

Committee Substitute for House Bill No. 1841

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1841 -- By RICE of the House and EASLEY of the Senate.

An Act relating to flood hazard mitigation; amending 63 O.S. 1991, Sections 683.1, 683.2, 683.3, 683.4, 683.6, and 683.8, which relate to the Oklahoma Civil Defense and Emergency Resources Management Act; modifying short title; modifying purpose and legislative intent; adding and modifying definitions; modifying and adding to powers and duties of the Director of the Department of Civil Defense; updating language; modifying and adding to powers of the Department of Civil Defense; clarifying and adding to responsibility of the Governor; creating the Oklahoma Flood Hazard Mitigation Program; specifying purpose; defining terms; adding to powers and duties of the Oklahoma Department of Civil Emergency Management; providing process for grant or loan; requiring prioritization; setting priorities; creating the State Hazard Mitigation Team; providing membership and duties; authorizing political subdivisions to acquire real property for specific uses; providing procedures; authorizing uses; expanding use of the Statewide Water Development Revolving Fund; establishing a Flood Hazard Mitigation Financial Assistance Program; defining terms; creating the Flood Hazard Mitigation Account; specifying purpose; providing for uses, deposits and expenditures; adding to powers and duties of the Oklahoma Water Resources Board relating to flood mitigation funding; requiring certain agreements; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 683.1, is amended to read as follows:

This act may be cited as the "Oklahoma Civil Defense and Emergency Resources Management Act" ~~of 1967~~.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 683.2, is amended to read as follows:

Section 683.2 A. Because of the existing and increasing possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from enemy attack, sabotage, or other hostile action, ~~or~~ from fire, flood, tornado, earthquake, or from other causes, ~~and~~ in order to ~~insure~~ ensure that preparations of this state will adequately deal with such disasters and emergencies, ~~and~~ to generally provide for the common defense and to protect the public peace, health, and safety, ~~and~~ to preserve the lives and property of the people of this state, and to carry out the objectives of state and national survival and recovery in the event of enemy attack, it is hereby found and declared to be necessary to:

1. ~~To create a State~~ Create the Oklahoma Department of Civil Defense Agency, and to authorize Emergency Management;

2. Authorize the creation of local organizations for civil defense in the political subdivisions of ~~the~~ this state;

~~2. To provide~~ 3. Provide for the formulation and execution of a plan of emergency resources management;

~~3. To confer~~ 4. Confer upon the Governor and upon the executive heads or governing bodies of the political subdivisions of the state the emergency powers provided ~~herein~~ by the Oklahoma Civil Defense and Emergency Resources Management Act;

~~4. To provide~~ 5. Provide for the rendering of mutual aid among the political subdivisions of ~~the~~ this state and with other states to cooperate with the federal government with respect to carrying out civil defense and emergency resources management functions and hazard mitigation; and

~~5. To provide~~ 6. Provide sufficient organization to meet, prevent or reduce emergencies in the general interest and welfare of the public and ~~the~~ this state.

B. It is further declared to be the purpose of ~~this act~~ the Oklahoma Civil Defense and Emergency Resources Management Act and the policy of this state that all civil defense ~~and~~, emergency resources management and hazard mitigation functions of this state be coordinated to the maximum extent with the comparable functions of the federal government, including its various departments and agencies, of other states and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of available ~~manpower~~ workforce, resources and facilities for dealing with disaster and hazard mitigation.

SECTION 3. AMENDATORY 63 O.S. 1991, Section 683.3, is amended to read as follows:

Section 683.3 As used ~~herein~~ in the Oklahoma Civil Defense and Emergency Resources Management Act:

1. "Civil defense" ~~shall mean~~ means the preparation for and the carrying out of all emergency functions, other than functions for which the military services are primarily responsible, by organized and trained volunteer civilian persons, who will extend existent governmental functions and provide other necessary nongovernmental functions, ~~as listed below~~, to prevent, minimize and repair injury and damage resulting from enemy attack, sabotage, or other hostile action, or disasters caused by fire, flood, tornado, earthquake, or other causes developing to such an extent to cause an extreme emergency situation to arise which by declaration of the Governor jeopardizes the welfare of the citizens of this state. These emergency functions include ~~without limitation~~, but are not limited to, fire fighting services, police services, medical and health services, rescue, engineering, air raid warning services, communications, radiological, chemical and other special weapons of defense, evacuations of persons from stricken areas, emergency welfare services, (civilian war aid), emergency transportation, existing or properly assigned functions of plant protection, integration of industry emergency plans into civil defense plans, assistance to private and public utility companies in the temporary restoration of public utility services, and other functions

related to civilian protection, together with all other activities necessary or incidental to the preparation for and carrying out of the ~~foregoing~~ emergency functions-;

2. "Emergency Resources Management Plan" ~~shall mean~~ means that plan which sets forth the organization, administration and functions for the civil defense emergency resources management by the state government of essential resources and economic stabilization within the state. Such plan shall provide an emergency organization and emergency administrative policies and procedures for the conservation, allocation, distribution, and use of essential resources available to the state following a civil defense emergency such as an attack upon the United States. ~~It~~ The Emergency Resources Management Plan shall be supplemental to the national plan for emergency preparedness adopted by the President of the United States, and shall become operative upon the establishment of a civil defense emergency. To the extent that the federal government is either incapable of or not prepared to conduct its emergency resources management program, the state plan will substitute for and replace the federal program until such time as the federal program becomes effective in the state-;

3. "~~Civil defense or disaster~~ emergency" ~~in Oklahoma~~ means any state of emergency caused by enemy attack upon the United States or a state of emergency declared by the President of the United States or the Governor of Oklahoma upon the occurrence of an attack upon the United States or when such attack is imminent or when an emergency is caused by a disaster, ~~natural or manmade~~. A ~~civil defense or disaster~~ emergency terminates upon declaration of the Governor of Oklahoma or concurrent resolution of the Oklahoma Legislature to such effect, or at the end of thirty (30) days if not renewed by the Governor or the Legislature, with the following exception: A proclamation of the Governor establishing a civil defense emergency, when an enemy attack upon the United States is imminent, shall not be issued on a legislative day when the Oklahoma Legislature is in session without first being approved by concurrent resolution of the Legislature. A proclamation of the Governor terminating a civil defense emergency for an enemy attack upon the United States shall not be issued during the time that the Oklahoma Legislature is in session without first being approved by concurrent resolution of the Legislature-;

4. "Emergency" means any occasion or instance for which, in the determination of the President of the United States or the Governor of the State of Oklahoma, federal or state assistance is needed to supplement state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert threat of a catastrophe in any part of the State;

5. "Enemy attack" means an actual attack by a foreign nation by hostile air raids, or other forms of warfare upon this state or any other state or territory of the United States-;

~~5.~~ 6. "Hazard mitigation" means any cost-effective measure which will reduce or eliminate the effects of a natural disaster;

~~7.~~ 7. "Local organization for civil defense" ~~shall mean~~ means an organization created in accordance with the provisions of ~~this act~~ the Oklahoma Civil Defense and Emergency Resources Management Act by state or local authority to perform local civil defense functions;

~~6.~~ 8. "Mobile support units" ~~shall mean~~ means an organization for civil defense created in accordance with the provisions of ~~this act~~ the Oklahoma Civil Defense and Emergency Resources Management Act by state or local authority to be dispatched by the Governor to supplement local organizations for civil defense in a stricken area;

~~7.~~ 9. "Natural disaster" means any natural catastrophe, including, but not limited to, a tornado, storm, high water, flood waters, wind-driven water, earthquake, landslide, mudslide, snowstorm, or drought which causes damage of sufficient severity and magnitude to warrant hazard mitigation or the use of resources of the federal government, the state and political subdivisions thereof to alleviate the damage, loss, hardship or suffering caused thereby; and

10. "Political subdivision" shall mean any county, city, town or municipal corporation of the State of Oklahoma.

SECTION 4. AMENDATORY 63 O.S. 1991, Section 683.4, is amended to read as follows:

Section 683.4 (a) ~~A.~~ A. There is hereby created ~~within the executive branch of the state government~~ a Department of Civil Defense (herein called the "Civil Defense Agency") and a Director of Civil Defense (herein called the "Director") who shall be the head thereof. At such time as the Federal Emergency Management Agency changes the name of the Office of Civil Defense to the Office of Civil Emergency Management, the Department of Civil Defense of this state shall be renamed the Oklahoma Department of Civil Emergency Management. The ~~Director shall be appointed by the Governor~~ shall appoint a Director of the Department, with the advice and consent of the Senate, ~~and the who shall be the head of the Department.~~ The Governor shall fix the salary of the Director, in cooperation with standards promulgated by the Office of Personnel Management.

~~(b)~~ B. The Director may employ such technical, clerical, stenographic, and other personnel and fix their compensation in cooperation with standards promulgated by the Office of Personnel Management, and may make such expenditures within the appropriation therefor, or from such other available funds ~~made available to him for purposes of civil defense~~, as may be necessary to carry out the purposes of ~~this act~~ the Oklahoma Civil Defense and Emergency Resources Management Act and other programs specified by law.

(c) C. The Director and other personnel of the ~~Civil Defense Agency~~ Department shall be provided with appropriate office space, furniture, equipment, supplies, stationery, and printing in the same manner as provided for personnel of other state agencies.

(d) D. The Director, subject to the direction and control of the Governor, shall be the executive head of the ~~Civil Defense Agency~~ Department and shall be:

1. Be responsible to the Governor for carrying out the ~~program for civil defense in this state. The Director shall~~ coordinate programs as required by law;

2. Coordinate the activities of all organizations for civil defense within the state, ~~and shall maintain;~~

3. Maintain liaison with and cooperate with the civil defense agencies and organizations of other states and of the federal government;

4. Develop and maintain a comprehensive mitigation plan for this state. Implement the Oklahoma Hazard Mitigation Program; and shall have

5. Have such additional authority, duties, and responsibilities authorized by ~~this act~~ the Oklahoma Civil Defense and Emergency Resources Management Act as may be prescribed by the Governor.

(e) E. The Director shall supervise the formulation, execution, review and ~~immediate revision~~ revisions of the Emergency Resources Management Plan as provided for by Section 683.2 of this title. ~~Thereafter, the~~ The plan shall be reviewed annually and revised as necessary.

SECTION 5. AMENDATORY 63 O.S. 1991, Section 683.6, is amended to read as follows:

Section 683.6 A. There is hereby created a Civil Defense Advisory Council (~~hereinafter called the "Council"~~) ~~and the~~ The members of ~~this the~~ the Council shall be composed of the Governor, who shall serve as chair of the Council, and the following department heads: ~~the Director(s)~~

1. The Director of ~~Civil Defense,~~ the Oklahoma Department of Civil Emergency Management;

2. The Commissioner of Public Safety, ~~the;~~

3. The Adjutant General, ~~the;~~

4. The Commissioner of Health, ~~the;~~

5. The President of the Board of Agriculture, ~~the;~~

6. The Director of the Department of ~~Public Welfare,~~ Human Services; and the

7. The Director of the Department of Transportation,; and

8. The Director of the Oklahoma Water Resources Board, who shall serve without additional compensation.

B. The Council shall advise the Governor and the Director on all matters pertaining to civil defense. ~~The Governor shall serve as Chairman of the Council.~~

C. 1. There is hereby created the State Hazard Mitigation Team, composed of the administrative heads of the following agencies or their designees:

a. Oklahoma Department of Civil Emergency Management, who shall serve as the Team Coordinator,

b. Oklahoma Water Resources Board,

c. Oklahoma Climatological Survey,

d. Oklahoma Conservation Commission,

e. Oklahoma Corporation Commission,

f. Oklahoma Department of Commerce,

g. Oklahoma Department of Environmental Quality,

h. Oklahoma Department of Human Services,

i. Oklahoma Department of Health,

j. Oklahoma Department of Transportation,

k. Oklahoma Department of Wildlife Conservation,

l. Oklahoma Historical Society, and

m. Oklahoma Insurance Commission.

2. Depending on the circumstances, the Team Coordinator may request participation of the heads of any other state agencies as deemed appropriate.

3. The Team Coordinator shall also request that a representative of the United States Army Corps of Engineers be appointed by the administrative head of the Tulsa District to participate on the Team.

4. The State Hazard Mitigation Team will meet as determined by the Team Coordinator to review and recommend updates to the State Comprehensive Hazard Mitigation Plan, and shall have those additional responsibilities as provided by

the Team Coordinator, including but not limited to the review and recommendation for loan and grant application under the Oklahoma Flood Hazard Mitigation Program.

SECTION 6. AMENDATORY 63 O.S. 1991, Section 683.8, is amended to read as follows:

Section 683.8 ~~(a)~~ A. The Governor shall have general direction and control of the Oklahoma Department of Civil Defense Agency Emergency Management and shall be responsible for carrying out the provisions of ~~this act and, in the Oklahoma Civil Defense and Emergency Resources Management Act. In~~ the event of ~~disaster~~ a civil defense emergency beyond local control, the Governor may assume direct operational control over all or any part of the civil defense ~~or emergency~~ functions within this state.

~~(b)~~ B. The Governor shall have general direction and control of the emergency resources management within the state and all officers, boards, agencies, individual or groups established under the Emergency Resources Management Plan. The Governor shall have the authority ~~under this act~~ pursuant to the Oklahoma Civil Defense and Emergency Resources Management Act to establish such offices, boards, agencies, or positions as may be necessary to carry into effect the Emergency Resources Management Plan.

~~(c) In performing his duties under this act, the~~ C. The Governor is authorized to cooperate with the federal government, with other states, and with private agencies in all matters pertaining to the civil defense of this state and of the nation and the emergency management of resources.

~~(d) In performing his duties under this act, and to~~ D. To effect ~~its~~ the policy and purpose of the Oklahoma Civil Defense and Emergency Resources Management Act, the Governor is further authorized and empowered to:

~~(1) To make~~ 1. Make, amend, and rescind the necessary orders, ~~and~~ rules, ~~and~~ regulations to carry out the provisions of ~~this act~~ the Oklahoma Civil Defense and Emergency Resources Management Act within the limits of authority conferred upon ~~him~~ the Governor herein, with due consideration of the civil defense and emergency resources management plans of the federal government;

~~(2) To cause~~ 2. Cause to be prepared now and from time to time hereafter a comprehensive plan and program for civil defense and emergency management of resources of this state, such plans and programs to be integrated into and coordinated with the plans of the federal government and of other states to the fullest possible extent, and to coordinate the preparation of plans and programs for civil defense and emergency resources management by the political subdivisions of this state, such

plans to be integrated into and coordinated with the State Civil Defense and Emergency Resources Management Plan to the fullest possible extent;

~~(3) In accordance with such plans and programs, to procure~~ 3. Procure supplies and equipment in accordance with such plans and programs, ~~to~~ institute training programs and public information programs, ~~and to~~ take all other preparatory steps, including the partial or full mobilization of civil defense organizations in advance of actual disaster, and to insure ~~ensure~~ the furnishing of adequately trained and equipped forces of civil defense personnel in time of need, during periods of national emergency, or natural disasters that might occur in this state, or which develop into emergency situations;

~~(4) To make~~ 4. Make such studies and surveys of the industries, resources, and facilities of this state as may be necessary to ascertain the capabilities of this state for civil defense and emergency management of resources;

~~(5) 5.~~ On behalf of this state, ~~to~~ enter into mutual aid arrangements with other states and ~~to~~ coordinate mutual aid plans between political subdivisions of this state;

~~(6) To delegate~~ 6. Delegate any administrative authority vested in ~~him under this act~~ the Governor pursuant to the Oklahoma Civil Defense and Emergency Resources Management Act, and ~~to~~ provide for subdelegation of any such authority;

~~(7) To appoint~~ 7. Appoint, in cooperation with local authorities, metropolitan area civil defense directors when practicable;

~~(8) To cooperate~~ 8. Cooperate with the President of the United States and the heads of the Armed Forces, the ~~Civil Defense Agency of the United States, the national Office of Emergency Planning~~ Federal Emergency Management Agency, and other appropriate federal officers and agencies, with the officers and agencies of other states in matters pertaining to the emergency management of resources of the state and nation and the civil defense of the state and nation, including the direction and control of ~~(a)~~;

- a. blackouts and practice blackouts, air raid drills, mobilization of civil defense forces, and other tests and exercises; ~~(b)~~,
- b. warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith; ~~(c)~~,
- c. the conduct of civilians and the movement of and cessation of movement of pedestrians and vehicular traffic during, prior and subsequent to drills or attacks; ~~(d)~~,

- d. public meetings or gatherings; and ~~(e)~~
- e. the evacuation and reception of the civil population; and

~~(9) To prescribe~~ 9. Prescribe uniform signals, warnings, alerts, credentials and insignia.

E. In addition to prevention measures included in the state and local comprehensive disaster management plans and programs for civil defense and emergency management of resources, the Governor shall consider on a continuing basis steps that could be taken to mitigate the harmful consequences of emergencies and natural disasters. At the Governor's direction and pursuant to any other authority specified by law, state agencies, including but not limited to those charged with responsibilities in connection with floodplain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land use planning, and construction standards, shall make studies of matters related to potential to mitigate emergency and natural disasters. The Governor, from time to time, shall make such recommendations to the Legislature, to political subdivisions and to other appropriate public and private entities as may facilitate measures for mitigation of the harmful consequences of emergencies and natural disasters.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 690.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Sections 7 through 13 of this act shall be known and may be cited as the "Oklahoma Flood Hazard Mitigation Program".

B. The purposes of the Oklahoma Flood Hazard Mitigation Program are to provide:

1. An orderly and continuing means of assistance by the state government to political subdivisions of this state in carrying out their responsibilities to alleviate the suffering and damage that result from flooding by:

- a. providing state assistance programs for public losses and needs sustained in flood disasters,
- b. encouraging the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the state and political subdivisions,
- c. achieving greater coordination and responsiveness of flood disaster preparedness and relief programs, and
- d. encouraging hazard mitigation measures, such as development of land-use and construction regulations, floodplain management, and environmental planning, to reduce losses from flood disasters in municipalities;

2. For the protection of life and property and to limit the repetitive expenditures of public funds in areas that are subject to chronic flooding and other flood disasters;

3. Financial assistance to local governments for the development and implementation of flood hazard mitigation projects;

4. For the cooperation of state environmental agencies and other state and federal agencies in the development and implementation of the Oklahoma Flood Hazard Mitigation Program; and

5. For the establishment of land development principles which will eliminate inappropriate and unsafe real estate development in municipal areas subject to repetitive or chronic flooding.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 690.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

For purposes of the Oklahoma Flood Hazard Mitigation Program:

1. "Board" means the Oklahoma Water Resources Board;

2. "Department" means the Oklahoma Department of Civil Emergency Management;

3. "Dwelling unit" means a place of residence and may be a single- or multiple-dwelling building;

4. "Flood" or "flooding" means general and temporary conditions of partial or complete inundation of normally dry land areas from the overflow of lakes, streams, rivers, or any other inland waters and from surface run-off;

5. "Flood hazard mitigation" means any cost-effective measure which will reduce or eliminate the effects of a flood disaster;

6. "Flood hazard mitigation projects" means those projects designed to correct, alleviate or eliminate a condition or situation which poses a repetitive threat to life, property, or public safety from the effects of a flood disaster;

7. "Flood disaster" means any flood catastrophe, including but not limited to high water, flood waters, or wind-driven water which causes damage of sufficient severity and magnitude to warrant flood hazard mitigation or the use of resources of the federal government, or the state and political subdivisions thereof to alleviate the damage, loss, hardship, or suffering caused thereby;

8. "Political subdivision" means any county, city, town, or municipal corporation of the State of Oklahoma;

9. "Real property" includes all lands, including improvements and fixtures thereon, and property of any nature which is appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein including terms for years; and

10. "State Hazard Mitigation Team" means the entity created pursuant to Section 5 of this act.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 690.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. In addition to other responsibilities and duties specified by law, the Oklahoma Department of Civil Emergency Management:

1. Shall develop and maintain flood hazard mitigation measures for this state, as a component of the state's comprehensive hazard mitigation plan and consistent with the flood hazard mitigation plans of the federal government to the fullest possible extent. The Department shall coordinate and encourage the development and publication of flood hazard mitigation plans by political subdivisions to ensure that such political subdivision plans are consistent with the flood hazard mitigation measures in the comprehensive hazard mitigation plan of this state to the fullest possible extent;

2. Shall provide guidance, information and training sufficient to allow political subdivisions to request state and federal natural disaster assistance;

3. Shall coordinate the development and maintenance of flood hazard mitigation projects with other state and federal programs;

4. Shall set mitigation priorities based upon recommendations of the State Hazard Mitigation Team;

5. May, after recommendation from the State Hazard Mitigation Team, approve applications for grants and loans to political subdivisions for flood hazard mitigation projects from any funds available for such purposes pursuant to the considerations specified by Section 10 of this act;

6. Shall evaluate, after recommendation from the State Hazard Mitigation Team, and award grant or loan applications based upon minimum eligibility criteria and state priorities;

7. Shall be the initial recipient of applications for loans and grants for flood hazard mitigation activities from political subdivisions; and

8. Shall have the State Hazard Mitigation Team meet as needed to review loan and grant applications and provide recommendations thereon to the Department.

B. The Department shall be the lead agency and shall compile and submit to the Federal Emergency Management Agency an application to receive funds pursuant to the Flood Mitigation Assistance Program, the Hazard Mitigation Grant Program or any other flood assistance programs, and other public or private planning or project grants to implement measures to reduce flood losses.

C. The Department shall also have authority to:

1. Establish advisory councils with sufficient geographic balance to ensure statewide representation;
2. Coordinate central files and clearinghouse procedures for flood hazard mitigation resource data information and encourage the use of compatible information and standards; and
3. Provide to the extent practicable financial, technical, research, and other assistance to effectuate the purposes of the Oklahoma Flood Hazard Mitigation Program.

D. The Department shall promulgate, by rule, procedures and criteria for the evaluation of grant and subgrant applications that seek to receive a portion of those funds made available to this state for flood hazard mitigation.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 690.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A political subdivision of this state may apply to the Oklahoma Department of Civil Emergency Management for a grant or loan for flood hazard mitigation projects on forms provided by the Department.

B. Grants or loans for flood hazard mitigation shall be prioritized by the State Hazard Mitigation Team based on the following considerations:

1. The extent and effectiveness of flood mitigation measures already implemented by the political subdivision requesting the grant;
2. The feasibility, practicality, and effectiveness of the proposed flood mitigation measures and the associated benefits and detriments;
3. The level of assistance that should be provided to the political subdivision, based on available facts regarding the nature, extent, and severity of the flood hazard problems;
4. The frequency of occurrence of flooding disasters that has resulted in declaration of the area as a flood disaster area by the Governor of this state or by the President of the United States;
5. The economic, social, and environmental benefits and detriments of the proposed flood mitigation measures;

6. Whether the floodplain management ordinance or regulation adopted by the political subdivision meets the minimum standards established by the Federal Emergency Management Agency, the degree of enforcement of the ordinance or regulation, and whether the political subdivision is complying with the ordinance or regulation;

7. The financial capability of the political subdivision to solve its flood hazard problems without financial assistance; and

8. The estimated cost and method of financing of the proposed flood mitigation measures based on local money and federal and state financial assistance.

C. A grant shall not exceed seventy-five percent (75%) of the total cost of the proposed mitigation project and a loan shall not exceed the total cost of the proposed mitigation project.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 690.5 of Title 63, unless there is created a duplication in numbering, reads as follows:

In addition to other responsibilities designated or assigned to it by the Department, the State Hazard Mitigation Team shall have the power and duty to recommend priorities for flood hazard mitigation projects for purposes of providing grants or loans for such projects, based upon considerations specified by Section 10 of this act.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 690.6 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Legislature declares it to be necessary for the public health and welfare to provide a means for municipalities in this state to implement measures to reduce losses from flood disasters. The acquisition of real property for this objective shall constitute a public purpose for which public funds may be expended.

B. Municipalities are empowered and authorized to acquire fee title to real property and easements therein by purchase, gift, devise, lease or otherwise for flood control.

C. Title information, appraisal reports, offers, and counteroffers are confidential until an option contract is executed or, if no option contract is executed, until thirty (30) days before a contract or agreement for purchase is considered for approval by the governing board of the municipality. However, each municipality may, at its discretion, disclose appraisal reports to private landowners during negotiations for acquisitions using alternatives to fee simple techniques, if the municipality determines that disclosure of such reports will bring the proposed acquisition to closure. In the event that negotiation is

terminated by the municipality, the title information, appraisal report, offers, and counteroffers shall become available to the public.

D. Real property acquired for the purposes enumerated in this section may also be used for recreational purposes, and whenever practicable such real property shall be open to the general public for recreational uses. Except when prohibited by a covenant or other restriction, real property managed and controlled by the municipality may be used for multiple purposes, including, but not limited to, agriculture and silviculture, as well as boating and other recreational uses.

E. The provisions of this section shall not limit the exercise of similar powers delegated by statute to any state or political subdivision of this state.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1085.91 of Title 82, unless there is created a duplication in numbering, reads as follows:

In addition to the financial assistance program established under Sections 1085.31 through 1085.49, 1085.51 through 1085.65, and 1085.71 through 1085.84A of Title 82 of the Oklahoma Statutes pursuant to Section 39 of Article X of the Oklahoma Constitution, it is the intention of the Legislature to establish a Flood Hazard Mitigation Financial Assistance Program. Financing projects to mitigate flooding is hereby declared to be a public purpose.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1085.92 of Title 82, unless there is created a duplication in numbering, reads as follows:

As used in the Flood Hazard Mitigation Financial Assistance Program:

1. "Flood hazard mitigation projects" means those projects designed to correct, alleviate or eliminate a condition or situation which poses a repetitive threat to life, property, or public safety from the effects of a flood disaster;
2. "Eligible entity" means any city, town, county, or the State of Oklahoma, and any rural water or sewer district, irrigation district, public trust, master conservancy district, or other political subdivision or any combination thereof;
3. "Board" means the Oklahoma Water Resources Board; and
4. "Department" means the Oklahoma Department of Civil Emergency Management.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1085.93 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. In addition to other lawful purposes, monies placed in the Statewide Water Development Revolving Fund, exclusive of such amounts of interest derived from investment deposits necessary to maintain the grant account at its maximum amount

as provided in Section 1085.40 of this title, may be used by the Board for flood hazard mitigation projects pursuant to the Flood Hazard Mitigation Financial Assistance Program.

B. Within the Water Resources Fund created pursuant to Section 1085.33 of Title 82 of the Oklahoma Statutes, there is hereby created the "Flood Hazard Mitigation Account". The account shall be set apart as a permanent and perpetual account not subject to fiscal year limitations and shall consist of:

1. All monies appropriated to the account;

2. Interest income from deposits made to the Statewide Water Development Revolving Fund for the purpose of flood hazard mitigation;

3. All income from the investment of monies held in the account consistent with applicable bond resolutions or indentures; and

4. Any other sums designated for deposit to the account from any source, public or private.

C. The monies in the account shall be used by the Oklahoma Department of Civil Emergency Management and the Oklahoma Water Resources Board after receipt of recommendations from the State Hazard Mitigation Team, to implement flood hazard mitigation projects, including but not limited to providing grants or loans to eligible entities to:

1. Acquire land or a conservation easement from a willing seller or grantor in order to mitigate flood hazards; or

2. Implement voluntary, incentive-based flood hazard mitigation measures in order to facilitate compliance with state or national regulations.

D. Monies in, or investment income derived from, the Flood Hazard Mitigation Account which is used to match any grant funds provided by the Federal Emergency Management Agency shall be restricted and used consistent with Federal Emergency Management Agency procedures or guidance or regulations promulgated thereunder for flood hazard mitigation projects.

E. Monies in the Flood Hazard Mitigation Account, or investment income derived therefrom, shall be used by the Oklahoma Water Resources Board and the Oklahoma Department of Civil Emergency Management in carrying out their responsibilities as provided in a written annual joint operating agreement which shall include, among other matters, a budget for administering the Oklahoma Flood Hazard Mitigation Program.

F. The monies placed in the Flood Hazard Mitigation Account may be invested by the State Treasurer in an adequately collateralized manner and as prescribed by Section 89.2 of Title 62 of the Oklahoma Statutes or pursuant to investment

contracts or agreements with entities maintaining a rating in the top two categories by a nationally recognized municipal bond rating agency, all in a manner consistent with the federal Safe Drinking Water Act or regulations promulgated thereunder. The Board may transfer to the Flood Hazard Mitigation Account income derived from investment of the fund. Monies invested by the State Treasurer shall be available to implement flood hazard mitigation projects.

G. The Board shall cause to be completed an annual audit of any expenditures from the Flood Hazard Mitigation Account, and such audit cost shall be included in the budget for administering the Oklahoma Flood Hazard Mitigation Program.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1085.94 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. In addition to other powers and duties provided by law, the Oklahoma Water Resources Board shall have the power and duty to:

1. After receipt from the Department of Civil Emergency Management, process applications for grant funds or loans from the Flood Hazard Mitigation Account and enter into grant or loan agreements for use of such funds;
2. Promulgate rules as deemed necessary by the Board to administer the Flood Hazard Mitigation Financial Assistance Program;
3. Utilize the priority listing of applicants compiled by the Oklahoma Department of Civil Emergency Management after recommendations from the State Hazard Mitigation Team in considering grant applications;
4.
 - a. Issue investment certificates, in accordance with the provisions of Sections 1085.33 and 1085.37 of Title 82 of the Oklahoma Statutes and the Oklahoma Bond Oversight and Reform Act, to provide necessary funds first to meet the demand for loan funding from the Flood Hazard Mitigation Financial Assistance Program; provided, any investment certificate proceeds not needed for such demand may be used by the Board, as needed, for funding other financial assistance programs authorized in Title 82 of the Oklahoma Statutes, and
 - b. Enter into loan agreements with and make loans from the proceeds of investment certificates to eligible entities for flood hazard mitigation projects upon terms not inconsistent with the provisions of Section 1085.36 of Title 82 of the Oklahoma Statutes; and

5. Enter into agreements with the Oklahoma Department of Civil Emergency Management or other state or federal agencies as deemed necessary by the Board to monitor and measure flood events.

B. In addition to other powers and duties provided by law, the Oklahoma Department of Civil Emergency Management shall promulgate rules providing for and establishing a priority listing of grant and loan applicants for flood hazard mitigation projects subject to the Oklahoma Civil Defense and Emergency Resources Management Act, and considering the recommendations from the State Hazard Mitigation Team, and which are determined eligible to receive funding from the Flood Hazard Mitigation Account.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1085.95 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. Loans and grants under the Flood Hazard Mitigation Financial Assistance Program may be used in conjunction with other financial assistance available from the Oklahoma Water Resources Board.

B. If a flood hazard mitigation project includes activities to be conducted on privately owned real property, the loan or grant agreement between the Board and the eligible entity that receives the grant shall contain a provision about any necessary subagreements with the owners of the property.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1085.96 of Title 82, unless there is created a duplication in numbering, reads as follows:

Monies appropriated to the Statewide Water Development Revolving Fund for the purpose of flood hazard mitigation, in addition to such purpose, may be used by the Oklahoma Water Resources Board for security and collateral for investment certificates issued by the Board pursuant to Section 16 of this act.

SECTION 19. This act shall become effective July 1, 1999.

SECTION 20. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this resolution shall take effect and be in full force from and after its passage and approval.

COMMITTEE REPORT BY: COMMITTEE ON ENERGY, ENVIRONMENT AND NATURAL RESOURCES, dated 2-16-99 -- DO PASS, As Coauthored.