

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 1391

By: Fisher of the Senate

and

Rice and Deutschendorf of
the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Center for the Advancement of Science and Technology; amending 74 O.S. 2001, Sections 5060.1, 5060.2, 5060.3, 5060.4, 5060.6, 5060.7, 5060.8, 5060.9, 5060.9a and 5060.22, which relate to the Oklahoma Center for the Advancement of Science and Technology; enacting the Oklahoma Science and Technology Research and Development Act; providing short title; stating goals; creating Oklahoma Science and Technology Research and Development Board; creating Oklahoma Institute of Technology as constituent agency of Oklahoma Center for the Advancement of Science and Technology; requiring certain support for Institute to be provided by Center; stating mission and purposes of Institute; providing definitions; providing for membership, qualifications of members, terms, and officers of certain board; authorizing designees to represent certain board members; providing exception to dual office holding prohibitions; making certain references gender neutral; requiring certain board to select executive director; making executive director the chief executive officer of Center and Institute; modifying duties of Center related to Oklahoma Futures; requiring development of certain strategic plan; removing requirement for approval of certain plan by Oklahoma Futures; stating powers and duties of Oklahoma Science and Technology Research and Development Board; requiring certain annual report; requiring funding of research development in certain areas; creating Oklahoma Institute of Technology Trust Fund; providing for trustees of trust fund; stating authorized uses of trust fund; providing for dissolution of trust fund; creating Oklahoma Institute of Technology Fund within State Treasury; appropriating monies from fund; amending 74 O.S. 2001, Sections 5003.5, 5003.7 and 5003.8, which relate to Department of Commerce and Oklahoma Futures; removing relationship between Department of Commerce and Oklahoma Futures; modifying procedure for selection of director of Department of Commerce and requiring advice and consent of Senate; modifying reference to certain board; removing requirement for approval of certain plan by Oklahoma Futures;

modifying distribution of certain business plan; removing obsolete language; repealing 74 O.S. 2001, Sections 5002.1, 5002.2, 5002.3, 5002.4, 5002.5, 5060.28 and 5060.42, which relate to Oklahoma Futures, the Oklahoma Center for the Advancement of Science and Technology, and Oklahoma Institute of Technology; 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 74 O.S. 2001, Section 5060.1, is amended to read as follows:

Section 5060.1 ~~Sections 17 through 38 of this~~ This act shall be known and may be cited as the "Oklahoma ~~Center for the Advancement of Science and Technology~~ Research and Development Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5060.1a of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Recognizing the vast, underutilized human and capital resources, both urban and rural, in the State of Oklahoma and the opportunity for economic development through technological advancement, the Legislature and the Governor hereby adopt the following goals:

1. Establishing Oklahoma as a premier information technology and biotechnology center for the twenty-first century;

2. Enhancing the lives of, and expanding opportunities for, all Oklahomans through growth of information technology and biotechnology industries and infrastructure throughout the urban and rural areas of the state; and

3. Expanding and diversifying Oklahoma's economy and providing new and higher quality jobs for Oklahomans.

B. To further the goals set forth in this act, there is hereby created the Oklahoma Science and Technology Research and Development Board. The Board shall be responsible for the administration and

governance of the Oklahoma Center for the Advancement of Science and Technology and the Oklahoma Institute of Technology.

SECTION 3. AMENDATORY 74 O.S. 2001, Section 5060.2, is amended to read as follows:

Section 5060.2 A. In order to ~~expand and diversify Oklahoma's economy and provide new and higher quality jobs for Oklahomans~~ attain the goals as set forth in this act, Oklahoma enterprises need ~~an institution which combines~~ institutions that combine the resources of the public and private sectors to encourage the development of new products, new processes and whole new industries in Oklahoma. The ~~institution is~~ institutions are needed to:

1. Support the development of new or expanded technologies;
2. Provide basic and applied research capital to move innovation to commercial application;
- ~~2.~~ 3. Encourage the transfer of technology to firms and farms throughout the geographic regions of the state;
- ~~3.~~ 4. Stimulate seed-capital investment in firms which will use innovation from applied research in profitable commercial applications; and
- ~~4.~~ 5. Foster competitiveness, productivity and modernization in Oklahoma firms and farms.

B. There is hereby created the Oklahoma Center for the Advancement of Science and Technology. The Oklahoma Center for the Advancement of Science and Technology is hereby constituted an instrumentality of the state and the exercise of the authority and powers conferred by ~~this act~~ law shall be deemed and held to be the performance of an essential governmental function.

C. There is hereby created the Oklahoma Institute of Technology as an institute within the Oklahoma Center for the Advancement of Science and Technology. The Oklahoma Science and Technology Research and Development Board and the Oklahoma Center for the Advancement of Science and Technology are hereby directed to support

the Oklahoma Institute of Technology and to include the Institute in the Center's budget work program submitted each fiscal year to the Office of State Finance.

SECTION 4. AMENDATORY 74 O.S. 2001, Section 5060.3, is amended to read as follows:

Section 5060.3 A. The mission of the Oklahoma Center for the Advancement of Science and Technology shall be to foster innovation in existing and developing businesses by supporting basic and applied research, by facilitating technology transfer between research laboratories and firms and farms, and by providing seed-capital for new innovative firms and their products. The Oklahoma Center for the Advancement of Science and Technology also shall have the authority to foster enhanced competitiveness in the national and international markets by small and medium-sized manufacturing firms located in Oklahoma by stimulating productivity and modernization of such firms.

B. The mission and purposes of the Oklahoma Institute of Technology shall include:

1. Attracting, retaining, and stimulating the development of information technology, biotechnology, genetics, and emerging technologies;

2. Providing leadership development programs to prepare rural residents for leadership in a technologically enhanced economy;

3. Upgrading and enhancing rural technology to grow or attract high technology companies;

4. Facilitating joint public-private technology research and development projects using resources and facilities of public higher education institutions or private entities; and

5. Providing engineering or management assistance to new or existing businesses in bringing improved or innovative products or services to market.

SECTION 5. AMENDATORY 74 O.S. 2001, Section 5060.4, is amended to read as follows:

Section 5060.4 As used in the Oklahoma ~~Center for the Advancement of Science and Technology~~ Research and Development Act:

1. "Applied research" means those research activities occurring at institutions of higher education, nonprofit research foundations, and in private enterprises which have potential commercial application;

2. "Basic research" means any original investigation for the advancement of scientific knowledge not having a specific commercial objective, but having potential long-range value to commercial interests;

3. "Board" means the Oklahoma Science and Technology Research and Development Board;

4. "Center" or "OCAST" means the Oklahoma Center for the Advancement of Science and Technology;

~~4.~~ 5. "Enterprise" means a firm with its principal place of business in Oklahoma;

~~5.~~ 6. "Health research project" means a specific examination, experimentation or investigation, or initiative to provide research resources oriented principally toward basic, applied, and developmental scientific inquiry related to the causes, diagnosis, prevention, and treatment of human diseases and disabilities and mental health and emotional disorders, and the rehabilitation of persons afflicted with such diseases, disabilities, and disorders; new knowledge, better understanding, and innovative methods to improve the processes by which health care services are made available and how they may be provided more efficiently, more effectively and at a lower cost, for all the citizens of this state; and the development of new products and services which shall form the basis of new high-technology health research and care industry for this state;

~~6.~~ 7. "Industrial Extension System" means a coordinated network of public and private manufacturing modernization resources, the purpose of which is to stimulate the competitiveness of Oklahoma small and medium-sized manufacturing firms;

~~7.~~ 8. "Institute" means the Oklahoma Institute of Technology;

9. "Institutional Review Board" means a committee composed of investigators, lay representatives, and legal counsel, which is established at each institution of higher learning and each nonprofit research institution receiving funds from a health research project, for the express purpose of determining the appropriateness of any research involving human subjects;

~~8.~~ 10. "Institutions of higher education" means public and private colleges and universities in the state;

~~9.~~ 11. "Investigator" means a person who proposes research projects and is primarily responsible for the execution of the proposed projects and is employed by or affiliated with an institution of higher education, a nonprofit research institution in this state, or a private enterprise;

~~10.~~ 12. "New technology" means methods, products, processes and procedures developed through science or research;

~~11.~~ 13. "Nonprofit research institution" means any not-for-profit public or private facility in this state which has the capabilities for research projects and which is not a subsidiary of any corporation, partnership, or association organized for profit, nor is its stock or assets owned or controlled by a corporation, partnership, or association organized for profit;

~~12.~~ 14. "OAME" means the Oklahoma Alliance for Manufacturing Excellence, Inc., a corporation to be formed pursuant to the provisions of Title 18 of the Oklahoma Statutes and Section 5060.26 of this title;

~~13.~~ 15. "Person" means any individual, partnership, corporation or joint venture carrying on business or proposing to carry on business within the state;

~~14.~~ 16. "Product" means any outcome, device, technique or process, which is or may be developed or marketed commercially and which has advanced beyond the theoretical stage and is in a prototype or practice stage;

~~15.~~ 17. "Professional service contract" means a written agreement providing funds for the performance of a research project; for salaries and fringe benefits of personnel associated with research programs; for research equipment; for operating expenses associated with a research program; or for services provided in connection with the evaluation of applications submitted to the Center;

~~16.~~ 18. "Qualified security" means any public or private financial arrangement, involving any note, security, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, preorganization certificate or subscription, transferable security, investment contract, certificate of deposit for a security, certificate of interest or participation in a patent or application therefor, or in royalty or other payments under such a patent or application, or, in general, any interest or instrument commonly known as a "security" or any certificate for, receipt for, guarantee of, or option, warrant or right to subscribe to or purchase any of the foregoing to the extent allowed by law;

~~17.~~ 19. "Seed-capital" means financing that is provided for the development, refinement and commercialization of a product, process or innovation, whether for the startup of a new firm or the expansion or the restructuring of a small firm; and

~~18.~~ 20. "Technology transfer" means a two-way process by which ideas or inventions for processes or products (developed in research

programs usually on a laboratory or pilot-plant scale) are converted to commercial use.

SECTION 6. AMENDATORY 74 O.S. 2001, Section 5060.6, is amended to read as follows:

Section 5060.6 A. The board of directors for the Oklahoma Center for the Advancement of Science and Technology is hereby reconstituted as the Oklahoma Science and Technology Research and Development Board and shall be governed by a board of directors comprised as follows:

1. The Director of the Oklahoma Department of Commerce;
2. ~~The Chancellor of the Oklahoma State Regents for Higher Education~~ president of the University of Oklahoma;
3. ~~Dean of the Division of Agriculture,~~ The president of Oklahoma State University;
4. The president of a private Oklahoma university classified by the Carnegie Foundation as a national doctorate-granting institution offering graduate engineering degrees to be appointed by the Governor;
5. A member of the House of Representatives, who shall serve as an ex officio nonvoting member, appointed by the Speaker of the House of Representatives;
- ~~5- 6.~~ 6. A member of the Senate, who shall serve as an ex officio nonvoting member, appointed by the President Pro Tempore of the Senate;
- ~~6.~~ One member of Oklahoma Futures as selected by Oklahoma Futures who shall be a person of demonstrated commitment to the advancement of science and technology in Oklahoma;
7. Two members, appointed by the Governor, who shall be engineers or scientists with extensive experience in managing basic or applied scientific or technological research at Oklahoma institutions of higher education, who shall serve terms of four (4) years; provided that, the two members who possess these

qualifications and are serving on the board of directors of the Center on the effective date of this act shall fill these positions on the Oklahoma Science and Technology Research and Development Board for initial terms to expire on June 30, 2003; and

8. ~~Six persons~~ Four members appointed by the Governor who are or who have served as chief executive officers or senior executive officers of corporations engaged in information technology, biotechnology, genetics, other emerging technologies, agriculture, oil and natural gas, early stage high risk venture capital finance, other significant Oklahoma industries, or Oklahoma industries that are potentially significant to the state economy or who are or who have served as chief executive officers or senior executive officers of foundations with a history of supporting research and development. Two members appointed pursuant to this paragraph shall serve initial terms to expire on June 30, 2005, and two shall serve initial terms to expire on June 30, 2006;

9. Two members appointed by the Governor who represent small business. One appointee shall serve an initial term to expire on June 30, 2005, and one shall serve an initial term to expire on June 30, 2006;

10. One member appointed by the Governor who represents rural Oklahoma. The initial appointee shall serve a term to expire on June 30, 2004; and

11. Until June 30, 2004, or vacation of the offices, six members who, before the effective date of this act, were appointed by the Governor and who are serving on the board of directors of OCAST on the effective date of this act. These positions on the Oklahoma Science and Technology Research and Development Board shall cease to exist on June 30, 2004, or when the position is vacated if the vacancy occurs prior to June 30, 2004. A member of the OCAST board who holds one of these positions may be appointed to a position described in paragraphs 7 through 10 of this subsection on

~~the Oklahoma Science and Technology Research and Development Board if the member meets the qualifications for such position. In making such appointments to the board of directors, the Governor shall appoint persons who are recognized for outstanding knowledge of, leadership in and commitment to the advancement of science and technology in Oklahoma. In making such appointments, the Governor shall give due consideration to the appointment of persons some of whom represent small business, some of whom have experience in basic or applied scientific and technological research and some of whom have experience in the following industries:~~

- ~~a. agriculture,~~
- ~~b. oil and natural gas,~~
- ~~c. early stage, high-risk venture capital finance,~~
- ~~d. other significant Oklahoma industries,~~
- ~~e. other emerging Oklahoma industries, potentially significant to the state economy, and~~
- ~~f. higher education.~~

~~B. Persons appointed to the board of directors shall serve at the pleasure of the Governor. No appointed member may serve more than two consecutive full terms of office on the board of directors. The two legislatively appointed members of the board of directors~~
Board shall be persons of demonstrated knowledge of and commitment to the advancement of science and technology in Oklahoma and shall serve at the pleasure of their respective appointing authority.

~~C. In making appointments to the board of directors of the Oklahoma Center for the Advancement of Science and Technology Research and Development Board, appropriate consideration shall be given to appointment of members of the Oklahoma Science and Technology Advisory Committee as well as to representation upon the board~~
Board by race, gender and geographical area.

~~D. Any~~
Gubernatorial appointees appointed after the effective date of this act shall serve four-year terms except for initial

terms as provided in this section. Terms shall expire on June 30.

All gubernatorial appointees shall be subject to confirmation by the Senate. Except as otherwise provided in this section, any vacancy in board positions filled by appointment of the Governor shall be filled for the unexpired term in the same manner as the original appointment.

E. The ~~board of directors~~ Board shall elect, annually, a ~~chairman~~ chair who shall be from the private sector membership of the ~~board~~ Board. A ~~vice-chairman~~ vice-chair shall be elected annually from among all the members of the ~~board of directors~~ Board. Persons elected to the position of ~~chairman~~ chair or ~~vice-chairman~~ vice-chair shall not serve more than two consecutive terms in said position.

F. The ~~board of directors~~ Board shall meet at least once each calendar quarter and at such other times:

1. ~~As provided for in the charter or bylaws of the Center;~~
2. Upon call of the ~~chairman~~ chair;

~~3.~~ 2. Upon call of the ~~president~~ chief executive officer of the Center or the Institute; or

~~4.~~ 3. Upon written request of a majority of the ~~directors~~ board members.

G. ~~Six~~ A majority of the voting members of the ~~board of directors~~ Board shall constitute a quorum. A quorum of the ~~board of directors~~ Board shall be necessary to transact ~~Center~~ business. All actions of the ~~directors~~ board members shall be made by a majority of the quorum present. A board member may send a predetermined designee as a representative to board meetings who may vote; provided, the designee may vote at no more than thirty percent (30%) of meetings during a fiscal year.

H. Members of the ~~board of directors~~ Board shall be entitled to compensation and expenses as may be provided in the charter or bylaws of the ~~Center~~ Board. The members of the Board shall not be

subject to the dual-office-holding prohibitions set forth in Section 6 of Title 51 of the Oklahoma Statutes.

I. The ~~board of directors~~ Board shall establish an executive committee composed of the ~~chairman~~ chair, ~~vice-chairman~~ vice-chair, and three (3) additional voting members chosen by the ~~chairman~~ chair from among the remaining ~~directors~~ board members. ~~The at-large members of the executive committee may not serve more than two (2) full consecutive terms.~~ The executive committee, in intervals between board meetings, may transact any board business that has been delegated to the executive committee. A majority of the executive committee shall be necessary to transact business and all actions of the executive committee shall be by a majority vote of the committee.

SECTION 7. AMENDATORY 74 O.S. 2001, Section 5060.7, is amended to read as follows:

Section 5060.7 A. The position of president of the Oklahoma Center for the Advancement of Science and Technology is hereby reconstituted as the executive director for the Oklahoma Science and Technology Research and Development Board. The president of the Center upon the effective date of this act shall serve as the executive director for the Board at the pleasure of the Board. Subsequent executive directors shall be selected by the Board and shall serve at the pleasure of the Board. The executive director shall ~~be~~ serve as the chief executive officer ~~to~~ of the Center and the Institute, and shall direct and supervise the administrative affairs and the general management of the Center and the Institute. ~~The president shall be selected by the board of directors and may be removed by the Governor.~~ The ~~board of directors~~ Board shall establish criteria for selecting the ~~president~~ executive director taking into consideration national standards. The search for a ~~president~~ the executive director shall be conducted pursuant to the criteria so established.

B. The ~~president~~ executive director:

1. May employ and terminate such other officers and employees as designated by the ~~board of directors~~ Board including, if necessary, legal counsel to be chosen through a request for proposal process;

2. Shall attend board meetings;

3. Shall appoint a secretary of the Board to keep a record of all proceedings and maintain and be custodian of all financial and operational records, documents and papers filed with the Center and the Institute and of the minute book of the Center and the Institute; and

4. Before accepting any applications as provided for under this act, shall prepare a business plan which shall include the analysis of funding levels of programs in other states that are shown in the report required in subsection B of Section ~~37~~ 5060.22 of this ~~act~~ title, and the threshold funding levels specified in subsection C of Section ~~37~~ 5060.22 of this ~~act~~ title. ~~Upon approval of the business plan by the Center's board, the plan shall be presented to Oklahoma Futures and the standing committees on higher education and economic development of the Senate and the House of Representatives.~~

C. The meetings of the ~~board of directors of the Oklahoma Center for the Advancement of Science and Technology~~ Board shall be subject to the Open Meeting Act and the Open Records Act. Any information submitted to or compiled by the ~~Oklahoma Center for the Advancement of Science and Technology~~ or the Institute with respect to the marketing plans, financial statements, trade secrets, research concepts, methods or products, or any other proprietary information of persons, firms, associations, partnerships, agencies, corporations, institutions of higher education, nonprofit research institutions or other entities shall be confidential, except to the extent that the person or entity which provided such information or which is the subject of such information consents to disclosure.

Executive sessions may be held to discuss such materials if deemed necessary by the ~~board of directors~~ Board.

D. If a member of the ~~board of directors~~ Board, officer, agent or employee of the ~~Oklahoma Center for the Advancement of Science and Technology~~ or the Institute has any direct or any indirect interest in any approval, contract or agreement upon which the member, officer, agent or employee may be called upon to act or vote, the board member, officer, agent or employee shall disclose the same to the secretary of the ~~Center~~ Board prior to the taking of final action by the ~~Center~~ Board concerning such contract or agreement and shall so disclose the nature and extent of such interest and ~~his or her~~ the acquisition thereof, which disclosure shall be publicly acknowledged by the ~~Center~~ Board and entered upon the minutes of the ~~Center~~ Board. ~~If a board~~ A Board member, officer, agent or employee who holds such an interest, ~~he or she~~ shall refrain from any further official involvement in regard to such contract or agreement, from voting on any matter pertaining to such contract or agreement, and from communicating with other board members, officers, agents or employees concerning said contract or agreement. Employees of the Center, including employees assigned to the Institute, shall be subject to the provisions of ~~Section 4241 of Title 74 of the Oklahoma Statutes~~ the Ethics Commission rules. Notwithstanding any other provision of law, any contract or agreement entered into in conformity with this subsection shall not be void or invalid by reason of the interest described in this subsection, nor shall any person so disclosing the interest and refraining from further official involvement as provided for in this subsection be guilty of an offense, be removed from office, or be subject to any other penalty on account of such interest. Provided, any approval, contract or agreement made in violation of this section shall give rise to no action against the Board, the Center or the Institute.

Indirect interest shall include pecuniary or competitive advantage which exists or could foreseeably accrue as a result of the act or ~~forebearance~~ forbearance of the Board, Center or Institute.

E. No director or any person acting on behalf of the Board, Center or Institute executing any contracts, commitments, or agreements issued pursuant to this act shall be personally liable upon such contracts, commitments, or agreements or be subject to any personal liability or accountability by reason thereof. No director or any person acting on behalf of the Board, Center or Institute shall be personally liable for damage or injury resulting from the performance of ~~his~~ duties hereunder.

SECTION 8. AMENDATORY 74 O.S. 2001, Section 5060.8, is amended to read as follows:

Section 5060.8 ~~The Oklahoma Center for the Advancement of Science and Technology shall exercise the powers and duties granted to it in a manner consistent with each five-year plan developed by Oklahoma Futures for the activities and programs of the Center. The Oklahoma Center for the Advancement of Science and Technology shall submit a proposed schedule of activities and goals to Oklahoma Futures in order to facilitate development of the first five-year plan provisions applicable to the Center. The board of directors of the Oklahoma Center for the Advancement of Science and Technology~~ Research and Development Board shall develop an annual business plan and a five-year strategic plan for the Center and the Institute. ~~The business plan shall be submitted to Oklahoma Futures for its approval and shall be included in the annual report of Oklahoma Futures. The business plan shall be consistent with the goals of the recurring five-year policy plan as provided by law. Oklahoma Futures shall approve such policy plan before it is implemented. The board of directors shall distribute copies of the business plan by such means that will make it widely available to communities,~~

~~firms and local economic development managers throughout this state. The Oklahoma Center for the Advancement of Science and Technology shall have exclusive authority with respect to individual funding decisions if such funding is consistent with the five-year policy plan for the Center approved by Oklahoma Futures.~~

SECTION 9. AMENDATORY 74 O.S. 2001, Section 5060.9, is amended to read as follows:

Section 5060.9 A. The ~~Center~~ Oklahoma Science and Technology Research and Development Board shall have the power to:

1. Make, amend and repeal bylaws for the management of ~~its~~ affairs the Center and the Institute;
2. Sue and be sued;
3. Make contracts and execute all instruments necessary or convenient for carrying out ~~its~~ the business of the Center and the Institute;
4. Acquire, own, hold, dispose of and encumber real or personal property of any nature, ~~both~~ including tangible ~~and,~~ intangible, commercial or intellectual, or any interest therein;
5. Enter into agreements or other transactions with any federal, state, county or municipal agency, authority or other governmental entity and with any individual, corporation, enterprise, association or any other entity involving research and technology;
6. Acquire real property or an interest therein, by purchase or foreclosure, where such acquisition is necessary or appropriate to protect or secure any investment or loan in which the Center has an interest;
7. Sell, transfer and convey any such property to a buyer, and in the event such sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease such property to a tenant;

8. Invest any funds provided by the state and held in reserve in funds not required for immediate disbursement and invest funds received from gifts, grants, donations and other operations of the Center in such investments as would be lawful for a private corporation having purposes similar to the Center;

9. Borrow money and give guaranties, provided that the indebtedness and other obligations of the Center or Institute shall be payable solely out of ~~its own~~ the resources of the Center or the Institute, respectively, and shall not constitute a pledge of the full faith and credit of the state or any of its revenues;

10. Appoint officers, consultants, agents and advisors, and prescribe their duties and compensation;

11. Appear ~~in~~ on its own behalf or on behalf of the Center or Institute before boards, commissions, departments or other agencies of municipal, county or state government or federal government;

12. Procure insurance against any losses in connection with its properties in such amounts from such insurers as may be necessary or desirable;

13. Consent, subject to the provisions of any contract with note-holders, whenever it considers it necessary or desirable in the fulfillment of the goals and purposes of this act of the Center or Institute, to the modifications, with respect to the rate of interest, time payment or of any installment, of principal and interest or any terms of any contract or agreement of any kind to which the Center or the Institute is a party;

14. Accept any and all donations, grants, bequests and devises, conditional and otherwise, of money, property, services or other things of value which may be received from the United States or any agency thereof, any governmental agency, or any institution, person, firm or corporation, public or private, to be held, used or applied for any or all of the goals and purposes specified in this act of

the Center or the Institute, in accordance with the terms and conditions of any such grant;

15. Trade, buy or sell qualified securities;

16. Own, possess and take license in, patents, copyrights and proprietary processes and negotiate and enter into contracts and establish charges for the use of such patents, copyrights and proprietary processes when such patents and licenses for innovation or inventions result from research sponsored by the Center or Institute in a private enterprise or when the Center or Institute finances a product developed by a private enterprise;

17. Establish policies governing royalty payments to the Center and Institute on patents and licenses for innovations or inventions arising in the course of research sponsored by the Center or Institute at institutions of higher education and nonprofit research foundations; such royalty policies should reflect an appropriate sharing of legal risk as well as financial return between the Center or Institute and such institution or foundation; such patents and licenses shall be in keeping with the patent policies of such institutions or foundations;

18. Conduct studies which are related to economic development, involving product or process innovations;

19. Solicit, study and assist in the preparation of business plans and proposals of new or established enterprises of special importance to the Oklahoma economy;

20. Prepare, publish and distribute such technological studies, reports, bulletins and other materials as it considers appropriate, subject only to the maintenance and responsibility for confidentiality of the client proprietary information, and encourage institutions of higher education to develop and disseminate similar materials;

21. Sponsor, or co-sponsor with both private industry and higher education institutions, special institutes, conferences and

demonstrations relating to the stimulation of innovation, science and technologically oriented enterprises;

22. Participate with any state agency or institution of higher education in developing specific goals, programs and performance monitoring systems to assist in the development of basic research, applied research and technology transfer of special importance to the Oklahoma economy;

23. Provide scientific and technological data and information required by the Governor, the Legislature, or its committees, and to state agencies, institutions of higher education and cities, towns, counties and school districts and to private citizens and groups, within the limitations of the resources available to the Center;

~~24. Exercise any other powers necessary for the operation and functioning of the Center within the purposes authorized in this act; and~~

~~25. Provide training and practical experience for Oklahoma researchers in the preparation of applications for peer-reviewed grant competitions;~~

25. Facilitate public/private partnerships that will support the creation of endowed chairs, scholarships, research grants, and business opportunities;

26. Develop policies and procedures for partnering with and/or between universities offering engineering or technology degrees in Oklahoma to facilitate joint public/private technology research and development projects using resources and facilities of such public higher education institutions or private entities; provided that, the Board shall utilize, and accord lead status to, Rogers State University for coordinating and delivering higher education distance learning opportunities initiated or developed by the Board;

27. Advertise for, accept, and fund proposals from universities, private industries, towns, counties, municipalities, and individuals to achieve its goals and purposes;

28. Collaborate with the various entities to develop initiatives which foster economic development through technological advancement;

29. Create institutes or centers with world-class research teams that support the state's primary economic development thrusts;

30. Expend monies from the income and investment return and principal from the Oklahoma Institute of Technology Trust Fund, upon authorization of the trustees of the trust fund by the required vote as provided in Section 11 of this act; and

31. Exercise any other powers necessary for the operation and functioning of the Center within the purposes authorized in this act.

B. The Center and the Institute shall be exempt from all franchise, corporate business and income taxes levied by the state. The manufacture or sale of any products or processes which are the subject of any agreement made by the Center or the Institute, or any person entering into any agreement with the Center or Institute shall not be exempt from any such taxes or taxes applicable to such manufacture or sale.

C. The Center and Institute shall ~~adopt, publish and submit by January 1 of each year to Oklahoma Futures, the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives,~~ include in the annual business plan appropriate administrative policies, including but not limited to policies governing the classification, employment, promotion, suspension, disciplinary action or dismissal of Center employees, including employees assigned to the Institute; purchasing; travel; and reimbursement of employees. All actions governed by said administrative policies shall be examined annually in the independent audit required by Section ~~37~~ 5060.22 of this ~~act~~ title. The Center and Institute shall not be subject to state purchasing laws, except with respect to purchases required for the

administrative expenses of the ~~board of directors~~ Board, or laws concerning travel or reimbursement of state employees. Professional service contracts executed by the Center or Institute shall not be subject to any requirement of law relating to competitive bidding.

Because many of the powers and duties of the Center and Institute involve working closely with the private sector, certain employee positions of the Center, including employees assigned to the Institute, must be governed, classified and compensated in a manner that compares equally to similar positions in the private sector. Therefore, in the annual business plan, the ~~board of directors~~ Board shall list, describe and justify all such positions and their compensation and shall designate and place them in unclassified status, exempt from the provisions of the Oklahoma Personnel Act. All other employees and positions shall be classified and subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act. Provided, nothing in this section shall be construed to limit the authority of the Legislature to specify the status of positions otherwise by law. Neither shall the ~~board of directors~~ Board have the authority to circumvent, disregard or otherwise disobey specific provisions of law regarding positions in the ~~Oklahoma Center for the Advancement of Science and Technology~~ or the Institute.

D. Upon approval of the Board, the Center shall have the authority to exercise the powers enumerated in subsection A of this section.

SECTION 10. AMENDATORY 74 O.S. 2001, Section 5060.9a, is amended to read as follows:

Section 5060.9a The ~~board of directors of the Oklahoma Center for the Advancement of Science and Technology~~ Research and Development Board shall create an advisory committee to the Oklahoma Center for the Advancement of Science and Technology for each program pertaining to research which is operated by the Center and

does not have such a committee established by law. The advisory committees shall include representatives of the business, higher education and research communities. No more than two members of the ~~board of directors~~ Board may serve on an advisory committee. No member of the ~~board of directors~~ Board may serve concurrently on more than one advisory committee.

At least one-third (1/3) of the members of each advisory committee shall be researchers with experience in basic or applied scientific or technological research. The ~~board of directors~~ Board shall make every effort to appoint researchers possessing the following qualifications:

1. Tenured appointment as an Associate or Full Professor in one of the following ~~three~~ four groups of discipline:

- a. Life Sciences (Biology, Biochemistry, Botany, Microbiology, Zoology),
- b. Physical Sciences (Chemistry, Physics, Astronomy, Geology, Meteorology), ~~or~~
- c. Engineering or Computer Science, or
- d. Business Administration; and

2. Publication of research papers (excluding abstracts, proceedings or comments) in nationally or internationally refereed journals. A list of such journals shall be determined annually by the ~~board of directors~~ Board; or

3. Satisfaction of one of the following two criteria:

- a. Principal investigator for research grants awarded by the National Science Foundation, the National Institutes of Health, or any such other organization holding external peer-reviewed national competitions for the distribution of research funds. A list of qualifying organizations shall be determined annually by the ~~board of directors~~ Board. Research grants awarded in exclusively statewide competitions and

service contracts or other grants not requiring submission of a research proposal or which are funded on bases other than scientific merit shall not be used to satisfy this requirement, or

- b. Inventor of one or more products which have had commercial application. Contractual commitments for a product or products shall meet this requirement; and

4. Demonstrated experience in the evaluation of research programs, which shall be satisfied either by review of external proposals from the organizations listed in subparagraph a of paragraph 3 of this section, or by review of proposals in university-wide competitions for internal support of research.

The most highly qualified researchers in this state with a breadth of experience in a variety of disciplines shall be given priority.

SECTION 11. AMENDATORY 74 O.S. 2001, Section 5060.22, is amended to read as follows:

Section 5060.22 A. The Oklahoma Science and Technology Research and Development Board is authorized and instructed to make an annual report no later than November 1 to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives that shall describe the accomplishments, the expenditures, and the activities of the prior fiscal year. The report shall include elements the Board identifies as hampering the state's economic progress and recommendations for changes. The ~~Center shall publish an annual report which shall include an independent audit in accordance with generally accepted accounting principals which shall examine, among other things, actions governed by the administrative policies adopted by the Board on behalf of the Center and the Institute. The Center shall present the report to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the standing committees on~~

~~higher education and economic development of the Senate and the House of Representatives, and Oklahoma Futures, setting forth in detail the operations and transactions conducted by it pursuant to this or to other legislation.~~ The annual report shall specifically account for the ways in which the need, mission and programs of the Center ~~described in this act~~ and the Institute have been carried out, including but not limited to, a review of the results of the ~~Center's~~ operations and transactions according to objective measures set forth in the ~~Center's~~ business plan. The report shall recommend specific changes in the activities of the Center or Institute which are necessary to better carry out the need and mission described in this act. The ~~Center~~ Board shall distribute its annual report by such means that will make it widely available to those innovative enterprises of special importance to the Oklahoma economy.

B. The ~~Center~~ Board shall annually review and prepare a report showing how and at what level other states fund ~~the~~ technology-based economic development programs ~~provided for under this act.~~ The ~~Center~~ Board shall recommend an appropriate funding level for Oklahoma which will make these programs nationally competitive with those of other states. The ~~Center's~~ Board's findings and recommendations shall be ~~submitted to Oklahoma Futures for review and then~~ included in the annual report to be submitted to the Governor and the Legislature ~~including the standing committees of economic development and higher education of the Senate and the House of Representatives.~~

C. The Center shall adopt, ~~upon review by Oklahoma Futures,~~ a threshold funding level for each of the programs provided for ~~under this act~~ by law. The threshold amount shall provide for funding that is great enough to have a significant impact and carry out the intent of ~~this act~~ the Legislature. If the funding for these programs falls below the threshold, then no funding shall be provided by the Center to the program funded below threshold level.

~~D. Seven (7) years after the Oklahoma Center for the Advancement of Science and Technology has begun operations, Oklahoma Futures shall review, analyze and evaluate the extent to which the Center has achieved its statutory need and mission. The evaluation shall include, but not be limited to, an examination of quantifiable results of the Center's programs and plans~~ The Board, on behalf of the Center and Institute, shall fund areas of research and development that the Board selects as most likely to stimulate information technology, biotechnology, genetics, meteorology and climate studies, and emerging or developing technology and related jobs; foster patents; result in new patents, copyrights, trademarks, and licenses of value; pursue world-class research teams that support the state's primary economic development thrusts or focus areas; and stimulate private and public investments with the intent to encourage economic development in Oklahoma.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5060.30 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The "Oklahoma Institute of Technology Trust Fund" is hereby created. The trust fund shall be administered as follows:

1. The trustees of the trust fund shall consist of seven members of the Oklahoma Science and Technology Research and Development Board who are the presidents of Oklahoma State University, the University of Oklahoma, and the private university offering graduate engineering degrees and the four chief executive officers or senior executive officers of corporations or foundations. The chair of the board of trustees shall be elected by the trustees from among the four chief executive officers or senior executive officers who also serve on the Oklahoma Science and Technology Research and Development Board.

2. After January 1, 2003, the board of trustees may by unanimous vote expand the number of trustees at any time. No more

than three members added by the board of trustees may serve concurrently. The members added by the board of trustees shall be representatives of industries that have demonstrated support for the Oklahoma Institute of Technology, shall have full voting rights, and shall serve four-year terms. A position added by the board of trustees may be filled at the end of the term by vote of the trustees. A position not filled by the trustees at the end of the term shall be considered abolished.

3. The trust fund shall be utilized to further the mission and purposes of the Institute.

4. The trust fund principal shall consist of monies received from any monies the Legislature appropriates for, or transfers to, the trust fund and any monies or assets contributed to the trust fund from any other source, public or private. Notwithstanding other provisions of law, income and investment return on trust fund principal shall accrue to the trust fund and may be authorized upon a majority vote of the trustees for use and expenditure by the Oklahoma Science and Technology Research and Development Board for the purposes of the Institute. Use of the trust fund principal may be authorized upon a vote of three-fourths of the trustees for use and expenditure by the Oklahoma Science and Technology Research and Development Board to achieve the purposes and goals of the Institute.

5. The trustees shall develop procedures for accomplishing transfer of income and investment return to appropriate accounts set up in the Office of the State Treasurer.

6. The trust fund may be dissolved upon an act approved by three-fourths (3/4) of both houses of the Legislature or pursuant to a plan for use of the principal, leading to dissolution of the trust fund, over a ten-year period that has been proposed by the trustees and approved by the Legislature and the Governor. Upon the trust fund's dissolution, any funds in the trust fund shall be placed in

the state general revenue fund, unless the Legislature specifically provides otherwise.

B. There is hereby created in the State Treasury a fund for the Oklahoma Institute of Technology to be designated the "Oklahoma Institute of Technology Fund." The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies received by the Institute from the Legislature or other sources for the fund. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Science and Technology Research and Development Board for the purposes of the Institute. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. The Oklahoma Science and Technology Research and Development Board shall develop procedures for setting up accounts within the fund as necessary in the Office of the State Treasurer. The Board shall place only funds appropriated for or otherwise received for the Institute in the accounts for the Institute and shall not commingle funds that are not appropriated or otherwise received for the Institute with funds appropriated or received for any other purpose of the Center.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5002.7 of Title 74, unless there is created a duplication in numbering, reads as follows:

Oklahoma Futures is hereby abolished.

SECTION 14. AMENDATORY 74 O.S. 2001, Section 5003.5, is amended to read as follows:

Section 5003.5 A. ~~In order to fulfill its mission to support firms, farms and local communities which create new and better jobs for Oklahomans, the Oklahoma Department of Commerce shall be the administrative agency to its policy development board, Oklahoma Futures. Oklahoma Futures shall in no way interfere with the~~

~~day-to-day management of the Department but, shall provide long-term, annual oversight to ensure the Department fulfills the legislative purpose for which it is created.~~

B. The Director of the Department of Commerce shall ~~hold office~~ be appointed by the Governor with the advice and consent of the Senate. The Director shall serve at the pleasure of the Governor and shall continue to serve until a successor is duly appointed and qualified. The salary of the Director shall be set by law.

~~C. B.~~ The Director shall be qualified for such position by character, personality, ability, education, training and successful administrative experience in the public or private sector. ~~When it becomes necessary for Oklahoma Futures to submit a list of nominees to the Governor for the Governor's consideration to fill the position of Director of the Department of Commerce, Oklahoma Futures shall establish criteria for selecting the nominees taking into consideration national standards of excellence for similar positions. The national search for nominees by Oklahoma Futures shall be conducted pursuant to the criteria so established.~~

~~D. C.~~ The Director shall employ such persons as are necessary to implement the powers and duties of the Department. Because many of the powers and duties of the Department involve working closely with the private sector, certain employee positions of the Department must be governed, classified and compensated in a manner that compares equally to similar positions in the private sector. Therefore, in the annual business plan, the Director shall list, describe and justify all such positions and their compensation and shall designate and place them in unclassified status, exempt from the provisions of the Oklahoma Personnel Act. All other employees and positions shall be classified and subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act. Provided, nothing in this section shall be construed to limit the authority of the Legislature to specify the

status of positions otherwise by law. Neither shall the Director have the authority to circumvent, disregard or otherwise disobey specific provisions of law regarding positions in the Department.

~~E.~~ D. The Director shall serve on the board of:

1. The Oklahoma Industrial Finance Authority;
2. The Oklahoma ~~Center for the Advancement of~~ Science and Technology Research and Development Board;
3. The Oklahoma Development Finance Authority;
4. The Executive Bond Oversight Commission; and
5. The Oklahoma Ordnance Works Authority.

~~F.~~ E. The Director may serve as administrator of any interlocal agreement or compact to pursue economic development and to assign any employees of the Department or employee personnel to carry out duties or obligations pursuant to any interlocal agreement or compact for economic development.

~~G.~~ F. The Director, at his or her discretion, may approve payment for affiliations or memberships of the Department or, if necessary, associate memberships for individual employees in international, national, or state economic development councils, professional organizations, or governmental associations.

SECTION 15. AMENDATORY 74 O.S. 2001, Section 5003.7, is amended to read as follows:

Section 5003.7 A. The Oklahoma Department of Commerce shall prepare, with the cooperation of the Oklahoma business community, agricultural community, financial community, universities, labor and the state executive and legislative branches, a five-year economic development plan and annual updates for the State of Oklahoma. ~~The recurring five-year economic development plan and annual updates shall be subject to the approval of Oklahoma Futures.~~

1. The purpose of the plan shall be to identify significant economic, social, and demographic trends which may have both short-term and long-term impacts on the state and local economy and

to present strategies and recommendations that the state and local political subdivisions might adopt to improve or stabilize the economy.

2. The goals of the plan shall include the development of a diversified state economy, increasing employment, the maximum use of federal, state and local funds to achieve the goals or recommendations included in the plan, the maximum investment of capital in the economy of the state, and the improvement of the quality of life in the state.

3. The plan wherever possible shall make recommendations to encourage intergovernmental cooperation and public and private cooperation.

4. Copies of the plan and the annual updates shall be submitted to the Oklahoma Advisory Committee on Intergovernmental Relations, the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the chairmen of the standing committees on economic development of the Senate and of the House of Representatives ~~in the annual report of Oklahoma Futures~~ on the first day of each legislative session.

5. The Department shall develop and manage a complete economic information system which will support the five-year planning process, and which will make available complete and timely information on the state economy. The economic information system shall be operated by public or private Oklahoma universities or an Oklahoma enterprise capable of providing such services in a cost-effective manner.

B. The Department, in conjunction with the Oklahoma Development Finance Authority, is authorized to develop an infrastructure program which will enable political subdivisions of this state to finance public works projects in order to modify or improve existing public facilities for purposes of bringing said facilities, and the operation thereof, into compliance with and maintaining compliance

with federal, state and local laws and regulations pertaining to the protection of the public health and the environment.

C. The Director shall develop an annual business plan for the Department. ~~The business plan shall be submitted to Oklahoma Futures for its review and comment and shall be included in the annual report of Oklahoma Futures.~~ The business plan shall include the need and mission of each division of the Department created by law or the Director and an analysis of past costs and benefits and future projected costs and benefits to the state of the programs of each division of the Department. The business plan shall be consistent with the goals of the recurring five-year plan specified in this section. ~~Oklahoma Futures shall review and comment upon such plan before it is implemented.~~ The Director shall distribute copies of the business plan by such means that will make it widely available to communities, firms and local economic development managers throughout this state.

SECTION 16. AMENDATORY 74 O.S. 2001, Section 5003.8, is amended to read as follows:

Section 5003.8 ~~A.~~ In order to ensure that the Oklahoma Department of Commerce is effectively implementing its mission, purpose and objectives, the Department shall publish an annual report setting forth in detail the operations and programs conducted by it pursuant to this act or to other legislation. The report shall review both statewide progress and departmental progress according to several measures including objective measures listed in the Department's five-year plan. The Department shall present this report to the Governor, and the Legislature ~~and Oklahoma Futures.~~ The annual report shall specifically account for ways in which the needs, mission and programs of the Department described in this act have been carried out and recommendations shall specifically note what changes in the activities of the Department and the programs it administers and of state government are necessary to better address

the mission described in this act. The Department shall distribute its annual report by such means that will make it widely available to communities, firms and local economic development managers throughout this state.

~~B. Seven (7) years after the Department of Commerce has become the central economic development agency for this state, Oklahoma Futures shall review, analyze and evaluate the extent to which the Department has achieved its statutory goals. The evaluation shall include, but not be limited to, an examination of quantifiable results of the Department's programs and plans.~~

SECTION 17. REPEALER 74 O.S. 2001, Sections 5002.1, 5002.2, 5002.3, 5002.4, 5002.5, 5060.28 and 5060.42, are hereby repealed.

SECTION 18. This act shall become effective July 1, 2002.

SECTION 19. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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