ENGROSSED HOUSE
BILL NO. 3120 By: Martin of the House

and

Jolley of the Senate

An Act relating to the Department of Securities; amending 74 O.S. 2011, Sections 85.12, as last amended by Section 2, Chapter 359, O.S.L. 2014 and 500.2, as last amended by Section 1, Chapter 352, O.S.L. 2015 (74 O.S. Supp. 2015, Sections 85.12 and 500.2), which relate to state government; exempting acquisitions by the Department of Securities for its investor education program; authorizing Department to contract for specified goods and services; permitting establishment of accounts; specifying who may receive payments; providing for direct payment; limiting cost for reimbursement to total daily rate; allowing payment of stipends and awards; prohibiting use of appropriated state funds; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 2011, Section 85.12, as last amended by Section 2, Chapter 359, O.S.L. 2014 (74 O.S. Supp. 2015, Section 85.12), is amended to read as follows:

Section 85.12 A. The provisions of this section shall not be construed to affect any law relating to fiscal or accounting procedure except as they may be directly in conflict herewith; and

all claims, warrants, and bonds shall be examined, inspected, and approved as now provided by law.

B. Except as otherwise provided by this section, the acquisitions specified in this subsection shall be made in compliance with Section 85.39 of this title but are not subject to other provisions of The Oklahoma Central Purchasing Act:

1. Food and other products produced by state institutions and agencies;

2. The printing or duplication of publications or forms of whatsoever kind or character by state agencies if the work is performed upon their own equipment by their own employees. Pursuant to this paragraph, the state agency may only use equipment owned or leased by the agency and may only utilize that equipment for printing services required by the agency in performing duties imposed upon the agency or functions authorized to be performed by the agency. Any use of the equipment by the agency pursuant to an agreement or contract with any other entity resulting in delivery of intermediate or finished products to the entity purchasing or using the products shall be subject to the provisions of The Oklahoma Central Purchasing Act;

3. Department of Transportation and Transportation Commission contractual services or right-of-way purchases; contracts awarded pursuant to bids let by the Transportation Commission for the maintenance or construction of streets, roads, highways, bridges,

underpasses, or any other transportation facilities under the control of the Department of Transportation, the acquisitions of equipment or materials accruing to the Department of Transportation required in Federal-Aid contracts; and contracts for public service type announcements initiated by the Department of Transportation; but not contractual services for advertising or public relations or employment services;

4. Utility services regulated by a state or federal regulatory commission, or by municipal ordinance, or by an Indian Tribal Council;

5. Acquisitions by the University Hospitals Authority. The Authority shall develop standards for the acquisition of products and services and may elect to utilize the Purchasing Division. The standards shall foster economy and short response time and shall include appropriate safeguards and record-keeping requirements to ensure appropriate competition and economical and efficient purchasing;

6. Contracts for custom harvesting by the Department of Corrections for the Department or its institutions;

7. Contracts with private prison contractors which are subject to the contracting procedures of Section 561 of Title 57 of the Oklahoma Statutes;

8. Acquisitions by the Oklahoma Municipal Power Authority;

9. Acquisitions by the Grand River Dam Authority;

10. Acquisitions by rural water, sewer, gas, or solid waste management districts created pursuant to the Rural Water, Sewer, Gas and Solid Waste Management Districts Act;

11. Acquisitions by the Oklahoma Ordnance Works Authority, the Northeast Oklahoma Public Facilities Authority, or the Midwestern Oklahoma Development Authority;

12. Contracts entered into by the Oklahoma Industrial Finance Authority for the services of an appraiser or for acquisition of insurance when the Authority's Board of Directors determines that an emergency exists, and contracts for the services of legal counsel when approved by the Attorney General;

13. Expenditure of monies appropriated to the State Board of Education for Local and State Supported Financial Support of Public Schools, except monies allocated therefrom for the Administrative and Support Functions of the State Department of Education;

14. Expenditure of monies appropriated to the State Department of Rehabilitation Services for educational programs or educational materials for the Oklahoma School for the Blind and the Oklahoma School for the Deaf;

15. Contracts entered into by the Oklahoma Department of Career and Technology Education for the development, revision, or updating of vocational curriculum materials, and contracts entered into by the Oklahoma Department of Career and Technology Education for

training and supportive services that address the needs of new or expanding industries;

16. Contracts entered into by the Oklahoma Center for the Advancement of Science and Technology for professional services;

17. Contracts entered into by the Oklahoma Department of Commerce pursuant to the provisions of Section 5066.4 of this title;

18. Acquisitions made by the Oklahoma Historical Society from monies used to administer the White Hair Memorial;

19. Acquisitions available to an agency through a General Services Administration (GSA) contract or other federal contract if the acquisition is on current statewide contract and the terms of the GSA or other federal contract, as determined by the State Purchasing Director, are more favorable to the agency than the terms of a statewide contract for the same products;

20. Purchases of pharmaceuticals available through a multistate or multigovernmental contract if such pharmaceuticals are or have been on state contract within the last fiscal year, and the terms of such contract are more favorable to the state or agency than the terms of a state contract for the same products, as determined by the State Purchasing Director. The state entity designated by law, as specified in Section 1010.3 of Title 56 of the Oklahoma Statutes, shall participate in the purchase of pharmaceuticals available through such contracts;

21. Contracts for managed health care services entered into by the state entity designated by law or the Department of Human Services, as specified in paragraph 1 of subsection A of Section 1010.3 of Title 56 of the Oklahoma Statutes;

22. Acquisitions by the Forestry Service of the Oklahoma Department of Agriculture, Food, and Forestry as authorized by the federal General Services Administration through a General Services Administration contract or other federal contract if the acquisitions are not on current statewide contract or the terms of the federal contract are more favorable to the agency than the terms of a statewide contract for the same products;

23. Acquisitions of clothing for clients of the Department of Human Services and acquisitions of food for group homes operated by the Department of Human Services;

24. Acquisitions by the Oklahoma Energy Resources Board;

25. Acquisitions of clothing for juveniles in the custody of the Office of Juvenile Affairs and acquisitions of food for group homes operated by the Office of Juvenile Affairs;

26. State contracts for flexible benefits plans pursuant to the Oklahoma State Employees Benefits Act, Section 1361 et seq. of this title;

27. Acquisitions by the Department of Securities to investigate, initiate, or pursue administrative, civil, or criminal proceedings involving potential violations of the acts under the

Department's jurisdiction and acquisitions by the Department of Securities for its investor education program;

28. Acquisitions by the Native ~~America~~ American Cultural and Educational Authority and acquisitions by the Oklahoma Department of Commerce to assist the Native American Cultural and Educational Authority pursuant to Section 5017 of this title;

29. Acquisitions for resale in and through canteens operated pursuant to Section 537 of Title 57 of the Oklahoma Statutes;

30. Acquisitions by the Oklahoma Boll Weevil Eradication Organization for employment and personnel services, and for acquiring sprayers, blowers, traps, and attractants related to the eradication of boll weevils in this state or as part of a national or regional boll weevil eradication program;

31. Contracts entered into by the Oklahoma Indigent Defense System for expert services pursuant to the provisions of subsection D of Section 1355.4 of Title 22 of the Oklahoma Statutes;

32. Acquisitions by the Oklahoma Correctional Industries and the Agri-Services programs of the Department of Corrections of raw materials, component parts and other products, any equipment excluding vehicles, and any services excluding computer consultant services used to produce goods or services for resale and for the production of agricultural products;

33. Contracts entered into by the Department of Human Services for provision of supported living services to members of the

plaintiff class in *Homeward Bound, Inc., et al. v. The Hissom Memorial Center, et al.*, Case Number 85-C-437-E, United States District Court for the Northern District of Oklahoma;

34. Contracts negotiated by the Office of Juvenile Affairs with designated Youth Services Agencies and the Oklahoma Association of Youth Services, or another Oklahoma nonprofit corporation whose membership consists solely of Youth Services Agencies and of whom at least a majority of Youth Services Agencies are members, pursuant to the provisions of Section 2-7-306 of Title 10A of the Oklahoma Statutes and contracts entered into by the Department of Human Services pursuant to Section 1-9-110 of Title 10A of the Oklahoma Statutes with designated Youth Services Agencies;

35. Contracts not to exceed One Hundred Thousand Dollars ($100,000.00) entered into by the Department of Environmental Quality for engineering services to assist qualifying small municipalities or rural water or sewer districts with engineering reports or plans and specifications needed for construction or repairs to achieve compliance with federal and state public water supply or wastewater laws and regulations; and

36. Contracts for annuities for structured settlements provided for in Section 158 of Title 51 of the Oklahoma Statutes.

C. Pursuant to the terms of a contract the State Purchasing Director enters into or awards, a state agency, common school, municipality, rural fire protection district, county officer, or any

program contract, purchase, acquisition or expenditure that is not subject to the provisions of The Oklahoma Central Purchasing Act, may, unless acting pursuant to a contract with the state that specifies otherwise, make use of statewide contracts and the services of the Purchasing Division and the State Purchasing Director. Any political subdivision or rural fire protection district may designate the State Purchasing Director as its agent for any acquisition from a statewide contract or otherwise available to the state.

D. The State Purchasing Director shall make periodic audits of the purchasing procedures of the Oklahoma Ordnance Works Authority, the Northeast Oklahoma Public Facilities Authority, the University Hospitals Authority, and the Midwestern Oklahoma Development Authority to ensure that the procedures are being followed.

SECTION 2. AMENDATORY 74 O.S. 2011, Section 500.2, as last amended by Section 1, Chapter 352, O.S.L. 2015 (74 O.S. Supp. 2015, Section 500.2), is amended to read as follows:

Section 500.2 A. Officials and employees of the state, traveling on authorized state business, may be reimbursed for expenses incurred in such travel in accordance with the provisions of the State Travel Reimbursement Act and existing statutes relating to state travel. Persons who are not state employees, but who are performing substantial and necessary services to the state which have been directed or approved by the appropriate department

official shall enjoy the protection of the sovereign immunity of the state to the same extent as a paid employee. Such persons may be reimbursed for expenses incurred during authorized official travel under these same statutory provisions, provided it is indicated on the claim the person is not a state employee, a description of services performed is entered, and the agency head by approval of the claim certifies such services were substantial and necessary, and germane to the duties and functions of the reimbursing agency. Travel expenses incurred by a person during the course of seeking employment with a state agency, unless such travel is performed at the request of the employing agency, shall not be considered expenses incurred in performing substantial and necessary services to the state and shall not be reimbursed under the provisions of the State Travel Reimbursement Act.

B. The chief administrative officer of the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Military Department of the State of Oklahoma, the Department of Corrections, the Office of Management and Enterprise Services, the Alcoholic Beverage Laws Enforcement Commission, the Oklahoma Department of Agriculture, Food, and Forestry, the Oklahoma Department of Emergency Management, the State Fire Marshal, and the State Department of Health may arrange for and charge meals and lodging for a contingent of state personnel moved into an area for the

purpose of preserving the public health, safety, or welfare or for the protection of life or property. The cost for meals or lodging so charged shall not exceed the amount authorized in the State Travel Reimbursement Act. The chief administrative officer of each agency involved in such an operation shall require the vendor furnishing meals, lodging, or both meals and lodging to submit an itemized statement for payment. When a claim for lodging is made for a contingent of state personnel, individual members of the contingent may not submit a claim for lodging. When a claim for meals is made for a contingent of state personnel, individual members of the contingent may not submit a claim for meals.

C. The Oklahoma Department of Commerce, the Oklahoma Center for the Advancement of Science and Technology, and the Oklahoma Department of Agriculture, Food, and Forestry are hereby authorized to enter into contracts and agreements for the payment of food, lodging, meeting facility and beverage expenses as may be necessary for sponsoring seminars and receptions relating to economic development and science and technology issues. Such expenses may be paid directly to the contracting agency or business establishment. The Director of the Oklahoma Department of Commerce, the President of the Oklahoma Center for the Advancement of Science and Technology, and the Commissioner of Agriculture shall each provide a quarterly report of such expenditures to the Governor, the Speaker

of the House of Representatives and the President Pro Tempore of the Senate.

D. The Native American Cultural and Educational Authority is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and meeting facility as may be necessary to pursue the promotion of fundraising, marketing, and development of Native American educational programs and cultural projects, or to sponsor luncheons, seminars, and receptions relating to Native American educational, cultural, museum, and economic development issues. Such expenses may be paid directly to the contracting agency or business establishment. The Executive Director shall provide a monthly report of expenditures to the Board.

E. For purposes of this section:

1. "State agency" means any constitutionally or statutorily created state board, commission, or department, including the Legislature and the Courts;

2. State agencies are authorized to enter into contracts and agreements for the payment of food and lodging expenses as may be necessary for employees or other persons who are performing substantial and necessary services to the state by attending official conferences, meetings, seminars, workshops, or training sessions or in the performance of their duties. Such expenses may be paid directly to the contracting agency or business establishment, provided the meeting qualifies for overnight travel

for the employees and the cost for food and lodging for each employee shall not exceed the total daily rate as provided in the State Travel Reimbursement Act;

3. State agencies are authorized to enter into contracts and agreements for the payment of conference registration expenses as may be necessary for employees or other persons who are performing substantial and necessary services to the state by attending official conferences, meetings, seminars, workshops, or training sessions. Such expenses may be paid directly to the contracting agency or business establishment; and

4. State agencies are authorized to enter into contracts and agreements for the payment of food and lodging expenses as may be necessary for employees attending an official course of instruction or training conducted or sponsored by any state agency. Expenses may be paid directly to the contracting agency or business establishment. The cost for food and lodging for each employee shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

F. State agencies are authorized to make direct purchases of commercial airline tickets for use by employees in approved out-of-state travel. Each claim or invoice submitted to the Director of the Office of Management and Enterprise Services for the payment of the purchase shall bear the airline identifying ticket number, the name of the airline, total cost of each ticket purchased, class of

accommodation and name of the employee for whom the ticket was purchased, and shall be filed on claim forms as prescribed by the Director of the Office of Management and Enterprise Services. The employee shall sign an affidavit stating that the employee used a direct purchase commercial airline ticket received for his or her approved out-of-state travel, or in lieu of the affidavit, the employee may file a travel claim in connection with said airline flight.

G. 1. The Director of the Office of Management and Enterprise Services is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and other authorized expenses as may be necessary to host, conduct, sponsor, or participate in conferences, meetings, or training sessions. The Director may establish accounts as necessary for the collection and distribution of funds, including funds of sponsors and registration fees, related to such conferences, meetings, and training sessions. Expenses incurred may be paid directly to the contracting agency or business establishment.

2. The cost of food for persons attending any conferences, meetings, and training sessions that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

H. 1. The Commissioner of the Department of Mental Health and Substance Abuse Services is hereby authorized to enter into

contracts and agreements for the payment of food, lodging, and other authorized expenses as may be necessary to host, conduct, sponsor, or participate in conferences, meetings, or training sessions. The Commissioner may establish accounts as necessary for the collection and distribution of funds, including funds of sponsors and registration fees, related to such conferences, meetings, and training sessions. Any expenses incurred may be paid directly to the contracting agency or business establishment.

2. The cost of food for persons attending any conferences, meetings, and training sessions that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

I. The Oklahoma Indigent Defense System is hereby authorized to enter into contracts and agreements for the payment of lodging as necessary for employees to carry out their duties in representing any client whom the System has been properly appointed to represent. Such expenses may be paid directly to the contracting agency or business establishment. The cost for lodging for each employee shall not exceed the daily rate as provided in the State Travel Reimbursement Act.

J. The Oklahoma Tourism and Recreation Department is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and meeting facility and beverage expenses as may be necessary for seminars and receptions relating to familiarization

tours and tourism development. The expenses may be paid directly to the contracting agency or business establishment. The Executive Director of the Oklahoma Tourism and Recreation Department shall provide a monthly report of any such expenditures to the Oklahoma Tourism and Recreation Commission.

K. The Oklahoma Tourism and Recreation Department is hereby authorized to enter into contracts and agreements for the payment of exhibitor fees and display space charges at expositions to promote the Department's recreational facilities and the tourism and recreation industry. The expenses may be paid directly to the contracting agency or business establishment; provided that no payment shall be made prior to the event unless it conveys a property right to the state for future availability and use.

L. 1. The Oklahoma Highway Safety Office of the Department of Public Safety is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and other authorized expenses as may be necessary, to host, conduct, sponsor, or participate in highway-safety-related conferences, workshops, seminars, meetings, or training sessions. The payments shall be for all persons in attendance, including, but not limited to, employees of political subdivisions or employees of the state or federal government. For purposes specified in this paragraph, only federal highway safety funds may be used in accordance with federal

guidelines and regulations, and no appropriated state funds shall be used.

2. The cost of food for persons attending any highway safety conferences, workshops, seminars, meetings, and training sessions that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

M. 1. The Director of the Oklahoma State Bureau of Investigation is hereby authorized to enter into contracts and agreements for the payment of food, lodging and other authorized expenses as may be necessary to host, conduct, sponsor or participate in any conference, meeting, training session or initiative to promote the mission and purposes of the Bureau. The payments may be for all persons in attendance, including, but not limited to, employees of political subdivisions or employees of the state or federal government.

2. The cost of food for persons that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

N. The Oklahoma Homeland Security Director is hereby authorized to enter into contracts and agreements for the payment of food, lodging and other authorized expenses as may be necessary to host, conduct, sponsor, or participate in homeland-security-related conferences, meetings, workshops, seminars, exercises or training

sessions. The expenses may be paid directly to the contracting agency or business establishment.

O. 1. The Insurance Commissioner of the Insurance Department of the State of Oklahoma is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and other authorized expenses as may be necessary to host, conduct, sponsor, or participate in conferences, meetings, or training sessions. The Commissioner may establish accounts as necessary for the collection and distribution of funds, including funds of sponsors and registration fees, related to such conferences, meetings, and training sessions. Any expenses incurred may be paid directly to the contracting agency or business establishment.

2. The cost of food for persons attending any conferences, meetings, and training sessions that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

P. 1. The State Regents for Higher Education is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and other authorized expenses as may be necessary to host, conduct, sponsor, or participate in conferences, meetings, or training sessions. The State Regents for Higher Education may establish accounts as necessary for the collection and distribution of funds, including funds of sponsors and registration fees, related to such conferences, meetings, and training sessions. Any expenses

incurred may be paid directly to the contracting agency or business establishment.

2. The cost of food for persons attending any conferences, meetings, and training sessions that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

Q. 1. The Office of Educational Quality and Accountability is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and other authorized expenses as may be necessary to host, conduct, sponsor, or participate in conferences, meetings, or training sessions. The Office of Educational Quality and Accountability may establish accounts as necessary for the collection and distribution of funds, including funds of sponsors and registration fees, related to such conferences, meetings, and training sessions. Any expenses incurred may be paid directly to the contracting agency or business establishment.

2. The cost of food for persons attending any conferences, meetings, and training sessions that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

R. <u>1. The Department of Securities is hereby authorized to enter into contracts and agreements for the payment of food, lodging, meeting facility, facilitator fees and travel expenses, exhibitor fees and other authorized expenses as may be necessary to</u>

host, conduct, sponsor or participate in conferences, meetings, training sessions or initiatives promoting or otherwise relating to investor education. The Department of Securities may establish accounts as necessary for the collection and distribution of funds, including funds of sponsors and registration fees, relating to such conferences, meetings, training sessions or initiatives. The payments may be for all persons in attendance, including, but not limited to, employees of the state or federal government or employees of political subdivisions of the state, including employees of boards of public education. Expenses incurred may be paid directly to the contracting agency or business establishment.

2. The cost of food for persons attending any conferences, meetings and training sessions that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

3. The Department of Securities is hereby authorized to pay stipends to teachers participating in the investor education program and monetary achievement awards to select participating students. No appropriated state funds shall be used.

S. Whenever possible it shall be the policy of each state agency to prepay airline fares and lodging expenses using a purchase card issued to the agency. This policy shall apply to instances where employees of the agency are traveling on behalf of state government.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 8th day of March, 2016.

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Presiding Officer of the House of Representatives

Passed the Senate the ___ day of _____, 2016.

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Presiding Officer of the Senate