forms and account  
7 classifications shall be mutually agreed upon by the Budget Director  
8 and the State Regents. The Regents shall file approved requests of  
9 constituent institutions with the Division of Central Accounting and  
10 Reporting and such approved requests shall be entered on the records  
11 of the State in the same manner as is provided in this act for other  
12 agencies of the state. The State Regents and the Budget Director  
13 shall approve any request from the administrative head of a  
14 constituent institution for amendment of the approved schedule of  
15 positions and salaries, or transfers between items, so long as the  
16 currently approved allotment for such purposes is not exceeded; and  
17 each such amendment shall be filed with the Budget Director, in such  
18 detail as he may require, prior to the date on which the first  
19 payroll or other disbursement affected by such amendment is  
20 submitted for payment. In the event that the realization of  
21 estimated revenues at any time during the fiscal year indicates that  
22 the total revenue for that fiscal year to any state fund will be  
23 insufficient at the end of the fiscal year to meet the total  
24 appropriations from that fund, the State Budget Director shall  
25 notify the Oklahoma State Regents of Higher Education as to the  
26 amount of reduction necessary against the consolidated, or lump sum  
27 appropriations, made to the Regents. The Regents in making itemized  
28 allotments during the fiscal year, may reserve an amount sufficient  
29 to meet a reasonable failure of revenue until receipt of notice from  
30 the Budget Director that the realization of estimated revenues  
31 indicates that the total appropriation may be allotted for  
32 expenditure. Upon receipt of notice from the Budget Director of a

1 necessary reduction in the consolidated, or lump sum appropriation,  
2 to meet a failure in revenue, the Regents of Higher Education shall  
3 immediately take action to control the approval of subsequent  
4 allotment requests sufficient to make the aggregate reduction in  
5 allotments of all constituent institutions under their control equal  
6 the amount of reduction ordered against the lump sum appropriation  
7 made by the Legislature. Such reductions against the lump sum  
8 appropriation shall not exceed the percentage reduction ordered  
9 against other agencies of the state in accordance with Section 23,  
10 Article 10, Oklahoma Constitution.

11 SECTION 20. AMENDATORY 62 O.S. 1991, Section 695.8, as  
12 last amended by Section 2, Chapter 188, O.S.L. 1998 (62 O.S. Supp.  
13 1998, Section 695.8), is amended to read as follows:

14 Section 695.8 A. The Executive Bond Oversight Commission and  
15 the Legislative Bond Oversight Commission shall:

16 1. Make determinations as to whether the purposes for which  
17 obligations proposed to be issued by a State Governmental Entity are  
18 for the furtherance and accomplishment of authorized and proper  
19 public functions or purposes of the state or of any county or  
20 municipality, as specified in the statutes governing public trusts  
21 organized pursuant to Title 60 of the Oklahoma Statutes;

22 2. Review proposed issuance of debt by State Governmental  
23 Entities for compliance with any applicable provisions of federal,  
24 state or other laws;

25 3. Review proposed issuances of obligations to fund capital  
26 additions or expenditures by Local Governmental Entities when there  
27 is a lease, contract, or other agreement used as collateral or  
28 security under which payments from the state made by any officer,  
29 department, board, commission, institution or agency of the state  
30 are for the retirement of such obligations. The provisions of this  
31 section do not apply to funds which are collected by the state for  
32 distribution to a Local Governmental Entity or are appropriated or

1 dedicated by the state to a Local Governmental Entity when there is  
2 no lease, contract, or other agreement used as collateral or  
3 security requiring payments by the state, which will be used to  
4 retire obligations of said Local Governmental Entity;

5 4. a. Except as provided in subparagraph b of this  
6 paragraph, review the findings of the Program  
7 Development and Credit Review Committee to determine  
8 if the Rules Regarding the Administration of the  
9 Credit Enhancement Reserve Fund and related  
10 regulations and policies as implemented by the  
11 Oklahoma Development Finance Authority adequately and  
12 sufficiently fulfill the intents and purposes of the  
13 Credit Enhancement Reserve Fund Act, Section 5063.1 et  
14 seq. of Title 74 of the Oklahoma Statutes, provided  
15 such provision shall not apply to Credit Enhancement  
16 Reserve Fund applications approved by the Bond  
17 Oversight Commissions prior to May 30, 1990; and,  
18 except as provided in subparagraph b of this  
19 paragraph, approve or disapprove any bonds or  
20 indebtedness being issued by the Oklahoma Development  
21 Finance Authority to the extent said bonds or  
22 indebtedness are enhanced or supported pursuant to the  
23 Credit Enhancement Reserve Fund Act, Section 5063.1 et  
24 seq. of Title 74 of the Oklahoma Statutes.

25 b. The Bond Oversight Commissions shall not be required  
26 to review or approve individual projects or loans  
27 under the Small Business Credit Enhancement Program  
28 created by Section 5063.4b of Title 74 of the Oklahoma  
29 Statutes, or the Oklahoma Beginning Agricultural  
30 Producer Pool Act, Section 5063.21 et seq. of Title 74  
31 of the Oklahoma Statutes, but may approve a package of  
32 such projects or loans in advance. Each project or

1 loan shall be individually listed in the package and  
2 the dollar amount of the project or loan shall be  
3 specifically set out together with the total dollar  
4 amount involved in the package. The Commissions or  
5 the Oklahoma State Bond Advisor may, in their  
6 discretion, remove any such individual project or loan  
7 from the package submitted, for individual action.  
8 Should the Oklahoma Development Finance Authority  
9 submit an application to the Commissions for the  
10 approval of an obligation or credit enhancement under  
11 these two programs, the application shall be deemed  
12 approved if not disapproved by the Commissions within  
13 forty-five (45) days of filing such an application or,  
14 as to an individual project or loan, removed from the  
15 submitted package within such forty-five-day period.

16 c. The Executive and Legislative Bond Oversight

17 Commissions may establish maximum compensation levels  
18 to be paid to individuals and firms acting in a  
19 fiduciary capacity in connection with Credit  
20 Enhancement Reserve Fund Program financings. The  
21 Executive and Legislative Bond Oversight Commissions  
22 may set such compensation levels for a one-year period  
23 and such compensation will be applicable to all  
24 individuals and firms participating in the program for  
25 that period. Providers of such services selected  
26 prior to making application may be employed subject to  
27 the established maximum compensation levels. Prior to  
28 December 31 of each year, the Executive and  
29 Legislative Bond Oversight Commissions shall review  
30 market conditions and set new compensation levels for  
31 the program. Provided, such compensation levels may  
32 not exceed the compensation levels obtained by the

1 Oklahoma Development Finance Authority through its  
2 most recent invitation to bid for the services of  
3 individuals and firms acting in a fiduciary capacity  
4 in connection with Credit Enhancement Reserve Fund  
5 Program financing; ~~and~~

6 5. Conduct an annual programmatic review of the operations of  
7 the Oklahoma Higher Education Finance Authority; and

8 6. Adopt, amend and repeal rules to regulate affairs of the  
9 Commissions and to implement the powers and purposes of the  
10 Commissions.

11 B. The Commissions may establish budgets in order to fulfill  
12 their duties pursuant to Section 695.1 et seq. of this title and  
13 shall be authorized to charge and collect a fee, in accordance with  
14 the rules of the Commissions, derived from proceeds of bond issues  
15 approved by the Commissions.

16 SECTION 21. AMENDATORY 70 O.S. 1991, Section 3210, is  
17 amended to read as follows:

18 Section 3210. (a) All appropriations made by the Legislature  
19 for state educational institutions of the State System shall be made  
20 to the State Regents in consolidated form, indicating the amount  
21 appropriated from the General Revenue Fund and each special fund,  
22 without reference to the amount appropriated to any particular  
23 institution. On April 1 of each year, or as soon thereafter as  
24 possible, but not later than June 15 of each year, the State Regents  
25 shall certify to the Director of State Finance such portions of the  
26 consolidated appropriation as they shall have allocated to each  
27 institution from the General Revenue Fund and each special fund for  
28 the next fiscal year and the amount of the allocation for each  
29 institution which is to be reserved for the purpose of fulfilling  
30 contractual obligations of each institution with the Oklahoma Higher  
31 Education Finance Authority. The Director of State Finance shall  
32 allocate the revenue deposited in the State Treasury to the credit



1 of the General Revenue Fund to a cash account for each institution  
2 or special appropriation, and to any unallocated portion of such  
3 consolidated appropriations, on a percentage basis in the same  
4 manner as provided by law for allocations of cash to Legislative  
5 appropriations for other departments and institutions. In making  
6 such allocations to cash accounts for each institution the Director  
7 of State Finance shall reserve a portion of each allocation in the  
8 amounts indicated by the Regents in their certification which shall  
9 be placed in an account for the State Regents to be used only for  
10 making payments to the Oklahoma Higher Education Finance Authority  
11 for contractual obligations of the institutions.

12 (b) The State Regents may make additional allocations from the  
13 consolidated appropriation to any institution during the year but  
14 they shall not decrease the amount allocated to any institution  
15 during the year. Where an additional allocation is made to an  
16 institution, the Director of State Finance shall make such  
17 adjustment by decreasing the consolidated appropriation balance and  
18 increasing the appropriation of the institution or institutions to  
19 which the additional allocation is made. At the same time he shall  
20 make an adjustment between the cash accounts by reducing the  
21 consolidated cash account and increasing the institution's cash  
22 account, giving the institution or institutions credit in cash for  
23 that portion of revenue which has already been allocated to that  
24 portion of the consolidated appropriation transferred, thereby  
25 transferring the percentage of cash which belongs to the additional  
26 allocation made from the consolidated appropriation. Thereafter,  
27 the Director of State Finance shall increase the revenue allocations  
28 to each of the educational institutions which have received  
29 additional allocations so that such allocations shall take into  
30 consideration the original allocation plus the additional allocation  
31 from the consolidated appropriation. The State Regents may make  
32 additional allocations each month of the fiscal year but such

1 allocations for all institutions shall be certified to the Director  
2 of State Finance at the same time and shall not take effect until  
3 the first day of the month following the month in which such  
4 additional allocations are certified to the Director of State  
5 Finance. The cash allocated to all of the institutions shall never  
6 exceed the amount of revenue which would have been allocated to the  
7 consolidated appropriation had such consolidated appropriation never  
8 been divided. The division of cash among the several institutions  
9 shall be considered a division of the revenue which would have been  
10 allocated to the consolidated account.

11 (c) Both the cash allocations and the appropriation allotments  
12 shall be considered cumulative in that the balance unexpended or  
13 unencumbered at the end of any month of the fiscal year shall add to  
14 the amount allocated during the subsequent months so that the fiscal  
15 year shall be considered as a unit.

16 (d) The appropriations allocated by the State Regents to each  
17 institution for the year on June 15 shall be set up in the same  
18 manner as other departments and institutions for contractual  
19 purposes except as otherwise provided in this section.

20 (e) Financial documents arising from the appropriation  
21 allocations to each institution shall be filed with the Director of  
22 State Finance in the same manner and at the same time as is now  
23 provided by law.

24 (f) Nothing contained in this section shall be construed to  
25 change existing laws relating to the apportionment of cash to  
26 Section 13 or New College Funds for each of the institutions which  
27 under present laws receive monies from such sources. Provided, that  
28 nothing herein shall be construed to give the State Regents  
29 authority to take money from the revolving fund of one institution  
30 and give it to another institution. Revolving funds of all of the  
31 constituent institutions shall operate as a continuing appropriation  
32 under the law creating each such revolving fund which allocates the

1 revenue collected by each such institution to the revolving fund of  
2 that institution. None of such institutions shall incur obligations  
3 against such revolving fund in excess of the unencumbered balance of  
4 surplus cash on hand. Such revolving funds shall be nonfiscal year  
5 appropriations, and shall be disbursed by warrants issued by the  
6 State Treasurer.

7 (g) No expenditure from any of the revolving funds of the  
8 various institutions shall be made for any purpose, except that for  
9 which said portion of said fund was specifically collected;  
10 provided, that when any portion of any of such revolving funds shall  
11 not be needed for the purpose for which the same was collected, the  
12 State Regents may, upon the request of the Board of Regents of any  
13 institution, authorize such Board of Regents to expend such unneeded  
14 balance of such revolving fund for any other purpose which, in the  
15 opinion of the State Regents, shall be necessary or desirable in the  
16 conduct of such institution.

17 (h) The Director of State Finance shall make monthly reports to  
18 the institutions and agencies comprising the State System  
19 indicating, by classification of funds, the amounts allotted by the  
20 State Regents, the cumulative expenditures at the end of each month,  
21 the unexpended balances, the encumbrances outstanding, and the  
22 unencumbered balances at the end of the month.

23 (i) The State Regents shall direct the disposition of such  
24 funds as the Legislature shall appropriate, which funds shall be  
25 allocated to the state educational institutions entitled thereto  
26 under the provisions of, and in accordance with, the Enabling Act  
27 and the Constitution of the State of Oklahoma, for the support of  
28 such state educational institutions.

29 SECTION 22. AMENDATORY 70 O.S. 1991, Section 4001, is  
30 amended to read as follows:

31 Section 4001. A. Subject to and in accordance with the terms  
32 hereof, the boards of regents for all state educational institutions

1 for and in behalf of any university, college, school or institution  
2 under the jurisdiction of each of the said boards are hereby  
3 authorized from time to time to set aside such portion of their  
4 respective campuses or of the campuses under the jurisdiction of  
5 said boards, or any other land owned or leased by said boards, as  
6 may be necessary and suitable for the construction thereon of  
7 dormitories, student housing, cooperative group housing, parking  
8 facilities, adult education facilities, kitchens, dining halls,  
9 auditoriums, student union buildings, field houses, stadiums, public  
10 utility plants and systems for the supplying of water, gas, heat or  
11 power and other self-liquidating projects and other revenue-  
12 producing buildings for the university, college or institution or  
13 related institution, which may include public, nonprofit or private  
14 entities, deemed necessary by said boards for the comfort,  
15 convenience and welfare of their students, and suitable for the  
16 purposes for which said institutions were established, including  
17 additions to existing buildings used for such purposes; to acquire  
18 through construction, purchase, condemnation or any combination  
19 thereof such dormitories, student housing, cooperative group  
20 housing, parking facilities, adult education facilities, kitchens,  
21 dining halls, auditoriums, student union buildings, field houses,  
22 stadiums, public utility plants and systems and other revenue-  
23 producing buildings and acquire or construct additions, improvements  
24 and extensions to existing buildings and structures used for such  
25 purposes and to equip, furnish, maintain and operate all such  
26 buildings and structures; and to acquire through purchase,  
27 condemnation or otherwise any land, rights-of-way, easements,  
28 licenses and permits needed for the present or future use of such  
29 buildings, structures, plants and systems; provided, that such  
30 boards of regents shall not construct or acquire, for their  
31 respective institutions, such utility plants or systems whose  
32 capacity is in excess of the present or reasonably contemplated

1 future needs of such institutions or related institutions, except as  
2 provided in subsection C hereof.

3 B. When in the opinion of the board of regents of any such  
4 institution any of the buildings, structures, plants and systems  
5 constructed, acquired, improved, extended, added to, furnished or  
6 equipped as above authorized are deemed necessary by the said board  
7 for the comfort, convenience and welfare of the student body as a  
8 whole, or for any specified class or part thereof, the board of  
9 regents shall have authority to charge and collect from all students  
10 in attendance at the university, college, school or institution, or  
11 related institutions, or from any specified class or part thereof  
12 for which such facilities are so deemed necessary, fees and charges  
13 for the use or availability of such buildings and structures and for  
14 the services or commodities to be made available by such plants,  
15 systems or facilities. The proceeds of all such fees and charges  
16 shall be considered as revenues within the meaning of Section 4004  
17 of this title and the provisions of said section shall be applicable  
18 thereto. Where the commodities and services supplied by any such  
19 plant and system temporarily shall be found to be in excess of the  
20 requirements of the university, college, school or institution, or  
21 related institutions, the board of regents may sell the surplus to  
22 other public or nonprofit consumers, including incorporated  
23 municipalities, and in that connection may enter into such  
24 agreements as it may consider advisable. All revenues received from  
25 the sale of such surplus shall likewise be considered and treated as  
26 other revenues under Section 4004 of this title. Such board of  
27 regents may also enter into agreements for the purchase of water,  
28 electricity, gas, heat, or power to be distributed through the  
29 medium of any such plant or systems, provided only that no agreement  
30 entered into under the provisions of this paragraph shall pledge the  
31 credit of the State of Oklahoma.

1 C. Other state agencies or subdivisions of the state may enter  
2 into cooperative agreements with the regents of the universities or  
3 colleges on projects for the primary benefit of such university or  
4 college, and make use of facilities and services financed by bonds  
5 issued by the university or college, as authorized herein and under  
6 the terms and conditions of this section.

7 D. It is the intent of the Legislature that no additional  
8 public trusts having the state as beneficiary be created to finance  
9 the purchase of land or facilities or the construction of facilities  
10 at institutions of The Oklahoma State System of Higher Education or  
11 their agencies and that no beneficial interest in a public trust be  
12 accepted on behalf of the State of Oklahoma or any agency thereof  
13 involving an institution of higher learning; and that no additional  
14 projects be authorized for existing public trusts having the state  
15 as beneficiary now operating for the direct or indirect benefit of  
16 any institution of The Oklahoma State System of Higher Education or  
17 its agencies, except that the heating-cooling plant at the Oklahoma  
18 Health Sciences Center may be repaired or expanded, if approved by  
19 the Oklahoma State Regents for Higher Education and except as  
20 provided in Section 4017 of this title and in the Oklahoma Higher  
21 Education Finance Authority Act.

22 SECTION 23. AMENDATORY 74 O.S. 1991, Section 85.4, as  
23 last amended by Section 3, Chapter 371, O.S.L. 1998 (74 O.S. Supp.  
24 1998, Section 85.4), is amended to read as follows:

25 Section 85.4 A. Except as provided in Section 85.12 of this  
26 title, every state agency shall make all acquisitions used, consumed  
27 or spent by the state agency in the performance of its official  
28 functions by the presentation of requisitions to the Purchasing  
29 Division established in Section 85.3 of this title and no  
30 acquisitions shall be acquired by any state agency for such use or  
31 consumption except by the presentation of the requisition and  
32 receipt of the acquisitions requisitioned through the Purchasing

1 Division. The provisions of the Oklahoma Central Purchasing Act  
2 shall not preclude the acceptance of gifts and donations in the  
3 manner now authorized by law or the purchase of any acquisition by  
4 any state agency acting for itself and without presentation of a  
5 requisition when such acquisition is authorized in writing by the  
6 State Purchasing Director. Subject to the provisions of this  
7 section, every state agency shall have the authority to determine  
8 its own quantitative needs for acquisitions, insofar as it has such  
9 authority under existing law and shall have the authority to  
10 determine the general class or nature of acquisitions, subject to  
11 the provisions of Section 85.5 of this title.

12 B. The Director of the Department of Central Services shall  
13 prescribe standardized contract forms and all other forms requisite  
14 or deemed necessary by the Director of the Department of Central  
15 Services to effectuate the provisions of this section and the  
16 Oklahoma Central Purchasing Act.

17 C. 1. Each requisition required by this section for the  
18 acquisition of any product shall be accompanied by a statement  
19 signed by the chief administrative officer of the state agency or  
20 the chief administrative officer of the requisitioning unit of the  
21 state agency certifying:

- 22 a. the product requested is necessary to the agency's  
23 responsibilities,
- 24 b. the amount of the product requested is not excessive,  
25 and
- 26 c. the justification for the purchase of the product.

27 2. Each requisition required by this section for  
28 nonprofessional services or professional services whether or not  
29 such services are exempt from the competitive bidding requirements  
30 pursuant to Section 85.7 of this title shall be accompanied by a  
31 statement signed by the chief administrative officer of the state  
32

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

- 3 a. no employee of the state agency is able and available  
4 to perform the services called for by the contract,
- 5 b. the state agency shall receive, review and accept a  
6 detailed work plan from the contractor for performance  
7 pursuant to the contract if requested by the State  
8 Purchasing Director,
- 9 c. the state agency has developed, and fully intends to  
10 implement, a written plan providing for the assignment  
11 of specific state agency personnel to:
  - 12 (1) a monitoring and auditing function,
  - 13 (2) the periodic review of interim reports, or other  
14 indications of past performance, and
  - 15 (3) the ultimate utilization of the final product of  
16 the nonprofessional or professional services if  
17 requested by the State Purchasing Director,
- 18 d. the work to be performed under the contract is  
19 necessary to the state agency's responsibilities, and  
20 there is statutory authority to enter into the  
21 contract,
- 22 e. the contract will not establish an employment  
23 relationship between the state or the state agency and  
24 any persons performing under the contract,
- 25 f. no current state employee will engage in the  
26 performance of the contract, unless specifically  
27 approved by the State Purchasing Director; and
- 28 g. the purchase of the nonprofessional or professional  
29 services is justified.

30 3. When a state agency requisitions acquisitions that are to be  
31 supplied in components or phases, the requisition shall list each  
32 component or phase and the same shall be included on the Invitation



1 to Bid. The determination of the lowest and best bid or best value  
2 bid, as required by the Oklahoma Central Purchasing Act, shall  
3 include all component or phase deliveries and shall not be based  
4 solely on the first component or phase delivery. State agencies may  
5 issue change orders to increase a purchase order for an acquisition  
6 not to exceed ten percent (10%) of the original purchase order total  
7 price.

8 D. Any person certifying the information required by subsection  
9 C of this section who knows such information to be false, upon  
10 conviction, shall be deemed guilty of a misdemeanor and shall be  
11 punished by fine or imprisonment or both fine and imprisonment  
12 pursuant to the provisions of Section 85.15 of this title and  
13 civilly liable for the amount of the contract.

14 E. The State Purchasing Director may request any additional  
15 information necessary to adequately review the requisitions and the  
16 statements required pursuant to subsection C of this section and  
17 compliance with the Oklahoma Central Purchasing Act.

18 F. Upon a determination that an acquisition is not necessary,  
19 is excessive or is not justified, the State Purchasing Director  
20 shall deny the requisition.

21 G. 1. No state agency shall enter into a lease-purchase  
22 agreement if title is acquired to tangible property of any class or  
23 nature by making lease, rental, or any other type payments, except  
24 as specifically authorized by law or by a governing board of regents  
25 as to institutions of The Oklahoma State System of Higher Education  
26 and except insofar as data processing equipment or other equipment  
27 is concerned; provided, however, the lease-purchase of data  
28 processing or other equipment by any state agency, whether or not  
29 the state agency is subject to the provisions of the Oklahoma  
30 Central Purchasing Act, shall be processed by competitive bids  
31 through the Purchasing Division of the Department of Central  
32 Services.

1           2. The Executive Bond Oversight Commission and the Legislative  
2 Bond Oversight Commission shall have the authority to determine the  
3 most cost-effective method for obtaining financing for lease-  
4 purchase agreements, which may be financed by either negotiated sale  
5 or competitive bid. If the Executive Bond Oversight Commission and  
6 the Legislative Bond Oversight Commission determine that the lease-  
7 purchase of personal or real property should be financed through  
8 negotiated sale, the financing shall be subject to the provisions of  
9 the Oklahoma Bond Oversight and Reform Act, 62 O.S. 1991, Section  
10 695.1 et seq. Unless said Commissions determine that the sale  
11 should be executed on a negotiated basis, such financing shall be  
12 processed by competitive bids through the Purchasing Division of the  
13 Department of Central Services.

14           3. Regardless of the method of financing, the acquisition price  
15 of personal property subject to a lease-purchase agreement shall be  
16 processed by competitive bids through the Purchasing Division of the  
17 Department of Central Services.

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

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

29           I. 1. No change order or addendum can be made to a lease-  
30 purchase agreement which extends the term or life of the original  
31 bid contract. Any lease-purchase agreement requiring such  
32 extensions or refinancing shall be readvertised and processed in

1 accordance with the provisions of the Oklahoma Central Purchasing  
2 Act.

3 2. All state agencies, whether or not the state agency is  
4 subject to the provisions of the Oklahoma Central Purchasing Act,  
5 shall prepare a list of all tangible personal property which it is  
6 acquiring by a lease-purchase method and, prior to the renewal of a  
7 lease-purchase agreement, shall evaluate the rate being paid under  
8 the current lease-purchase agreement against rates currently being  
9 received by the Purchasing Division of the Department of Central  
10 Services on a competitive bid basis to determine whether or not  
11 refinancing of the property will benefit the state. Any state  
12 agency which elects not to submit a requisition for a possible  
13 refinancing when the existing rates are at least one percent (1%)  
14 above rates being currently bid, and when the total sum to be paid  
15 for the property including principal and interest will be reduced,  
16 must submit a written justification to the State Purchasing Director  
17 stating the reasons for not attempting to refinance the property.  
18 The Purchasing Director shall forward all such justifications to the  
19 Chairman of the Appropriations Committee of the Senate and the  
20 Chairman of the Committee on Appropriations and Budget of the House  
21 of Representatives no later than February 1 of each year.

22 3. Unless otherwise provided by law, no state agency shall  
23 enter into a lease-purchase agreement for real or personal property  
24 costing less than Fifty Thousand Dollars (\$50,000.00). Institutions  
25 of The Oklahoma State System of Higher Education shall be exempt  
26 from this provision.

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

1 property, respectively. Institutions of The Oklahoma  
2 State System of Higher Education shall be exempt from  
3 this provision.

4 b. The Executive Bond Oversight Commission and the  
5 Legislative Bond Oversight Commission shall have the  
6 authority to extend the term of a lease-purchase  
7 agreement beyond three (3) years for personal property  
8 and ten (10) years for real property if the State  
9 Purchasing Director determines that the useful life of  
10 the property exceeds said terms and the Oklahoma State  
11 Bond Advisor recommends the extension as being in the  
12 best interests of the State of Oklahoma.

13 5. Unless otherwise provided by law, state agency real property  
14 acquisitions subject to lease-purchase agreements shall be  
15 explicitly authorized by the Legislature. Acquisitions of real  
16 property authorized by the Legislature, unless otherwise exempted by  
17 the Legislature, shall be subject to the competitive bid provisions  
18 of the Oklahoma Central Purchasing Act. If a state agency is  
19 authorized to enter into a lease-purchase agreement for real  
20 property, the financing of such acquisition, including acquisitions  
21 deemed desirable for executing a lease-purchase, certificate of  
22 participation, or similar agreement or obligation, shall be obtained  
23 in accordance with the provisions of the Oklahoma Central Purchasing  
24 Act. The State Purchasing Director shall consult with the Oklahoma  
25 State Bond Advisor on the preparation, evaluation, and negotiation  
26 of such financing. Legislative authorization shall constitute legal  
27 authorization for this state or state agencies to enter into such  
28 lease-purchase agreements. Institutions of The Oklahoma State  
29 System of Higher Education shall be exempt from this provision.

30 J. The State Purchasing Director may permit leasing of products  
31 by state agencies if such leasing is determined by the State  
32 Purchasing Director to be in the best interest of the state,

1 provided that such leasing must be processed by competitive bids  
2 through the State Purchasing Director except as to those  
3 acquisitions exempt under Section 85.12 of this title.

4 K. 1. In no event shall a state agency enter into a lease-  
5 purchase agreement unless that agreement contains the following or  
6 similar language:

7 The State of Oklahoma reserves the right to approve any  
8 reoffering of this obligation to another investor either through  
9 private placement, issuance of certificates of participation, or any  
10 other mechanism. Such approval must be obtained in advance, in  
11 writing, from the Oklahoma State Bond Advisor prior to any  
12 remarketing.

13 2. In the event that a remarketing of a lease-purchase  
14 agreement is proposed that includes the remarketing of securities or  
15 obligations to more than a single investor, any disclosure language  
16 prepared in connection with such marketing that describes the  
17 state's liability under the lease-purchase agreement must be  
18 approved in advance, in writing, by the Oklahoma State Bond Advisor.

19 L. 1. Whenever it appears advantageous to the state or any  
20 state agency to purchase or otherwise acquire any acquisition which  
21 may be offered for sale by the government of the United States of  
22 America or any agency thereof, the State Purchasing Director may  
23 enter into a contract for the acquisition with the federal  
24 government or with any federal agency charged with the sale or  
25 disposition of such equipment, supplies, material, or other  
26 property, and the State Purchasing Director shall be authorized to  
27 execute such contract.

28 2. Should the regulations of the federal government, or any  
29 agency thereof handling the disposition and sale of any equipment,  
30 supplies, materials, or other property which it would be  
31 advantageous to the state to purchase, require that partial or full  
32 payment be made at the time sale is effected and before the

1 equipment, supplies, material, or other property will be delivered,  
2 the State Purchasing Director, upon requisition by the requesting  
3 party, shall draw a state warrant against the funds of the  
4 department or agency payable to the United States of America or its  
5 proper agency. The warrant shall be in such amount as may be  
6 necessary to meet the terms and conditions of sale without requiring  
7 a certificate showing that the equipment, supplies, material, or  
8 other property has actually been delivered to the state department  
9 or other agency in whose behalf the purchase is being negotiated.

10 M. Provided, the acquisition of equipment by an institution or  
11 entity within The Oklahoma State System of Higher Education through  
12 the Oklahoma Higher Education Finance Authority shall not be subject  
13 to the provisions of this section.

14 SECTION 24. AMENDATORY 74 O.S. 1991, Section 85.12, as  
15 last amended by Section 7, Chapter 371, O.S.L. 1998 (74 O.S. Supp.  
16 1998, Section 85.12), is amended to read as follows:

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

22 B. The following acquisitions shall not be included within the  
23 purview of the Oklahoma Central Purchasing Act, except for Section  
24 85.39 of this title:

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

27 2. Contracts for construction of new buildings and for the  
28 repair, maintenance or modernization of old buildings by  
29 institutions of The Oklahoma State System of Higher Education;

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

1 order to be exempt from Purchasing Division processing pursuant to  
2 this paragraph, the state agency may only use equipment owned or  
3 leased by the agency and may only utilize that equipment for  
4 printing services required by the agency in performing duties  
5 imposed upon the agency or functions authorized to be performed by  
6 the agency. Any use of the equipment by the agency pursuant to an  
7 agreement or contract with any other entity resulting in delivery of  
8 intermediate or finished products to the entity purchasing or using  
9 the products shall be subject to the provisions of the Oklahoma  
10 Central Purchasing Act;

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

19 5. Department of Transportation and Transportation Commission  
20 contractual services or right-of-way purchases. Contracts awarded  
21 pursuant to bids let by the Transportation Commission for the  
22 maintenance or construction of streets, roads, highways, bridges, or  
23 underpasses, or any other transportation facilities under the  
24 control of the Department of Transportation, the acquisitions of  
25 equipment or materials accruing to the Department of Transportation  
26 required in Federal-Aid contracts, and contracts for public service  
27 type announcements initiated by the Department of Transportation.  
28 Contractual services as used herein shall not include advertising or  
29 public relations or employment services;

30 6. Utility services where rates therefor are regulated by a  
31 state or federal regulatory commission, or by city ordinance or by  
32

1 an Indian Tribal Council for use by the Department of Corrections  
2 only;

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

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

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

16 10. Purchases by the Oklahoma Municipal Power Authority;

17 11. Acquisitions by the Grand River Dam Authority;

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

21 13. Purchases by the Oklahoma Ordnance Works Authority, the  
22 Northeast Oklahoma Public Facilities Authority or the Midwestern  
23 Oklahoma Development Authority;

24 14. Contracts entered into by the Oklahoma Industrial Finance  
25 Authority for the services of an appraiser or for acquisition of  
26 insurance when the Authority's Board of Directors determines that an  
27 emergency exists, and for the services of legal counsel when  
28 approved by the Attorney General;

29 15. Expenditure of monies appropriated to the State Board of  
30 Education for the purpose of Local, State-supported Programs and  
31 State-supported Programs except monies appropriated for the  
32



1 Administrative and Support Functions of the State Department of  
2 Education;

3 16. Expenditure of monies appropriated to the State Department  
4 of Rehabilitation Services for educational programs or educational  
5 materials for the Oklahoma School for the Blind and the Oklahoma  
6 School for the Deaf;

7 17. Contracts entered into by the Oklahoma Department of  
8 Vocational and Technical Education for the development, revision, or  
9 updating of vocational curriculum materials, and contracts entered  
10 into by the Oklahoma Department of Vocational and Technical  
11 Education for training and supportive services that meet the needs  
12 of new or expanding industries;

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

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

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

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

25 22. Contracts for managed health care services entered into by  
26 the state entity designated by law or the Department of Human  
27 Services, as specified in paragraph 1 of subsection A of Section  
28 1010.3 of Title 56 of the Oklahoma Statutes;

29 23. Purchases of products by the Forestry Service of the State  
30 Department of Agriculture as authorized by the federal General  
31 Services Administration through a General Services Administration  
32 contract or other federal contract if the item is not on current

1 statewide contract or the terms of such federal contract are more  
2 favorable to the agency than the terms of a statewide contract for  
3 the same products;

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

7 25. Purchases made or contracts entered into by the Oklahoma  
8 Energy Resources Board;

9 26. Purchases or acquisitions of clothing for juveniles in the  
10 custody of the Office of Juvenile Affairs and purchases and  
11 acquisitions of food for group homes operated by the Office of  
12 Juvenile Affairs;

13 27. State contracts for flexible benefits plans pursuant to the  
14 Oklahoma State Employees Benefits Act, Section 1361 et seq. of this  
15 title;

16 28. Expenditures incurred by the Department of Securities to  
17 investigate, initiate, or pursue administrative, civil, or criminal  
18 proceedings involving potential violations of the acts under the  
19 Department's jurisdiction;

20 29. Acquisitions by the Native America Cultural and Educational  
21 Authority and acquisitions by the Oklahoma Department of Commerce to  
22 assist the Native American Cultural and Educational Authority  
23 pursuant to Section 5017 of this title; ~~and~~

24 30. Acquisitions for resale in and through canteens operated  
25 pursuant to Section 537 of Title 57 of the Oklahoma Statutes; and

26 31. Acquisitions by institutions and entities of The Oklahoma  
27 State System of Higher Education of equipment and other personal  
28 property made through the Oklahoma Higher Education Finance  
29 Authority.

30 C. Notwithstanding the exclusions provided herein, any agency  
31 or common school of Oklahoma, any municipality of the state, any  
32 rural fire protection district, and county officers may, unless the

1 contract with the state specifies otherwise, avail themselves of the  
2 Purchasing Division statewide contracts and the services of the  
3 State Purchasing Director. Provided further, however, that any  
4 subdivision of government and any rural fire protection district of  
5 the state may designate the State Purchasing Director as its agent  
6 for the purchase or procurement of any acquisition from a statewide  
7 contract or otherwise available to the state.

8 D. Notwithstanding the exclusions provided herein, the  
9 purchasing policies and procedures of the Oklahoma Ordnance Works  
10 Authority, the Northeast Oklahoma Public Facilities Authority, the  
11 University Hospitals Authority, and the Midwestern Oklahoma  
12 Development Authority shall be subject to approval by the Director  
13 of the Department of Central Services, and the State Purchasing  
14 Director shall make periodic audits of the purchasing policies and  
15 procedures of the Oklahoma Ordnance Works Authority, the Northeast  
16 Oklahoma Public Facilities Authority, the University Hospitals  
17 Authority, and the Midwestern Oklahoma Development Authority to  
18 ensure that said purchasing policies and procedures, as approved,  
19 are being followed.

20 SECTION 25. This act shall become effective November 1, 1999.

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