

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

SENATE BILL NO. 194

By: Haney and Hobson of the
Senate

and

Hamilton and Steidley of
the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to science and technology; amending 74 O.S. 1991, Sections 5060.4, as last amended by Section 6, Chapter 288, O.S.L. 1994, 5060.11, 5060.12, 5060.13, as amended by Section 27, Chapter 324, O.S.L. 1992, 5060.14, as amended by Section 7, Chapter 288, O.S.L. 1994, 5060.16, 5060.19 and 5060.20 (74 O.S. Supp. 1994, Sections 5060.4, 5060.13 and 5060.14), which relate to Oklahoma Center for the Advancement of Science and Technology; modifying definition; deleting requirement to create certain accounts within Research Support Revolving Fund; clarifying and conforming language; deleting references to certain accounts; authorizing Center to develop and implement certain programs; repealing 74 O.S. 1991, Sections 5060.4, as last amended by Section 7, Chapter 287, O.S.L. 1994 and 5060.14, as amended by Section 8, Chapter 287, O.S.L. 1994 (74 O.S. Supp. 1994, Sections 5060.4 and 5060.14), which are duplicate sections and relate to definitions and Oklahoma Health Research Committee; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 5060.4, as last amended by Section 6, Chapter 288, O.S.L. 1994 (74 O.S. Supp. 1994, Section 5060.4), is amended to read as follows:

Section 5060.4 As used in the Oklahoma Center for the Advancement of Science and Technology Act:

1. "Applied research" means those research activities occurring at institutions of higher education, nonprofit research foundations, and in private enterprises which have potential commercial application;

2. "Basic research" means any original investigation for the advancement of scientific knowledge not having a specific commercial objective, but having potential long-range value to commercial interests;

3. "Center" means the Oklahoma Center for the Advancement of Science and Technology;

4. "Enterprise" means a firm with its principal place of business in Oklahoma;

5. "Health research project" means a specific examination, experimentation or investigation, or initiative to provide research resources oriented principally toward basic, applied, and developmental scientific inquiry related to the causes, diagnosis, prevention, and treatment of human diseases and disabilities and mental health and emotional disorders, and the rehabilitation of persons afflicted with such diseases, disabilities, and disorders; new knowledge, better understanding, and innovative methods to improve the processes by which health care services are made available and how they may be provided more efficiently, more effectively and at a lower cost, for all the citizens of this state; and the development of new products and services which shall form the basis of new high-technology health research and care industry for this state;

6. "Industrial Extension System" means a coordinated network of public and private manufacturing modernization resources, the purpose of which is to stimulate the competitiveness of Oklahoma small and medium-sized manufacturing firms;

7. "Institutional Review Board" means a committee composed of investigators, lay representatives, and legal counsel, which is established at each institution of higher learning and each nonprofit research institution receiving funds from ~~the Health Research Account~~ a health research project, for the express purpose of determining the appropriateness of any research involving human subjects;

8. "Institutions of higher education" means public and private colleges and universities in the state;

9. "Investigator" means a person who proposes research projects and is primarily responsible for the execution of the proposed projects and is employed by or affiliated with an institution of higher education, a nonprofit research institution in this state, or a private enterprise;

10. "New technology" means methods, products, processes and procedures developed through science or research;

11. "Nonprofit research institution" means any not-for-profit public or private facility in this state which has the capabilities for research projects and which is not a subsidiary of any corporation, partnership, or association organized for profit, nor is its stock or assets owned or controlled by a corporation, partnership, or association organized for profit;

12. "OAME" means the Oklahoma Alliance for Manufacturing Excellence, Inc., a corporation to be formed pursuant to the provisions of Title 18 of the Oklahoma Statutes and Section 5060.26 of this title;

13. "Person" means any individual, partnership, corporation or joint venture carrying on business or proposing to carry on business within the state;

14. "Product" means any outcome, device, technique or process, which is or may be developed or marketed commercially and which has advanced beyond the theoretical stage and is in a prototype or practice stage;

15. "Professional service contract" means a written agreement providing funds for the performance of a research project; for salaries and fringe benefits of personnel associated with research programs; for research equipment; for operating expenses associated with a research program; or for services provided in connection with the evaluation of applications submitted to the Center;

16. "Qualified security" means any public or private financial arrangement, involving any note, security, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, preorganization certificate or subscription, transferable security, investment contract,

certificate of deposit for a security, certificate of interest or participation in a patent or application therefor, or in royalty or other payments under such a patent or application, or, in general, any interest or instrument commonly known as a "security" or any certificate for, receipt for, guarantee of, or option, warrant or right to subscribe to or purchase any of the foregoing to the extent allowed by law;

17. "Seed-capital" means financing that is provided for the development, refinement and commercialization of a product, process or innovation, whether for the startup of a new firm or the expansion or the restructuring of a small firm; and

18. "Technology transfer" means a two-way process by which ideas or inventions for processes or products (developed in research programs usually on a laboratory or pilot-plant scale) are converted to commercial use.

SECTION 2. AMENDATORY 74 O.S. 1991, Section 5060.11, is amended to read as follows:

Section 5060.11 ~~A.~~ There is hereby created in the State Treasury a revolving fund for the Oklahoma Center for the Advancement of Science and Technology to be designated the "Research Support Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. The fund shall consist of all monies authorized by law for deposit in such fund including, but not limited to, gifts, grants, private donations, fee revenues and funds by government entities authorized to provide funding for the purposes authorized for the use of the fund. Monies deposited or apportioned to the credit of the fund in excess of that required for implementation of the program or programs for which expenditures from the fund are authorized may be transferred to any other fund under the control of the Center. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Center for the Advancement of Science and Technology for purposes authorized by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as

prescribed by law with the Director of State Finance for approval and payment.

~~B. The Center shall create five accounts within the Research Support Revolving Fund for use in implementation of the various programs for which the Center is responsible. The accounts shall be the "Centers of Excellence Account", the "Applied Research Account", the "MOST Eminent Scholars and Research Equipment Account", the "Health Research Account" and the "Technology Transfer Account".~~

SECTION 3. AMENDATORY 74 O.S. 1991, Section 5060.12, is amended to read as follows:

Section 5060.12 A. The purpose of this section is to authorize the establishment of two types of centers of excellence at institutions of higher education: centers of excellence for basic research and centers of excellence for applied research, development and technology transfer.

B. Centers of excellence for basic research will primarily undertake ongoing basic research that has potential for long-range value to the state's economic development. The centers should build on institutional strengths and conduct activity in areas of research in which the participating institutions of higher education have achieved or have true promise of attaining a standard of excellence as recognized by national and international peers.

C. Centers of excellence for applied research, development and technology transfer will primarily undertake applied research, development and technology transfer that has long-run potential for commercial development. The centers should build on institutional strengths and conduct activity in areas of research in which the participating institutions of higher education have achieved or have true promise of attaining a standard of excellence in applied research and development.

D. The Center shall award funding to centers of excellence in accordance with subsections E and F of this section.

E. The Center ~~shall~~ may award funding from the Research Support Revolving Fund ~~and the Centers of Excellence Account~~ for

new centers and increased funding for established centers only after:

1. Developing, adopting and publishing the criteria it shall use when evaluating centers of excellence; and

2. Reviewing proposals for new or established centers of excellence containing:

- a. documentation, in the case of applied research, development and technology transfer, that not less than fifty percent (50%) of the center's total funding will be provided by sources other than the Center and other than state-appropriated money; and, in the case of basic research, documentation that not less than twenty percent (20%) of the funding for centers conducting basic research will be provided by sources other than the Center and other than state-appropriated money; machinery or equipment may be considered as part of the matching funds, but must be accompanied by a statement that the center of excellence has received the machinery or equipment, that it is appropriate and useful to the program under review, and either:
 - (1) verifying that the machinery or equipment is donated, has only been used in testing to ensure quality control, or used by a wholesaler or retailer for demonstration purposes only and verifying the fair market value of the machinery or equipment on the date of the gift, or
 - (2) detailing the price paid by the center of excellence, with an invoice showing the amount paid for the equipment,
- b. a description of the proposed center's potential contribution to the state's economic development interests,
- c. an itemized operations budget, and
- d. other information that may be required by the board.

F. The board may approve proposals to establish new centers of excellence and increase funding for existing centers only after the board finds, based upon the proposal submitted, external peer reviews, and such additional investigation as the staff of the Center shall make and incorporate in its minutes that:

1. The proposed center of excellence involves more than one higher education institution;

2. In the case of applied research, development and technology transfer the proposed center of excellence has the potential to stimulate economic development in Oklahoma by fostering partnership between higher education institutions and businesses;

3. The center has the long-run potential to benefit existing and new businesses through innovation and development of new technology; and

4. Approval of the proposal will not create or foster unnecessary duplication of programs, particularly at the graduate level of instruction.

G. Any commercialized research that results from the funding of a center of excellence shall be subject to negotiations and policies pursuant to the provisions of this act.

SECTION 4. AMENDATORY 74 O.S. 1991, Section 5060.13, as amended by Section 27, Chapter 324, O.S.L. 1992 (74 O.S. Supp. 1994, Section 5060.13), is amended to read as follows:

Section 5060.13 A. The Center may use ~~the MOST Eminent Scholars and Research Equipment Account to carry out~~ monies from the Research Support Revolving Fund for the purposes of this act by awarding competitive funds, through professional service contracts or otherwise, to institutions of higher education, nonprofit research foundations and private enterprises of special importance to the Oklahoma economy.

B. The Center is authorized to provide challenge funding to Oklahoma higher education institutions for the purpose of assisting such institutions to raise funds in research areas where they have achieved or have true promise of attaining a standard of excellence as recognized by national and international peers. The

Center may transfer to the Oklahoma State Regents for Higher Education the endowed chairs established pursuant to paragraph 1 of subsection D of this section, with any funds associated with such endowed chairs, for the purposes specified in Section 3952 of Title 70 of the Oklahoma Statutes.

C. Any higher education institution which desires to obtain such challenge funding authorized in subsection B of this section shall submit an application to the Oklahoma Center for the Advancement of Science and Technology. Such application shall specify the total amount of funds such institution will provide to meet the requirements of the challenge funding and the research merits and economic benefits of the proposals as well as any other information which the Center may deem necessary in order to evaluate the application; provided, however, such institution shall not use state-appropriated funds for the purpose of meeting the requirements of such challenge funding.

D. Funding shall be awarded on the following basis:

1. For endowed chair professional service contracts or grants, the Center shall match Two Dollars (\$2.00) from the More Oklahoma Science and Technology (MOST) Eminent Scholars and Research Equipment Account for every One Dollar (\$1.00) of interest income generated by the endowment for such chair; however, the amount of a state professional service contract or grant for any endowed chair shall not be less than Fifty Thousand Dollars (\$50,000.00) for any one fiscal year. Funding awarded to match such interest shall be limited to endowed chairs created after May 27, 1986; and

2. For research professional service contracts or grants, the Center shall match One Dollar (\$1.00) from the More Oklahoma Science and Technology (MOST) Eminent Scholars and Research Equipment Account for every One Dollar (\$1.00) of monies that will be raised by such institution for matching purposes. The minimum amount of a state professional service contract or grant for any research project shall not be less than Ten Thousand Dollars (\$10,000.00) and shall be limited to acquiring research equipment. No applicant for a professional service contract or grant for

research equipment under this paragraph shall be required to obtain the mandatory matching funding prior to application to the Center for funding. Applicants selected by the Center for funding shall have up to twelve (12) months from the date of selection to obtain the required matching funds. A selected applicant may request an extension of time not to exceed three (3) months to obtain the necessary matching funds. The period for obtaining matching funds shall not exceed a total of fifteen (15) months from the date of selection.

E. Persons selected to hold such endowed chairs or to receive funding for research as provided for in this section shall be selected pursuant to the procedures of the higher education institution which has been awarded such funding.

F. Approval of any challenge funding proposal shall be based upon the proposal submitted, external peer review and such additional investigation as the staff of the Center shall make.

SECTION 5. AMENDATORY 74 O.S. 1991, Section 5060.14, as amended by Section 7, Chapter 288, O.S.L. 1994 (74 O.S. Supp. 1994, Section 5060.14), is amended to read as follows:

Section 5060.14 A. The Center may use monies from the Health Research Account of the Research Support Revolving Fund and the Breast Cancer Research Account of the Breast Cancer Act Revolving Fund to carry out the purposes of this act by awarding competitive health research funds, through professional service contracts, to institutions of higher education, nonprofit research foundations and private enterprises of special importance to the Oklahoma economy. Monies from the Breast Cancer ~~Research Account shall~~ Act Revolving Fund be used only to support the awarding of professional service contracts for breast cancer research.

B. There is hereby created within the Oklahoma Center for the Advancement of Science and Technology, the Oklahoma Health Research Committee to be appointed by the Governor which shall consist of nine (9) members, no more than five nor less than three of whom shall be physicians licensed pursuant to the laws of this state. For the initial Committee, three members shall be appointed for a term of two (2) years; three members shall be

appointed for a term of four (4) years; and three members shall be appointed for a term of six (6) years. Thereafter members shall be appointed for a term of six (6) years. At all times the Committee shall be composed of at least:

1. One member from the clergy or who has an advanced degree in philosophy from an accredited institution of higher learning;
2. Five members who shall be basic health research scientists each having an established record of basic health science research accomplishment and a demonstrated interest in public service to represent the following areas: Epidemiology, public health or biometrics or psychology; biochemistry, anatomy or nutrition; microbiology, immunology or molecular biology; genetics, pathology, or pharmacology; biology or physiology; and
3. Three members who shall be clinical research scientists having an established record of clinical biomedical science research accomplishment and a demonstrated interest in public service to represent the clinical research disciplines.

The Health Research Committee as constituted prior to the effective date of this act shall be re-created within the Oklahoma Center for the Advancement of Science and Technology. Members of the Committee, formerly within the Oklahoma Department of Commerce, serving terms upon the effective date of this act shall continue to serve such terms.

Upon expiration of any term of office of the Health Research Committee, in making appointments to the Committee appropriate consideration shall be given to representation upon the Committee by race, gender and geographical area.

C. Any vacancy on the Committee shall be filled for the unexpired term within thirty (30) days after the vacancy occurs.

D. No more than three members of the Committee shall have the same primary affiliation with an institution of higher learning or a nonprofit research institution.

E. A basic health research scientist or clinical research scientist shall not be eligible to become a member of the Committee unless said scientist is the inventor of one or more products which have earned more than Two Hundred Thousand Dollars

(\$200,000.00) in royalties or other profit within the fifteen (15) years immediately preceding appointment or is the principal investigator for research grants awarded by national health research organizations for at least five (5) years during the fifteen (15) years immediately preceding appointment. Contractual commitments which have been made for a product or products shall qualify in meeting the royalty or profit requirement. Tentative commitments for future funding from national health research organizations shall satisfy the research grant requirement. Research grants awarded by the National Science Foundation, the National Institutes of Health, the American Heart Association, the Lung Association, the American Cancer Society, the Arthritis Foundation, the March of Dimes, and such other organizations that hold a peer-reviewed national competition for the distribution of research funds that the Committee deems acceptable from time to time shall satisfy the research grant requirement. Research grants which only may be awarded to investigators in this state shall not be used to satisfy the research grant time of support requirement. Service contracts or other grants which do not require submission of a research project or which are not funded competitively on the basis of scientific merit of the research project shall not satisfy the research grant time of support requirement.

F. Members of the Committee shall be reimbursed for expenses incurred in the performance of their duties as provided by the board of directors of the Center.

G. The Committee shall elect from its membership a ~~chairman~~ chair to serve a two-year term and such other officers from its membership as deemed necessary for the performance of the duties of the Committee. The Committee shall hold regular meetings not less than once a quarter and such additional meetings as called by the ~~chairman~~ chair as may be required for the proper discharge of the duties of the Committee. Any action by the Committee shall require the affirmative vote of a majority of its members present. Five members shall constitute a quorum.

SECTION 6. AMENDATORY 74 O.S. 1991, Section 5060.16, is amended to read as follows:

Section 5060.16 The Oklahoma Center for the Advancement of Science and Technology, with the advice and consent of the Committee, shall:

1. Establish and operate a state program designed to secure and impartially distribute funds credited to the ~~Health Research Account~~ Support Revolving Fund to support professional service contracts for health research projects;

2. Ensure that funding to support health research projects is awarded only on the basis of scientific merit;

3. Design the health research program to ensure the optimum performance of the investigator and the maximum efficiency of the project;

4. Evaluate and approve health research projects to be funded ~~by~~ from the Health Research Account Support Revolving Fund;

5. Establish a procedure for the referral of proposed health research projects to the Committee for review;

6. Establish procedures for review of proposed health research projects by qualified individuals residing outside this state;

7. Suspend or terminate any professional service contract supporting health research projects for failure by an investigator, institution of higher learning, or nonprofit research institution to comply with the procedures, requirements, or bylaws of the Center; and

8. Enter into contracts to ensure the optimum performance of health research investigators and to ensure the maximum efficiency of proposed health research projects.

SECTION 7. AMENDATORY 74 O.S. 1991, Section 5060.19, is amended to read as follows:

Section 5060.19 A. The Center may use monies from the Research Support Revolving Fund ~~and the Applied Research Account~~ to carry out the purposes of this act by awarding competitive applied research funds, through professional service contracts or otherwise, to institutions of higher education, nonprofit research foundations and private enterprises of special importance to the Oklahoma economy. The Center may use the fund to provide funding

for the programs and purposes specified in subsection D of this section.

B. The board shall award funding or professional service contracts only after:

1. Developing, adopting and publishing the criteria it shall use when evaluating research proposals; and

2. Reviewing applied research proposals which present:

a. documentation, if the proposal is from an institution of higher education or nonprofit research institutions, that not less than fifty percent (50%) of the total direct cost of the proposed project will be provided by sources other than the Center and other than state-appropriated money; machinery or equipment may be considered as part of the matching funds for the research, but must be accompanied by a statement:

- (1) that the institution of higher education or nonprofit research institution has received the machinery or equipment and that it is appropriate and useful to the program under review; and either
- (2) verifying that the equipment or machinery is donated and has only been used in testing to ensure quality control, or used by a wholesaler or retailer for demonstration purposes only and verifying the fair market value of the machinery or equipment on the date of the gift; or
- (3) detailing the price paid by the institution of higher education or nonprofit research institution, with an invoice showing the amount paid for the machinery or equipment;

b. documentation, if the proposal is from a private enterprise, that not less than fifty percent (50%) of the total direct cost of the proposed project will be provided by sources other than the Center and other than state-appropriated money. No portion

of the fifty percent (50%) may be provided by in-kind services performed by the enterprise;

- c. a description of the potential commercial application of and the industrial sectors that will likely benefit from the applied research project and the potential to enhance employment opportunities in Oklahoma;
- d. an itemized research budget, time line and research methodology;
- e. a recommendation from the sponsoring institution of higher education, nonprofit research institution or business enterprise; and
- f. other information that may be required by the board.

C. The board may approve such applied research proposals after the board finds, based upon the proposal submitted, external peer review and such additional investigation as the staff of the Center shall make and incorporate in its minutes, that:

1. The proposed project is research that leads to innovation, new knowledge or technology and is not training or technical assistance for business firms;

2. The project has a reasonable probability to enhance employment opportunities within Oklahoma; and

3. The project is technically sound and will produce a measurable result.

D. The Center is directed to develop a small business innovation research (SBIR) matching support program which meets the highest current standards for state matching support to federal SBIR program grants. The Center shall also develop and implement a program to financially support the preparation of SBIR grant proposals by Oklahoma entities. The Center may also develop and implement programs to encourage Oklahoma firms to participate in other federal research and development programs including, but not limited to, the Small Business Technology Transfer (SBTT) program.

E. Any commercialized research that results from Center funding of applied research shall be subject to negotiations and policies pursuant to the provisions of this act.

SECTION 8. AMENDATORY 74 O.S. 1991, Section 5060.20, is amended to read as follows:

Section 5060.20 A. The Center may use monies from the ~~Technology Transfer Account~~ Research Support Revolving Fund to carry out the purposes of this section.

B. The Oklahoma Center for the Advancement of Science and Technology shall establish a clearinghouse to provide technology transfer and technical referral services and may charge reasonable user fees to recover the costs of providing such services. The Center may fund institutions of higher education to establish technical information data bases and industrial liaison offices which are easily accessible by both private and public sector organizations.

C. The Center shall provide to private enterprises and individuals, services which include, but are not limited to:

1. Disseminating research and technical information;
2. Referring clients to researchers or laboratories for the purpose of testing and evaluating new products, processes or innovations;
3. Assisting persons developing innovations or new technology in locating enterprises or entrepreneurs that may be interested in applying such innovations or new technologies; and
4. Providing managerial assistance to enterprises requesting such assistance, but particularly to those small enterprises of special importance to the Oklahoma economy.

D. The Center shall encourage business enterprises to use such technology transfer and technical support services as provided by institutions of higher education and especially the state's Small Business Development Centers.

E. The Center shall assist minority businesses in obtaining investments or loans or other means of financial assistance. The terms and conditions of such loans or financial assistance, including the charges for interest and other services, will be

consistent with the provisions of this act. The Center shall solicit proposed minority business ventures for review and analysis.

SECTION 9. REPEALER 74 O.S. 1991, Sections 5060.4, as last amended by Section 7, Chapter 287, O.S.L. 1994 and 5060.14, as amended by Section 8, Chapter 287, O.S.L. 1994 (74 O.S. Supp. 1994, Sections 5060.4 and 5060.14), are hereby repealed.

SECTION 10. This act shall become effective July 1, 1995.

SECTION 11. 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.

45-1-1385

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