

1 ENGROSSED SENATE  
2 BILL NO. 1263

By: Pugh of the Senate

3 and

4 Martinez of the House  
5

6 An Act relating to regional transportation  
7 authorities; amending 51 O.S. 2011, Sections 152, as  
8 last amended by Section 1, Chapter 233, O.S.L. 2018,  
9 154 and 155, as last amended by Section 3, Chapter  
10 273, O.S.L. 2016 (51 O.S. Supp. 2019, Sections 152  
11 and 155), which relate to the Governmental Tort  
12 Claims Act; modifying definition; specifying  
13 liability for certain entities; modifying certain  
14 exemption from liability; updating statutory  
15 references; and providing an effective date.

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

17 SECTION 1. AMENDATORY 51 O.S. 2011, Section 152, as last  
18 amended by Section 1, Chapter 233, O.S.L. 2018 (51 O.S. Supp. 2019,  
19 Section 152), is amended to read as follows:

20 Section 152. As used in The Governmental Tort Claims Act:

21 1. "Action" means a proceeding in a court of competent  
22 jurisdiction by which one party brings a suit against another;

23 2. "Agency" means any board, commission, committee, department  
24 or other instrumentality or entity designated to act in behalf of  
the state or a political subdivision;

3. "Charitable health care provider" means a person who is  
licensed, certified, or otherwise authorized by the laws of this

1 state to administer health care in the ordinary course of business  
2 or the practice of a profession and who provides care to a medically  
3 indigent person, as defined in paragraph 9 of this section, with no  
4 expectation of or acceptance of compensation of any kind;

5 4. "Claim" means any written demand presented by a claimant or  
6 the claimant's authorized representative in accordance with ~~this act~~  
7 the Governmental Tort Claims Act to recover money from the state or  
8 political subdivision as compensation for an act or omission of a  
9 political subdivision or the state or an employee;

10 5. "Claimant" means the person or the person's authorized  
11 representative who files notice of a claim in accordance with The  
12 Governmental Tort Claims Act. Only the following persons and no  
13 others may be claimants:

14 a. any person holding an interest in real or personal  
15 property which suffers a loss, provided that the claim  
16 of the person shall be aggregated with claims of all  
17 other persons holding an interest in the property and  
18 the claims of all other persons which are derivative  
19 of the loss, and that multiple claimants shall be  
20 considered a single claimant,

21 b. the individual actually involved in the accident or  
22 occurrence who suffers a loss, provided that the  
23 individual shall aggregate in the claim the losses of  
24 all other persons which are derivative of the loss, or

1           c.    in the case of death, an administrator, special  
2                administrator or a personal representative who shall  
3                aggregate in the claim all losses of all persons which  
4                are derivative of the death;

5       6.    "Community health care provider" means:

6           a.    a health care provider who volunteers services at a  
7                community health center that has been deemed by the  
8                U.S. Department of Health and Human Services as a  
9                federally qualified health center as defined by 42  
10              U.S.C., Section 1396d(1)(2)(B),

11          b.    a health provider who provides services to an  
12                organization that has been deemed a federally  
13                qualified look-alike community health center, and

14          c.    a health care provider who provides services to a  
15                community health center that has made application to  
16                the U.S. Department of Health and Human Services for  
17                approval and deeming as a federally qualified look-  
18                alike community health center in compliance with  
19                federal application guidance, and has received  
20                comments from the U.S. Department of Health and Human  
21                Services as to the status of such application with the  
22                established intent of resubmitting a modified  
23                application, or, if denied, a new application, no  
24                later than six (6) months from the date of the

1 official notification from the U.S. Department of  
2 Health and Human Services requiring resubmission of a  
3 new application;

4 7. "Employee" means any person who is authorized to act in  
5 behalf of a political subdivision or the state whether that person  
6 is acting on a permanent or temporary basis, with or without being  
7 compensated or on a full-time or part-time basis.

8 a. Employee also includes:

9 (1) all elected or appointed officers, members of  
10 governing bodies and other persons designated to  
11 act for an agency or political subdivision, but  
12 the term does not mean a person or other legal  
13 entity while acting in the capacity of an  
14 independent contractor or an employee of an  
15 independent contractor,

16 (2) from September 1, 1991, through June 30, 1996,  
17 licensed physicians, licensed osteopathic  
18 physicians and certified nurse-midwives providing  
19 prenatal, delivery or infant care services to  
20 State Department of Health clients pursuant to a  
21 contract entered into with the State Department  
22 of Health in accordance with paragraph 3 of  
23 subsection B of Section 1-106 of Title 63 of the  
24 Oklahoma Statutes but only insofar as services

1 authorized by and in conformity with the terms of  
2 the contract and the requirements of Section 1-  
3 233 of Title 63 of the Oklahoma Statutes, and  
4 (3) any volunteer, full-time or part-time firefighter  
5 when performing duties for a fire department  
6 provided for in subparagraph j of paragraph 11 of  
7 this section.

8 b. For the purpose of The Governmental Tort Claims Act,  
9 the following are employees of this state, regardless  
10 of the place in this state where duties as employees  
11 are performed:

- 12 (1) physicians acting in an administrative capacity,  
13 (2) resident physicians and resident interns  
14 participating in a graduate medical education  
15 program of the University of Oklahoma Health  
16 Sciences Center, the College of Osteopathic  
17 Medicine of Oklahoma State University, or the  
18 Department of Mental Health and Substance Abuse  
19 Services,  
20 (3) faculty members and staff of the University of  
21 Oklahoma Health Sciences Center and the College  
22 of Osteopathic Medicine of Oklahoma State  
23 University, while engaged in teaching duties,  
24

1 (4) physicians who practice medicine or act in an  
2 administrative capacity as an employee of an  
3 agency of the State of Oklahoma,

4 (5) physicians who provide medical care to inmates  
5 pursuant to a contract with the Department of  
6 Corrections,

7 (6) any person who is licensed to practice medicine  
8 pursuant to Title 59 of the Oklahoma Statutes,  
9 who is under an administrative professional  
10 services contract with the Oklahoma Health Care  
11 Authority under the auspices of the Oklahoma  
12 Health Care Authority Chief Medical Officer, and  
13 who is limited to performing administrative  
14 duties such as professional guidance for medical  
15 reviews, reimbursement rates, service  
16 utilization, health care delivery and benefit  
17 design for the Oklahoma Health Care Authority,  
18 only while acting within the scope of such  
19 contract,

20 (7) licensed medical professionals under contract  
21 with city, county, or state entities who provide  
22 medical care to inmates or detainees in the  
23 custody or control of law enforcement agencies,  
24

1 (8) licensed mental health professionals as defined  
2 in Sections 1-103 and 5-502 of Title 43A of the  
3 Oklahoma Statutes, who are conducting initial  
4 examinations of individuals for the purpose of  
5 determining whether an individual meets the  
6 criteria for emergency detention as part of a  
7 contract with the Department of Mental Health and  
8 Substance Abuse Services, and

9 (9) licensed mental health professionals as defined  
10 in Sections 1-103 and 5-502 of Title 43A of the  
11 Oklahoma Statutes, who are providing mental  
12 health or substance abuse treatment services  
13 under a professional services contract with the  
14 Department of Mental Health and Substance Abuse  
15 Services and are providing such treatment  
16 services at a state-operated facility.

17 Physician faculty members and staff of the University  
18 of Oklahoma Health Sciences Center and the College of  
19 Osteopathic Medicine of Oklahoma State University not  
20 acting in an administrative capacity or engaged in  
21 teaching duties are not employees or agents of the  
22 state.

23 c. Except as provided in subparagraph b of this  
24 paragraph, in no event shall the state be held liable

1                   for the tortious conduct of any physician, resident  
2                   physician or intern while practicing medicine or  
3                   providing medical treatment to patients;

4           8. "Loss" means death or injury to the body or rights of a  
5           person or damage to real or personal property or rights therein;

6           9. "Medically indigent" means a person requiring medically  
7           necessary hospital or other health care services for the person or  
8           the dependents of the person who has no public or private third-  
9           party coverage, and whose personal resources are insufficient to  
10          provide for needed health care;

11          10. "Municipality" means any incorporated city or town, and all  
12          institutions, agencies or instrumentalities of a municipality;

13          11. "Political subdivision" means:

14           a. a municipality,

15           b. a school district, including, but not limited to, a  
16           technology center school district established pursuant  
17           to Section 4410, 4411, 4420 or 4420.1 of Title 70 of  
18           the Oklahoma Statutes,

19           c. a county,

20           d. a public trust where the sole beneficiary or  
21           beneficiaries are a city, town, school district or  
22           county. For purposes of The Governmental Tort Claims  
23           Act, a public trust shall include:



- 1 (1) a municipal hospital created pursuant to Sections  
2 30-101 through 30-109 of Title 11 of the Oklahoma  
3 Statutes, a county hospital created pursuant to  
4 Sections 781 through 796 of Title 19 of the  
5 Oklahoma Statutes, or is created pursuant to a  
6 joint agreement between such governing  
7 authorities, that is operated for the public  
8 benefit by a public trust created pursuant to  
9 Sections 176 through 180.4 of Title 60 of the  
10 Oklahoma Statutes and managed by a governing  
11 board appointed or elected by the municipality,  
12 county, or both, who exercises control of the  
13 hospital, subject to the approval of the  
14 governing body of the municipality, county, or  
15 both,
- 16 (2) a public trust created pursuant to Sections 176  
17 through 180.4 of Title 60 of the Oklahoma  
18 Statutes after January 1, 2009, the primary  
19 purpose of which is to own, manage, or operate a  
20 public acute care hospital in this state that  
21 serves as a teaching hospital for a medical  
22 residency program provided by a college of  
23 osteopathic medicine and provides care to  
24 indigent persons, and

1 (3) a corporation in which all of the capital stock  
2 is owned, or a limited liability company in which  
3 all of the member interest is owned, by a public  
4 trust,

5 e. for the purposes of The Governmental Tort Claims Act  
6 only, a housing authority created pursuant to the  
7 provisions of the Oklahoma Housing Authority Act,

8 f. for the purposes of The Governmental Tort Claims Act  
9 only, corporations organized not for profit pursuant  
10 to the provisions of the Oklahoma General Corporation  
11 Act for the primary purpose of developing and  
12 providing rural water supply and sewage disposal  
13 facilities to serve rural residents,

14 g. for the purposes of The Governmental Tort Claims Act  
15 only, districts formed pursuant to the Rural Water,  
16 Sewer, Gas and Solid Waste Management Districts Act,

17 h. for the purposes of The Governmental Tort Claims Act  
18 only, master conservancy districts formed pursuant to  
19 the Conservancy Act of Oklahoma,

20 i. for the purposes of The Governmental Tort Claims Act  
21 only, a fire protection district created pursuant to  
22 the provisions of Section 901.1 et seq. of Title 19 of  
23 the Oklahoma Statutes,  
24

- j. for the purposes of The Governmental Tort Claims Act only, a benevolent or charitable corporate volunteer or full-time fire department for an unincorporated area created pursuant to the provisions of Section 592 et seq. of Title 18 of the Oklahoma Statutes,
- k. for purposes of The Governmental Tort Claims Act only, an Emergency Services Provider rendering services within the boundaries of a Supplemental Emergency Services District pursuant to an existing contract between the Emergency Services Provider and the State Department of Health. Provided, however, that the acquisition of commercial liability insurance covering the activities of such Emergency Services Provider performed within the State of Oklahoma shall not operate as a waiver of any of the limitations, immunities or defenses provided for political subdivisions pursuant to the terms of The Governmental Tort Claims Act,
- l. for purposes of The Governmental Tort Claims Act only, a conservation district created pursuant to the provisions of the Conservation District Act,
- m. for purposes of The Governmental Tort Claims Act, districts formed pursuant to the Oklahoma Irrigation District Act,

- 1           n.    for purposes of The Governmental Tort Claims Act only,  
2                   any community action agency established pursuant to  
3                   Sections 5035 through 5040 of Title 74 of the Oklahoma  
4                   Statutes,
- 5           o.    for purposes of The Governmental Tort Claims Act only,  
6                   any organization that is designated as a youth  
7                   services agency, pursuant to Section 2-7-306 of Title  
8                   10A of the Oklahoma Statutes,
- 9           p.    for purposes of The Governmental Tort Claims Act only,  
10                  any judge presiding over a drug court, as defined by  
11                  Section 471.1 of Title 22 of the Oklahoma Statutes,
- 12           q.    for purposes of The Governmental Tort Claims Act only,  
13                  any child-placing agency licensed by this state to  
14                  place children in foster family homes, ~~and~~
- 15           r.    a circuit engineering district created pursuant to  
16                  Section 687.1 of Title 69 of the Oklahoma Statutes,  
17                  and
- 18           s.    for purposes of The Governmental Tort Claims Act only,  
19                  a regional transportation authority created pursuant  
20                  to Section 1370.7 of Title 68 of the Oklahoma  
21                  Statutes, including its contract operator and any  
22                  railroad operating in interstate commerce that sells a  
23                  property interest or provides services to a regional  
24                  transportation authority or allows the authority to

1       use the property or tracks of the railroad for the  
2       provision of public passenger rail service to the  
3       extent claims against the contract operator or  
4       railroad arise out of or are related to or in  
5       connection with such property interest, services or  
6       operation of the public passenger rail service.  
7       Provided, the acquisition of commercial liability  
8       insurance to cover the activities of the regional  
9       transportation authority, contract operator or  
10       railroad shall not operate as a waiver of any  
11       liabilities, immunities or defenses provided pursuant  
12       to the provisions of the Governmental Tort Claims Act,

13 and all their institutions, instrumentalities or agencies;

14       12. "Scope of employment" means performance by an employee  
15 acting in good faith within the duties of the employee's office or  
16 employment or of tasks lawfully assigned by a competent authority  
17 including the operation or use of an agency vehicle or equipment  
18 with actual or implied consent of the supervisor of the employee,  
19 but shall not include corruption or fraud;

20       13. "State" means the State of Oklahoma or any office,  
21 department, agency, authority, commission, board, institution,  
22 hospital, college, university, public trust created pursuant to  
23 Title 60 of the Oklahoma Statutes of which the State of Oklahoma is  
24 the beneficiary, or other instrumentality thereof; and

1        14. "Tort" means a legal wrong, independent of contract,  
2 involving violation of a duty imposed by general law, statute, the  
3 Constitution of the State of Oklahoma, or otherwise, resulting in a  
4 loss to any person, association or corporation as the proximate  
5 result of an act or omission of a political subdivision or the state  
6 or an employee acting within the scope of employment.

7        SECTION 2.        AMENDATORY        51 O.S. 2011, Section 154, is  
8 amended to read as follows:

9        Section 154. A. The total liability of the state and its  
10 political subdivisions on claims within the scope of The  
11 Governmental Tort Claims Act, arising out of an accident or  
12 occurrence happening after ~~the effective date of this act~~ October 1,  
13 1985, Section 151 et seq. of this title, shall not exceed:

14        1. Twenty-five Thousand Dollars (\$25,000.00) for any claim or  
15 to any claimant who has more than one claim for loss of property  
16 arising out of a single act, accident, or occurrence;

17        2. Except as otherwise provided in this paragraph, One Hundred  
18 Twenty-five Thousand Dollars (\$125,000.00) to any claimant for a  
19 claim for any other loss arising out of a single act, accident, or  
20 occurrence. The limit of liability for the state or any city or  
21 county with a population of three hundred thousand (300,000) or more  
22 according to the latest federal Decennial Census, or a political  
23 subdivision as defined in subparagraph s of paragraph 11 of Section  
24 152 of this title, shall not exceed One Hundred Seventy-five

1 Thousand Dollars (\$175,000.00). Except however, the limits of ~~said~~  
2 the liability for the University Hospitals and State Mental Health  
3 Hospitals operated by the Department of Mental Health and Substance  
4 Abuse Services for claims arising from medical negligence shall be  
5 Two Hundred Thousand Dollars (\$200,000.00). For claims arising from  
6 medical negligence by any licensed physician, osteopathic physician  
7 or certified nurse-midwife rendering prenatal, delivery or infant  
8 care services from September 1, 1991, through June 30, 1996,  
9 pursuant to a contract authorized by subsection B of Section 1-106  
10 of Title 63 of the Oklahoma Statutes and in conformity with the  
11 requirements of Section 1-233 of Title 63 of the Oklahoma Statutes,  
12 the limits of ~~said~~ the liability shall be Two Hundred Thousand  
13 Dollars (\$200,000.00); or

14 3. One Million Dollars (\$1,000,000.00) for any number of claims  
15 arising out of a single occurrence or accident.

16 B. 1. Beginning on ~~the effective date of this act~~ May 28,  
17 2003, claims shall be allowed for wrongful criminal felony  
18 conviction resulting in imprisonment if the claimant has received a  
19 full pardon on the basis of a written finding by the Governor of  
20 actual innocence for the crime for which the claimant was sentenced  
21 or has been granted judicial relief absolving the claimant of guilt  
22 on the basis of actual innocence of the crime for which the claimant  
23 was sentenced. The Governor or the court shall specifically state,  
24

1 in the pardon or order, the evidence or basis on which the finding  
2 of actual innocence is based.

3 2. As used in paragraph 1 of this subsection, for a claimant to  
4 recover based on "actual innocence", the individual must meet the  
5 following criteria:

6 a. the individual was charged, by indictment or  
7 information, with the commission of a public offense  
8 classified as a felony,

9 b. the individual did not plead guilty to the offense  
10 charged, or to any lesser included offense, but was  
11 convicted of the offense,

12 c. the individual was sentenced to incarceration for a  
13 term of imprisonment as a result of the conviction,

14 d. the individual was imprisoned solely on the basis of  
15 the conviction for the offense, and

16 e. (1) in the case of a pardon, a determination was made  
17 by either the Pardon and Parole Board or the  
18 Governor that the offense for which the  
19 individual was convicted, sentenced and  
20 imprisoned, including any lesser offenses, was  
21 not committed by the individual, or

22 (2) in the case of judicial relief, a court of  
23 competent jurisdiction found by clear and  
24 convincing evidence that the offense for which



1 the individual was convicted, sentenced and  
2 imprisoned, including any lesser included  
3 offenses, was not committed by the individual and  
4 issued an order vacating, dismissing or reversing  
5 the conviction and sentence and providing that no  
6 further proceedings can be or will be held  
7 against the individual on any facts and  
8 circumstances alleged in the proceedings which  
9 had resulted in the conviction.

10 3. A claimant shall not be entitled to compensation for any  
11 part of a sentence in prison during which the claimant was also  
12 serving a concurrent sentence for a crime not covered by this  
13 subsection.

14 4. The total liability of the state and its political  
15 subdivisions on any claim within the scope of The Governmental Tort  
16 Claims Act arising out of wrongful criminal felony conviction  
17 resulting in imprisonment shall not exceed One Hundred Seventy-five  
18 Thousand Dollars (\$175,000.00).

19 5. The provisions of this subsection shall apply to convictions  
20 occurring on or before ~~the effective date of this act~~ May 28, 2003,  
21 as well as convictions occurring after ~~the effective date of this~~  
22 ~~act~~ May 28, 2003. If a court of competent jurisdiction finds that  
23 retroactive application of this subsection is unconstitutional, the  
24 prospective application of this subsection shall remain valid.

1 C. No award for damages in an action or any claim against the  
2 state or a political subdivision shall include punitive or exemplary  
3 damages.

4 D. When the amount awarded to or settled upon multiple  
5 claimants exceeds the limitations of this section, any party may  
6 apply to the district court which has jurisdiction of the cause to  
7 apportion to each claimant the claimant's proper share of the total  
8 amount as limited herein. The share apportioned to each claimant  
9 shall be in the proportion that the ratio of the award or settlement  
10 made to him bears to the aggregate awards and settlements for all  
11 claims against the state or its political subdivisions arising out  
12 of the occurrence. When the amount of the aggregate losses  
13 presented by a single claimant exceeds the limits of paragraph 1 or  
14 2 of subsection A of this section, each person suffering a loss  
15 shall be entitled to that person's proportionate share.

16 E. The total liability of resident physicians and interns while  
17 participating in a graduate medical education program of the  
18 University of Oklahoma College of Medicine, its affiliated  
19 institutions and the Oklahoma College of Osteopathic Medicine and  
20 Surgery shall not exceed One Hundred Thousand Dollars (\$100,000.00).

21 F. The state or a political subdivision may petition the court  
22 that all parties and actions arising out of a single accident or  
23 occurrence shall be joined as provided by law, and upon order of the  
24 court the proceedings upon good cause shown shall be continued for a

1 reasonable time or until such joinder has been completed. The state  
2 or political subdivision shall be allowed to interplead in any  
3 action which may impose on it any duty or liability pursuant to ~~this~~  
4 ~~act~~ the Governmental Tort Claims Act.

5 G. The liability of the state or political subdivision under  
6 The Governmental Tort Claims Act shall be several from that of any  
7 other person or entity, and the state or political subdivision shall  
8 only be liable for that percentage of total damages that corresponds  
9 to its percentage of total negligence. Nothing in this section  
10 shall be construed as increasing the liability limits imposed on the  
11 state or political subdivision under The Governmental Tort Claims  
12 Act.

13 SECTION 3. AMENDATORY 51 O.S. 2011, Section 155, as last  
14 amended by Section 3, Chapter 273, O.S.L. 2016 (51 O.S. Supp. 2019,  
15 Section 155), is amended to read as follows:

16 Section 155. The state or a political subdivision shall not be  
17 liable if a loss or claim results from:

- 18 1. Legislative functions;
- 19 2. Judicial, quasi-judicial, or prosecutorial functions, other  
20 than claims for wrongful criminal felony conviction resulting in  
21 imprisonment provided for in Section 154 of this title;
- 22 3. Execution or enforcement of the lawful orders of any court;
- 23 4. Adoption or enforcement of or failure to adopt or enforce a  
24 law, whether valid or invalid, including, but not limited to, any

1 statute, charter provision, ordinance, resolution, rule, regulation  
2 or written policy;

3 5. Performance of or the failure to exercise or perform any act  
4 or service which is in the discretion of the state or political  
5 subdivision or its employees;

6 6. Civil disobedience, riot, insurrection or rebellion or the  
7 failure to provide, or the method of providing, police, law  
8 enforcement or fire protection;

9 7. Any claim based on the theory of attractive nuisance;

10 8. Snow or ice conditions or temporary or natural conditions on  
11 any public way or other public place due to weather conditions,  
12 unless the condition is affirmatively caused by the negligent act of  
13 the state or a political subdivision;

14 9. Entry upon any property where that entry is expressly or  
15 implied authorized by law;

16 10. Natural conditions of property of the state or political  
17 subdivision;

18 11. Assessment or collection of taxes or special assessments,  
19 license or registration fees, or other fees or charges imposed by  
20 law;

21 12. Licensing powers or functions including, but not limited  
22 to, the issuance, denial, suspension or revocation of or failure or  
23 refusal to issue, deny, suspend or revoke any permit, license,  
24 certificate, approval, order or similar authority;

1        13. Inspection powers or functions, including failure to make  
2 an inspection, review or approval, or making an inadequate or  
3 negligent inspection, review or approval of any property, real or  
4 personal, to determine whether the property complies with or  
5 violates any law or contains a hazard to health or safety, or fails  
6 to conform to a recognized standard;

7        14. Any loss to any person covered by any workers' compensation  
8 act or any employer's liability act;

9        15. Absence, condition, location or malfunction of any traffic  
10 or road sign, signal or warning device unless the absence,  
11 condition, location or malfunction is not corrected by the state or  
12 political subdivision responsible within a reasonable time after  
13 actual or constructive notice or the removal or destruction of such  
14 signs, signals or warning devices by third parties, action of  
15 weather elements or as a result of traffic collision except on  
16 failure of the state or political subdivision to correct the same  
17 within a reasonable time after actual or constructive notice.  
18 Nothing herein shall give rise to liability arising from the failure  
19 of the state or any political subdivision to initially place any of  
20 the above signs, signals or warning devices. The signs, signals and  
21 warning devices referred to herein are those used in connection with  
22 hazards normally connected with the use of roadways or public ways  
23 and do not apply to the duty to warn of special defects such as  
24 excavations or roadway obstructions;

1        16. Any claim which is limited or barred by any other law;

2        17. Misrepresentation, if unintentional;

3        18. An act or omission of an independent contractor or  
4 consultant or his or her employees, agents, subcontractors or  
5 suppliers or of a person other than an employee of the state or  
6 political subdivision at the time the act or omission occurred;

7        19. Theft by a third person of money in the custody of an  
8 employee unless the loss was sustained because of the negligence or  
9 wrongful act or omission of the employee;

10       20. Participation in or practice for any interscholastic or  
11 other athletic contest sponsored or conducted by or on the property  
12 of the state or a political subdivision;

13       21. Participation in any activity approved by a local board of  
14 education and held within a building or on the grounds of the school  
15 district served by that local board of education before or after  
16 normal school hours or on weekends;

17       22. Use of indoor or outdoor school property and facilities  
18 made available for public recreation before or after normal school  
19 hours or on weekends or school vacations, except those claims  
20 resulting from willful and wanton acts of negligence. For purposes  
21 of this paragraph:

22           a. "public" includes, but is not limited to, students  
23               during nonschool hours and school staff when not  
24               working as employees of the school, and

1           b.    "recreation" means any indoor or outdoor physical  
2           activity, either organized or unorganized, undertaken  
3           for exercise, relaxation, diversion, sport or  
4           pleasure, and that is not otherwise covered by  
5           paragraph 20 or 21 of this section;

6       23.   Any court-ordered, Department of Corrections or county  
7   approved work release program; provided, however, this provision  
8   shall not apply to claims from individuals not in the custody of the  
9   Department of Corrections based on accidents involving motor  
10   vehicles owned or operated by the Department of Corrections;

11       24.   The activities of the National Guard, the militia or other  
12   military organization administered by the Military Department of the  
13   state when on duty pursuant to the lawful orders of competent  
14   authority:

- 15           a.    in an effort to quell a riot,  
16           b.    in response to a natural disaster or military attack,  
17                or  
18           c.    if participating in a military mentor program ordered  
19                by the court;

20       25.   Provision, equipping, operation or maintenance of any  
21   prison, jail or correctional facility, or injuries resulting from  
22   the parole or escape of a prisoner or injuries by a prisoner to any  
23   other prisoner; provided, however, this provision shall not apply to  
24   claims from individuals not in the custody of the Department of

1 Corrections based on accidents involving motor vehicles owned or  
2 operated by the Department of Corrections;

3 26. Provision, equipping, operation or maintenance of any  
4 juvenile detention facility, or injuries resulting from the escape  
5 of a juvenile detainee, or injuries by a juvenile detainee to any  
6 other juvenile detainee;

7 27. Any claim or action based on the theory of manufacturer's  
8 products liability or breach of warranty, either expressed or  
9 implied;

10 28. Any claim or action based on the theory of indemnification  
11 or subrogation; provided, however, a political subdivision as  
12 defined in subparagraph s of paragraph 11 of Section 152 of this  
13 title may enter into a contract with a contract operator or any  
14 railroad operating in interstate commerce that sells a property  
15 interest or provides services to a regional transportation  
16 authority, or allows the regional transportation authority to use  
17 the railroad's property or tracks for the provision of public  
18 passenger rail service, providing for the allocation of financial  
19 responsibility, indemnification, and/or the procurement of insurance  
20 for the parties for all types of claims or damages, provided that  
21 funds have been appropriated to cover the resulting contractual  
22 obligation at the time the contract is executed. The acquisition of  
23 commercial liability insurance to cover the activities of the  
24 regional transportation authority, contract operator or railroad



1 shall not operate as a waiver of any of the liabilities, immunities  
2 or defenses provided for political subdivisions pursuant to the  
3 provisions of The Governmental Tort Claims Act. A contract entered  
4 into under this paragraph shall not affect rights of employees under  
5 the Federal Employers Liability Act or the Federal Railway Labor  
6 Act;

7 29. Any claim based upon an act or omission of an employee in  
8 the placement of children;

9 30. Acts or omissions done in conformance with then current  
10 recognized standards;

11 31. Maintenance of the state highway system or any portion  
12 thereof unless the claimant presents evidence which establishes  
13 either that the state failed to warn of the unsafe condition or that  
14 the loss would not have occurred but for a negligent affirmative act  
15 of the state;

16 32. Any confirmation of the existence or nonexistence of any  
17 effective financing statement on file in the office of the Secretary  
18 of State made in good faith by an employee of the office of the  
19 Secretary of State as required by the provisions of Section 1-9-  
20 320.6 of Title 12A of the Oklahoma Statutes;

21 33. Any court-ordered community sentence;

22 34. Remedial action and any subsequent related maintenance of  
23 property pursuant to and in compliance with an authorized  
24

1 environmental remediation program, order, or requirement of a  
2 federal or state environmental agency;

3 35. The use of necessary and reasonable force by a school  
4 district employee to control and discipline a student during the  
5 time the student is in attendance or in transit to and from the  
6 school, or any other function authorized by the school district;

7 36. Actions taken in good faith by a school district employee  
8 for the out-of-school suspension of a student pursuant to applicable  
9 Oklahoma Statutes; or

10 37. Use of a public facility opened to the general public  
11 during an emergency.

12 SECTION 4. This act shall become effective November 1, 2020.

13 Passed the Senate the 3rd day of March, 2020.

14  
15 \_\_\_\_\_  
16 Presiding Officer of the Senate

17 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
18 2020.

19  
20 \_\_\_\_\_  
21 Presiding Officer of the House  
22 of Representatives  
23  
24