

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1657

6 By: Morrissette

7 COMMITTEE SUBSTITUTE

8 An Act relating to transportation; amending 51 O.S.
9 2011, Section 24A.5, which relates to open records;
10 providing exemptions for certain information;
11 providing exemption from competitive bidding
12 requirements; defining terms; allowing use of design-
13 build methods; requiring approval of Director;
14 requiring projects meet certain criteria; addressing
15 application of certain competitive bidding
16 provisions; prohibiting application to certain
17 projects; providing for the promulgation of rules;
18 defining terms; allowing solicitation of proposals;
19 allowing different procurement approaches; providing
20 factors for evaluation of proposals; specifying
21 process for determination of confidentiality;
22 allowing unsolicited proposals; setting time limit
23 for Department of Transportation response; specifying
24 process for determination of confidentiality;
allowing Department to enter public-private
agreements; requiring certain issues be addressed in
agreement; permitting certain additional issues be
addressed; providing for termination; specifying
default procedures; allowing use of bonds; defining
scope of permissible bonds; directing payment from
certain sources; allowing use of certain federal
programs; prohibiting certain limitation; allowing
use of federal funds and gifts; permitting
combination of funds; allowing exercise of eminent
domain; requiring certain utility crossing
cooperation; prohibiting interference with waiver of
sovereign immunity; allowing for promulgation of
rules; providing for codification; and providing an
effective date.

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

SECTION 1. AMENDATORY 51 O.S. 2011, Section 24A.5, is amended to read as follows:

Section 24A.5 All records of public bodies and public officials shall be open to any person for inspection, copying, or mechanical reproduction during regular business hours; provided:

1. The Oklahoma Open Records Act, Sections 24A.1 through 24A.28 of this title, does not apply to records specifically required by law to be kept confidential including:

- a. records protected by a state evidentiary privilege such as the attorney-client privilege, the work product immunity from discovery and the identity of informer privileges,
- b. records of what transpired during meetings of a public body lawfully closed to the public such as executive sessions authorized under the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes,
- c. personal information within driver records as defined by the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725, ~~or~~

- 1 d. ~~information in the files of the Board of Medicolegal~~
2 ~~Investigations~~ Office of the Chief Medical Examiner
3 obtained pursuant to Sections 940 and 941 of Title 63
4 of the Oklahoma Statutes that may be hearsay,
5 preliminary unsubstantiated investigation-related
6 findings, ~~or~~ confidential medical information, or
7 information contained in an autopsy report providing
8 the "manner of death" as homicide, unknown or pending
9 discoverable under law; provided, the district
10 attorney of the jurisdiction in which the homicide
11 occurred may disclose any information contained in an
12 autopsy report providing the "manner of death" as
13 homicide, unknown or pending, or
- 14 e. information in the files of the Department of
15 Transportation obtained pursuant to Sections 3 through
16 13 of this act regarding a public-private initiative
17 or a proposal for a public-private initiative that the
18 Department of Transportation determines to be
19 confidential or proprietary;

20 2. Any reasonably segregable portion of a record containing
21 exempt material shall be provided after deletion of the exempt
22 portions; provided however, the Department of Public Safety shall
23 not be required to assemble for the requesting person specific
24 information, in any format, from driving records relating to any

1 person whose name and date of birth or whose driver license number
2 is not furnished by the requesting person.

3 The Oklahoma State Bureau of Investigation shall not be required to
4 assemble for the requesting person any criminal history records
5 relating to persons whose names, dates of birth, and other
6 identifying information required by the Oklahoma State Bureau of
7 Investigation pursuant to administrative rule are not furnished by
8 the requesting person-;

9 3. Any For autopsy reports providing the "manner of death" as
10 homicide, unknown or pending, the Office of Chief Medical Examiner
11 shall release a prepared report that includes the following
12 information to the extent such information is available: autopsy
13 number, case number, laboratory analysis number, manner of death,
14 full name, age, date of birth, race, sex, and home address of the
15 decedent, name and title of the individual notifying the Office of
16 Chief Medical Examiner, date and time of such notification,
17 including the city, county, type of premises, and the date and time
18 of viewing, and the date the report was filed;

19 4. For any request for a record which contains individual
20 records of persons, ~~and~~ when the cost of copying, reproducing or
21 certifying each individual record is otherwise prescribed by state
22 law, the cost may be assessed for each individual record, or portion
23 thereof requested as prescribed by state law. Otherwise, a public
24 body may charge a fee only for recovery of the reasonable, direct

1 costs of record copying, or mechanical reproduction.

2 Notwithstanding any state or local provision to the contrary, in no
3 instance shall the record copying fee exceed twenty-five cents
4 (\$0.25) per page for records having the dimensions of eight and one-
5 half (8 1/2) by fourteen (14) inches or smaller, or a maximum of One
6 Dollar (\$1.00) per copied page for a certified copy. However, if
7 the request:

8 a. is solely for commercial purpose, or

9 b. would clearly cause excessive disruption of the
10 essential functions of the public body,

11 then the public body may charge a reasonable fee to recover the
12 direct cost of record search and copying; however, publication in a
13 newspaper or broadcast by news media for news purposes shall not
14 constitute a resale or use of a record for trade or commercial
15 purpose and charges for providing copies of electronic data to the
16 news media for a news purpose shall not exceed the direct cost of
17 making the copy. The fee charged by the Department of Public Safety
18 for a copy in a computerized format of a record of the Department
19 shall not exceed the direct cost of making the copy unless the fee
20 for the record is otherwise set by law.

21 Any public body establishing fees under this act shall post a
22 written schedule of the fees at its principal office and with the
23 county clerk.

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1 In no case shall a search fee be charged when the release of
2 records is in the public interest, including, but not limited to,
3 release to the news media, scholars, authors and taxpayers seeking
4 to determine whether those entrusted with the affairs of the
5 government are honestly, faithfully, and competently performing
6 their duties as public servants.

7 The fees shall not be used for the purpose of discouraging
8 requests for information or as obstacles to disclosure of requested
9 information~~;~~;

10 ~~4.~~ 5. The land description tract index of all recorded
11 instruments concerning real property required to be kept by the
12 county clerk of any county shall be available for inspection or
13 copying in accordance with the provisions of the Oklahoma Open
14 Records Act; provided, however, the index shall not be copied or
15 mechanically reproduced for the purpose of sale of the information~~;~~;

16 ~~5.~~ 6. A public body must provide prompt, reasonable access to
17 its records but may establish reasonable procedures which protect
18 the integrity and organization of its records and to prevent
19 excessive disruptions of its essential functions~~;~~ and

20 ~~6.~~ 7. A public body shall designate certain persons who are
21 authorized to release records of the public body for inspection,
22 copying, or mechanical reproduction. At least one person shall be
23 available at all times to release records during the regular
24 business hours of the public body.

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 103.7 of Title 61, unless there
3 is created a duplication in numbering, reads as follows:

4 For purposes of the provisions of the Public Competitive Bidding
5 Act of 1974, contracts entered into as part of a public-private
6 initiative pursuant to Sections 4 through 14 of this act shall not
7 be considered to be public construction contracts and shall not be
8 required to be open for competitive bidding.

9 SECTION 3. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 306.3 of Title 69, unless there
11 is created a duplication in numbering, reads as follows:

12 Section 306.3 A. As used in this section:

13 1. "Construction" means the process of planning, acquiring,
14 designing, building, equipping, altering, repairing, improving,
15 maintaining, or demolishing any roads, highways, bridges, railroads,
16 or tunnels or appurtenance thereto including facilities, utilities,
17 or other improvements to any real property;

18 2. "Construction administration" means a series of actions
19 required to ensure the full, timely, and proper performance of all
20 phases of a construction project by all contractors, suppliers, and
21 other persons having responsibility for project work and any
22 guarantees or warranties pertaining thereto;

23 3. "Construction management" means a project delivery method
24 based on an agreement whereby the Department acquires from a

1 construction entity a series of services that include, but are not
2 necessarily limited to, design review, scheduling, cost control,
3 value engineering, constructability evaluation, preparation and
4 coordination of bid packages, and construction administration;

5 "construction management" includes:

6 a. "agency construction management" whereby the
7 construction entity provides services to the
8 Department without taking on financial risks for the
9 execution of the actual construction, and

10 b. "at-risk construction management" whereby the
11 construction entity, after providing agency services
12 during the preconstruction period, takes on the
13 financial obligation to carry out construction under a
14 specified cost agreement;

15 4. "Department" means the Department of Transportation;

16 5. "Design-build" means a project delivery method whereby the
17 Department acquires both design and construction services in the
18 same contract from a single legal entity, referred to as the design-
19 builder, without the bid component of the traditional design-bid-
20 build process; and

21 6. "Director" means the Director of the Department of
22 Transportation.

23 B. The Department of Transportation may use design-build and
24 construction management project delivery methods with the written

1 approval of the Director of the Department, or the designee of the
2 Director. In all instances where the design-build project method is
3 authorized, construction administration shall be performed by the
4 Department, the designee or designees of the Director, or otherwise
5 by contract or contract provision approved by the Director for
6 construction administration by another party.

7 C. The design-build and construction management project
8 delivery methods shall not be used for any project unless the
9 project meets the criteria established by the administrative rules
10 promulgated as required by this section and the following criteria
11 are met:

- 12 1. The project benefits the public; and
- 13 2. There is a need for cost control.

14 D. The use of design-build and construction management project
15 delivery methods shall not interfere or inhibit the opportunity for
16 subcontractors to openly and freely compete for subcontracts
17 pursuant to the Public Competitive Bidding Act of 1974.

18 E. The provisions of subsections B and C of this section shall
19 not apply to projects by contract pursuant to an interagency
20 agreement under Section 581 of Title 74 of the Oklahoma Statutes or
21 to projects a state agency performs solely with the staff of the
22 agency.

23 F. The Department shall, pursuant to the Administrative
24 Procedures Act, promulgate any rules to effect procedures, processes

1 and design-build and construction management fee guidelines
2 necessary to the fulfillment of its responsibilities under this
3 section.

4 SECTION 4. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 4041 of Title 69, unless there
6 is created a duplication in numbering, reads as follows:

7 For purposes of Sections 4 through 13 of this act:

8 1. "Affected jurisdiction" means any county, city, or town or
9 municipal corporation, or other unit of government within the state
10 in which all or part of a transportation facility is located or any
11 other public entity directly affected by the transportation
12 facility;

13 2. "Department" means the Department of Transportation;

14 3. "Force majeure" means an uncontrollable force or natural
15 disaster not within the power of the operator or the state;

16 4. "Maintenance" includes ordinary maintenance, repair,
17 rehabilitation, capital maintenance, maintenance replacement, and
18 any other categories of maintenance that may be designated by the
19 Department;

20 5. "Material default" means any failure of an operator to
21 perform any duties under a public-private agreement, which
22 jeopardizes delivery of adequate service to the public and remains
23 unsatisfied after a reasonable period of time and after the operator
24 has received written notice from the Department of the failure;

1 6. "Operate" means any action to maintain, rehabilitate,
2 improve, equip, or modify a transportation facility;

3 7. "Operator" means a private entity that has entered into a
4 public-private agreement under this act;

5 8. "Private entity" means any natural person, corporation,
6 general partnership, limited liability company, limited partnership,
7 joint venture, business trust, public benefit corporation, nonprofit
8 entity, or other business entity;

9 9. "Public-private agreement" means the agreement between a
10 private entity and the Department that relates to the development,
11 financing, maintenance, or operation of a transportation facility
12 subject to this act;

13 10. "Public-private initiative" means an arrangement between
14 the Department and one or more private entities, the terms of which
15 are stated in a public-private agreement, that provides for:

- 16 a. acceptance of a private contribution, including a
17 money payment, for a project or service for a
18 transportation facility,
- 19 b. sharing of resources and the means of providing a
20 project or service for a transportation facility,
- 21 c. cooperation in researching, developing, and
22 implementing projects or services for a transportation
23 facility;

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1 11. "Transportation facility" means any new or existing
2 highway, road, bridge, tunnel, overpass, ferry, airport, public
3 transportation facility, vehicle parking facility, seaport facility,
4 rail facility, intermodal facility, or similar facility open to the
5 public and used for the transportation of persons or goods, and any
6 building, structure, parking area, appurtenances, or other property
7 needed to operate such facility that is subject to a public-private
8 agreement;

9 12. "User fees" means the rate, toll, fee, or other charges
10 imposed by an operator for use of all or part of a transportation
11 facility; and

12 13. "Utility" means a privately, publicly, or cooperatively
13 owned line, facility, or system for producing, transmitting, or
14 distributing communications, cable television, power, electricity,
15 light, heat, gas, oil, crude products, water, steam, waste, storm
16 water not connected with highway drainage, or any other similar
17 commodity, including fire or police signal system or street lighting
18 system, which directly or indirectly serves the public.

19 SECTION 5. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 4042 of Title 69, unless there
21 is created a duplication in numbering, reads as follows:

22 A. The Public Competitive Bidding Act of 1974 shall not apply
23 to solicited proposals under this act.

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1 B. The Department of Transportation may solicit, receive,
2 consider, evaluate, and accept a proposal for a public-private
3 initiative.

4 C. In soliciting and selecting a private entity with which to
5 enter into a public-private initiative, the Department may utilize
6 one or more of the following procurement approaches:

7 1. Sealed bidding;

8 2. Selection of proposals, with or without negotiations, based
9 on qualifications, best value, or both; or

10 3. Any competitive selection process that the Department
11 determines to be appropriate or reasonable.

12 D. The Department may consider the following factors in
13 evaluating and selecting a bid or proposal to enter into a public-
14 private initiative:

15 1. The ability of the transportation facility to improve
16 safety, reduce congestion, increase capacity, and promote economic
17 growth;

18 2. The proposed cost of and financial plan for the
19 transportation facility;

20 3. The general reputation, qualifications, industry experience,
21 and financial capacity of the private entity;

22 4. The proposed design, operation, and feasibility of the
23 transportation facility;

24 5. Comments from local citizens and affected jurisdictions;

1 6. Benefits to the public;

2 7. The safety record of the private entity; and

3 8. Other criteria that the Department deems appropriate.

4 E. The Department may select multiple private entities with
5 which to enter a public-private agreement for a transportation
6 facility if it is in the public interest to do so.

7 F. The Department shall select a private entity or entities for
8 a public-private initiative on a competitive basis to the maximum
9 extent practicable.

10 G. 1. A private entity may request a review, prior to
11 submission of a solicited proposal, by the Department of information
12 that the private entity has identified as confidential or
13 proprietary to determine whether such information would be subject
14 to disclosure under the Oklahoma Open Records Act.

15 2. A private entity may identify confidential or proprietary
16 information submitted as part of a solicited proposal. A private
17 entity shall have an opportunity to object to the release of any
18 information it identifies as confidential or proprietary.

19 3. The Department shall review any information identified as
20 confidential or proprietary by a private entity as part of a
21 solicited proposal and shall determine if such information is exempt
22 from disclosure under the Oklahoma Open Records Act.

23 4. The Department shall inform the private entity that
24 submitted the information of its determination of whether

1 information identified by the private entity as confidential or
2 proprietary is subject to disclosure under the Oklahoma Open Records
3 Act.

4 5. The private entity shall have the opportunity to object to
5 the determination that the information is subject to disclosure
6 under the Oklahoma Open Records Act or to withdraw its proposal.

7 6. Any information determined by the state to be confidential
8 or proprietary shall be exempt from disclosure under the Oklahoma
9 Open Records Act.

10 7. Any information not determined to be confidential or
11 proprietary may be subject to disclosure under the Oklahoma Open
12 Records Act.

13 SECTION 6. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 4043 of Title 69, unless there
15 is created a duplication in numbering, reads as follows:

16 A. The Public Competitive Bidding Act of 1974 shall not apply
17 to this section.

18 B. 1. The Department of Transportation may receive, consider,
19 evaluate, and accept an unsolicited proposal for a public-private
20 initiative if the proposal:

21 a. is independently originated and developed by the
22 proposer,

23 b. benefits the public,

24 c. is prepared without Department supervision, and

1 d. includes sufficient detail and information for the
2 Department to evaluate the proposal in an objective
3 and timely manner.

4 2. Within thirty (30) days after receiving an unsolicited
5 proposal, the Department shall undertake a preliminary evaluation of
6 the unsolicited proposal to determine if the proposal complies with
7 the requirements under paragraph 1 of this subsection.

8 C. 1. A private entity may request a review, prior to
9 submission of an unsolicited proposal, by the Department of
10 information that the private entity has identified as confidential
11 or proprietary to determine whether such information would be
12 subject to disclosure under the Oklahoma Open Records Act.

13 2. A private entity may identify confidential or proprietary
14 information submitted as part of an unsolicited proposal. A private
15 entity shall have an opportunity to object to the release of any
16 information it identifies as confidential or proprietary.

17 3. The Department shall review any information identified as
18 confidential or proprietary by a private entity as part of an
19 unsolicited proposal and shall determine if such information is
20 exempt from disclosure under the Oklahoma Open Records Act.

21 4. The Department shall inform the private entity that
22 submitted the information of its determination of whether
23 information identified by the private entity as confidential or
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1 proprietary is subject to disclosure under the Oklahoma Open Records
2 Act.

3 5. The private entity shall have the opportunity to object to
4 the determination that the information is subject to disclosure
5 under the Oklahoma Open Records Act or to withdraw its proposal.

6 6. Any information determined by the state to be confidential
7 or proprietary shall be exempt from disclosure under the Oklahoma
8 Open Records Act.

9 7. Any information not determined to be confidential or
10 proprietary may be subject to disclosure under the Oklahoma Open
11 Records Act.

12 SECTION 7. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 4044 of Title 69, unless there
14 is created a duplication in numbering, reads as follows:

15 A. 1. After selecting a solicited or unsolicited proposal for
16 a public-private initiative, the Department of Transportation shall
17 enter into a public-private agreement for a transportation facility
18 with the selected private entity or any configuration of private
19 entities.

20 2. An affected jurisdiction may be a party to a public-private
21 agreement entered into by the Department and a selected private
22 entity or combination of private entities.

23 B. A public-private agreement under this act shall provide for
24 the following:

1 1. The planning, acquisition, financing, development, design,
2 construction, reconstruction, replacement, improvement, maintenance,
3 management, repair, leasing, or operation of a transportation
4 facility;

5 2. The term of the public-private agreement;

6 3. The type of property interest, if any, the private entity
7 will have in the transportation facility;

8 4. A description of the actions the Department may take to
9 ensure proper maintenance of the transportation facility;

10 5. Whether user fees will be collected on the transportation
11 facility and the basis by which such user fees shall be determined
12 and modified;

13 6. Compliance with applicable federal, state, and local laws;

14 7. Grounds for termination of the public-private agreement by
15 the Department or operator; and

16 8. Procedures for amendment of the agreement.

17 C. A public-private agreement under this act may provide for
18 the following:

19 1. Review and approval by the Department of the operator's
20 plans for the development and operation of the transportation
21 facility;

22 2. Inspection by the Department of construction of or
23 improvements to the transportation facility;

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- 1 3. Maintenance by the operator of a policy of liability
2 insurance or self-insurance;
- 3 4. Filing by the operator, on a periodic basis, of appropriate
4 financial statements in a form acceptable to the Department;
- 5 5. Filing by the operator, on a periodic basis, of traffic
6 reports in a form acceptable to the Department;
- 7 6. Financing obligations of the operator and the Department;
- 8 7. Apportionment of expenses between the operator and the
9 Department;
- 10 8. The rights and duties of the operator, the Department, and
11 other state and local governmental entities with respect to use of
12 the transportation facility;
- 13 9. The rights and remedies available in the event of default or
14 delay;
- 15 10. The terms and conditions of indemnification of the operator
16 by the Department;
- 17 11. Assignment, subcontracting, or other delegation of
18 responsibilities of the operator or the Department under the
19 agreement to third parties, including other private entities and
20 other state agencies;
- 21 12. Sale or lease to the operator of private property related
22 to the transportation facility;
- 23 13. Traffic enforcement and other policing issues including any
24 reimbursement by the private entity for such services; or

1 14. Other terms and conditions.

2 SECTION 8. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 4045 of Title 69, unless there
4 is created a duplication in numbering, reads as follows:

5 In the event of termination of the public-private agreement, the
6 authority and duties of the operator cease, except for any duties
7 and obligations that extend beyond the termination as provided in
8 the public-private agreement, and the transportation facility
9 reverts to the Department of Transportation and shall be dedicated
10 to the Department for public use.

11 SECTION 9. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 4046 of Title 69, unless there
13 is created a duplication in numbering, reads as follows:

14 A. Upon the occurrence and during the continuation of material
15 default by an operator, not related to an event of force majeure,
16 the Department of Transportation may:

17 1. Elect to take over the transportation facility, including
18 the succession of all right, title, and interest in the
19 transportation facility, subject to any liens on revenues previously
20 granted by the private entity; and

21 2. Terminate the public-private agreement and exercise any
22 other rights and remedies that may be available.

1 B. In the event that the Department elects to take over a
2 transportation facility under subsection A of this section, the
3 Department:

4 1. Shall collect and pay any revenues that are subject to lien
5 to satisfy any obligation;

6 2. May develop and operate the transportation facility, impose
7 user fees for the use of the transportation facility, and comply
8 with any service contracts; and

9 3. May solicit proposals for the maintenance and operation of
10 the transportation facility under Section 5 of this act.

11 SECTION 10. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 4047 of Title 69, unless there
13 is created a duplication in numbering, reads as follows:

14 A. 1. The Department of Transportation may issue and sell
15 bonds or notes of the Department for the purpose of providing funds
16 to carry out the provisions of this act with respect to the
17 development, financing, or operation of a transportation facility or
18 the refunding of any bonds or notes, together with any costs
19 associated with the transaction.

20 2. Any bond or note issued under this section:

21 a. constitutes the corporate obligation of the
22 Department,
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1 b. does not constitute the indebtedness of the state
2 within the meaning or application of any
3 constitutional provision or limitation, and

4 c. is payable solely as to both principal and interest
5 from:

6 (1) the revenues from a lease to the Department, if
7 any,

8 (2) proceeds of bonds or notes, if any,

9 (3) investment earnings on proceeds of bonds or
10 notes, or

11 (4) other funds available to the Department for such
12 purpose.

13 B. 1. For the purpose of financing a transportation facility,
14 the Department and operator may apply for, obtain, issue, and use
15 private activity bonds available under any federal law or program.

16 2. Any bonds debt, other securities, or other financing issued
17 for the purpose of this act shall not be considered to be a debt of
18 the state or any political subdivision of the state or a pledge of
19 the faith and credit of the state or any political subdivision of
20 the state.

21 C. Nothing in this section shall limit a local government or
22 any authority of the state to issue bonds for transportation
23 projects.

1 SECTION 11. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4048 of Title 69, unless there
3 is created a duplication in numbering, reads as follows:

4 A. 1. The Department of Transportation may accept from the
5 United States or any of its agencies funds that are available to the
6 state for carrying out this act, whether the funds are made
7 available by grant, loan, or other financial assistance.

8 2. The state assents to any federal requirements, conditions,
9 or terms of any federal funding accepted by the Department under
10 this section.

11 3. The Department may enter into agreements or other
12 arrangements with the United States or any of its agencies as may be
13 necessary for carrying out the purposes of this act.

14 B. The Department may accept from any source any grant,
15 donation, gift, or other form of conveyance of land, money, other
16 real or personal property, or other item of value made to the state
17 or the Department for carrying out the purposes of this act.

18 C. Any transportation facility may be financed in whole or in
19 part by contribution of any funds or property made by any private
20 entity or affected jurisdiction that is party to a public-private
21 agreement under this act.

22 D. The Department may combine federal, state, local, and
23 private funds to finance a transportation facility under this act.

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1 SECTION 12. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4049 of Title 69, unless there
3 is created a duplication in numbering, reads as follows:

4 The Department of Transportation may exercise the power of
5 eminent domain to acquire property, rights of way or other rights in
6 property for transportation projects that are part of a public-
7 private initiative.

8 SECTION 13. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 4050 of Title 69, unless there
10 is created a duplication in numbering, reads as follows:

11 An operator under this act and any utility whose facility is to
12 be crossed or relocated shall cooperate fully in planning and
13 arranging the manner of the crossing or relocation of the utility
14 facility.

15 SECTION 14. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 4051 of Title 69, unless there
17 is created a duplication in numbering, reads as follows:

18 Nothing in this act shall be construed or deemed to limit any
19 waiver of the sovereign immunity of the state or any officer or
20 employee of the state with respect to the participation in or
21 approval of all or any part of the transportation facility or its
22 operation.

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1 SECTION 15. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4052 of Title 69, unless there
3 is created a duplication in numbering, reads as follows:

4 The Department of Transportation may adopt rules necessary to
5 carry out the provisions of this act.

6 SECTION 16. This act shall become effective November 1, 2013.

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