

3 **Senate Bill No. 1169**

4 **As Amended**

5 SENATE BILL NO. 1169 - By: MADDOX of the Senate and RICE of the  
6 House.

7 [ **state government - Oklahoma Development Finance Authority**  
8 **and Oklahoma Industrial Finance Authority - deleting**  
9 **compliance - Oklahoma Central Purchasing Act - emergency ]**

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

11 SECTION 1. AMENDATORY 74 O.S. 2001, Section 5062.6, is  
12 amended to read as follows:

13 Section 5062.6 A. Upon certification by the Governor of a  
14 public trust as qualifying to become the Oklahoma Development  
15 Finance Authority, the board of trustees of such trust shall become  
16 the governing board of the Oklahoma Development Finance Authority  
17 with the addition of two (2) other persons. From and after the  
18 effective date of this act, the Governor, the board of directors of  
19 the Oklahoma Development Finance Authority and the board of  
20 directors of the Oklahoma Industrial Finance Authority, governed by  
21 Section 851 of this title, shall begin the consolidation of the  
22 membership of the boards of both authorities. The Oklahoma  
23 Development Finance Authority is authorized to amend its trust  
24 indenture, to provide that its board shall be composed of the  
25 members of the board of directors of the Oklahoma Industrial Finance

1 Authority except for the State Treasurer of Oklahoma and to provide  
2 that the terms of office of the board of directors of the Oklahoma  
3 Development Finance Authority shall be identical to the terms of the  
4 Oklahoma Industrial Finance Authority. Any director of the Oklahoma  
5 Development Finance Authority who is in office upon the effective  
6 date of this act, and who is not also at that time a member of the  
7 board of directors of the Oklahoma Industrial Finance Authority,  
8 shall finish the term for which he or she was appointed. Upon the  
9 end of such a director's term, or upon such a director vacating his  
10 or her office, the Governor shall appoint a member of the board of  
11 directors of the Oklahoma Industrial Finance Authority to fill the  
12 vacancy, or to the new term. The qualifications for the board of  
13 directors of the Oklahoma Development Finance Authority shall be  
14 identical to the qualifications for the board of directors of the  
15 Oklahoma Industrial Finance Authority. As soon as the two boards of  
16 directors of each authority are composed of the same members, the  
17 boards shall be considered as consolidated. From and after that  
18 consolidation, persons appointed to the board of directors of the  
19 Oklahoma Industrial Finance Authority shall also become directors of  
20 the Oklahoma Development Finance Authority. Even though the  
21 membership of each board shall be identical, the authorities shall  
22 be considered and treated as separate legal entities. The funds of  
23 each authority shall not be commingled and shall be separately

1 accounted for. This consolidation of board membership shall not be  
2 construed as effecting a merger of estates or otherwise be construed  
3 to terminate the trust status of the Oklahoma Development Finance  
4 Authority. The Oklahoma Development Finance Authority shall  
5 continue to exist as a public trust, created under the Oklahoma  
6 Public Trust Act, ~~Section 176 et seq. of Title 60 of the Oklahoma~~  
7 ~~Statutes~~. The S.S.C. Development Authority is hereby authorized to  
8 amend its trust indenture to permit the members of the Oklahoma  
9 Industrial Finance Authority to become the governing board of such  
10 trust. Any such amendment shall not affect the separate legal  
11 status of such trust. The governing and administrative powers of  
12 the Oklahoma Development Finance Authority shall be vested in the  
13 governing board as provided by this section.

14 B. Each appointive member may receive reimbursement for  
15 expenses pursuant to the provisions of the State Travel  
16 Reimbursement Act, ~~Section 500.1 et seq. of this title~~. In  
17 addition, each appointive member shall receive a monthly stipend of  
18 Three Hundred Dollars (\$300.00) if, during the month, the member  
19 attended a meeting of the board of directors at which a quorum was  
20 present. Provided, a member who is also to receive a stipend for  
21 attending, during said month, a board meeting of the Oklahoma  
22 Industrial Finance Authority shall not receive a stipend pursuant to  
23 this subsection for said month except to the extent that payment to

1 the member may be divided between the two boards in proportion to  
2 the service rendered by the member to each board.

3 C. Members shall annually elect from among the membership a  
4 ~~chairman~~ chair, ~~vice-chairman~~ vice-chair, secretary and treasurer,  
5 and may elect an assistant secretary or assistant secretaries who  
6 need not be members of the board. Four members of the board shall  
7 constitute a quorum and the affirmative vote of the majority of  
8 members present at a meeting of the board shall be necessary and  
9 sufficient for any action taken by the board, except that the  
10 affirmative vote of at least four members shall be required for the  
11 approval of any resolution authorizing the issuance of any bonds or  
12 approving any loan transaction pursuant to Section 5062.1 et seq. of  
13 this title.

14 D. No vacancy in the membership of the board shall impair the  
15 right of a quorum to exercise all rights and perform all the duties  
16 of the board. Any action taken by the board may be authorized by  
17 resolution at any regular, special, or emergency meeting and shall  
18 take effect upon the date the ~~chairman~~ chair or ~~vice-chairman~~ vice-  
19 chair certifies the action of the Authority by affixing ~~his~~ a  
20 signature to the resolution unless some other date is otherwise  
21 provided in the resolution.

22 E. The board may delegate to its employees, persons under  
23 contract to provide administrative or staff services to the board,

1 its members and/or officers of the Authority such duties as it deems  
2 necessary or convenient to carry out the purposes of this act. The  
3 board may contract with the Oklahoma Industrial Finance Authority to  
4 provide all or part of the board's administrative and staff  
5 services. Funds of the Oklahoma Development Finance Authority may  
6 be paid to the Oklahoma Industrial Finance Authority for services  
7 reasonably attributable to the operation of the Oklahoma Development  
8 Finance Authority.

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

14 G. The meetings of the board of directors of the Oklahoma  
15 Development Finance Authority shall be subject to the Oklahoma Open  
16 Meeting Act, ~~Section 301 et seq. of Title 25 of the Oklahoma~~  
17 ~~Statutes,~~ and the Oklahoma Open Records Act, ~~Section 24A.1 et seq.~~  
18 ~~of Title 51 of the Oklahoma Statutes.~~ Any information submitted to  
19 or compiled by the Oklahoma Development Finance Authority with  
20 respect to the marketing plans, financial statements, trade secrets  
21 or any other commercially sensitive information of persons, firms,  
22 associations, partnerships, agencies, corporations or other entities  
23 shall be confidential, except to the extent that the person or

1 entity which provided such information or which is the subject of  
2 such information consents to disclosure. Executive sessions may be  
3 held to discuss such materials if deemed necessary by the board of  
4 directors.

5 H. The Authority shall assist minority businesses in obtaining  
6 financial assistance. The terms and conditions of loans or other  
7 means of financial assistance, including the charges for interest  
8 and other services, will be consistent with the provisions of this  
9 act. The Authority shall solicit proposed minority business  
10 ventures for review and analysis.

11 I. The Authority shall not be subject to state laws regulating  
12 the classification, employment, promotion, suspension, disciplinary  
13 action or dismissal of state employees. ~~Except as otherwise~~  
14 ~~provided by this act, the~~ The Oklahoma Development Finance Authority  
15 shall not be subject to the provisions of the Oklahoma Central  
16 Purchasing Act, ~~Section 85.1 et seq. of this title.~~ The Oklahoma  
17 Development Finance Authority shall be subject to the provisions of  
18 law governing administrative procedures pursuant to Title 75 of the  
19 Oklahoma Statutes.

20 J. If a member of the board of directors, officer, agent or  
21 employee of the Oklahoma Development Finance Authority has any  
22 direct or any indirect interest in any approval, contract or  
23 agreement upon which the member, officer, agent or employee may be

1 called upon to act or vote, the board member, officer, agent or  
2 employee shall disclose the same to the secretary of the Authority  
3 prior to the taking of final action by the Authority concerning such  
4 contract or agreement and shall so disclose the nature and extent of  
5 such interest and his or her acquisition thereof, which disclosure  
6 shall be publicly acknowledged by the Authority and entered upon the  
7 minutes of the Authority. If a board member, officer, agent or  
8 employee holds such an interest, he or she shall refrain from any  
9 further official involvement in regard to such contract or  
10 agreement, from voting on any matter pertaining to such contract or  
11 agreement, and from communicating with other board members,  
12 officers, agents or employees concerning said contract or agreement.  
13 Employees of the Oklahoma Development Finance Authority shall be  
14 subject to the provisions of ~~Section 4241 of this title~~ Rule  
15 257:20-1-4, Rules of the Ethics Commission, 74 O.S. Supp. 2003, Ch.  
16 62, App., in the same manner as other state employees.

17 Notwithstanding any other provision of law, any contract or  
18 agreement entered into in conformity with this subsection shall not  
19 be void or invalid by reason of the interest described in this  
20 subsection, nor shall any person so disclosing the interest and  
21 refraining from further official involvement as provided for in this  
22 subsection be guilty of an offense, be removed from office, or be  
23 subject to any other penalty on account of such interest. Provided,

1 any approval, contract or agreement made in violation of this  
2 section shall give rise to no action against the Authority.

3 Indirect interest shall include pecuniary or competitive  
4 advantage which exists or could foreseeably accrue as a result of  
5 the act or forbearance of the Authority.

6 SECTION 2. It being immediately necessary for the preservation  
7 of the public peace, health and safety, an emergency is hereby  
8 declared to exist, by reason whereof this act shall take effect and  
9 be in full force from and after its passage and approval.

10 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-11-04 - DO  
11 PASS, As Amended and Coauthored.