

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 54th Legislature (2013)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1657

 By: Morrissette

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to transportation; amending 51 O.S.
10 2011, Section 24A.5, which relates to open records;
11 providing exemptions for certain information;
12 providing exemption from competitive bidding
13 requirements; defining terms; allowing use of design-
14 build methods; requiring approval of Director;
15 requiring projects meet certain criteria; addressing
16 application of certain competitive bidding
17 provisions; prohibiting application to certain
18 projects; providing for the promulgation of rules;
19 defining terms; allowing solicitation of proposals;
20 allowing different procurement approaches; providing
21 factors for evaluation of proposals; specifying
22 process for determination of confidentiality;
23 allowing unsolicited proposals; setting time limit
24 for Department of Transportation response; specifying
 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

1 rules; providing for codification; and providing an
2 effective date.

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

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

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

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

- 13 a. records protected by a state evidentiary privilege
14 such as the attorney-client privilege, the work
15 product immunity from discovery and the identity of
16 informer privileges,
- 17 b. records of what transpired during meetings of a public
18 body lawfully closed to the public such as executive
19 sessions authorized under the Oklahoma Open Meeting
20 Act, Section 301 et seq. of Title 25 of the Oklahoma
21 Statutes,

- 1 c. personal information within driver records as defined
2 by the Driver's Privacy Protection Act, 18 United
3 States Code, Sections 2721 through 2725, ~~or~~
- 4 d. information in the files of the ~~Board of Medicolegal~~
5 ~~Investigations~~ Office of the Chief Medical Examiner
6 obtained pursuant to Sections 940 and 941 of Title 63
7 of the Oklahoma Statutes that may be hearsay,
8 preliminary unsubstantiated investigation-related
9 findings, ~~or~~ confidential medical information, or
10 information contained in an autopsy report providing
11 the "manner of death" as homicide, unknown or pending
12 discoverable under law; provided, the district
13 attorney of the jurisdiction in which the homicide
14 occurred may disclose any information contained in an
15 autopsy report providing the "manner of death" as
16 homicide, unknown or pending, or
- 17 e. information in the files of the Department of
18 Transportation obtained pursuant to Sections 3 through
19 13 of this act regarding a public-private initiative
20 or a proposal for a public-private initiative that the
21 Department of Transportation determines to be
22 confidential or proprietary;
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1 2. Any reasonably segregable portion of a record containing
2 exempt material shall be provided after deletion of the exempt
3 portions; provided however, the Department of Public Safety shall
4 not be required to assemble for the requesting person specific
5 information, in any format, from driving records relating to any
6 person whose name and date of birth or whose driver license number
7 is not furnished by the requesting person.

8 The Oklahoma State Bureau of Investigation shall not be required to
9 assemble for the requesting person any criminal history records
10 relating to persons whose names, dates of birth, and other
11 identifying information required by the Oklahoma State Bureau of
12 Investigation pursuant to administrative rule are not furnished by
13 the requesting person;

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

1 4. For any request for a record which contains individual
2 records of persons, ~~and~~ when the cost of copying, reproducing or
3 certifying each individual record is otherwise prescribed by state
4 law, the cost may be assessed for each individual record, or portion
5 thereof requested as prescribed by state law. Otherwise, a public
6 body may charge a fee only for recovery of the reasonable, direct
7 costs of record copying, or mechanical reproduction.
8 Notwithstanding any state or local provision to the contrary, in no
9 instance shall the record copying fee exceed twenty-five cents
10 (\$0.25) per page for records having the dimensions of eight and one-
11 half (8 1/2) by fourteen (14) inches or smaller, or a maximum of One
12 Dollar (\$1.00) per copied page for a certified copy. However, if
13 the request:

14 a. is solely for commercial purpose, or

15 b. would clearly cause excessive disruption of the
16 essential functions of the public body,

17 then the public body may charge a reasonable fee to recover the
18 direct cost of record search and copying; however, publication in a
19 newspaper or broadcast by news media for news purposes shall not
20 constitute a resale or use of a record for trade or commercial
21 purpose and charges for providing copies of electronic data to the
22 news media for a news purpose shall not exceed the direct cost of
23 making the copy. The fee charged by the Department of Public Safety

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1 for a copy in a computerized format of a record of the Department
2 shall not exceed the direct cost of making the copy unless the fee
3 for the record is otherwise set by law.

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

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

13 The fees shall not be used for the purpose of discouraging
14 requests for information or as obstacles to disclosure of requested
15 information-;

16 ~~4.~~ 5. The land description tract index of all recorded
17 instruments concerning real property required to be kept by the
18 county clerk of any county shall be available for inspection or
19 copying in accordance with the provisions of the Oklahoma Open
20 Records Act; provided, however, the index shall not be copied or
21 mechanically reproduced for the purpose of sale of the information-;

22 ~~5.~~ 6. A public body must provide prompt, reasonable access to
23 its records but may establish reasonable procedures which protect
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1 the integrity and organization of its records and to prevent
2 excessive disruptions of its essential functions~~;~~ and

3 ~~6.~~ 7. A public body shall designate certain persons who are
4 authorized to release records of the public body for inspection,
5 copying, or mechanical reproduction. At least one person shall be
6 available at all times to release records during the regular
7 business hours of the public body.

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

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

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

19 Section 306.3 A. As used in this section:

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

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

8 3. "Construction management" means a project delivery method
9 based on an agreement whereby the Department acquires from a
10 construction entity a series of services that include, but are not
11 necessarily limited to, design review, scheduling, cost control,
12 value engineering, constructability evaluation, preparation and
13 coordination of bid packages, and construction administration;
14 "construction management" includes:

- 15 a. "agency construction management" whereby the
16 construction entity provides services to the
17 Department without taking on financial risks for the
18 execution of the actual construction, and
19 b. "at-risk construction management" whereby the
20 construction entity, after providing agency services
21 during the preconstruction period, takes on the
22 financial obligation to carry out construction under a
23 specified cost agreement;

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

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

7 6. "Director" means the Director of the Department of
8 Transportation.

9 B. The Department of Transportation may use design-build and
10 construction management project delivery methods with the written
11 approval of the Director of the Department, or the designee of the
12 Director. In all instances where the design-build project method is
13 authorized, construction administration shall be performed by the
14 Department, the designee or designees of the Director, or otherwise
15 by contract or contract provision approved by the Director for
16 construction administration by another party.

17 C. The design-build and construction management project
18 delivery methods shall not be used for any project unless the
19 project meets the criteria established by the administrative rules
20 promulgated as required by this section and the following criteria
21 are met:

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

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

5 E. The provisions of subsections B and C of this section shall
6 not apply to projects by contract pursuant to an interagency
7 agreement under Section 581 of Title 74 of the Oklahoma Statutes or
8 to projects a state agency performs solely with the staff of the
9 agency.

10 F. The Department shall, pursuant to the Administrative
11 Procedures Act, promulgate any rules to effect procedures, processes
12 and design-build and construction management fee guidelines
13 necessary to the fulfillment of its responsibilities under this
14 section.

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

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

19 1. "Affected jurisdiction" means any county, city, or town or
20 municipal corporation, or other unit of government within the state
21 in which all or part of a transportation facility is located or any
22 other public entity directly affected by the transportation
23 facility;

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UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

4 4. "Maintenance" includes ordinary maintenance, repair,
5 rehabilitation, capital maintenance, maintenance replacement, and
6 any other categories of maintenance that may be designated by the
7 Department;

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

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

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

17 8. "Private entity" means any natural person, corporation,
18 general partnership, limited liability company, limited partnership,
19 joint venture, business trust, public benefit corporation, nonprofit
20 entity, or other business entity;

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

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

6 a. acceptance of a private contribution, including a
7 money payment, for a project or service for a
8 transportation facility,

9 b. sharing of resources and the means of providing a
10 project or service for a transportation facility,

11 c. cooperation in researching, developing, and
12 implementing projects or services for a transportation
13 facility;

14 11. "Transportation facility" means any new or existing
15 highway, road, bridge, tunnel, overpass, ferry, airport, public
16 transportation facility, vehicle parking facility, seaport facility,
17 rail facility, intermodal facility, or similar facility open to the
18 public and used for the transportation of persons or goods, and any
19 building, structure, parking area, appurtenances, or other property
20 needed to operate such facility that is subject to a public-private
21 agreement;

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

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

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

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

16 B. The Department of Transportation may solicit, receive,
17 consider, evaluate, and accept a proposal for a public-private
18 initiative.

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

- 22 1. Sealed bidding;

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

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

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

8 1. The ability of the transportation facility to improve
9 safety, reduce congestion, increase capacity, and promote economic
10 growth;

11 2. The proposed cost of and financial plan for the
12 transportation facility;

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

15 4. The proposed design, operation, and feasibility of the
16 transportation facility;

17 5. Comments from local citizens and affected jurisdictions;

18 6. Benefits to the public;

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

20 8. Other criteria that the Department deems appropriate.

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

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1 F. The Department shall select a private entity or entities for
2 a public-private initiative on a competitive basis to the maximum
3 extent practicable.

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

9 2. A private entity may identify confidential or proprietary
10 information submitted as part of a solicited proposal. A private
11 entity shall have an opportunity to object to the release of any
12 information it identifies as confidential or proprietary.

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

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

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

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

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

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

13 A. The Public Competitive Bidding Act of 1974 shall not apply
14 to this section.

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

- 18 a. is independently originated and developed by the
19 proposer,
 - 20 b. benefits the public,
 - 21 c. is prepared without Department supervision, and
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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.

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

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

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

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

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

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

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

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

18 8. Procedures for amendment of the agreement.

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

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

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

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1 12. Sale or lease to the operator of private property related
2 to the transportation facility;

3 13. Traffic enforcement and other policing issues including any
4 reimbursement by the private entity for such services; or

5 14. Other terms and conditions.

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

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

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

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

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

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

5 B. In the event that the Department elects to take over a
6 transportation facility under subsection A of this section, the
7 Department:

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

10 2. May develop and operate the transportation facility, impose
11 user fees for the use of the transportation facility, and comply
12 with any service contracts; and

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

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

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

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

2 a. constitutes the corporate obligation of the
3 Department,

4 b. does not constitute the indebtedness of the state
5 within the meaning or application of any
6 constitutional provision or limitation, and

7 c. is payable solely as to both principal and interest
8 from:

9 (1) the revenues from a lease to the Department, if
10 any,

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

12 (3) investment earnings on proceeds of bonds or
13 notes, or

14 (4) other funds available to the Department for such
15 purpose.

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

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

1 C. Nothing in this section shall limit a local government or
2 any authority of the state to issue bonds for transportation
3 projects.

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

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

11 2. The state assents to any federal requirements, conditions,
12 or terms of any federal funding accepted by the Department under
13 this section.

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

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

21 C. Any transportation facility may be financed in whole or in
22 part by contribution of any funds or property made by any private
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~~Strike thru~~ language denotes deletion from present Statutes.

1 entity or affected jurisdiction that is party to a public-private
2 agreement under this act.

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

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

8 The Department of Transportation may exercise the power of
9 eminent domain to acquire property, rights of way or other rights in
10 property for transportation projects that are part of a public-
11 private initiative.

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

15 An operator under this act and any utility whose facility is to
16 be crossed or relocated shall cooperate fully in planning and
17 arranging the manner of the crossing or relocation of the utility
18 facility.

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

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

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

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

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

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11 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/27/2013 - DO
12 PASS, As Amended.

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