

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

HOUSE BILL HB1650

By: Mitchell

AS INTRODUCED

An Act relating to the Department of Rehabilitation Services; amending Section 34, Chapter 356, O.S.L. 1994, as amended by Section 8, Chapter 402, O.S.L. 1997 (40 O.S. Supp. 2000, Section 2-802), which relates to the Oklahoma Employment Security Commission; adding the Department to list of agencies which may contract with child support enforcement; amending 47 O.S. 1991, Section 156, as last amended by Section 2, Chapter 240, O.S.L. 2000 (47 O.S. Supp. 2000, Section 156), which relates to agencies authorized to purchase certain vehicles; authorizing the Oklahoma School for the Blind and Oklahoma School for the Deaf to transport certain students; amending 56 O.S. 1991, Section 329, as amended by Section 15, Chapter 364, O.S.L. 1993 (56 O.S. Supp. 2000, Section 329), which relates to certain transfers; removing certain official register of the blind; amending 68 O.S. 1991, Section 1356, as last amended by Section 15, Chapter 314, O.S.L. 2000 (68 O.S. Supp. 2000, Section 1356), which relates to exemptions from sales taxes; adding Department to list of agencies to which sales are not taxable and adding to list of agencies and entities which are exempt from tax; amending 70 O.S. 1991, Sections 1722, as amended by Section 1, Chapter 264, O.S.L. 2000, 1723, 1724, 1732, 1733 and 1734, as amended by Section 2, Chapter 264, O.S.L. 2000 (70 O.S. Supp. 2000, Sections 1722 and 1734), which relate to the Oklahoma School for the Deaf and the Oklahoma School for the Blind; removing out-of-date language; updating language and powers and duties of the Department; providing conditions for admission to schools; amending Section 5, Chapter 364, O.S.L. 1993 (74 O.S. Supp. 2000, Section 166.5), which relates to powers and duties of the Commission for Rehabilitation Services; adding to powers and duties; authorizing establishment of an employee performance recognition program; authorizing funding and expenditures; limiting certain amounts; providing for an income tax check-off for donations to the Oklahoma School for the Blind and Oklahoma School for the Deaf; providing procedures; creating the Oklahoma School for the Deaf/Oklahoma School for the Blind Revolving Fund; providing for deposits and expenditures; requiring equal funding; authorizing refunds; making certain payment of expenditure by the Department a debt to the Department; providing for notice; authorizing liens; providing for validity; providing for content of certain notices; authorizing certain actions; providing for liability; defining terms; amending 75 O.S. 1991, Section 250.4, as last amended by Section 30, Chapter 6, O.S.L. 2000 (75

O.S. Supp. 2000, Section 250.4), which relates to the Administrative Procedures Act; making the Department of Rehabilitation Services exempt for certain purpose relating to rules and hearings; repealing 70 O.S. 1991, Sections 1736, 1737, 1739, 1740, 1743 and 1744, which relate to the Oklahoma School for the Deaf; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 34, Chapter 356, O.S.L. 1994, as amended by Section 8, Chapter 402, O.S.L. 1997 (40 O.S. Supp. 2000, Section 2-802), is amended to read as follows:

Section 2-802. A. Employers doing business in the State of Oklahoma shall report to the Oklahoma Employment Security Commission, the hiring or employment of any person who resides or works in this state to whom the employer anticipates paying earnings.

B. Such report shall contain the employee's name, address, social security number, date of employment, state of employment, along with the employer's name, address, and federal identification number.

C. The report must be made within twenty (20) days of hiring, or twice monthly, not less than twelve (12) nor more than sixteen (16) days apart if reported electronically or magnetically. The report may be made by mailing a copy of the employee's W-4 form, by submitting a fax transmission of the employee's W-4 form, by submitting electronic media in a format that can be used by the Oklahoma Employment Security Commission, or by any other means authorized by the Oklahoma Employment Security Commission.

D. The Child Support Enforcement Division shall be the official New Hire Registry for the State of Oklahoma and will obtain the new hire information from the Oklahoma Employment Security Commission.

E. The Child Support Enforcement Division shall enter into agreements with state agencies administering unemployment, workers' compensation, public assistance, Medicaid, food stamps, vocational rehabilitation, and other programs specified by federal law or regulation to provide such information upon request.

F. Used in this section:

1. "Employee" means an individual who is an employee as defined by the Internal Revenue Code of 1986, 26 U.S.C., Section 3401 et seq. "Employee" does not mean an employee of a federal or state agency performing intelligence or counterintelligence functions if the head of such agency has determined that reporting with respect to that employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission;

2. "Employer" means an individual or other entity who is an employer as defined by the Internal Revenue Code of 1986, 26 U.S.C., Section 3401(d) and includes any governmental entity and any labor organization; and

3. "Labor organization" means an entity as defined by the National Labor Relations Act, 29 U.S.C., Section 152(5) including, but not limited to, any entity known as a "hiring hall" which is used by the organization and an employer to carry out requirements described in Section 8(f)(3) of the National Labor Relations Act, 29 U.S.C., Section 158(f)(3), of an agreement between the organization and the employer.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 156, as last amended by Section 2, Chapter 240, O.S.L. 2000 (47 O.S. Supp. 2000, Section 156), is amended to read as follows:

Section 156. A. Unless otherwise provided for by law, no state board, commission, department, institution, official, or employee, except the following, shall purchase any passenger automobile or bus with public funds:

1. The Department of Public Safety, ~~the~~;

2. ~~The~~ Department of Human Services,~~the~~;

3. ~~The~~ State Department of Rehabilitation Services,~~the~~;

4. ~~The~~ Department of Wildlife Conservation,~~the~~;

5. ~~The~~ Department of Corrections,~~the~~;

6. ~~The~~ State Department of Education,~~the~~;

7. ~~The~~ Oklahoma School of Science and Mathematics,~~the~~;

8. ~~The~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,~~the~~;

9. ~~The~~ Oklahoma State Bureau of Investigation,~~the~~;

10. ~~The~~ Transportation Commission,~~the~~;

11. ~~The~~ Department of Agriculture,~~the~~;

12. ~~The~~ State Department of Health,~~the~~;

13. ~~The~~ Department of Mental Health and Substance Abuse Services,~~the~~;

14. ~~The~~ J.D. McCarty Center for Children with Developmental Disabilities,~~the~~;

15. ~~The~~ Military Department of the State of Oklahoma,~~the~~;

16. ~~The~~ Oklahoma Tourism and Recreation Department,~~the~~;

17. ~~The~~ Oklahoma Conservation Commission,~~the~~;

18. ~~The~~ Oklahoma Water Resources Board,~~the~~;

19. ~~The~~ Department of Mines,~~the~~;

20. ~~The~~ Office of Juvenile Affairs,~~the~~ and ~~the~~

21. ~~The~~ Oklahoma Supreme Court shall ~~purchase any passenger automobile or bus with public funds.~~

B. 1. The Oklahoma School for the Deaf at Sulphur, the Oklahoma School for the Blind at Muskogee, and any state institution of higher education may purchase, own, or keep if now owned, or acquire by lease or gift, and use and maintain such station wagons, automobiles, trucks, or buses as are reasonably necessary for the implementation of the educational programs of said institutions.

2. No bus operated, owned, or used by such educational institutions shall be permitted to carry any person other than

students, faculty members, employees, or volunteers of such institutions. The provisions of this section shall not be construed to prohibit:

- a. the operation of intracampus buses or buses routed directly between portions of the campus of any institution not adjacent to each other, nor to prohibit the collection of fares from such students, faculty members, or employees of such institutions, sufficient in amount to cover the reasonable cost of such transportation, or
- b. the Oklahoma School for the Blind or the Oklahoma School for the Deaf from entering into agreements with local public school districts pursuant to the Interlocal Cooperation Act for the mutual use of the schools' and the districts' vehicles. Such use may include but is not limited to the transportation of students from local school districts with students from the Oklahoma School for the Blind or the Oklahoma School for the Deaf in vehicles owned by the Oklahoma School for the Blind or the Oklahoma School for the Deaf when traveling to school-related activities.

C. The J.D. McCarty Center for Children with Developmental Disabilities, the Oklahoma Department of Libraries, the Oklahoma Department of Veterans Affairs, and the Oklahoma Veterans Centers may own and maintain such passenger vehicles as those institutions have acquired prior to May 1, 1981.

D. The use of station wagons, automobiles, and buses, other than as provided for in this section, shall be permitted only upon written request for such use by heads of departments of the institution, approved in writing by the president of said institution or by some administrative official of said institution authorized by the president to grant said approval. Such use shall

be permitted only for official institutional business or activities connected therewith. Such use shall be subject to the provisions of Sections 156.1 and 159.7 of this title forbidding personal use of such vehicles, and to the penalties therein declared.

E. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor and shall be punished by fine or imprisonment, or both, as provided for in Section 156.1 of this title.

F. For the purpose of this section and Section 156.3 of this title, a station wagon is classified as a passenger automobile and may not be purchased solely for the use of transporting property. Such vehicles shall include, but not be limited to, all vehicles which have no separate luggage compartment or trunk but which do not have open beds, whether the same are called station wagons, vans, suburbans, town and country, blazers, or any other names. All state boards, commissions, departments, and institutions may own and maintain station wagons purchased solely for the purpose of transporting property if acquired prior to July 1, 1985.

G. The provisions of this section and Section 156.1 of this title shall not apply to public officials who are statewide elected commissioners.

SECTION 3. AMENDATORY 56 O.S. 1991, Section 329, as amended by Section 15, Chapter 364, O.S.L. 1993 (56 O.S. Supp. 2000, Section 329), is amended to read as follows:

Section 329. A. The Section of Services to the Blind of the ~~State Board for Vocational Education~~ Oklahoma Department of Career and Technology Education, including all personnel thereof and all property and assets belonging to such Section, is hereby transferred to, and shall be a section of, the Commission for Rehabilitation Services; and all powers, duties and responsibilities of the ~~State Board for Vocational Education~~ Oklahoma Department of Career and Technology Education relating to services to the blind shall

hereafter be exercised by the Commission for Rehabilitation Services. Employees of the Section who are members of the Teachers' Retirement System of Oklahoma and who continue as employees of the Section after such transfer may retain their membership in such Teachers' Retirement System. The Governor may, by an Executive Order, place the Section and employees thereof under the Merit System of Personnel Administration.

B. The Section of Services to the Blind shall provide, to blind and visually impaired persons, rehabilitation services, rehabilitation teaching services, optical aids, and special library services, including Braille and recorded books; administer the vending facility program maintained for blind and visually impaired persons, and the merchandising fund; ~~maintain an official state register of the blind;~~ plan and develop a comprehensive rehabilitation center and services for blind and visually impaired persons; and coordinate its services with other public agencies and private agencies providing services to the blind.

SECTION 4. AMENDATORY 68 O.S. 1991, Section 1356, as last amended by Section 15, Chapter 314, O.S.L. 2000 (68 O.S. Supp. 2000, Section 1356), is amended to read as follows:

Section 1356. Exemptions - Governmental and nonprofit entities.

There are hereby specifically exempted from the tax levied by Section 1350 et seq. of this title:

1. Sale of tangible personal property or services to the United States government or to the State of Oklahoma, any political subdivision of this state or any agency of a political subdivision of this state; provided, all sales to contractors in connection with the performance of any contract with the United States government, State of Oklahoma or any of its political subdivisions shall not be exempted from the tax levied by this article, except as hereinafter provided;

2. Sales of property to agents appointed by or under contract with agencies or instrumentalities of the United States government if ownership and possession of such property transfers immediately to the United States government;

3. Sales of property to agents appointed by or under contract with a political subdivision of this state if the sale of such property is associated with the development of a qualified federal facility, as provided in the Oklahoma Federal Facilities Development Act, and if ownership and possession of such property transfers immediately to the political subdivision or the state;

4. Sales made directly by county, district or state fair authorities of this state, upon the premises of the fair authority, for the sole benefit of the fair authority;

5. Sale of food in cafeterias or lunch rooms of elementary schools, high schools, colleges or universities which are operated primarily for teachers and pupils and are not operated primarily for the public or for profit;

6. Dues paid to fraternal, religious, civic, charitable or educational societies or organizations by regular members thereof, provided, such societies or organizations operate under what is commonly termed the lodge plan or system, and provided such societies or organizations do not operate for a profit which inures to the benefit of any individual member or members thereof to the exclusion of other members and dues paid monthly or annually to privately owned scientific and educational libraries by members sharing the use of services rendered by such libraries with students interested in the study of geology, petroleum engineering or related subjects;

7. Sale of tangible personal property or services to or by churches, except sales made in the course of business for profit or savings, competing with other persons engaged in the same or a similar business;

8. The amount of proceeds received from the sale of admission tickets which is separately stated on the ticket of admission for the repayment of money borrowed by any accredited state-supported college or university or any public trust of which a county in this state is the beneficiary, for the purpose of constructing or enlarging any facility to be used for the staging of an athletic event, a theatrical production, or any other form of entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket. Such facilities include, but are not limited to, athletic fields, athletic stadiums, field houses, amphitheaters and theaters. To be eligible for this sales tax exemption, the amount separately stated on the admission ticket shall be a surcharge which is imposed, collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the college or university to effect the capital improvements hereinbefore described;

9. Sales of tangible personal property or services to the council organizations or similar state supervisory organizations of the Boy Scouts of America, Girl Scouts of U.S.A. and the Campfire Boys and Girls shall be exempt from sales tax;

10. Sale of tangible personal property or services to any county, municipality, rural water district, public school district, the Department of Rehabilitation in its capacity as operator of the Oklahoma School for the Blind and the Oklahoma School for the Deaf, the institutions of The Oklahoma State System of Higher Education, the Grand River Dam Authority, the Northeast Oklahoma Public Facilities Authority, the Oklahoma Municipal Power Authority, City of Tulsa-Rogers County Port Authority, Muskogee City-County Port Authority or to any person with whom any of the above-named subdivisions or agencies of this state has duly entered into a public contract pursuant to law, necessary for carrying out such public contract or to any subcontractor to such a public contract.

Any person making purchases on behalf of such subdivision or agency of this state shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such subdivision or agency of this state and set out the name of such public subdivision or agency. Any person who wrongfully or erroneously certifies that purchases are for any of the above-named subdivisions or agencies of this state or who otherwise violates this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both;

11. Sales of tangible personal property or services to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), including materials, supplies, and equipment used in the construction and improvement of buildings and other structures owned by the institutions and operated for educational purposes.

Any person, firm, agency or entity making purchases on behalf of any institution, agency or subdivision in this state, shall certify in writing, on the copy of the invoice or sales ticket the nature of the purchases, and violation of this paragraph shall be a misdemeanor as set forth in paragraph 10 of this section;

12. Tuition and educational fees paid to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the

Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

13. Sales of tangible personal property made by:

- a. a public school,
- b. a private school offering instruction for grade levels kindergarten through twelfth grade,
- c. a public school district,
- d. a public or private school board,
- e. the Oklahoma School for the Blind,
- f. the Oklahoma School for the Deaf,
- g. a public or private school student group or organization,
- ~~f.~~ h. a parent-teacher association or organization, or
- ~~g.~~ i. public or private school personnel for purposes of raising funds for the benefit of a public or private school, public school district, the Oklahoma School for the Blind, the Oklahoma School for the Deaf, public or private school board or public or private school student group or organization.

The exemption provided by this paragraph for sales made by a public or private school shall be limited to those public or private schools accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs. Sale of tangible personal property in this paragraph shall include sale of admission tickets and concessions at athletic events;

14. Sales of tangible personal property by:

- a. local 4-H clubs,
- b. county, regional or state 4-H councils,
- c. county, regional or state 4-H committees,
- d. 4-H leader associations,

- e. county, regional or state 4-H foundations, and
- f. authorized 4-H camps and training centers.

The exemption provided by this paragraph shall be limited to sales for the purpose of raising funds for the benefit of such organizations. Sale of tangible personal property exempted by this paragraph shall include sale of admission tickets;

15. The first Seventy-five Thousand Dollars (\$75,000.00) each year from sale of tickets and concessions at athletic events by each organization exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(4);

16. Items or services which are subsequently given away by the Oklahoma Tourism and Recreation Department as promotional items pursuant to Section 1834 of Title 74 of the Oklahoma Statutes;

17. Sales of tangible personal property or services to fire departments organized pursuant to Section 592 of Title 18 of the Oklahoma Statutes which items are to be used for the purposes of the fire department. Any person making purchases on behalf of any such fire department shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such fire department and set out the name of such fire department. Any person who wrongfully or erroneously certifies that the purchases are for any such fire department or who otherwise violates the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or both;

18. Complimentary or free tickets for admission to places of amusement, sports, entertainment, exhibition, display or other recreational events or activities which are issued through a box office or other entity which is operated by a state institution of higher education with institutional employees or by a municipality with municipal employees;

19. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property by fire departments organized pursuant to Titles 11, 18, or 19 of the Oklahoma Statutes for the purposes of raising funds for the benefit of the fire department. Fire departments selling tangible personal property for the purposes of raising funds shall be limited to no more than six (6) days each year to raise such funds in order to receive the exemption granted by this paragraph;

20. Sales of tangible personal property or services to any Boys & Girls Clubs of America affiliate in this state which is not affiliated with the Salvation Army and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

21. Sales of tangible personal property or services to any organization, which takes court-adjudicated juveniles for purposes of rehabilitation, and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), provided that at least fifty percent (50%) of the juveniles served by such organization are court adjudicated and the organization receives state funds in an amount less than ten percent (10%) of the annual budget of the organization;

22. Sales of tangible personal property or services to:

- a. any federally qualified community health center as defined in Section 254c of Title 42 of the United States Code,
- b. any migrant health center as defined in Section 254b of Title 42 of the United States Code,
- c. any clinic receiving disbursements of state monies from the Indigent Health Care Revolving Fund pursuant to the provisions of Section 66 of Title 56 of the Oklahoma Statutes, and

d. any community based health center which meets all of the following criteria:

- (1) provides primary care services at no cost to the recipient, and
- (2) is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

23. Dues or fees, including free or complimentary dues or fees which have a value equivalent to the charge that could have otherwise been made, to YMCAs, YWCAs or municipally-owned recreation centers for the use of facilities and programs;

24. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property or services to or by a cultural organization established to sponsor and promote educational, charitable and cultural events for disadvantaged children, and which organization is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

25. Sales of tangible personal property or services to museums or other entities which have been accredited by the American Association of Museums. Any person making purchases on behalf of any such museum or other entity shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such museum or other entity and set out the name of such museum or other entity. Any person who wrongfully or erroneously certifies that the purchases are for any such museum or other entity or who otherwise violates the provisions of this paragraph shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or by both such fine and incarceration;

26. Sales of tickets for admission by any museum accredited by the American Association of Museums. In order to be eligible for the exemption provided by this paragraph, an amount equivalent to the amount of the tax which would otherwise be required to be collected pursuant to the provisions of Section 1350 et seq. of this title shall be separately stated on the admission ticket and shall be collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the museum to effect the construction, enlarging or renovation of any facility to be used for entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket;

27. Sales of tangible personal property or services occurring on or after June 1, 1995, to children's homes which are supported or sponsored by one or more churches, members of which serve as trustees of the home;

28. Sales of tangible personal property or services to the organization known as the Disabled American Veterans, Department of Oklahoma, Inc., and subordinate chapters thereof;

29. Sales of tangible personal property or services to youth camps which are supported or sponsored by one or more churches, members of which serve as trustees of the organization;

30. Transfer of tangible personal property made pursuant to Section 3226 of Title 63 of the Oklahoma Statutes by the University Hospitals Trust;

31. Sales of tangible personal property or services to a municipality, county or school district pursuant to a lease or lease-purchase agreement executed between the vendor and a municipality, county or school district. A copy of the lease or lease-purchase agreement shall be retained by the vendor;

32. Sales of tangible personal property or services to any spaceport user, as defined in the Oklahoma Space Industry Development Act;

33. The sale, use, storage, consumption, or distribution in this state, whether by the importer, exporter, or another person, of any satellite or any associated launch vehicle, including components of, and parts and motors for, any such satellite or launch vehicle, imported or caused to be imported into this state for the purpose of export by means of launching into space. This exemption provided by this paragraph shall not be affected by:

- a. the destruction in whole or in part of the satellite or launch vehicle,
- b. the failure of a launch to occur or be successful, or
- c. the absence of any transfer or title to, or possession of, the satellite or launch vehicle after launch;

34. The sale, lease, use, storage, consumption, or distribution in this state of any space facility, space propulsion system or space vehicle, satellite, or station of any kind possessing space flight capacity, including components thereof;

35. The sale, lease, use, storage, consumption, or distribution in this state of tangible personal property, placed on or used aboard any space facility, space propulsion system or space vehicle, satellite, or station possessing space flight capacity, which is launched into space, irrespective of whether such tangible property is returned to this state for subsequent use, storage, or consumption in any manner;

36. The sale, lease, use, storage, consumption, or distribution in this state of tangible personal property meeting the definition of "section 38 property" as defined in Sections 48(a)(1)(A) and (B)(i) of the Internal Revenue Code of 1986, that is an integral part of and used primarily in support of space flight; however, section 38 property used in support of space flight shall not include general office equipment, any boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the

United States government, or any other property not specifically suited to supporting space activity. The term "in support of space flight", for purposes of this paragraph, means the altering, monitoring, controlling, regulating, adjusting, servicing, or repairing of any space facility, space propulsion systems or space vehicle, satellite, or station possessing space flight capacity, including the components thereof;

37. The purchase or lease of machinery and equipment for use at a fixed location in this state, which is used exclusively in the manufacturing, processing, compounding, or producing of any space facility, space propulsion system or space vehicle, satellite, or station of any kind possessing space flight capacity. Provided, the exemption provided for in this paragraph shall not be allowed unless the purchaser or lessee signs an affidavit stating that the item or items to be exempted are for the exclusive use designated herein. Any person furnishing a false affidavit to the vendor for the purpose of evading payment of any tax imposed by Section 1354 of this title shall be subject to the penalties provided by law. As used in this paragraph, "machinery and equipment" means "section 38 property" as defined in Sections 48(a)(1)(A) and (B)(i) of the Internal Revenue Code of 1986, which is used as an integral part of the manufacturing, processing, compounding, or producing of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph;

38. The amount of a surcharge or any other amount which is separately stated on an admission ticket which is imposed, collected and used for the sole purpose of constructing, remodeling or enlarging facilities of a public trust having a municipality or county as its sole beneficiary; and

39. Sales of tangible personal property or services which are directly used in or for the benefit of a state park in this state,

which are made to an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and which is organized primarily for the purpose of supporting one or more state parks located in this state.

SECTION 5. AMENDATORY 70 O.S. 1991, Section 1722, as amended by Section 1, Chapter 264, O.S.L. 2000 (70 O.S. Supp. 2000, Section 1722), is amended to read as follows:

Section 1722. The purposes of the ~~school~~ Oklahoma School for the Blind shall be to:

1. ~~To provide~~ Provide academic, vocational, social/emotional, and cultural instruction as well as independent living skills and transitional needs for children who are blind or visually impaired; and

2. ~~To serve~~ Serve as a statewide resource center for educational services for children who are blind or visually impaired.

SECTION 6. AMENDATORY 70 O.S. 1991, Section 1723, is amended to read as follows:

Section 1723. The ~~said~~ Oklahoma School for the Blind shall be under the direction and control of the ~~State Board of Education~~ Department of Rehabilitation Services.

SECTION 7. AMENDATORY 70 O.S. 1991, Section 1724, is amended to read as follows:

Section 1724. ~~All persons, residing in the State of Oklahoma, between the ages of six (6) and twenty-one (21) years, whose vision is so defective as to prevent them attending the public schools, and who are of such physical, mental, and moral character as to enable them to pursue any one or all of the courses of study taught in this school, are eligible; provided, persons may be continued in said school after passing the age of twenty-one (21), or persons, under six (6) and over twenty-one (21), may be admitted as pupils in said school at the discretion of the superintendent and faculty.~~

A. Residents of this state for whom blindness or visual impairment is the primary impediment to success in the common schools of the state, and who are of suitable age and physical and mental capacity, shall be entitled to admission to the Oklahoma School for the Blind and shall receive an education free of charge.

B. Students admitted to the school who are of suitable emotional capacity and who are not a threat to themselves or others shall be entitled to reside at the school free of charge to the extent that dormitory housing is available.

C. The Department of Rehabilitation Services shall establish the criteria and procedures for admission to the school.

SECTION 8. AMENDATORY 70 O.S. 1991, Section 1732, is amended to read as follows:

Section 1732. The Oklahoma School for the Deaf is hereby permanently located in the City of Sulphur, Oklahoma. ~~The Board of Trustees of said school are hereby authorized to select the particular site and to determine all other details in connection with the permanent location of said school.~~

SECTION 9. AMENDATORY 70 O.S. 1991, Section 1733, is amended to read as follows:

Section 1733. ~~All deaf residents of this state, and those deaf and mute to such an extent that they cannot acquire an education in the common schools of the state, of suitable age and capacity, and of good moral character, shall be entitled to an education in the school for the deaf, without charge.~~

A. Residents of this state for whom deafness or hardness of hearing is the primary impediment to success in the common schools of the state, and who are of suitable age and physical and mental capacity, shall be entitled to an education in the Oklahoma School for the Deaf without charge.

B. Students admitted to the school who are of suitable emotional capacity and who are not a threat to themselves or others

shall be entitled to reside at the school free of charge to the extent that dormitory housing is available.

C. The Department of Rehabilitation Services shall establish the criteria and procedures for admission to the school.

SECTION 10. AMENDATORY 70 O.S. 1991, Section 1734, as amended by Section 2, Chapter 264, O.S.L. 2000 (70 O.S. Supp. 2000, Section 1734), is amended to read as follows:

Section 1734. The purposes of the ~~school~~ Oklahoma School for the Deaf shall be:

1. To provide academic, vocational, social/emotional, and cultural instruction as well as independent living skills and transitional needs for children who are deaf or hard-of-hearing; and
2. To serve as a statewide resource center for educational services for children who are deaf or hard-of-hearing.

SECTION 11. AMENDATORY Section 5, Chapter 364, O.S.L. 1993 (74 O.S. Supp. 2000, Section 166.5), is amended to read as follows:

Section 166.5 ~~Effective July 1, 1993, in order to effectuate the transfer of the Rehabilitation Services Division of the Oklahoma Public Welfare Commission and the Department of Human Services to the Commission for Rehabilitation Services, the~~ A. The Commission for Rehabilitation Services shall have the powers and duties to:

1. Adopt bylaws and promulgate rules for the regulation of its affairs and the conduct of its business;
2. Adopt an official seal;
3. Establish an office;
4. Sue and to be sued, subject to the provisions of the Governmental Tort Claims Act, ~~Section 151 et seq. of Title 51 of the Oklahoma Statutes;~~
5. Make and enter into all contracts necessary or incidental to the performance of its duties and the execution of its powers;

6. Purchase or lease equipment, furniture, materials and supplies, and incur such other expenses as may be necessary to maintain and operate the Commission and Department, or to discharge its duties and responsibilities or to make any of its powers effective;

7. Acquire by purchase, lease, gift, solicitation of gift or by any other manner, and to maintain, use and operate or to contract for the maintenance, use and operation of or lease of any and all property of any kind, real, personal or mixed or any interest therein unless otherwise provided by this act; provided, that, all contracts for real property shall be subject to the provisions of Section 63 of this title; ~~and~~

8. Appoint such officers, agents and employees as it deems necessary to operate and maintain the Commission and to prescribe their duties and to fix their compensation; and

9. Perform such other acts as shall be necessary for the accomplishment of the purposes of Chapter 5A of Title 74 of the Oklahoma Statutes.

B. 1. The Commission for Rehabilitation Services is authorized to establish an employee performance recognition program that encourages outstanding job performance and productivity within the State Department of Rehabilitation Services.

2. The Commission is authorized to expend monies available from the Department's operating funds to purchase recognition awards for presentation to the members of work units or individual employees with exceptional job performance records or for other significant contributions to the operation of the Department.

3. Recognition awards may consist of distinctive wearing apparel, service pins, plaques, writing pens, or other distinguished awards of a value not exceeding One Hundred Dollars (\$100.00) per award to recognize the achievement of the work unit or individual employee.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 166.8 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Each state individual income tax return form and each corporate income tax return form for tax years commencing after December 31, 2001, shall contain a designation for donations of tax refunds to the Oklahoma School for the Blind/Oklahoma School for the Deaf.

B. The monies generated pursuant to subsection A of this section shall be paid to the State Treasurer by the Oklahoma Tax Commission and placed to the credit of the Oklahoma School for the Deaf/Oklahoma School for the Blind Revolving Fund.

C. There is hereby created in the State Treasury a revolving fund for the State Department of Rehabilitation Services to be designated the "Oklahoma School for the Deaf/Oklahoma School for the Blind Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies apportioned to the fund pursuant to the provisions of this section. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Department of Rehabilitation Services for the purpose of funding programs at the Oklahoma School for the Deaf and the Oklahoma School for the Blind. Such monies shall be equally divided between the two designated schools. 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.

D. If a taxpayer makes a donation pursuant to subsection A of this section in error, such taxpayer may file a claim for refund at any time within three (3) years from the due date of the tax return pursuant to Section 2373 of Title 68 of the Oklahoma Statutes. Prior to the apportionment set forth in this section, an amount

equal to the total amount of refunds made pursuant to this subsection during any one (1) year shall be deducted from the total donations received pursuant to this section during the following year and such amount deducted shall be paid to the State Treasurer and placed to the credit of the Income Tax Withholding Refund Account.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 166.9 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. 1. The payment of expenses by the Oklahoma Department of Rehabilitation Services for the rehabilitation services of a person who has been injured or diseased as a result of the negligence or act of another person creates a debt to the Department, subject to recovery by legal action pursuant to this section.

2. The payment of expenses by the Oklahoma Department of Rehabilitation Services for the rehabilitation services of a person who has been injured or diseased and either has a claim or may have a claim against an insurer, to the extent recoverable, creates a debt to the Department whether or not such person asserts or maintains a claim against an insurer.

B. The Department shall provide notice to all applicants for services of their obligation to report any claim or action, and any judgment, settlement or compromise arising from the claim or action, for injury or illness resulting in a disability for which the Department makes payments for rehabilitation services.

C. The recipient of rehabilitation services from the Department who asserts a claim or maintains an action against another on account of the injury or illness, or the recipient's legal representative, shall notify the Department of the claim or action and of any judgment, settlement or compromise arising from the claim or action prior to the final judgment, settlement or compromise.

D. If the injured or ill person asserts or maintains a claim against another person or tort-feasor on account of the injury or illness, the Department:

1. Shall have a lien upon payment of the rehabilitation services to the extent of the amount so paid upon that part going or belonging to the injured or diseased person of any recovery or sum had or collected or to be collected by the injured or diseased person, or by the heirs, personal representative or next of kin in the case of the death of the person, whether by judgment or by settlement or compromise. The lien authorized by this subsection shall:

- a. be inferior to any lien or claim of any attorney or attorneys for handling the claim on behalf of the injured or diseased person, the heirs or personal representative,
- b. not be applied or considered valid against any temporary or permanent disability award of the claimant due under the Workers' Compensation Act in this state, and
- c. be applied and considered valid as against any insurer adjudged responsible for medical expenses under the Workers' Compensation Act; and

2. May take any other legal action necessary to recover the amount so paid or to be paid to the injured or diseased person or to the heirs, personal representative or next of kin in case of the death of the person.

E. 1. To effectuate the lien authorized pursuant to this section, the Department shall file a written notice containing a statement of the amount claimed, the name and address of the injured or diseased person, and the name of the person, firm or corporation alleged to be liable to the injured or diseased person for damages in the office of the clerk of the district court for the county of

Oklahoma, State of Oklahoma, prior to the full payment of any monies to the injured or diseased person or to the heirs or personal representative of such person as damages or compensation for the injury or disease.

2. The Department shall also send by certified mail, return receipt requested, postage prepaid, a copy of the notice with a statement of the date of filing thereof to:

- a. the recipient of the rehabilitation services,
- b. any person, firm or corporation alleged to be liable to the injured or diseased person for damages so sustained,
- c. any insurer which may be ultimately liable, if the name and address shall be known, and
- d. any attorney for the injured or diseased person, provided the Department has notice of the name of the attorney.

3. The Department shall have the right to file a written notice of its lien in any action commenced by the injured or diseased person.

F. The Department, to secure and enforce the right of recovery or reimbursement on behalf of the injured or diseased person, may initiate and prosecute any action or proceeding against any other person or tort-feasor who may be liable to the injured or diseased person, if the injured or diseased person has not initiated any legal proceedings against the other person or tort-feasor.

G. Any person or insurer that has been notified by the Department of a claim of lien authorized by this section and who, directly or indirectly, pays to the recipient any money as a settlement or compromise of the recipient's claim arising out of the injury or disease shall be liable to the Department for the money value of the rehabilitation services rendered by the Department in an amount not in excess of the amount which the recipient was

entitled to recover from the tort-feasor or insurer because of the injury or disease.

H. As used in this section:

1. "Rehabilitation services" are those services provided pursuant to the Rehabilitation Act of 1973, as amended, and as codified at 29 U.S.C., Section 701 et seq. Such services include vocational rehabilitation, independent living, medical care, the provision of prostheses, wheelchairs and assistive technology devices and other services permitted by the Rehabilitation Act;

2. "Person" includes an individual, the guardian of an individual and the administrator or executor of the estate of an individual, and a corporation; and

3. "Insurer" means any insurance company that administers accident and health policies or plans or that administers any other type insurance policy containing medical provisions, and any nonprofit hospital service and indemnity and medical service and indemnity corporation, actually engaged in business in this state, regardless of where the insurance contract is written, or plan is administered or where such corporation is incorporated.

SECTION 14. AMENDATORY 75 O.S. 1991, Section 250.4, as last amended by Section 30, Chapter 6, O.S.L. 2000 (75 O.S. Supp. 2000, Section 250.4), is amended to read as follows:

Section 250.4 A. 1. Except as is otherwise specifically provided in this subsection, each agency is required to comply with Article I of the Administrative Procedures Act.

2. The Corporation Commission shall be required to comply with the provisions of Article I of the Administrative Procedures Act except for subsections A, B, C and E of Section 303 of this title and Section 306 of this title. To the extent of any conflict or inconsistency with Article I of the Administrative Procedures Act, pursuant to Section 35 of Article IX of the Oklahoma Constitution, it is expressly declared that Article I of the Administrative

Procedures Act is an amendment to and alteration of Sections 18 through 34 of Article IX of the Oklahoma Constitution.

3. The Oklahoma Military Department shall be exempt from the provisions of Article I of the Administrative Procedures Act to the extent it exercises its responsibility for military affairs.

4. The Oklahoma Ordnance Works Authority, the Northeast Oklahoma Public Facilities Authority and the Board of Trustees of the Oklahoma College Savings Plan shall be exempt from Article I of the Administrative Procedures Act.

5. The Oklahoma Transportation Commission and the Oklahoma Department of Transportation shall be exempt from Article I of the Administrative Procedures Act to the extent they exercise their authority in adopting standard specifications, special provisions, plans, design standards, testing procedures, federally imposed requirements and generally recognized standards, project planning and programming, and the operation and control of the State Highway System.

6. The Oklahoma State Regents for Higher Education shall be exempt from Article I of the Administrative Procedures Act with respect to:

- a. prescribing standards of higher education,
- b. prescribing functions and courses of study in each institution to conform to the standards,
- c. granting of degrees and other forms of academic recognition for completion of the prescribed courses,
- d. allocation of state-appropriated funds, and
- e. fees within the limits prescribed by the Legislature.

7. Institutional governing boards within The Oklahoma State System of Higher Education shall be exempt from Article I of the Administrative Procedures Act.

8. a. The Commissioner of Public Safety shall be exempt from Sections 303.1, 303.2, 307.1, 308 and 308.1 of this

title insofar as it is necessary to promulgate rules pursuant to the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act, to maintain a current incorporation of federal motor carrier safety and hazardous material regulations for which the Commissioner has no discretion when the state is mandated to promulgate rules identical to federal rules and regulations.

- b. Such rules may be adopted by the Commissioner and shall be deemed promulgated twenty (20) days after notice of adoption is published in "The Oklahoma Register". Such publication need not set forth the full text of the rule but may incorporate the federal rules and regulations by reference.
- c. Such copies of promulgated rules shall be filed with the Secretary as required by Section 251 of this title.
- d. For any rules for which the Commissioner has discretion to allow variances, tolerances or modifications from the federal rules and regulations, the Commissioner shall fully comply with Article I of the Administrative Procedures Act.

9. The Council on Judicial Complaints shall be exempt from Section 306 of Article I of the Administrative Procedures Act, with respect to review of the validity or applicability of a rule by an action for declaratory judgment, or any other relief based upon the validity or applicability of a rule, in the district court or by an appellate court. A party aggrieved by the validity or applicability of a rule made by the Council on Judicial Complaints may petition the Court on the Judiciary to review the rules and issue opinions based upon them.

10. The Department of Rehabilitation Services shall be exempt from Article I of the Administrative Procedures Act in the preparation, composition and distribution of handbooks intended for use by the students, staff or parents of students at the Oklahoma School for the Blind or the Oklahoma School for the Deaf.

B. As specified, the following agencies or classes of agency activities are not required to comply with the provisions of Article II of the Administrative Procedures Act:

1. The Oklahoma Tax Commission;
2. The Commission for Human Services;
3. The Oklahoma Ordnance Works Authority;
4. The Oklahoma Corporation Commission;
5. The Pardon and Parole Board;
6. The Midwestern Oklahoma Development Authority;
7. The Grand River Dam Authority;
8. The Northeast Oklahoma Public Facilities Authority;
9. The Council on Judicial Complaints;
10. The Board of Trustees of the Oklahoma College Savings Plan;
11. The supervisory or administrative agency of any penal, mental, medical or eleemosynary institution, only with respect to the institutional supervision, custody, control, care or treatment of inmates, prisoners or patients therein; provided, that the provisions of Article II shall apply to and govern all administrative actions of the Oklahoma Alcohol Prevention, Training, Treatment and Rehabilitation Authority;
12. The Board of Regents or employees of any university, college, or other institution of higher learning, except with respect to expulsion of any student for disciplinary reasons; provided, that upon any alleged infraction by a student of rules of such institutions, with a lesser penalty than expulsion, such student shall be entitled to such due process, including notice and hearing, as may be otherwise required by law, and the following

grounds of misconduct, if properly alleged in disciplinary proceedings against a student, shall be cause to be barred from the campus and be removed from any college or university-owned housing, upon conviction in a court of law:

- a. participation in a riot as defined by the penal code,
- b. possession or sale of any drugs or narcotics prohibited by the penal code, Section 1 et seq. of Title 21 of the Oklahoma Statutes, or
- c. willful destruction of or willful damage to state property;

13. The Oklahoma Horse Racing Commission, its employees or agents only with respect to hearing and notice requirements on the following classes of violations which are an imminent peril to the public health, safety and welfare:

- a. any rule regarding the running of a race,
- b. any violation of medication laws and rules,
- c. any suspension or revocation of an occupation license by any racing jurisdiction recognized by the Commission,
- d. any assault or other destructive acts within Commission-licensed premises,
- e. any violation of prohibited devices, laws and rules, or
- f. any filing of false information;

14. The Commissioner of Public Safety only with respect to drivers' license hearings and hearings conducted pursuant to the provisions of Section 2-115 of Title 47 of the Oklahoma Statutes;

15. The Administrator of the Department of Securities only with respect to hearings conducted pursuant to provisions of the Oklahoma Take-over Disclosure Act of 1985;

16. Hearings conducted by a public agency pursuant to Section 962 of Title 47 of the Oklahoma Statutes;

17. The Oklahoma Military Department;

18. The University Hospitals Authority, including all hospitals or other institutions operated by the University Hospitals Authority;

19. The Oklahoma Health Care Authority Board and the Administrator of the Oklahoma Health Care Authority; ~~and~~

20. The position audit procedure, including the impartial review process, of the Office of Personnel Management pursuant to Section 840-4.3 of Title 74 of the Oklahoma Statutes. Provided, that any appeal from an impartial review determination to a court of competent jurisdiction shall be confined to the record in accordance with the provisions of Article II of the Administrative Procedures Act; and

21. The Department of Rehabilitation Services.

SECTION 15. REPEALER 70 O.S. 1991, Sections 1736, 1737, 1739, 1740, 1743 and 1744, are hereby repealed.

SECTION 16. 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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