STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1512 By: Paulk

COMMITTEE SUBSTITUTE

An Act relating to emergency management; amending 63 O.S. 2001, Section 681, which relates to school buildings; requiring school districts and institutions of higher learning to develop emergency preparedness plans; amending 63 O.S. 2001, Section 682, which relates to federal assistance; extending government participation in assistance programs; amending 63 O.S. 2001, Sections 683.1, 683.2, 683.3, 683.4, 683.6, 683.8, 683.9, 683.11, 683.12, 683.13, 683.14, 683.15, 683.16, 683.17, 683.18, 683.23 and 683.24, which relate to the Oklahoma Emergency Management Act of 2003; authorizing creation of local organizations; requiring state entities to develop emergency preparedness plans; modifying definitions; adding to duties of Director; adding members to State Hazard Mitigation Team; establishing team coordinator; requiring annual update of comprehensive plan; adding to authority of Governor; clarifying references; requiring emergency management directors in counties; establishing qualifications of emergency management directors; requiring local agencies notification to emergency management directors; granting authority to local subdivisions; clarifying references; modifying loyalty oath requirements; modifying exemption from civil liability; modifying limitation on political activity; removing penalty for allocations of fuel; modifying name of fund; amending 63 O.S. 2001, Sections 683.26, 683.27, 683.28, 683.32, 683.33 and 683.34, which relate to Oklahoma Office of Volunteerism; clarifying name of agency; amending 63 O.S. 2001, Sections 684.2 and 684.4, which relate to the Emergency Management Compact; modifying definition of disaster; amending 63 O.S. 2001, Sections 685.1, 685.2, 685.3, 685.4, 685.5, 685.7 and 685.9, which relate to the Emergency Interim Executive and Judicial Succession Act; modifying intent; modifying scope and duties; amending 63 O.S. 2001, Sections 686.1, 686.2, 686.3, 686.6, 686.7, 686.10, 686.11, 686.12, 686.13 and 686.14, which relate to Emergency Management Interim Legislative Succession Act; modifying legislative intent; modifying designation of successor; modifying definitions; amending 63 O.S. 2001, Sections 687.1, 687.2, 687.3 and 687.4, which relate to the Emergency Management Interim Relocation Act; modifying definitions; clarifying powers of Governor; clarifying references; amending 63 O.S. 2001, Sections 690.2, 690.3, 690.4 and 690.5, which relate to the Oklahoma Flood Hazard Mitigation Program;

clarifying references; amending 63 O.S. 2001, Sections 2804 and 2805, which relate to the Emergency Telephone Act; clarifying statutory reference; amending 62 O.S. 2001, Section 139.47, which relates to emergencies; modifying requirements; amending 3 O.S. 2001, Section 85, which relates to the Oklahoma Aeronautics Commission; modifying authority; amending 21 O.S. 2001, Section 1210, which relates to disaster areas; clarifying references; amending 47 O.S. 2001, Section 1-103, which relates to emergency vehicles; clarifying references; amending 74 O.S. 2001, Section 324.10, which relates to the State Fire Marshal; clarifying references; amending 85 O.S. 2001, Section 3, which relates to workers' compensation; modifying definition; repealing 63 O.S. 2001, Section 663, which relates to emergency funds; repealing 63 O.S. 2001, Section 680, which relates to construction of state buildings; repealing 63 O.S. 2001, Sections 683.5a, 683.10, 683.19, 683.21 and 683.22, which relate to Oklahoma Civil Emergency Management Act; and declaring an emergency.

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

SECTION 1. AMENDATORY 63 O.S. 2001, Section 681, is amended to read as follows:

Section 681. School authorities of the State of Oklahoma, its political subdivisions, and its school districts are authorized to plan, design, and construct new school buildings ~~which~~ and make additions to existing school buildings that afford protection for the anticipated school body, ~~and~~ faculty, and visitors against ~~radiation hazards that could result from enemy attack upon the United States~~ tornadoes and severe weather. Each school, administration building and institution of higher learning shall have written plans and procedures in place for protecting students, faculty, administrators and visitors from natural and man-made disasters and emergencies. Plans shall be placed on file at each school district and each local emergency management organization within the district. Each school district and institution of higher learning shall make annual reports to the local school board or Board of Regents detailing the status of emergency preparedness and identified safety needs for each school or institution.

SECTION 2. AMENDATORY 63 O.S. 2001, Section 682, is amended to read as follows:

Section 682. Each state institution, agency, board, and department, each political subdivision of the state, and each school district of the state is authorized to participate in such federal assistance programs as may be available or may become available to assist in providing ~~fallout shelter~~ tornado and severe weather protection.

SECTION 3. AMENDATORY 63 O.S. 2001, Section 683.1, is amended to read as follows:

Section 683.1 This act may be cited as the "Oklahoma ~~Civil Defense and~~ Emergency ~~Resources~~ Management Act of 2003".

SECTION 4. AMENDATORY 63 O.S. 2001, Section 683.2, is amended to read as follows:

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

1. Create the Oklahoma Department of ~~Civil~~ Emergency Management (OEM);

2. Authorize the creation of local organizations for ~~civil defense~~ emergency management in the ~~political subdivisions~~ counties and incorporated municipalities of this state;

3. Provide for the formulation and execution of ~~a plan of emergency resources management~~ an emergency operations plan for the state;

4. Confer upon the Governor and upon the executive heads or governing bodies of the political subdivisions of the state the emergency powers provided by the Oklahoma ~~Civil Defense and~~ Emergency ~~Resources~~ Management Act of 2003;

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

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

B. It is further declared to be the purpose of the Oklahoma ~~Civil Defense and~~ Emergency ~~Resources~~ Management Act of 2003 and the policy of this state that all ~~civil defense,~~ emergency ~~resources~~ management and hazard mitigation functions of this state be coordinated to the maximum extent with the comparable functions of the federal government, including its various departments and agencies, of other states and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of available workforce, resources and facilities for dealing with disaster and hazard mitigation.

C. It is also directed that each state agency, board, commission, department or other state entity having responsibilities either indicated in the state Emergency Operations Plan or by the nature of the service it provides to the citizens of Oklahoma shall have written plans and procedures in place to protect individual employees, administrators and visitors from natural and man-made disasters and emergencies occurring at the work place. Plans and

procedures shall be in concurrence with the Oklahoma Department of Emergency Management Guidebook titled "Emergency Standard Operating Procedures" for state departments, agencies, offices and employees. Each state agency, board, commission, department or other state entity shall provide a calendar year annual report on the status of their emergency management program to the Department of Emergency Management. The Department of Emergency Management shall compile and integrate all reports into a report to the Governor and Legislature on the status of state emergency preparedness.

D. Each state agency, board, commission, department or other state entity shall have written plans and procedures in place to support the responsibilities stated in the state Emergency Operations Plan.

SECTION 5. AMENDATORY 63 O.S. 2001, Section 683.3 is amended to read as follows:

Section 683.3 As used in the Oklahoma ~~Civil Defense and~~ Emergency ~~Resources~~ Management Act of 2003:

1. "~~Civil defense~~ Emergency management" means the preparation for and the ~~carrying out~~ coordination of all emergency functions~~, other than functions for which the military services are primarily responsible,~~ by organized and trained ~~volunteer civilian~~ persons, who will extend existent governmental functions and provide other necessary nongovernmental functions, to prevent, minimize and repair injury and damage resulting from ~~enemy attack, sabotage, or other hostile action, or~~ natural or man-made disasters ~~caused by fire, flood, tornado, earthquake, or other causes~~ developing to such an extent to cause an extreme emergency situation to arise which by declaration of the Governor jeopardizes the welfare of the citizens of this state. These emergency functions include, but are not limited to, fire fighting ~~services~~, ~~police services~~ law enforcement, medical and health ~~services~~, search and rescue, ~~engineering, air raid warning services~~ public works, warnings, communications,

~~radiological, chemical~~ hazardous materials and other special ~~weapons of defense~~ response functions, evacuations of persons from ~~stricken~~ affected areas, emergency ~~welfare~~ assistance services, ~~civilian war aid,~~ emergency transportation, ~~existing or properly assigned functions of plant protection, integration of industry emergency plans into civil defense plans, assistance to private and public utility companies in the temporary restoration of public utility services,~~ and other functions related to ~~civilian protection, together with all other activities necessary or incidental to the preparation for and carrying out of the emergency functions~~ preparedness, response, recovery and mitigation;

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

~~3. "Civil defense emergency" means any state of emergency caused by enemy attack upon the United States or a state of emergency declared by the President of the United States or the Governor of Oklahoma upon the occurrence of an attack upon the~~

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

~~4.~~ 3. "Emergency" means any occasion or instance for which, in the determination of the President of the United States or the Governor of the State of Oklahoma, federal or state assistance is needed to supplement state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert threat of a catastrophe in any part of the state;

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

~~6.~~ 4. "Significant events" means all hazardous material releases of any size and type, earthquakes, fires involving large buildings or facilities and large grass or wild fires, explosions, bomb threats, terrorist/civil disturbance, aircraft crash, natural disaster, utility disruption, dam breach, technological/man-made incident, search and rescue, structural collapse, and any other incident that poses significant consequences to the jurisdiction;

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

~~7.~~ 6. "Local organization for ~~civil defense~~ emergency management" means an organization created in accordance with the provisions of the Oklahoma ~~Civil Defense and~~ Emergency ~~Resources~~ Management Act of 2003 by state or local authority to perform local ~~civil defense~~ emergency management functions;

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

~~9.~~ 7. "Man-made disaster" means a disaster caused by acts of man including, but not limited to, an act of war, terrorism, chemical spill or release, or power shortages that require assistance from outside the local political subdivision;

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

~~10.~~ 9. "Political subdivision" shall mean any county, city, town or municipal corporation of the State of Oklahoma represented by an elected governing body.

SECTION 6. AMENDATORY 63 O.S. 2001, Section 683.4, is amended to read as follows:

Section 683.4 A. There is hereby created the Oklahoma Department of ~~Civil~~ Emergency Management (OEM). The Governor shall

appoint a Director of the Department, with the advice and consent of the Senate, who shall be the head of the Department. The Governor shall fix the salary of the Director, in cooperation with standards promulgated by the Office of Personnel Management.

B. The Director may employ ~~such technical, clerical, stenographic, and other~~ personnel and fix their compensation in cooperation with standards promulgated by the Office of Personnel Management, and may make such expenditures within the appropriation therefor, or from such other available funds as may be necessary to carry out the purposes of the Oklahoma ~~Civil Defense and~~ Emergency ~~Resources~~ Management Act of 2003 and other programs specified by law.

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

D. The Director, subject to the direction and control of the Governor, shall be the executive head of the Department and shall serve as the chief advisor to the Governor on emergency management and shall:

1. Be responsible to the Governor for carrying out the programs as required by law;

2. Coordinate the activities of all organizations for ~~civil defense~~ emergency management within the state;

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

4. Develop and maintain a comprehensive all-hazards mitigation plan for this state;

5. Implement the Oklahoma Hazard Mitigation Program; ~~and~~

6. Have such additional authority, duties, and responsibilities authorized by the Oklahoma ~~Civil Defense and~~ Emergency ~~Resources~~ Management Act of 2003 and as may be prescribed by the Governor; and

7. Supervise the Office of Volunteerism in accordance with Section 683.26 of this title.

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

SECTION 7. AMENDATORY 63 O.S. 2001, Section 683.6, is amended to read as follows:

Section 683.6 A. There is hereby created ~~a Civil Defense~~ an Emergency Management Advisory Council. The members of the Council shall be composed of the Governor, who shall serve as chair of the Council, and the following department heads:

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

2. The Commissioner of Public Safety;

3. The Adjutant General;

4. The Commissioner of Health;

5. The ~~President~~ Commissioner of the ~~Board~~ State Department of Agriculture, Food, and Forestry;

6. The Director of the Department of Human Services;

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

8. The Director of the Oklahoma Water Resources Board; and

9. The State Fire Marshal,

who shall serve without additional compensation.

B. The Council shall advise the Governor and the Director on all matters pertaining to ~~civil defense~~ emergency management.

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

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

b. Oklahoma Water Resources Board,

c. Oklahoma Climatological Survey,

d. Oklahoma Conservation Commission,

e. Oklahoma Corporation Commission,

f. Oklahoma Department of Commerce,

g. Oklahoma Department of Environmental Quality,

h. Oklahoma Department of Human Services,

i. Oklahoma Department of Health,

j. Oklahoma Department of Transportation,

k. Oklahoma Department of Agriculture, Food, and Forestry or Secretary of the Department of Agriculture, Food, and Forestry,

l. Oklahoma Department of Wildlife Conservation,

m. Oklahoma Historical Society, ~~and~~

n. Oklahoma Insurance Commission,

o. Association of County Commissioners of Oklahoma,

p. Oklahoma Municipal League, and

q. State Fire Marshal.

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

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

4. The Team Coordinator shall also request a representative of the U.S. Department of Housing and Urban Development be appointed by the administrative head of the Oklahoma City office to participate on the team.

5. The State Hazard Mitigation Team will meet as determined by the Team Coordinator to review and recommend updates to the State Comprehensive ~~Hazard~~ All-hazard Mitigation Plan, and shall have those additional responsibilities as provided by the Team Coordinator, including, but not limited to, the review and recommendation for loan and grant application under the Oklahoma Flood Hazard Mitigation Program.

SECTION 8. AMENDATORY 63 O.S. 2001, Section 683.8, is amended to read as follows:

Section 683.8 A. The Governor shall have general direction and control of the Oklahoma Department of ~~Civil~~ Emergency Management and shall be responsible for carrying out the provisions of the Oklahoma ~~Civil Defense and~~ Emergency ~~Resources~~ Management Act of 2003. In the event of ~~a civil defense~~ an emergency ~~beyond~~ that exceeds local ~~control~~ capability, the Governor may assume direct operational control over all or any part of the ~~civil defense~~ emergency management functions within this state.

B. The Governor shall have general direction and control of ~~the~~ emergency ~~resources~~ management within the state and all officers, boards, agencies, individual or groups established under the Emergency ~~Resources Management~~ Operations Plan. The Governor shall have the authority pursuant to the Oklahoma ~~Civil Defense and~~ Emergency ~~Resources~~ Management Act of 2003 to establish such offices, boards, agencies, or positions as may be necessary to carry into effect the Emergency ~~Resources Management~~ Operations Plan.

C. The Governor is authorized to cooperate with the federal government, with other states, and with private agencies in all matters pertaining to the ~~civil defense~~ emergency management of this state and of the nation ~~and the emergency management of resources~~.

D. To effect the policy and purpose of the Oklahoma ~~Civil Defense and~~ Emergency ~~Resources~~ Management Act of 2003, the Governor is further authorized and empowered to:

1. Make, amend, and rescind the necessary orders and rules to carry out the provisions of the Oklahoma ~~Civil Defense and~~ Emergency ~~Resources~~ Management Act of 2003 within the limits of authority conferred upon the Governor herein, with due consideration of the ~~civil defense and~~ emergency ~~resources~~ management plans of the federal government;

2. Cause to be prepared ~~now~~ and ~~from time to time hereafter~~ updated annually a comprehensive plan and program for ~~civil defense and~~ emergency management ~~of resources~~ of this state, such plans and programs to be integrated into and coordinated with the plans of the federal government and of other states to the fullest possible extent, and to coordinate the preparation of plans and programs for ~~civil defense and~~ emergency ~~resources~~ management by the political subdivisions of this state~~, such plans to be integrated into and coordinated with the State Civil Defense and Emergency Resources Management Plan to the fullest possible extent~~;

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

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

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

~~6.~~ 5. Delegate any administrative authority vested in the Governor pursuant to the Oklahoma ~~Civil Defense and~~ Emergency ~~Resources~~ Management Act of 2003, and provide for subdelegation of any such authority;

~~7. Appoint, in cooperation with~~ 6. Confirm the appointment of qualified emergency managers upon recommendations of local authorities~~, metropolitan area civil defense directors when practicable~~ as provided in Section 683.11 of this title;

~~8.~~ 7. Cooperate with the President of the United States and the heads of the Armed Forces, the Federal Emergency Management Agency, and other appropriate federal officers and agencies, with the officers and agencies of other states in matters pertaining to the emergency management ~~of resources of the state and nation and the civil defense~~ of the state and nation, including the direction and control of:

a. ~~blackouts and practice blackouts, air raid drills, mobilization of civil defense forces, and other tests and exercises~~ state emergency management activations and exercises,

b. warnings ~~and signals~~ for ~~drills or attacks~~ actual or exercise events and the ~~mechanical devices~~ equipment to be used in connection therewith,

c. the conduct of civilians and the movement of and cessation of movement of pedestrians and vehicular traffic during, prior and subsequent to natural and man-made disasters and emergencies ~~drills or attacks~~,

d. public meetings or gatherings, and

e. the evacuation and reception of the civil population; and

~~9.~~ 8. Prescribe uniform signals, warnings, alerts, credentials and insignia.

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

SECTION 9. AMENDATORY 63 O.S. 2001, Section 683.9, is amended to read as follows:

Section 683.9 The provisions of this section shall be operative only during the existence of a ~~civil defense~~ natural or man-made emergency. The existence of such ~~civil defense~~ emergency may be proclaimed by the Governor or by concurrent resolution of the Legislature if the Governor in such proclamation, or the Legislature in such resolution, finds that an ~~attack upon the United States~~ emergency or disaster has occurred or is anticipated in the immediate future. Any such emergency, whether proclaimed by the Governor or by the Legislature, shall terminate upon the proclamation of the termination thereof by the Governor, or by passage by the Legislature of a concurrent resolution terminating such emergency. During such period as such state of emergency

exists or continues, the Governor shall have and may exercise the following additional emergency powers:

~~(a)~~ 1. To activate the ~~Oklahoma~~ Emergency ~~Resources Management~~ Operations Plan, and to assume regulatory control over all essential resources of this state, directly or through the boards, agencies, offices and officers established by said Emergency ~~Resources Management~~ Operations Plan, to determine priorities of such resources and allocate such resources as the Governor may deem necessary in cooperation with the political subdivisions of this state, the federal government, or other states. "Resources" shall mean all economic resources within this state including but not limited to food, manpower, health and health manpower, water, transportation, economic stabilization, electric power, petroleum, gas, and solid fuel, industrial production, construction and housing.

~~(b)~~ 2. To enforce all laws, rules and regulations relating to ~~civil defense and~~ emergency ~~resources~~ management and to assume direct operational control of any or all ~~civil defense~~ emergency management forces and helpers in this state.

~~(c)~~ 3. To provide for the evacuation of all or part of the population from any stricken or threatened area or areas within this state and to take such steps as are necessary for the receipt and care of such evacuees.

~~(d)~~ 4. Subject to the provisions of the State Constitution, to remove from office any public officer having administrative responsibilities under this act for willful failure to obey any order, rule or regulation adopted pursuant to this act. Such removal shall be upon charges after service upon such person of a copy of such charges and after giving him an opportunity to be heard in his defense. Pending the preparation and disposition of charges, the Governor may suspend such person for a period not exceeding thirty (30) days. A vacancy resulting from removal or suspension

pursuant to this section shall be filled by the Governor until it is filled as otherwise provided by law.

~~(e)~~ 5. To perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population and to carry out the provisions of the ~~Oklahoma plan for the management of resources~~ Emergency Operations Plan in a national or state emergency.

SECTION 10. AMENDATORY 63 O.S. 2001, Section 683.11, is amended to read as follows:

Section 683.11 ~~(a) Each political subdivision of this state is hereby authorized and directed to establish a local organization for civil defense~~ A. All incorporated jurisdictions of this state are required to develop an emergency management program in accordance with the ~~state civil defense plan and program. Such political subdivision may confer or authorize the conferring upon members of the auxiliary police the powers of police officers, subject to such restrictions as shall be imposed~~ Oklahoma Emergency Management Act of 2003. County jurisdictions are required to have a qualified emergency management director as outlined in this section. Incorporated municipalities are required to either have an emergency management director or create an agreement with the county for emergency management services. Each local organization for ~~civil defense~~ emergency management shall have a director who shall be appointed by the executive officer or governing body of the political subdivision, who shall report directly to the chief executive officer or chief operating officer and who shall have direct responsibility for the organization, administration, and operation of such local organization for ~~civil defense~~ emergency management, subject to the direction and control of such executive officer or governing body. Each local organization for ~~civil defense~~ emergency management shall perform ~~civil defense~~ emergency management functions within the territorial limits of the political

subdivisions within which it is organized, and, in addition, shall conduct such functions outside of such territorial limits as may be required pursuant to this act. Each local emergency management organization shall develop, maintain and revise, as necessary, an emergency operations plan for the jurisdiction. Each plan shall address the emergency management system functions of preparedness, response, recovery and mitigation. Such plan shall be coordinated with the state.

B. Emergency Management Directors (EMD) shall meet the qualifications promulgated by the Oklahoma Department of Emergency Management (OEM). The minimum qualifications include:

1. U.S. citizenship;

2. High school diploma or equivalent;

3. Valid Oklahoma driver license;

4. Social security number;

5. Prior to employment, the employing agency shall obtain a name-based background search by the Oklahoma State Bureau of Investigation to determine if the EMD has been convicted of a felony; and

6. Within one (1) year of appointment, the EMD must complete basic emergency management training provided by the OEM.

C. Each Emergency Management Director shall be responsible for all aspects of emergency management in their jurisdiction including: conducting a hazard analysis detailing risks and vulnerabilities, annually updating the existing all-hazard Emergency Operations Plan (EOP), conducting and arranging for necessary training of all relevant personnel, conducting annual exercises to evaluate the plan, managing resources, determining shortfalls in equipment, personnel and training, revising the EOP as necessary, establishing and maintaining an office of emergency management, communications warnings, conducting or supervising damage assessment and other pre- and post-disaster-related duties.

D. Local fire departments, law enforcement and other first response agencies shall notify the Emergency Management Director of all significant events occurring in the jurisdiction. Emergency Management Directors shall promptly report significant events to the Oklahoma Department of Emergency Management.

~~(b)~~ E. In carrying out the provisions of this act, each political subdivision, in which any disaster as described in Section ~~3~~ 683.3 of this ~~act~~ title occurs, shall have the authority to declare a local emergency and the power to enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. Each political subdivision is authorized to exercise the powers vested under this section in the light of the exigencies of the extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law (excepting mandatory constitutional requirements) pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, and the appropriation and expenditure of public funds.

SECTION 11. AMENDATORY 63 O.S. 2001, Section 683.12, is amended to read as follows:

Section 683.12 ~~(a)~~ A. The Director of each local organization for ~~civil defense~~ emergency management may, in collaboration with other public and private agencies within this state, develop or cause to be developed mutual aid arrangements for reciprocal ~~civil defense~~ emergency management aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the state ~~civil defense~~ emergency management plan and program, and in time of emergency it shall be the duty of each local organization for ~~civil defense~~ emergency management to render

assistance in accordance with the provisions of such mutual aid arrangements.

~~(b)~~ B. The Director of each local organization for ~~civil defense~~ emergency management may, subject to the approval of the Governor, enter into mutual aid arrangements with ~~civil defense~~ emergency management agencies or organizations in other border states for reciprocal ~~civil defense~~ emergency management aid and assistance in case of disaster too great to be dealt with unassisted.

SECTION 12. AMENDATORY 63 O.S. 2001, Section 683.13, is amended to read as follows:

Section 683.13 ~~(a)~~ A. All functions hereunder and all other activities relating to ~~civil defense and the~~ emergency management ~~of resources~~ are hereby declared to be governmental functions. The provisions of this section shall not affect the right of any person to receive benefits to which ~~he~~ the person would otherwise be entitled under this act, or under the workers' compensation law, or under any pension law, nor the right of any such person to receive any benefits or compensation under any Act of Congress. Any municipal fireman or policeman engaged in any ~~civil defense~~ emergency management activities, while complying with or attempting to comply with this act or any rule or regulation pursuant thereto, shall be considered as serving in his or her regular line of duty and shall be entitled to all benefits of any applicable pension fund.

~~(b)~~ B. Any requirement for a license to practice any professional, mechanical, or other skill shall not apply to any authorized ~~civil defense~~ emergency management worker from any state rendering mutual aid and who holds a comparable license in ~~his own~~ that state, who shall~~, in the course of performing his duties as such,~~ practice such professional, mechanical, or other skill during ~~a civil defense emergency or other~~ an emergency declared under the

provisions of this act, when such professional, mechanical or other skill is exercised in accordance with the provisions of this act.

~~(c)~~ C. As used in this section, the term ~~"civil defense~~ "emergency management worker" shall include any full or part-time paid, volunteer, or auxiliary employee of this state, or other states, territories, possession or the District of Columbia, of the federal government, or any neighboring country, or of any political subdivision thereof, or of any agency or organization, performing ~~civil defense~~ emergency management services under state ~~supervisions~~ supervision, and who has been properly trained in the performance of ~~his civil defense function~~ emergency management functions, at any place in this state subject to the order or control of, or pursuant to a request of, the state government or any political subdivision thereof.

~~(d)~~ D. Any ~~civil defense~~ emergency management worker, as defined in this section, performing ~~civil defense~~ emergency management services at any place in this state pursuant to agreements, compacts, or arrangements for mutual aid and assistance, to which the state or a political subdivision thereof is a party, shall possess the same powers, duties, immunities, and privileges ~~he~~ the person would ordinarily possess if performing ~~his~~ the same duties in the state, province, or political subdivision thereof in which normally employed or rendering services.

SECTION 13. AMENDATORY 63 O.S. 2001, Section 683.14, is amended to read as follows:

Section 683.14 ~~(a)~~ A. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual~~,~~ or impending~~, mock, or practice attack~~ emergency or exercise shall, together with ~~his~~ any successors in interest, if any, not be civilly

liable for negligently causing the death of, or injury to, any person on or about such real estate or premises for loss of, or damage to, the property of such person; provided, that the injury or death was caused by or incidental to the actual use of such premises for such real, actual~~,~~ or impending~~, mock, or practice attack~~ emergency or exercise, and further provided that nothing herein contained shall grant immunity from gross, willful or wanton acts of negligence.

~~(b)~~ B. Neither the State of Oklahoma nor any political subdivision thereof nor any officer or employee of the State of Oklahoma or of any political subdivision thereof nor volunteer whose services have been accepted and utilized by an officer or employee of the State of Oklahoma or of any political subdivision thereof for carrying out the functions of this act shall be civilly liable for any loss or injury resulting to any person's company, corporation or other legal entity as a result of any decision, determination, order or action of such employee in the performance of his assigned duties and responsibilities under this act during a stated emergency unless such loss or injury was caused by the gross negligence, or willfully and unnecessarily or by the wanton act of such state officer or employee or volunteer. Nothing in this act shall be construed to waive the sovereignty or immunity of the State of Oklahoma, or any political subdivision thereof, from being sued.

SECTION 14. AMENDATORY 63 O.S. 2001, Section 683.15, is amended to read as follows:

Section 683.15 No organization for ~~civil defense~~ emergency management established under the authority of this act shall participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes.

SECTION 15. AMENDATORY 63 O.S. 2001, Section 683.16, is amended to read as follows:

Section 683.16 No person shall be ~~permanently~~ employed in any capacity in any ~~civil defense organization or state~~ emergency ~~resources~~ management organization ~~established under this act~~ who advocates or has advocated a change by force or violence in the constitutional form of the government of the United States or in this state or the overthrow of any government in the United States by force or violence, or who has been convicted of or is under indictment or information charging any subversive act against the United States. Each person who is appointed to serve in an organization of ~~civil defense or state resources~~ emergency management shall, before entering upon ~~his~~ employment duties, take the Oklahoma Loyalty Oath, in writing, before a person authorized to administer oaths in this state.

SECTION 16. AMENDATORY 63 O.S. 2001, Section 683.17, is amended to read as follows:

Section 683.17 ~~(a)~~ A. Each political subdivision shall have the power to make appropriations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision for the payment of expenses of its local organizations for ~~civil defense~~ emergency management.

~~(b)~~ B. Whenever the federal government or any agency or officer thereof shall offer to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of ~~civil defense~~ emergency management, the state acting through the Governor, or such political subdivision acting with the consent of the Governor and through its executive officer or governing body, may accept such offer and upon such acceptance the Governor of the state or executive officer or governing body of such political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state or

such political subdivision, and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

~~(c)~~ C. Whenever any person, firm, or corporation shall offer to the state, or to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of ~~civil defense~~ emergency management, the state acting through the Governor, or such political subdivision acting through its executive officer or governing body, may accept such offer and upon such acceptance the Governor of the state or executive officer or governing body of such political subdivision may authorize any officer of the state or the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, and subject to the terms of the offer.

~~(d)~~ D. Each political subdivision shall have the power to provide, by ordinances or otherwise, for a local ~~civil defense~~ emergency management organization, and said subdivisions shall have power to make appropriations for ~~civil defense~~ emergency management and disaster relief in the manner provided by law for making appropriations for ordinary expenses of such political subdivisions and shall have power to enter into agreements for the purpose of organizing civil defense units; to provide for a mutual method of financing the organization of such units on a basis approved by the State ~~Civil Defense~~ Emergency Management Director and satisfactory to said political subdivisions, but in which case the funds appropriated by said political subdivisions and any other funds provided for civil defense for such mutual purpose shall be nonfiscal funds and shall be placed on deposit with the county treasurer as custodian of such ~~civil defense~~ emergency management funds, and from which expenditures may be made on forms prescribed by the State Auditor and Inspector, in accordance with procedures

approved by the State ~~Civil Defense~~ Emergency Management Director; and shall have power to render aid to other political subdivisions under mutual aid agreements, provided that the functioning of said units shall be coordinated by the State ~~Civil Defense~~ Emergency Management Director and ~~his~~ the Director's staff according to plans promulgated for that purpose.

SECTION 17. AMENDATORY 63 O.S. 2001, Section 683.18, is amended to read as follows:

Section 683.18 In carrying out the provisions of this act, the Governor and the executive officers or governing bodies of the political subdivisions of the state are directed to utilize the services, equipment, supplies and facilities of existing departments, offices and agencies of the state and of the political subdivisions thereof to the maximum extent practicable, and the officers and personnel of all such departments, offices, and agencies are directed to cooperate with and extend such services and facilities to the Governor and to the ~~civil defense~~ emergency management organizations of the state upon request.

SECTION 18. AMENDATORY 63 O.S. 2001, Section 683.23, is amended to read as follows:

Section 683.23 A. The ~~Office of Civil Defense~~ Oklahoma Department of Emergency Management (OEM) may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction, restraining order or any other appropriate order in the appropriate district court, whenever any person:

1. Violates or fails or refuses to comply with any order or decision issued by the ~~Office of Civil Defense~~ OEM;

2. Interferes with, hinders or delays the ~~Office of Civil Defense~~ OEM in carrying out its duties and responsibilities;

3. Refuses to admit authorized representatives of the ~~Office of Civil Defense~~ OEM;

4. Refuses to permit inspection by authorized representatives of the ~~Office of Civil Defense~~ OEM;

5. Refuses to furnish any information or report requested by the ~~Office of Civil Defense~~ OEM to accomplish its duties and responsibilities;

6. Refuses to permit access to, or copying of, such records as the ~~Office of Civil Defense~~ OEM determines necessary to accomplish its duties and responsibilities.

B. The court shall have jurisdiction to provide such relief as may be appropriate. Any relief granted by the court to enforce an order under subsection A of this section shall continue in effect until the completion or final termination of all proceedings for review of such order is made, unless the district court granting such relief sets it aside or modifies it.

C. ~~If any person shall violate any rule, regulation or order of the Office of Civil Defense, the Director may terminate all allocations of fuel to the offender from any fuel reserves administered by the Office of Civil Defense.~~

~~D.~~ Any person willfully violating any rule, regulation or order of the ~~Office of Civil Defense~~ OEM shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by imprisonment in the county jail for not more than six (6) months, or by a fine of not more than Three Thousand Dollars ($3,000.00), or both. Each day of violation shall constitute a separate offense.

~~E.~~ D. The Department of Public Safety, the Oklahoma State Bureau of Investigation, and the Oklahoma Tax Commission shall assist the ~~Office of Civil Defense~~ OEM in the enforcement of any rule, regulation or order of the ~~Office of Civil Defense~~ OEM.

SECTION 19. AMENDATORY 63 O.S. 2001, Section 683.24, is amended to read as follows:

Section 683.24 There is hereby created in the State Treasury a special fund for the ~~Office of Civil Defense~~ Oklahoma Department of

Emergency Management, to be designated the ~~Civil Defense~~ Emergency Management Disaster Relief Matching Fund. The fund shall be a continuing fund not subject to fiscal year limitations, and shall be composed of monies that may be appropriated to or otherwise received by said fund. Said fund is to be utilized as the state's share of matching requirements for federal funds advanced under the provisions of Sections 402, 403 and 419, Public Law 93-288, Disaster Relief Act of 1974 and shall not be subject to legislative appropriation.

SECTION 20. AMENDATORY 63 O.S. 2001, Section 683.26, is amended to read as follows:

Section 683.26 Within the Oklahoma Department of ~~Civil~~ Emergency Management, there is hereby created the Oklahoma Office of Volunteerism for the purpose of developing, promoting and supporting emergency management volunteerism in the State of Oklahoma. The Oklahoma Office of Volunteerism shall support voluntary involvement in public and private emergency management programs to meet the needs of the citizens of the State of Oklahoma, to stimulate new voluntary emergency management initiatives and partnerships, and to serve as a resource and advocate within the State of Oklahoma for volunteer agencies, volunteers and programs which utilize volunteers to support emergency response and disaster recovery operations.

SECTION 21. AMENDATORY 63 O.S. 2001, Section 683.27, is amended to read as follows:

Section 683.27 A. Effective July 1, 1996, the Oklahoma Office of Volunteerism and all of the powers, duties and responsibilities of the Secretary of State relating to the Oklahoma Office of Volunteerism are hereby transferred to the Oklahoma Department of ~~Civil~~ Emergency Management, together with all unexpended funds, property, records, personnel and any outstanding financial obligations or encumbrances, exclusively or principally pertaining to such office.

B. The Director of State Finance is hereby directed to coordinate the transfer of funds, allotments, purchase orders, outstanding financial obligations or encumbrances provided for in this section.

C. Upon the transfer of the Office of Volunteerism, the Director of the Oklahoma Department of ~~Civil~~ Emergency Management shall provide for the adequate staffing of the Office to ensure the transfer may be effectuated with minimum interruption of its work heretofore carried on and within the mission of the agency. The transfer or division of resources provided herein, to be effected by an agreement between the Secretary of State and the Director of the Oklahoma Department of ~~Civil~~ Emergency Management, shall not operate to prevent completion of any unconsummated legal contracts with corporations, individual parties, and other government units and other legal contracts previously entered into by the Office of Volunteerism.

D. Any classified employee occupying the position of Director, Office of Volunteerism, on June 30, 1996, shall be transferred from the Office of Secretary of State to the Oklahoma Department of ~~Civil~~ Emergency Management effective July 1, 1996. Such employee shall remain subject to the provisions of the Merit System of Personnel Administration as provided for in the Oklahoma Personnel Act, and shall be transferred pursuant to OAC 530:10-11-74 without change in status, and without the need to pass further examination or meet additional qualifications. The employee shall retain any retirement and longevity benefits and seniority which have accrued prior to the transfer. The transfer shall be coordinated with the Office of Personnel Management.

SECTION 22. AMENDATORY 63 O.S. 2001, Section 683.28, is amended to read as follows:

Section 683.28 A. The Oklahoma Office of Volunteerism shall be subject to the authority and direction of the Director of the Oklahoma Department of ~~Civil~~ Emergency Management.

B. The Oklahoma Office of Volunteerism, in cooperation with governmental entities, individual volunteers and volunteer organizations throughout the State of Oklahoma, shall:

1. Assist all state agencies in the development of emergency management volunteer programs;

2. Operate as a statewide information center for volunteer programs and needed services that could be delivered by volunteer programs;

3. Provide or aid in the provision of technical assistance and training for directors and coordinators of volunteers, for staff, and for individual volunteers for state, local or private entities;

4. Assess and recognize the needs of communities throughout the State of Oklahoma and assist volunteer programs to meet emergency preparedness and disaster recovery programs;

5. Promote and coordinate efforts to expand and improve the statewide voluntary network;

6. Develop, implement and maintain a volunteer clearinghouse to disseminate information to support emergency management volunteer programs and to broaden voluntary involvement throughout the State of Oklahoma;

7. Promote communication and collaboration between public and private volunteer programs in the State of Oklahoma and between the public and private sector's initiatives in meeting emergency human needs;

8. Establish methods for supporting and promoting private sector leadership and responsibility for meeting emergency public needs;

9. Cooperate with federal, state, and local volunteer groups in collecting information on federal, state and private resources which

may encourage and improve emergency management volunteer projects within the State of Oklahoma;

10. Develop a program to inform the public of the opportunities to volunteer and of the services emergency management volunteers provide within the State of Oklahoma; and

11. Cooperate with federal, state and local governments and voluntary groups in developing a plan and operational procedures for the receiving and disbursement of donated goods during times of disaster or emergency.

SECTION 23. AMENDATORY 63 O.S. 2001, Section 683.32, is amended to read as follows:

Section 683.32 The Director of the Oklahoma Department of ~~Civil~~ Emergency Management may receive and expend funds, grants, and services from the United States Government and agencies and instrumentalities thereof and any other source for reasonable purposes necessary to carry out a coordinated plan of voluntary action throughout the State of Oklahoma. The monies remitted to the Director of the Oklahoma Department of ~~Civil~~ Emergency Management pursuant to this section shall be credited to a separate account in the Revolving Fund for the Oklahoma Department of ~~Civil~~ Emergency Management.

SECTION 24. AMENDATORY 63 O.S. 2001, Section 683.33, is amended to read as follows:

Section 683.33 The Director of the Oklahoma Department of ~~Civil~~ Emergency Management may make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the provisions of the Oklahoma Volunteerism Act.

SECTION 25. AMENDATORY 63 O.S. 2001, Section 683.34, is amended to read as follows:

Section 683.34 The Director of the Oklahoma Department of ~~Civil~~ Emergency Management shall promulgate rules necessary for the implementation of the provisions of the Oklahoma Volunteerism Act in

accordance with Article 1 of the Administrative Procedures Act, Sections 250.3 through 308.2 and Article II, Sections 309 through 323 of Title 75 of the Oklahoma Statutes.

SECTION 26. AMENDATORY 63 O.S. 2001, Section 684.2, is amended to read as follows:

Section 684.2

ARTICLE I

Purpose and Authorities

This compact is made and entered into by and between the participating member states, hereinafter called party states, which enact this compact. For the purposes of this compact, the term "states" is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial possessions.

The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the governor of the affected state, whether arising from natural ~~disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack~~ <u>or man-made disasters or emergencies</u>.

This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

SECTION 27. AMENDATORY 63 O.S. 2001, Section 684.4, is amended to read as follows:

Section 684.4

ARTICLE III

Party State Responsibilities

A. It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

1. Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural ~~disaster, technological hazard, man-made disaster, emergency aspects of resources shortages, civil disorders, insurgency, or enemy attack~~ or man-made disasters or emergencies;

2. Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency;

3. Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;

4. Assist in warning communities adjacent to or crossing the state boundaries;

5. Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, and resources, both human and material;

6. Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and

7. Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

B. The authorized representative of a party state may request assistance of another party state by contacting the authorized representative of that state. The provisions of this compact shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty (30) days of the verbal request. Requests shall provide the following information:

1. A description of the emergency service function for which assistance is needed, including, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;

2. The amount and type of personnel, equipment, materials and supplies needed and a reasonable estimate of the length of time they will be needed; and

3. The specific place and time for staging of the assisting party's response and a point of contact at that location.

C. There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States Government, with free exchange of information, plans, and resource records relating to emergency capabilities.

D. The Governor of the State of Oklahoma shall not be obligated under this compact to send the requested assistance, except in such Governor's sole and absolute discretion, and may be withdrawn at any time in the sole and absolute discretion of the Governor of Oklahoma.

SECTION 28. AMENDATORY 63 O.S. 2001, Section 685.1, is amended to read as follows:

Section 685.1 This act shall be known and may be cited as the "Emergency Interim Executive and Judicial Succession Act", and shall be cumulative to the Oklahoma ~~Civil Defense Act of 1957~~ Emergency Management Act of 2003.

SECTION 29. AMENDATORY 63 O.S. 2001, Section 685.2, is amended to read as follows:

Section 685.2 Because of the existing possibility of ~~attack upon~~ natural and man-made emergencies and disasters in the United States of unprecedented size and destructiveness, and in the event such an ~~attack~~ incident occurs: to assure continuity of government through legally-constituted leadership, authority and responsibility in offices of the government of the state and its political subdivisions; ~~and~~ to provide for the effective operation of governments during an emergency caused by an ~~attack on~~ incident in the United States~~,~~; and to facilitate the early resumption of functions temporarily suspended, it is found and declared to be necessary: to provide for additional officers who can exercise the powers and discharge the duties of Governor; to provide for emergency interim succession to governmental offices of this state and its political subdivisions in the event incumbents thereof (and their deputies, assistants or other subordinate officers authorized, pursuant to law, to exercise all of the powers and discharge the duties of such offices hereinafter referred to as deputies) are unavailable to perform the duties and functions of such offices; and to provide for special emergency judges who can exercise the powers and discharge the duties of judicial offices in the event regular judges are unavailable~~;~~, the provisions of this act are adopted to meet emergency conditions, which result from ~~enemy attack on~~ natural and man-made emergencies and disasters in the United States.

SECTION 30. AMENDATORY 63 O.S. 2001, Section 685.3, is amended to read as follows:

Section 685.3 ~~Unless otherwise clearly required by the context, as~~ As used in this act:

~~(a)~~ 1. "Unavailable" means either that a vacancy in office exists and there is no deputy authorized to exercise all of the powers and discharge the duties of the office, or that the lawful incumbent of the office, ~~(~~including any deputy exercising the powers and discharging the duties of an office because of a vacancy~~)~~, and ~~his~~ the duly authorized deputy are absent or unable to exercise the powers and discharge the duties of the offices~~.~~;

~~(b)~~ 2. "Emergency interim successor" means a person designated pursuant to this act, in the event the officer is unavailable, to exercise the powers and discharge the duties of an office until a successor is appointed or elected and qualified as may be provided by the Constitution, statutes, charters and ordinances or until the lawful incumbent is able to resume the exercise of the powers and discharge the duties of the office~~.~~;

~~(c)~~ 3. "Office" includes all state and local offices, the powers and duties of which are defined by the Constitution, statutes, charters and ordinances, except the office of Governor, and except those in the Legislature and the judiciary~~.~~;

~~(d) "Attack" means any attack or series of attacks by an enemy of the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner by sabotage or by the use of bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological, or biological means or other weapons or processes.~~

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

~~(e)~~ 5. "Political subdivision" includes counties, cities, towns, districts, authorities and other public corporations and entities whether organized and existing under charter or general law~~.~~;

~~(f)~~ 6. "Deputy" means a person legally authorized by an officer to exercise the office or right which the official possesses, for and in place of the ~~latter~~ officer; and

7. "Man-made disaster" means a disaster caused by acts of man including, but not limited to, an act of war, terrorism, chemical spill or release, and power shortage that require assistance in addition to the assistance of the local political subdivision.

SECTION 31. AMENDATORY 63 O.S. 2001, Section 685.4, is amended to read as follows:

Section 685.4 Whenever ~~an attack is made upon~~ a natural or man-made disaster or emergency occurs in the United States, and in the event that the Governor, for any of the reasons specified in Article VI, Section 16 of the Oklahoma Constitution ~~of this state~~, is not able to exercise the powers and discharge the duties of ~~his~~ the Governor's office, or is unavailable, and in the event the Lieutenant Governor, President Pro Tempore of the Senate, and the Speaker of the House of Representatives be for any of the reasons specified in the Constitution not able to exercise the powers and discharge the duties of the office of Governor, or be unavailable, the Secretary of State, State Auditor and Inspector, Attorney General, State Treasurer, and members of the ~~State Highway~~ Transportation Commission in the order of their numerical districts, shall each in the order named, if no officer higher in the enumerated order is available, exercise the powers and discharge the duties of the office of Governor until a new Governor is elected and qualified; provided, however, that no emergency interim successor to the aforementioned offices may serve as Governor.

SECTION 32. AMENDATORY 63 O.S. 2001, Section 685.5, is amended to read as follows:

Section 685.5 All state officers, other than the Governor, subject to such regulations as the Governor, ~~(~~or other official authorized under the Constitution and this act to exercise the powers and discharge the duties of the Office of Governor~~)~~, may issue, upon approval of this act, in addition to any deputy, shall designate, by the title of their office or position, emergency interim successors and specify their order of succession. The officer shall review and revise, as necessary, designations made pursuant to this act to ~~insure~~ ensure their current status. The officer shall designate a sufficient number of such emergency interim successors so that there will be not less than three nor more than seven deputies or emergency interim successors or any combination thereof, at any time. In the event that any state officer is unavailable following an ~~attack~~ emergency or disaster, and in the event a deputy, if any, is also unavailable, the said powers of ~~his~~ the office shall be exercised and said duties of ~~his~~ the office shall be discharged by ~~his~~ the designated emergency interim successors in the order specified. The authority of an emergency successor shall cease: ~~(a) when~~

1. When the incumbent of the office, or a deputy or an interim successor higher in designation becomes available to exercise the powers and to perform the duties of the office; or~~, (b) when~~

2. When a successor to the office has been duly elected or appointed and has qualified according to law.

SECTION 33. AMENDATORY 63 O.S. 2001, Section 685.7, is amended to read as follows:

Section 685.7 Whenever an ~~attack is made on~~ emergency or disaster occurs in the United States, and in the event that any judge of any court is unavailable to exercise the powers and discharge the duties of ~~his~~ the office, and no other judge

authorized to act or no special judge appointed in accordance with the provisions of the Constitution or statutes is available to exercise the powers and discharge the duties of such office, the duties of the office shall be discharged and the powers exercised by the special emergency judges, each of whom shall otherwise be qualified to serve as a judge, as hereinafter provided for:

~~(a)~~ 1. The Governor~~, upon approval of this act,~~ shall designate for each member of the Supreme Court special emergency judges in the number of not less than three nor more than seven for each member of said court, and shall specify the order of their succession.

~~(b)~~ 2. The Governor~~, upon approval of this act,~~ shall designate for each member of the Court of Criminal Appeals special emergency judges in the number of not less than three nor more than seven for each member of said court, and shall specify the order of their succession.

~~(c)~~ 3. The Chief Justice of the Supreme Court, in consultation with the other members of said court~~, upon approval of this act~~, shall designate for each court of record, except the Supreme Court and the Court of Criminal Appeals, special emergency judges in the number of not less than three nor more than seven for each judge of said courts and shall specify their order of succession.

~~(d)~~ 4. The judge of the district court, or the senior judge of any such district, in consultation with the other district judges of that district, where there is more than one judge~~, upon approval of this act~~ shall designate not less than three nor more than seven emergency judges for courts not of record within that district~~,~~ and shall specify their order of succession.

Such special emergency judges shall, in the order specified, exercise the powers and discharge the duties of such office in case of the unavailability of the regular judge or judges or persons immediately preceding them in the designation. The designating

authority shall review and revise, as necessary, designations made pursuant to this act to ~~insure~~ ensure their current status.

Said special emergency judges shall discharge the duties and exercise the powers of such office until such time as a vacancy which may exist shall be filled in accordance with the Constitution and statutes or until the regular judge or one preceding the designee in the order of succession becomes available to exercise the powers and discharge the duties of the office.

SECTION 34. AMENDATORY 63 O.S. 2001, Section 685.9, is amended to read as follows:

Section 685.9 Officials authorized to act as Governor pursuant to this act, emergency interim successors and special emergency judges are empowered to exercise the powers and discharge the duties of an office as herein authorized only after an ~~attack upon~~ emergency or disaster occurs in the United States, as defined herein, has occurred. The Legislature by concurrent resolution may, at any time, terminate the authority of said emergency interim successors and special emergency judges to exercise the powers and discharge the duties of office as herein provided.

SECTION 35. AMENDATORY 63 O.S. 2001, Section 686.1, is amended to read as follows:

Section 686.1 This act shall be known as the "~~Civil Defense~~ Emergency Management Interim Legislative Succession Act"~~,~~ and shall be cumulative to the Oklahoma ~~Civil Defense Act of 1957~~ Emergency Management Act of 2003.

SECTION 36. AMENDATORY 63 O.S. 2001, Section 686.2, is amended to read as follows:

Section 686.2 The Legislature declares: ~~(1) that recent technological developments make possible an enemy attack~~

1. Because of existing possibilities of natural or man-made disasters or emergencies of unprecedented destructiveness, which may

result in the death or inability to act of a large proportion of the membership of the Legislature; ~~(2) that to~~ and

2. Because to conform in time of ~~attack~~ emergency or disaster to existing legal requirements pertaining to the Legislature would be impracticable, ~~would admit of undue delay,~~ and would jeopardize continuity of operation of a legally constituted Legislature; ~~and (3) that~~ it is therefore necessary to adopt special provisions as hereinafter set out for the effective operation of the Legislature during natural or man-made disasters or emergencies.

SECTION 37. AMENDATORY 63 O.S. 2001, Section 686.3, is amended to read as follows:

Section 686.3 As used in this act:

~~(a) "Attack" means any action or series of actions taken by an enemy of the United States resulting in substantial damage or injury to persons or property in this state whether through sabotage, bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological, or biological means or other weapons or methods.~~

~~(b)~~ 1. ”Emergency” means any occasion or instance for which, in the determination of the President of the United States or the Governor of the State of Oklahoma, federal or state assistance is needed to supplement state and local efforts and capabilities to save lives, protect property, public health and safety, or to lessen or avert threat of a catastrophe in any part of the state;

2. “Man-made disaster” means a disaster caused by acts of man including, but not limited to, an act of war, terrorism, chemical spill or release, or a power shortage that requires assistance from outside the local political subdivision; and

3. "Unavailable" means absent from the place of session, ~~(~~other than on official business of the Legislature~~)~~, or unable, for physical, mental or legal reasons, to exercise the powers and discharge the duties of a legislator, whether or not such absence or

inability would give rise to a vacancy under existing constitutional or statutory provisions.

SECTION 38. AMENDATORY 63 O.S. 2001, Section 686.6, is amended to read as follows:

Section 686.6 Prior to an ~~attack~~ emergency or disaster, if a legislator fails to designate the required minimum number of emergency interim successors within sixty (60) days following the effective date of this act or, after such period, if for any reason the number of emergency interim successors for any legislator falls below the required minimum and remains below such minimum for a period of sixty (60) days, then the floor leader of the same political party in the same house as such legislator shall, by and with the consent of the Speaker of the House of Representatives or President Pro Tempore of the Senate, promptly designate as many emergency interim successors as are required to achieve such minimum number, but the floor leader shall not assign to any ~~of his~~ designees a rank in order of succession higher than that of any remaining emergency interim successor previously designated by a legislator for succession to ~~his~~ the legislator's own powers and duties. Each emergency interim successor designated by the floor leader shall serve at the pleasure of the designating person ~~designating him~~, but the legislator for whom the emergency successor is designated or any subsequent incumbent of ~~his~~ the office may change the rank in order of succession or replace at ~~his~~ the pleasure of the designating person any emergency interim successor so designated.

SECTION 39. AMENDATORY 63 O.S. 2001, Section 686.7, is amended to read as follows:

Section 686.7 Each designation of an emergency interim successor shall become effective when the legislator or party floor leader making the designation files with the Secretary of State the successor's name, address and rank in order of succession. The

removal of an emergency interim successor or change in order of succession shall become effective when the legislator or party floor leader, so acting, files this information with the Secretary of State. All such data shall be open to public inspection. The Secretary of State shall inform the Governor, the ~~State Civil Defense Agency~~ Oklahoma Department of Emergency Management, the journal clerk of the house concerned and all emergency interim successors, of all such designations, removals and changes in order of succession. The journal clerk of each house shall enter all information regarding emergency interim successors for the house in its public journal at the beginning of each legislative session and shall enter all changes in membership or order of succession as soon as possible after ~~their~~ the occurrence.

SECTION 40. AMENDATORY 63 O.S. 2001, Section 686.10, is amended to read as follows:

Section 686.10 Whenever, in the event of an ~~attack,~~ emergency or disaster or upon finding that an ~~attack~~ emergency or disaster may be imminent, the Governor deems the place of session then prescribed to be unsafe, ~~he~~ the Governor may change it to any place within the state which ~~he~~ the Governor deems safer and more convenient.

SECTION 41. AMENDATORY 63 O.S. 2001, Section 686.11, is amended to read as follows:

Section 686.11 In the event of an ~~attack~~ emergency or disaster, the Governor shall call the Legislature into session as soon as practicable, and in any case within thirty (30) days following the inception of the ~~attack~~ emergency or disaster. Each legislator and each emergency interim successor, unless ~~he~~ the Governor is certain that the legislator to whose powers and duties ~~he~~ the legislator is designated to succeed or any emergency interim successor higher in order of succession will not be unavailable, shall proceed to the place of session as expeditiously as practicable. At such session or at any session in operation at the inception of the ~~attack~~

emergency or disaster, and at any subsequent session, limitations on the length of session and on the subjects which may be acted upon shall be suspended.

SECTION 42. AMENDATORY 63 O.S. 2001, Section 686.12, is amended to read as follows:

Section 686.12 If, in the event of an ~~attack~~ emergency or disaster a legislator is unavailable, ~~his~~ the emergency interim successor highest in order of succession who is not unavailable shall, except for the power and duty to appoint emergency interim successors, exercise the powers and assume the duties of such legislator. An emergency interim successor shall exercise these powers and assume these duties until the incumbent legislator, an emergency interim successor higher in order of succession, or a legislator appointed or elected and legally qualified can act. Each house of the Legislature shall, in accordance with its own rules, determine who is entitled under the provisions of this act to exercise the powers and assume the duties of its members. All constitutional and statutory provisions pertaining to ouster of a legislator shall be applicable to an emergency interim successor who is exercising the powers and assuming the duties of a legislator.

SECTION 43. AMENDATORY 63 O.S. 2001, Section 686.13, is amended to read as follows:

Section 686.13 When an emergency interim successor exercises the powers and assumes the duties of a legislator, ~~he~~ the emergency interim successor shall be accorded the privileges and immunities, compensation, allowances and other ~~prerequisites (sic)~~ perquisites of office to which a legislator is entitled. In the event of an ~~attack~~ emergency or disaster, each emergency interim successor, whether or not called upon to exercise the powers and assume the duties of a legislator, shall be accorded the privileges and immunities of a legislator while traveling to and from a place of session and shall be compensated for ~~his~~ travel in the same manner

and amount as a legislator. This section shall not in any way affect the privileges, immunities, compensation, allowances or other ~~prerequisites (sic)~~ perquisites of office of an incumbent legislator.

SECTION 44. AMENDATORY 63 O.S. 2001, Section 686.14, is amended to read as follows:

Section 686.14 The authority of emergency interim successors to succeed to the powers and duties of legislators, ~~and~~ the operation of the provisions of this act relating to quorum, the number of affirmative votes required for legislative action, and limitations on the length of sessions and the subjects which may be acted upon~~,~~ shall expire two (2) years following the inception of an ~~attack~~ emergency or disaster, but nothing herein shall prevent the resumption before such time of the filling of legislative vacancies and the calling of elections for the Legislature in accordance with applicable constitutional and statutory provisions. The Governor, acting by proclamation, or the Legislature, acting by concurrent resolution, may from time to time extend or restore such authority or the operation of any of such provisions upon a finding that events render the extension or restoration necessary, but no extension or restoration shall be for a period of more than one (1) year.

SECTION 45. AMENDATORY 63 O.S. 2001, Section 687.1, is amended to read as follows:

Section 687.1 This act shall be known as the "~~Civil Defense~~ Emergency Interim Relocation Act", and shall be cumulative to the Oklahoma ~~Civil Defense Act of 1957~~ Emergency Management Act of 2003.

SECTION 46. AMENDATORY 63 O.S. 2001, Section 687.2, is amended to read as follows:

Section 687.2 As used in this act:

~~(a) "Attack" means any hostile action by an enemy of the United States which is intended to and physically damages citizens or~~

~~property in the United States~~ 1. "Emergency" means any occasion or instance for which, in the determination of the President of the United States or the Governor of the State of Oklahoma, federal or state assistance is needed to supplement state and local efforts and capabilities to save lives, protect property, public health and safety, or to lessen or avert the threat of a catastrophe in any part of the state; and

~~(b) "Disaster" means the damage or injury, caused by enemy attack, to persons or property in this state of such magnitude that a state of emergency is declared by the Chief Executive Officer of the United States and the Chief Executive Officer of this State~~

2. "Man-made disaster" means a disaster caused by acts of man including, but not limited to, an act of war, terrorism, chemical spill or release, or power shortage that requires assistance from outside the local political subdivision.

SECTION 47. AMENDATORY 63 O.S. 2001, Section 687.3, is amended to read as follows:

Section 687.3 ~~(a)~~ A. Whenever a disaster makes it imprudent or impossible to conduct the affairs of state government at its seat in Oklahoma City, Oklahoma, the Governor may proclaim temporary ~~disaster~~ locations for the seat of state government at any place he deems advisable, either inside or outside of the state. The Governor may issue necessary orders for orderly transition of the affairs of government to any temporary emergency or man-made disaster location, which remains the seat of state government until the Legislature establishes a new location, or until the emergency or man-made disaster is declared ended by the Legislature and the seat is returned to its normal location in Oklahoma City, Oklahoma.

~~(b)~~ B. Any official act or meeting required to be performed at the seat of state government is valid when performed at a temporary emergency or man-made disaster location under this section.

SECTION 48. AMENDATORY 63 O.S. 2001, Section 687.4, is amended to read as follows:

Section 687.4 ~~(a)~~ A. Whenever ~~a~~ an emergency or man-made disaster makes it imprudent or impossible to conduct the affairs of any local government at its regular location, the governing body may meet at any place, inside or outside the limits of the political subdivision, at the call of the presiding officer or any two members of the governing body, and designate by ordinance a temporary emergency or man-made disaster location of the local government, which remains the seat of the local government until the governing body establishes a new location or until the emergency or man-made disaster is declared ended by the Legislature and the seat is returned to its normal location.

~~(b)~~ B. Any official act or meeting required to be performed at the seat of the local government is valid when performed at a temporary emergency or man-made disaster location under this section.

SECTION 49. AMENDATORY 63 O.S. 2001, Section 690.2, is amended to read as follows:

Section 690.2 For purposes of the Oklahoma Flood Hazard Mitigation Program:

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

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

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

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

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

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

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

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

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

10. "State Hazard Mitigation Team" means the entity created pursuant to Section ~~5~~ 683.6 of this ~~act~~ title.

SECTION 50. AMENDATORY 63 O.S. 2001, Section 690.3, is amended to read as follows:

Section 690.3 A. In addition to other responsibilities and duties specified by law, the Oklahoma Department of ~~Civil~~ Emergency Management:

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

comprehensive hazard mitigation plan of this state to the fullest possible extent;

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

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

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

5. May, after recommendation from the State Hazard Mitigation Team, approve applications for grants and loans to political subdivisions for flood hazard mitigation projects from any funds available for such purposes pursuant to the considerations specified by Section ~~10~~ 690.4 of this ~~act~~ title;

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

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

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

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

C. The Department shall also have authority to:

1. Establish advisory councils with sufficient geographic balance to ensure statewide representation;

2. Coordinate central files and clearinghouse procedures for flood hazard mitigation resource data information and encourage the use of compatible information and standards; and

3. Provide to the extent practicable financial, technical, research, and other assistance to effectuate the purposes of the Oklahoma Flood Hazard Mitigation Program.

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

SECTION 51. AMENDATORY 63 O.S. 2001, Section 690.4, is amended to read as follows:

Section 690.4 A. A political subdivision of this state may apply to the Oklahoma Department of ~~Civil~~ Emergency Management for a grant or loan for flood hazard mitigation projects on forms provided by the Department.

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

1. The extent and effectiveness of flood mitigation measures already implemented by the political subdivision requesting the grant;

2. The feasibility, practicality, and effectiveness of the proposed flood mitigation measures and the associated benefits and detriments;

3. The level of assistance that should be provided to the political subdivision, based on available facts regarding the nature, extent, and severity of the flood hazard problems;

4. The frequency of occurrence of flooding disasters that has resulted in declaration of the area as a flood disaster area by the Governor of this state or by the President of the United States;

5. The economic, social, and environmental benefits and detriments of the proposed flood mitigation measures;

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

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

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

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

SECTION 52. AMENDATORY 63 O.S. 2001, Section 690.5, is amended to read as follows:

Section 690.5 In addition to other responsibilities designated or assigned to it by the Department, the State Hazard Mitigation Team shall have the power and duty to recommend priorities for flood hazard mitigation projects for purposes of providing grants or loans for such projects, based upon considerations specified by Section ~~10~~ 690.4 of this ~~act~~ title.

SECTION 53. AMENDATORY 63 O.S. 2001, Section 2804, is amended to read as follows:

Section 2804. Every system may include police, fire fighting and emergency medical and ambulance services, and may include other emergency services, in the discretion of the affected public agency, such as poison control services, suicide prevention services and ~~civil defense~~ emergency management services. The system may incorporate a private ambulance service. In those areas in which a

public safety agency of the state provides such emergency services, the system may include such public safety agencies.

SECTION 54. AMENDATORY 63 O.S. 2001, Section 2805, is amended to read as follows:

Section 2805. In order to insure that proper preparation and implementation of such systems can be accomplished as provided in Section ~~3~~ 2803 of this ~~act~~ title, the Department of Public Safety may develop an overall plan prior to development of any system and shall coordinate the implementation of systems to be established pursuant to the provisions of this act. Any such plan shall contain an estimate of the costs of installing alternate 911 systems and an estimate of the first year's additional operating expenses, if any. The Department may formulate a plan by which it and the public agencies and public safety agencies involved may share proportionately the costs of any system and method from their current funds. The Department may aid such agencies in the formulation of concepts, methods and procedures which will improve the operation of systems and which will increase cooperation between public safety agencies. The Department may consult at regular intervals with the Oklahoma Highway Safety Coordinating Committee, the State Fire Marshal, the Oklahoma Crime Commission, the State Department of Health, the Department of ~~Civil Defense~~ Emergency Management and the public utilities in this state providing telephone service.

SECTION 55. AMENDATORY 62 O.S. 2001, Section 139.47, is amended to read as follows:

Section 139.47 Where the written findings of fact required by Section 139.46 of this title include one of the following emergencies, and the Governor finds that such emergency exists, and was not foreseen or reasonably foreseeable by the Legislature, the Governor may allocate and authorize the expenditure of monies from

the State Emergency Fund to provide for such emergency without any action by the Contingency Review Board:

~~(1) destruction~~ 1. Destruction of or damage to public property caused by fire, hail, tornado, explosion, windstorm, flood, or other catastrophe;

~~(2) maintenance~~ 2. Maintenance and operation of the National Guard when called to active state service in cases of emergency;

~~(3) allocation~~ 3. Allocation or expenditures necessary to provide matching funds for participation in any federal disaster relief program, emergency equipment purchase, or otherwise expedite receipt of disaster funds;

~~(4) allocations~~ 4. Allocations or expenditures deemed necessary to remove asbestos from public buildings or facilities;

~~(5) emergency~~ 5. Emergency response action necessary to protect the public health, safety or welfare or livestock, wild animals, birds, fish or other aquatic life from the discharge of any hazardous waste, deleterious substance or any such other waste or substance as will or is likely to be detrimental or cause injury to the public or such livestock, wild animals, birds, fish or other aquatic life;

~~(6) funding~~ 6. Funding for funeral expenses not to exceed Seven Thousand Dollars ($7,000.00) for state employees who are killed in the line of their duty and funding for premiums for six (6) months of insurance coverage already in force for spouse and dependents who are eligible for survivor coverage of those employees pursuant to rules of the Oklahoma State and Education Employees Group Insurance Board, provided, that if funds in the State Emergency Fund are insufficient to cover these expenses, the employing agency of the employees shall pay the expenses; and

~~(7) allocation~~ 7. Allocation or expenditures necessary to provide funds for disaster relief programs to political subdivisions for damage caused by fire, hail, tornado, explosion, windstorm,

flood or other catastrophe for which federal disaster relief funds have been requested by the Governor and rejected by the Federal Emergency Management ~~Administration~~ Agency (FEMA). Provided, that no political subdivision shall be deemed eligible for an allocation or expenditure of funds from the State Emergency Fund under this paragraph unless such area has first been deemed a disaster area by an executive declaration by the Governor of the State of Oklahoma.

Expenditures made to political subdivisions under this section shall be audited and processed by the ~~Office of Civil~~ Oklahoma Department of Emergency Management. No application for an allocation or expenditure of funds shall be made until it is certified by the political subdivision that no other monies are available to reimburse the requesting entity for expenditures made as a result of the catastrophe. No geographical area which has been declared a disaster area by the Governor may receive an allocation of funds under this section in excess of One Hundred Thousand Dollars ($100,000.00) in a calendar year.

Provided further, that the Governor shall allocate, without any action by the Contingency Review Board, monies from the State Emergency Fund to pay expenses for the Court on the Judiciary approved pursuant to Section 16.6 of Title 20 of the Oklahoma Statutes and not otherwise funded by other legislative appropriations.

SECTION 56. AMENDATORY 3 O.S. 2001, Section 85, is amended to read as follows:

Section 85. ~~(a)~~ A. The Commission and its Director acting under its authority is empowered and directed to encourage, foster, and assist in the development of aeronautics in this state and to encourage the establishment of airports and air navigation facilities. It shall cooperate with and assist the federal government, the municipalities of this state, and other persons in the development of aeronautics, and shall seek to coordinate the

aeronautical activities of these bodies and persons. Municipalities are authorized to cooperate with the Commission in the development of aeronautics and aeronautical facilities in this state.

~~(b)~~ B. The Commission may organize and administer a voluntary program of air-age education in cooperation with the schools, colleges, and for the general public, and may prepare and conduct voluntary flight clinics for airmen and issue such bulletins and publications as may be required.

~~(c)~~ C. The Commission shall assist in all aeronautical matters related to ~~civil defense and civil~~ emergency management actions in conformance with federal directions and with the ~~Civil Defense~~ Emergency Operations Plan of the state.

~~(d)~~ D. The Commission may establish air markers throughout the state.

~~(e)~~ E. The Commission may purchase and install roadside signs directing highway traffic to airports, subject to approval of the State Transportation Commission.

~~(f)~~ F. The Commission shall:

~~(1) draft~~ 1. Draft and recommend necessary legislation to advance the interests of the state in aeronautics;

~~(2) represent~~ 2. Represent the state in aeronautical matters before federal agencies and other state agencies; and

~~(3) participate~~ 3. Participate as party plaintiff or defendant or as intervener on behalf of the state or any municipality or citizen thereof in any proceeding which involves the interest of the state in aeronautics.

~~(g) (1)~~ G. 1. The Commission may, insofar as is reasonably possible, make available its engineering and other technical services to any municipality or person desiring them in connection with the planning, acquisition, construction, improvement, maintenance, or operation of airports or navigation facilities.

~~(2)~~ 2. The Commission may render financial assistance by grant or loan or both to any municipality or municipalities acting jointly in the planning, acquisition, construction, improvement, maintenance, or operation of an airport owned or controlled, or to be owned or controlled, by such municipality or municipalities, out of appropriations or other monies made available by the Legislature for such purposes. Such financial assistance may be furnished in connection with federal or other financial aid for the same purposes.

~~(3)~~ 3. The Commission shall be designated as the agent of this state or political subdivision of this state for the purpose of applying for, receiving, administering and disbursing federal funds and other public monies for the benefit of general aviation airports, except reliever airports, as may be available under applicable federal law or other laws. If requested by a political subdivision, the Commission may act as its or their agent in contracting for and supervising such planning, acquisition, construction, improvement, maintenance, or operation; and all political subdivisions are authorized to designate the Commission as their agent for the foregoing purposes. The Commission, as principal on behalf of the state, may enter into any contracts with the United States or with any person, which may be required in connection with a grant or loan of federal monies for municipal airport or air navigation facility purposes. All federal monies accepted under this section shall be accepted and transferred or expended by the Commission upon such terms and conditions as are prescribed by the United States. All monies received by the Commission pursuant to this section shall be deposited in the Oklahoma Aeronautics Commission Fund in the State Treasury and shall be paid out by the Commission in accordance with the terms and conditions of any agreement entered into under the provisions of this section.

~~(h) (1)~~ H. 1. The Commission is authorized on behalf of and in the name of the state, out of appropriations and other monies made available for such purposes, to plan, zone, establish, construct, enlarge, improve, maintain, equip, operate, regulate, protect, and police airports and air navigation facilities, either within or without the state, including the construction, installation, equipping, maintenance, and operation at such airports of buildings and other facilities for the servicing of aircraft or for the comfort and accommodation of air travelers. However, the regulatory authority shall not extend to any airman employed by, nor to any aeronautics facility or aircraft under the exclusive possession, operation, or control of, a person holding a certificate of public convenience and necessity issued by any agency of the United States to operate as a common carrier by air of persons and/or property in interstate commerce. For such purposes the Commission may, by purchase, gift, devise, or lease, acquire property, real or personal, or any interest therein including easements in aeronautical hazards or land outside the boundaries of an airport or airport site, as are necessary to permit safe and efficient operation of the state airports or to permit the removal, elimination, obstruction-marking or obstruction-lighting of airport hazards, or to prevent the establishment of airport hazards. In like manner the Commission may acquire existing airports and air navigation facilities. However, the Commission shall not acquire or take over any airport or air navigation facility owned or controlled by a municipality of this or any other state without the consent of such municipality. The Commission may, by sale, lease, or otherwise, dispose of any such property, airport, air navigation facility, or portion thereof or interest therein. The disposal, by sale, lease, or otherwise, shall be in accordance with the laws of this state governing the disposition of other property of the state, except that, in the case of disposals to any municipality or state

government or the United States for aeronautical purposes incident thereto, the sale, lease, or other disposal may be effected in such manner and upon such terms as the Commission may deem in the best interest of the state.

~~(2)~~ 2. All airports owned by the state shall be within the primary jurisdiction of the State Aeronautics Commission for purposes of design, development, and operation; provided, that airports owned and operated by the Air National Guard shall be exempt from such provisions during time of a national emergency, and provided further, that any airport owned by the state may be leased by the Commission to a public or private agency, as it may deem fit.

~~(3)~~ 3. Nothing contained in this act shall be construed to limit any right, power, or authority of the state or a municipality to regulate airport hazards by zoning.

~~(4)~~ 4. The Commission may exercise any powers granted by this section jointly with any municipalities or with the United States.

~~(5)~~ 5. a. In operating an airport or air navigation facility owned or controlled by the state, the Commission may enter into contracts, leases, and other arrangements for a term not exceeding twenty-five (25) years with any persons granting the privilege of using or improving such airport or air navigation facility or any portion or facility thereof or space therein for commercial purposes; conferring the privilege of supplying goods, commodities, things, services, or facilities at such airport or air navigation facility; or making available services to be furnished by the Commission or its agents at such airport or air navigation facility.

In each such case the Commission may establish the terms and conditions and fix the charges, rentals, or fees for the privileges or services, which shall be

reasonable and uniform for the same class of privileges or services and shall be established with due regard to the property and improvements used and the expenses of operation to the state; provided, that in no case shall the public be deprived of its rightful, equal, and uniform use of the airport, air navigation facility or portion or facility thereof.

b. The Commission may by contract, lease, or other arrangement, upon a consideration fixed by it, grant to any qualified person for a term not to exceed twenty-five (25) years the privilege of operating, as agent of the state or otherwise, any airport owned or controlled by the state; provided, that no such person shall be granted any authority to operate the airport other than as a public airport or to enter into any contracts, leases, or other arrangements in connection with the operation of the airport which the Commission might not have undertaken under subparagraph a of this paragraph.

c. To enforce the payment of any charges for repairs to, or improvements, storage, or care of, any personal property made or furnished by the Commission or its agents in connection with the operation of an airport or air navigation facility owned or operated by the state, the state shall have liens on such property, which shall be enforceable by the Commission as provided by law.

~~(6)~~ 6. In accepting federal monies under this section, the Commission shall have the same authority to enter into contracts on behalf of the state as is granted to the Commission under subsection ~~(g)~~ G of this section with respect to federal monies accepted on behalf of municipalities. All monies received by the Commission

pursuant to this section shall be deposited in the Oklahoma Aeronautics Commission Fund in the State Treasury and shall be paid out of the Commission Fund in accordance with the terms and conditions of any agreement entered into under the provisions of this section.

~~(7)~~ 7. The Commission shall grant no exclusive right for the use of any airport or air navigation facility under its jurisdiction. This shall not be construed to prevent the making of contracts, leases, and other arrangements pursuant to subsection (h) of this section.

~~(i)~~ I. The Commission may enter into any contracts necessary to the execution of the powers granted it by this act. All contracts made by the Commission, either as the agent of the state or as the agent of any municipality, shall be made pursuant to the laws of the state governing the making of like contracts. When the planning, acquisition, construction, improvement, maintenance, or operation of any airport or air navigation facility is financed wholly or partially with federal monies, the Commission as agent of the state or of any municipality may let contracts in the manner prescribed by the federal authorities acting under the laws of the United States and any rules or regulations made thereunder.

~~(j) (1)~~ J. 1. The Commission, the Director, or any officer or employee of the Commission designated by it shall have the power to hold investigations, inquiries, and hearings concerning matters covered by the provisions of this act and the rules, regulations, and orders of the Commission. Hearings shall be open to the public and shall be held upon such call or notice as the Commission shall deem advisable. Each member of the Commission, the Director, and every officer or employee of the Commission designated by it to hold any inquiry, investigation, or hearing shall have the power to administer oaths and affirmations, certify to all official acts, issue subpoenas, and order the attendance and testimony of witnesses

and the production of papers, books, and documents. In case of the failure of any person to comply with any subpoena or order issued under the authority of this subsection, or on the refusal of any witness to testify to any matters regarding which he may be lawfully interrogated, it shall be the duty of the district court of any county or of the judge thereof, on application of the Commission or its authorized representative, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

~~(2)~~ 2. In order to facilitate the making of investigations by the Commission in the interest of public safety and promotion of aeronautics the public interest requires, and it is therefore provided, that the reports of investigations or hearings, or any part thereof, shall not be admitted in evidence or used for any purpose in any suit, action, or proceeding growing out of any matter referred to in the investigation, hearing, or report thereof, except in case of any suit, action, or proceeding, civil or criminal, instituted by or in behalf of the Commission or in the name of the state under the provisions of this act or other laws of the state relating to aeronautics; nor shall any member of the Commission, or the Director, or any officer or employee of the Commission be required to testify to any facts ascertained in, or information gained by reason of, such person's official capacity, or be required to testify as an expert witness in any suit, action, or proceeding involving any aircraft. Subject to the foregoing provisions, the Commission may in its discretion make available to appropriate federal, state and municipal agencies information and material developed in the course of its investigations and hearings.

~~(k) (1)~~ K. 1. The Commission is authorized to confer with or to hold joint hearings with any agency of the United States in connection with any matter arising under this act or relating to the sound development of aeronautics.

~~(2)~~ 2. The Commission is authorized to avail itself of the cooperation, services, records, and facilities of the agencies of the United States as fully as may be practicable in the administration and enforcement of this act. The Commission shall furnish to the agencies of the United States its cooperation, services, records, and facilities, insofar as may be practicable.

~~(3)~~ 3. The Commission shall report to the appropriate agency of the United States all accidents in aeronautics in this state of which it is informed and shall, insofar as is practicable, preserve, protect, and prevent the removal of the component parts of any aircraft involved in an accident being investigated by it until the federal agency institutes an investigation.

~~(1)~~ L. The Commission may organize and administer an aerospace education program in cooperation with universities, colleges and schools for the general public. The Commission may also plan and act jointly in a cooperative aviation research or high technology program. As part of these programs, the Commission may issue aviation communication films and publications.

SECTION 57. AMENDATORY 21 O.S. 2001, Section 1210, is amended to read as follows:

Section 1210. For the purpose of, and when used in this act:

~~(a)~~ 1. The term "disaster area" means the scene or location of a natural or military disaster, an explosion, an aircraft accident, a fire, a railroad accident and a major traffic accident.

~~(b)~~ 2. The term "authorized person" shall include all state, county and municipal police and fire personnel; hospital and ambulance crews; National Guard and ~~Civil Defense~~ Emergency Management personnel ordered into the disaster area by proper authority; federal civil and military personnel on official business; persons who enter the disaster area to maintain or restore facilities for the provision of water, electricity, communications,

or transportation to the public; and such other officials as have a valid reason to enter said disaster area.

SECTION 58. AMENDATORY 47 O.S. 2001, Section 1-103, is amended to read as follows:

Section 1-103. Vehicles of fire departments, ambulances, vehicles specified pursuant to subsection B of Section 1-2512 of Title 63 of the Oklahoma Statutes of licensed ambulance service providers, county sheriff vehicles of sheriffs and full-time commissioned deputies and police vehicles, including vehicles owned and operated by the United States Marshals Service, the Federal Bureau of Investigation, or by any local organization for ~~civil defense~~ emergency management as defined by Section 683.3 of Title 63 of the Oklahoma Statutes, are authorized emergency vehicles. Said vehicles shall be equipped with sirens capable of giving audible signals as required by the provisions of Section 12-218 of this title and flashing red lights as authorized by the provisions of Section 12-218 of this title.

SECTION 59. AMENDATORY 74 O.S. 2001, Section 324.10, is amended to read as follows:

Section 324.10 In addition to any other authority or powers provided by law herein granted, the State Fire Marshal shall be authorized to advise, assist and coordinate with the State ~~Civil Defense~~ Emergency Management Director in the development of ~~Civil Defense and Disaster~~ Emergency Management plans, and to assist any city, town or county in the enforcement of the Codes herein adopted upon the request of the officials thereof.

SECTION 60. AMENDATORY 85 O.S. 2001, Section 3, is amended to read as follows:

Section 3. As used in the Workers' Compensation Act:

1. "Administrator" means the Administrator of workers' compensation as provided for in the Workers' Compensation Act;

2. "Case management" means the ongoing coordination, by a case manager, of health care services provided to an injured or disabled worker, including, but not limited to:

a. systematically monitoring the treatment rendered and the medical progress of the injured or disabled worker,

b. ensuring that any treatment plan follows all appropriate treatment protocols, utilization controls and practice parameters,

c. assessing whether alternative health care services are appropriate and delivered in a cost-effective manner based upon acceptable medical standards, and

d. ensuring that the injured or disabled worker is following the prescribed health care plan;

3. "Case manager" means a person who:

a. is a registered nurse with a current, active unencumbered license from the Oklahoma Board of Nursing, or

b. possesses one or more of the following certifications which indicate the individual has a minimum number of years of case management experience, has passed a national competency test and regularly obtains continuing education hours to maintain certification:

(1) Certified Disability Management Specialist (CDMS),

(2) Certified Case Manager (CCM),

(3) Certified Rehabilitation Registered Nurse (CRRN),

(4) Case Manager - Certified (CMC),

(5) Certified Occupational Health Nurse (COHN), or

(6) Certified Occupational Health Nurse Specialist (COHN-S);

4. "Claimant" means a person who claims benefits for an injury pursuant to the provisions of the Workers' Compensation Act;

5. "Court" means the Workers' Compensation Court;

6. "Cumulative trauma" means an injury resulting from employment activities which are repetitive in nature and engaged in over a period of time;

7. "Employer", except when otherwise expressly stated, means a person, partnership, association, limited liability company, corporation, and the legal representatives of a deceased employer, or the receiver or trustee of a person, partnership, association, corporation, or limited liability company, departments, instrumentalities and institutions of this state and divisions thereof, counties and divisions thereof, public trusts, boards of education and incorporated cities or towns and divisions thereof, employing a person included within the term "employee" as herein defined;

8. "Employee" means any person engaged in the employment of any person, firm, limited liability company or corporation covered by the terms of the Workers' Compensation Act, and shall include workers associating themselves together under an agreement for the performance of a particular piece of work, in which event such persons so associating themselves together shall be deemed employees of the person having the work executed; provided, that if such associated workers shall employ a worker in the execution of such contract, then as to such employed worker, both the associated employees and the principal employer shall at once become subject to the provisions of the Workers' Compensation Act relating to independent contractors. Sole proprietors, members of a partnership, members of a limited liability company who own at least ten percent (10%) of the capital of the limited liability company or any stockholder-employees of a corporation who own ten percent (10%) or more stock in the corporation are specifically excluded from the

foregoing definition of "employee", and shall not be deemed to be employees as respects the benefits of the Workers' Compensation Act. Provided, a sole proprietor, member of a partnership, member of a limited liability company who owns at least ten percent (10%) of the capital of the limited liability company or any stockholder-employee of a corporation who owns ten percent (10%) or more stock in the corporation who does not so elect to be covered by a policy of insurance covering benefits under the Workers' Compensation Act, when acting as a subcontractor, shall not be eligible to be covered under the prime contractor's policy of workers' compensation insurance; however, nothing herein shall relieve the entities enumerated from providing workers' compensation insurance coverage for their employees. Sole proprietors, members of a partnership, members of a limited liability company who own at least ten percent (10%) of the capital of the limited liability company or any stockholder-employees of a corporation who own ten percent (10%) or more stock in the corporation may elect to include the sole proprietors, any or all of the partnership members, any or all of the limited liability company members or any or all stockholder-employees as employees, if otherwise qualified, by endorsement to the policy specifically including them under any policy of insurance covering benefits under the Workers' Compensation Act. When so included, the sole proprietors, members of a partnership, members of a limited liability company or any or all stockholder-employees shall be deemed to be employees as respects the benefits of the Workers' Compensation Act. "Employee" shall also include any person who is employed by the departments, instrumentalities and institutions of this state and divisions thereof, counties and divisions thereof, public trusts, boards of education and incorporated cities or towns and divisions thereof. "Employee" shall also include a member of the Oklahoma National Guard while in the performance of duties only while in response to state orders and

any authorized voluntary or uncompensated worker, rendering services as a firefighter, peace officer or ~~civil defense~~ emergency management worker. Provided, "employee" shall not include any other person providing or performing voluntary service who receives no wages for the services other than meals, drug or alcohol rehabilitative therapy, transportation, lodging or reimbursement for incidental expenses. "Employee" shall also include a participant in a sheltered workshop program which is certified by the United States Department of Labor. "Employee" shall not include a person, commonly referred to as an owner-operator, who owns or leases a truck-tractor or truck for hire, if the owner-operator actually operates the truck-tractor or truck and if the person contracting with the owner-operator is not the lessor of the truck-tractor or truck. Provided, however, an owner-operator shall not be precluded from workers' compensation coverage under the Workers' Compensation Act if the owner-operator elects to participate as a sole proprietor. "Employee" shall not include a person referred to as a drive-away owner-operator who privately owns and utilizes a tow vehicle in drive-away operations and operates independently for hire, if the drive-away owner-operator actually utilizes the tow vehicle and if the person contracting with the drive-away owner-operator is not the lessor of the tow vehicle. Provided, however, a drive-away owner-operator shall not be precluded from workers' compensation coverage under the Workers' Compensation Act if the drive-away owner-operator elects to participate as a sole proprietor;

9. "Drive-away operations" include every person engaged in the business of transporting and delivering new or used vehicles by driving, either singly or by towbar, saddle mount or full mount method, or any combination thereof, with or without towing a privately owned vehicle;

10. "Employment" includes work or labor in a trade, business, occupation or activity carried on by an employer or any authorized voluntary or uncompensated worker rendering services as a firefighter, peace officer or ~~civil defense~~ emergency management worker;

11. "Compensation" means the money allowance payable to an employee as provided for in the Workers' Compensation Act;

12. a. "Injury" or "personal injury" means only accidental injuries arising out of and in the course of employment and such disease or infection as may naturally result therefrom and occupational disease arising out of and in the course of employment as herein defined. Only injuries having as their source a risk not purely personal but one that is causally connected with the conditions of employment shall be deemed to arise out of the employment.

b. "Injury" or "personal injury" includes heart-related or vascular injury, illness or death only if resultant from stress in excess of that experienced by a person in the conduct of everyday living. Such stress must arise out of and in the course of a claimant's employment.

c. "Injury" or "personal injury" shall not include mental injury that is unaccompanied by physical injury, except in the case of rape which arises out of and in the course of employment;

13. "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the injury, including the reasonable value of board, rent, housing, lodging, or similar advantage received from the employer;

14. "Insurance carrier" shall include stock corporations, reciprocal or interinsurance associations, or mutual associations

with which employers have insured, and employers permitted to pay compensation, directly under the provisions of paragraph 4 of subsection A of Section 61 of this title;

15. "Occupational disease" means only that disease or illness which is due to causes and conditions characteristic of or peculiar to the particular trade, occupation, process or employment in which the employee is exposed to such disease. An occupational disease arises out of the employment only if there is a direct causal connection between the occupational disease and the conditions under which the work is performed;

16. "Permanent impairment" means any anatomical or functional abnormality or loss after maximum medical improvement has been achieved, which abnormality or loss the physician considers to be capable of being evaluated at the time the rating is made. Except as otherwise provided herein, any examining physician shall only evaluate impairment in accordance with the latest publication of the American Medical Association's "Guides to the Evaluation of Permanent Impairment" in effect at the time of the injury. The Physician Advisory Committee may, pursuant to Section 201.1 of this title, recommend the adoption of a method or system to evaluate permanent impairment that shall be used in place of or in combination with the American Medical Association's "Guides to the Evaluation of Permanent Impairment". Such recommendation shall be made to the Administrator of the Workers' Compensation Court who may adopt the recommendation in part or in whole. The adopted method or system shall be submitted by the Administrator to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate within the first ten (10) legislative days of a regular session of the Legislature. Such method or system to evaluate permanent impairment that shall be used in place of or in combination with the American Medical Association's "Guides to the Evaluation of Permanent Impairment" shall be subject to disapproval

in whole or in part by joint or concurrent resolution of the Legislature during the legislative session in which submitted. Such method or system shall be operative one hundred twenty (120) days after the last day of the month in which the Administrator submits the adopted method or system to the Legislature if the Legislature takes no action or one hundred twenty (120) days after the last day of the month in which the Legislature disapproves it in part. If adopted, permanent impairment shall be evaluated only in accordance with the latest version of the alternative method or system in effect at the time of injury. Except as otherwise provided in Section 11 of this title, all evaluations shall include an apportionment of injury causation. However, revisions to the guides made by the American Medical Association which are published after January 1, 1989, and before January 1, 1995, shall be operative one hundred twenty (120) days after the last day of the month of publication. Revisions to the guides made by the American Medical Association which are published after December 31, 1994, may be adopted in whole or in part by the Administrator following recommendation by the Physician Advisory Committee. Revisions adopted by the Administrator shall be submitted by the Administrator to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate within the first ten (10) legislative days of a regular session of the Legislature. Such revisions shall be subject to disapproval in whole or in part by joint or concurrent resolution of the Legislature during the legislative session in which submitted. Revisions shall be operative one hundred twenty (120) days after the last day of the month in which the Administrator submits the revisions to the Governor and the Legislature if the Legislature takes no action or one hundred twenty (120) days after the last day of the month in which the Legislature disapproves them in part. The examining physician shall not follow the guides based on race or ethnic

origin. The examining physician shall not deviate from said guides or any alternative thereto except as may be specifically provided for in the guides or modifications to the guides or except as may be specifically provided for in any alternative or modifications thereto, adopted by the Administrator of the Workers' Compensation Court as provided for in Section 201.1 of this title. These officially adopted guides or modifications thereto or alternative system or method of evaluating permanent impairment or modifications thereto shall be the exclusive basis for testimony and conclusions with regard to permanent impairment with the exception of paragraph 3 of Section 22 of this title, relating to scheduled member injury or loss; and impairment, including pain or loss of strength, may be awarded with respect to those injuries or areas of the body not specifically covered by said guides or alternative to said guides;

17. "Permanent total disability" means incapacity because of accidental injury or occupational disease to earn any wages in any employment for which the employee may become physically suited and reasonably fitted by education, training or experience, including vocational rehabilitation; loss of both hands, or both feet, or both legs, or both eyes, or any two thereof, shall constitute permanent total disability;

18. "Permanent partial disability" means permanent disability which is less than total and shall be equal to or the same as permanent impairment;

19. "Maximum medical improvement" means that no further material improvement would reasonably be expected from medical treatment or the passage of time;

20. "Independent medical examiner" means a licensed physician authorized to serve as a medical examiner pursuant to Section 17 of this title;

21. a. "Certified workplace medical plan" means an organization of health care providers or any other

entity, certified by the State Commissioner of Health pursuant to Section 14.3 of this title, that is authorized to enter into a contractual agreement with a self-insured employer, group self-insurance association plan, an employer's workers' compensation insurance carrier or an insured, which shall include any member of an approved group self-insured association, policyholder or public entity, regardless of whether such entity is insured by CompSource Oklahoma, to provide medical care under the Workers' Compensation Act. Certified plans shall only include such plans which provide medical services and payment for services on a fee-for-service basis to medical providers and shall not include other plans which contract in some other manner, such as capitated or pre-paid plans.

b. If any insurer, except CompSource Oklahoma, fails to contract with or provide access to a certified workplace medical plan, an insured, after sixty (60) days' written notice to its insurance carrier, shall be authorized to contract independently with a plan of his or her choice for a period of one (1) year, to provide medical care under the Workers' Compensation Act. The insured shall be authorized to contract, after sixty (60) days' written notice to its insurance carrier, for additional one-year periods if his or her insurer has not contracted with or provided access to a certified workplace medical plan.

c. If CompSource Oklahoma fails to contract with at least three certified workplace medical plans, each covering at least fifty counties, then the insured, after sixty (60) days' written notice to CompSource Oklahoma,

shall be authorized to contract independently with a plan of his or her choice for a period of one (1) year to provide medical care under the Workers' Compensation Act. The insured shall be authorized to contract, after sixty (60) days' written notice to CompSource Oklahoma, for additional one-year periods if CompSource Oklahoma has not contracted with or fails to continue contracts with at least three certified workplace medical plans covering at least fifty counties; and

22. "Treating physician" or "attending physician" means the licensed physician who has provided or is providing medical care to the injured employee.

SECTION 61. REPEALER 63 O.S. 2001, Sections 663, 680, 683.5a, 683.10, 683.19, 683.21 and 683.22, are hereby repealed.

SECTION 62. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this resolution shall take effect and be in full force from and after its passage and approval.

49-1-6374 SB 02/17/03