

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1447

6 By: Thompson (Kristen) of the
7 Senate

8 and

9 Osburn of the House

10 COMMITTEE SUBSTITUTE

11 An Act relating to economic development; creating the
12 Creating Oklahoma's Modern Plan for Economic
13 Transformation and Effectiveness (COMPETE) Act;
14 providing short title; stating purpose; defining
15 terms; creating the Oklahoma Office of Economic
16 Development, Growth, and Expansion; establishing
17 purpose of the Office; specifying role of the Office;
18 creating the Oklahoma Economic Development, Growth,
19 and Expansion Board; providing for membership;
20 stating quorum; providing for qualifications of Board
21 members; stating appointment terms; establishing
22 Board procedures for election of chair and vice chair
23 and presiding of meetings; allowing for certain
24 reimbursement; permitting membership to serve on
other boards and commissions; subjecting Board to the
provisions of the Oklahoma Open Meeting Act and
Oklahoma Open Records Act; providing for use of
executive sessions by Board; amending 25 O.S. 2021,
Section 307, as amended by Section 1, Chapter 182,
O.S.L. 2022 (25 O.S. Supp. 2023, Section 307), which
relates to executive sessions; updating statutory
language; updating statutory reference; including
certain entities to exceptions; establishing powers,
duties, and responsibilities of the Board; requiring
selection of an Executive Director of the Oklahoma
Office of Economic Development, Growth, and
Expansion; providing selection criteria; authorizing
the Board to determine the Executive Director's
salary and other compensation; requiring the

1 Executive Director to consult with the Board over the
2 administration of the Office; stating other duties of
3 the Board; establishing powers, duties, and
4 responsibilities of the Executive Director;
5 establishing powers, duties, and responsibilities of
6 the Office; authorizing the Office to implement
7 certain economic strategies to develop and expand
8 Oklahoma's economy; amending 75 O.S. 2021, Section
9 250.4, as amended Section 37, Chapter 310, O.S.L.
10 2023 (75 O.S. Supp. 2023, Section 250.4), which
11 relates to compliance with the Administrative
12 Procedures Act; updating statutory language;
13 exempting Office from certain violation; creating the
14 Legislative Evaluation and Development Committee;
15 stating intent; specifying information for review;
16 providing for membership; requiring discretion;
17 amending 74 O.S. 2021, Section 85.7, as last amended
18 by Section 1, Chapter 339, O.S.L. 2023 (74 O.S. Supp.
19 2023, Section 85.7), which relates to acquisitions;
20 updating statutory language; exempting certain
21 purchases made by the Office; creating the Economic
22 Development, Growth, and Expansion Revolving Fund;
23 stating purpose; establishing funding procedures;
24 providing for codification; and declaring an
emergency.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 5090 of Title 74, unless there
is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Creating
Oklahoma's Modern Plan for Economic Transformation and Effectiveness
(COMPETE) Act".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 5090.1 of Title 74, unless there
is created a duplication in numbering, reads as follows:

1 A. The Legislature has determined that there exists in this
2 state a need to encourage, stimulate, and support the development
3 and expansion of the economy for this state through economic
4 development, and that the state's approach to economic development
5 needs to be modernized to compete nationally and internationally.

6 B. To achieve the objectives of this act, there is hereby
7 created a separate and distinct agency, to be known as the Oklahoma
8 Office of Economic Development, Growth, and Expansion. The Office
9 shall exercise the powers and duties granted to it by this act to
10 perform an essential governmental function for matters of public
11 necessity for which public monies may be spent and private property
12 acquired. In the duty of its service to the state, the Office shall
13 create a partnership with the Oklahoma Department of Commerce to
14 more effectively respond to the needs expressed in this act.

15 SECTION 3. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 5090.2 of Title 74, unless there
17 is created a duplication in numbering, reads as follows:

18 As used in this act:

19 1. "Board" means the Oklahoma Economic Development, Growth, and
20 Expansion Board as created in Section 5 of this act;

21 2. "Commission" means the Oklahoma Workforce Commission created
22 in Section 902 of Title 40 of the Oklahoma Statutes;

23 3. "Committee" means the Legislative Evaluation and Development
24 Committee as created in Section 11 of this act;

1 4. "Critical industry" means industries within Oklahoma that
2 are critical to the state's economic well-being and strategic plan
3 for economic growth and development;

4 5. "Director" means the Executive Director of the Oklahoma
5 Office of Economic Development, Growth, and Expansion;

6 6. "Office" means the Oklahoma Office of Economic Development,
7 Growth, and Expansion; and

8 7. "Person" means any individual, group of individuals, or any
9 partnership, corporation, association, cooperative, or employee
10 thereof, or any other legal entity.

11 SECTION 4. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 5090.3 of Title 74, unless there
13 is created a duplication in numbering, reads as follows:

14 A. There is hereby created the Oklahoma Office of Economic
15 Development, Growth, and Expansion. The purpose of the Office is to
16 serve as the state's lead economic development agency.

17 B. The Office shall:

18 1. Be empowered to strategically drive opportunities for
19 economic growth and diversification across the state;

20 2. Collaborate across local, regional, and state entities;

21 3. Coordinate the funding and investment activities of each
22 element of the state's economic development efforts and marketing
23 campaigns to achieve better results for the state's recruitment and
24 retention of businesses; and

1 4. Act as the principal point of contact regarding investment
2 in this state for public officials, businesses, and the public.

3 C. The Office shall assume from the Oklahoma Department of
4 Commerce the role of lead economic development organization for this
5 state, and with regard to competitive economic development projects,
6 the Oklahoma Department of Commerce shall play a support role for
7 the Office, as further outlined in this act.

8 SECTION 5. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 5090.4 of Title 74, unless there
10 is created a duplication in numbering, reads as follows:

11 A. There is hereby created the Oklahoma Economic Development,
12 Growth, and Expansion Board. The Board shall constitute an
13 advisory, administrative, and policymaking board and shall consist
14 of nine (9) voting members, as follows:

15 1. Three members to be appointed by the President Pro Tempore
16 of the Senate; provided, at least one appointed member shall be from
17 a municipality with a population of sixty thousand (60,000) people
18 or less;

19 2. Three members to be appointed by the Speaker of the House of
20 Representatives; provided, at least one appointed member shall be
21 from a municipality with a population of sixty thousand (60,000)
22 people or less; and
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1 3. Three members to be appointed by the Governor; provided, at
2 least one appointed member shall be an economic development
3 practitioner from this state.

4 B. Five voting members of the Board shall constitute a quorum,
5 and the vote of the majority of members present shall be necessary
6 for any action to be taken by the Board. No vacancy in the
7 membership of the Board shall impair the rights of a quorum to
8 exercise and perform all the rights and duties of the Board. The
9 voting members of this Board shall:

10 1. Have at least a minimum of five (5) years of experience
11 working in the private sector;

12 2. Not be employed by any government entity or have been
13 employed by a government entity within the preceding two-year
14 period; and

15 3. Possess expertise in at least one of the following areas:

- 16 a. marketing,
- 17 b. international commerce,
- 18 c. finance or grant administration,
- 19 d. state, regional, or local economic development,
- 20 e. incentive evaluation programs,
- 21 f. law,
- 22 g. information technologies,
- 23 h. transportation,
- 24 i. workforce development,

- 1 j. manufacturing,
- 2 k. biotechnology,
- 3 l. cybersecurity,
- 4 m. defense,
- 5 n. energy,
- 6 o. entrepreneurship, or
- 7 p. any other critical industry in this state.

8 C. For the initial appointments of members to the Board, each
9 appointing authority shall make one appointment for a one-year term,
10 one appointment for a two-year term, and one appointment for a
11 three-year term. Thereafter, the terms of the Board shall be for
12 three (3) years. Nonvoting members shall serve terms coincident
13 with their terms of office or employment.

14 D. Vacancies on the Board shall be filled for the unexpired
15 term of office in the same manner as the original appointment. The
16 appointed members may be removed from their positions by their
17 respective appointing authorities but shall not be subject to
18 dismissal or removal without cause.

19 E. The Board shall elect a chair, a vice chair, and such other
20 officers deemed necessary to conduct the business of the Board from
21 among its members. The chair shall preside over meetings of the
22 Board, and officers shall perform duties as may be required by the
23 Board. The initial appointments of the Board shall be made within
24 thirty (30) days after the effective date of this act. The first

1 meeting of the Board shall be called by the chair no later than
2 sixty (60) days after the effective date of this act.

3 F. No member of the Board shall receive a salary or
4 reimbursement for duties performed as a member of the Board;
5 however, members are eligible to receive travel reimbursement as
6 provided in the State Travel Reimbursement Act.

7 G. Members serving on the Board shall be eligible to serve on
8 any other state board or commission if such member is otherwise
9 qualified to hold such appointed office, notwithstanding the
10 provisions of Section 6 of Title 51 of the Oklahoma Statutes.

11 H. The meetings of the Board shall be subject to the Oklahoma
12 Open Meeting Act and the Oklahoma Open Records Act. Any information
13 submitted to or compiled by the Board with respect to the marketing
14 plans, financial statements, trade secrets, or any other
15 commercially sensitive information of persons, firms, associations,
16 partnerships, agencies, corporations, or other entities shall be
17 confidential, except to the extent that the person or entity which
18 provided such information, or which is the subject of such
19 information, consents to disclosure. Executive sessions may be held
20 to discuss such materials if deemed necessary by the Board.

21 I. The Board may create an advisory board from time to time to
22 assist the Board in carrying out the provisions of this act. The
23 advisory board shall consist of members from governmental agencies
24 and members of the economic community of this state as appointed by

1 the members of the Board including, but not limited to, the
2 Executive Director of the Oklahoma Office of Economic Development,
3 Growth, and Expansion, chief executive officer of the Oklahoma
4 Workforce Commission, and the Secretary of Transportation.

5 SECTION 6. AMENDATORY 25 O.S. 2021, Section 307, as
6 amended by Section 1, Chapter 182, O.S.L. 2022 (25 O.S. Supp. 2023,
7 Section 307), is amended to read as follows:

8 Section 307. A. No public body shall hold executive sessions
9 unless otherwise specifically provided in this section.

10 B. Executive sessions of public bodies will be permitted only
11 for the purpose of:

12 1. Discussing the employment, hiring, appointment, promotion,
13 demotion, disciplining or resignation of any individual salaried
14 public officer or employee;

15 2. Discussing negotiations concerning employees and
16 representatives of employee groups;

17 3. Discussing the purchase or appraisal of real property;

18 4. Confidential communications between a public body and its
19 attorney concerning a pending investigation, claim, or action if the
20 public body, with the advice of its attorney, determines that
21 disclosure will seriously impair the ability of the public body to
22 process the claim or conduct a pending investigation, litigation, or
23 proceeding in the public interest;

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1 5. Permitting district boards of education to hear evidence and
2 discuss the expulsion or suspension of a student when requested by
3 the student involved or the student's parent, attorney or legal
4 guardian;

5 6. Discussing matters involving a specific ~~handicapped~~ disabled
6 child;

7 7. Discussing any matter where disclosure of information would
8 violate confidentiality requirements of state or federal law;

9 8. Engaging in deliberations or rendering a final or
10 intermediate decision in an individual proceeding pursuant to
11 Article II of the Administrative Procedures Act;

12 9. Discussing matters involving safety and security at state
13 penal institutions or correctional facilities used to house state
14 inmates;

15 10. Discussing contract negotiations involving contracts
16 requiring approval of the State Board of Corrections, which shall be
17 limited to members of the public body, the attorney for the public
18 body, and the immediate staff of the public body. No person who may
19 profit directly or indirectly by a proposed transaction which is
20 under consideration may be present or participate in the executive
21 session; or

22 11. Discussing the following:

23 a. the investigation of a plan or scheme to commit an act
24 of terrorism,

- 1 b. assessments of the vulnerability of government
2 facilities or public improvements to an act of
3 terrorism,
4 c. plans for deterrence or prevention of or protection
5 from an act of terrorism,
6 d. plans for response or remediation after an act of
7 terrorism,
8 e. information technology of the public body but only if
9 the discussion specifically identifies:
10 (1) design or functional schematics that demonstrate
11 the relationship or connections between devices
12 or systems,
13 (2) system configuration information,
14 (3) security monitoring and response equipment
15 placement and configuration,
16 (4) specific location or placement of systems,
17 components or devices,
18 (5) system identification numbers, names, or
19 connecting circuits,
20 (6) business continuity and disaster planning, or
21 response plans, or
22 (7) investigation information directly related to
23 security penetrations or denial of services, or
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1 f. the investigation of an act of terrorism that has
2 already been committed.

3 For the purposes of this subsection, the term "terrorism" means any
4 act encompassed by the definitions set forth in Section 1268.1 of
5 Title 21 of the Oklahoma Statutes.

6 C. Notwithstanding the provisions of subsection B of this
7 section, the following public bodies may hold executive sessions:

8 1. The ~~State~~ Banking Board, as provided for under Section 306.1
9 of Title 6 of the Oklahoma Statutes;

10 2. The Oklahoma Industrial Finance Authority, as provided for
11 in Section 854 of Title 74 of the Oklahoma Statutes;

12 3. The Oklahoma Development Finance Authority, as provided for
13 in Section 5062.6 of Title 74 of the Oklahoma Statutes;

14 4. The Oklahoma Center for the Advancement of Science and
15 Technology, as provided for in Section 5060.7 of Title 74 of the
16 Oklahoma Statutes;

17 5. The Oklahoma Health Research Committee for purposes of
18 conferring on matters pertaining to research and development of
19 products, if public disclosure of the matter discussed would
20 interfere with the development of patents, copyrights, products, or
21 services;

22 6. The Oklahoma Workers' Compensation Commission for the
23 purposes provided for in Section ~~20~~ 22 of Title 85A of the Oklahoma
24 Statutes;

1 7. A review committee, as provided for in Section 855 of Title
2 62 of the Oklahoma Statutes;

3 8. The Child Death Review Board for purposes of receiving and
4 conferring on matters pertaining to materials declared confidential
5 by law;

6 9. The Domestic Violence Fatality Review Board as provided in
7 Section 1601 of Title 22 of the Oklahoma Statutes;

8 10. The Opioid Overdose Fatality Review Board, as provided in
9 Section 2-1001 of Title 63 of the Oklahoma Statutes;

10 11. All nonprofit foundations, boards, bureaus, commissions,
11 agencies, trusteeships, authorities, councils, committees, public
12 trusts, task forces or study groups supported in whole or part by
13 public funds or entrusted with the expenditure of public funds for
14 purposes of conferring on matters pertaining to economic development
15 including the transfer of property, financing, or the creation of a
16 proposal to entice a business to remain or to locate within their
17 jurisdiction if public disclosure of the matter discussed would
18 interfere with the development of products or services or if public
19 disclosure would violate the confidentiality of the business;

20 12. The Oklahoma Indigent Defense System Board for purposes of
21 discussing negotiating strategies in connection with making possible
22 counteroffers to offers to contract to provide legal representation
23 to indigent criminal defendants and indigent juveniles in cases for
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1 which the System must provide representation pursuant to the
2 provisions of the Indigent Defense Act;

3 13. The Quality Investment Committee for purposes of discussing
4 applications and confidential materials pursuant to the terms of the
5 Oklahoma Quality Investment Act;

6 14. The Oklahoma Municipal Power Authority established pursuant
7 to Section 24-101 et seq. of Title 11 of the Oklahoma Statutes and
8 in its role as an electric utility regulated by the federal
9 government, for purposes of discussing security plans and procedures
10 including, but not limited to, cybersecurity matters; ~~and~~

11 15. The Oklahoma Tax Commission for purposes of discussing
12 confidential taxpayer matters as provided in Section 205 of Title 68
13 of the Oklahoma Statutes, and in compliance with subsection E of
14 this section; and

15 16. The Oklahoma Economic Development, Growth, and Expansion
16 Board, as provided for in Section 5 of this act.

17 D. Except as otherwise specified in this subsection, an
18 executive session for the purpose of discussing the purchase or
19 appraisal of real property shall be limited to members of the public
20 body, the attorney for the public body and the immediate staff of
21 the public body. No landowner, real estate salesperson, broker,
22 developer or any other person who may profit directly or indirectly
23 by a proposed transaction concerning real property which is under
24 consideration may be present or participate in the executive

1 session, unless they are operating under an existing agreement to
2 represent the public body.

3 E. No public body may go into an executive session unless the
4 following procedures are strictly complied with:

5 1. The proposed executive session is noted on the agenda as
6 provided in Section 311 of this title;

7 2. The executive session is authorized by a majority vote of a
8 quorum of the members present and the vote is a recorded vote; and

9 3. Except for matters considered in executive sessions of the
10 ~~State~~ Banking Board and the Oklahoma Tax Commission, and which are
11 required by state or federal law to be confidential, any vote or
12 action on any item of business considered in an executive session
13 shall be taken in public meeting with the vote of each member
14 publicly cast and recorded.

15 F. A willful violation of the provisions of this section shall:

16 1. Subject each member of the public body to criminal sanctions
17 as provided in Section 314 of this title; and

18 2. Cause the minutes and all other records of the executive
19 session including tape recordings, to be immediately made public.

20 SECTION 7. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 5090.5 of Title 74, unless there
22 is created a duplication in numbering, reads as follows:

23 A. The Oklahoma Economic Development, Growth, and Expansion
24 Board shall administer and serve as an advisory body for policy

1 encouraging, stimulating, and supporting the development and
2 expansion of the economy of this state through economic development.

3 B. 1. The Board shall appoint an Executive Director for the
4 Oklahoma Office of Economic Development, Growth, and Expansion to
5 serve at the pleasure of the Board and carry out such powers and
6 duties conferred upon him or her as prescribed by the Board. The
7 Executive Director shall be a nonvoting member of the Board.

8 2. The Board shall select an Executive Director with experience
9 that includes, but is not limited to:

- 10 a. economic development program leadership,
- 11 b. business development leadership,
- 12 c. senior-level board management and leadership,
- 13 d. senior-level business and political engagement,
- 14 e. leading business development or business recruitment
15 teams,
- 16 f. creating and implementing sector development
17 strategies,
- 18 g. branding and marketing leadership experience, and
- 19 h. a track record in recruiting companies to a state or
20 community.

21 3. The Board shall determine the Executive Director's salary
22 and other compensation such that the Board is nationally competitive
23 in consistently employing a talented and experienced economic
24 development professional in the position.

1 C. The Executive Director shall consult with the Board
2 regarding the administration of the affairs of the Oklahoma Office
3 of Economic Development, Growth, and Expansion. The Board is
4 authorized and empowered to require from the Executive Director
5 complete reports and information relative to the affairs of the
6 Office in the time and manner the Board may deem advisable.

7 D. In addition to the other powers and duties prescribed by
8 law, the Board shall:

9 1. Prescribe rules and policies for the transaction of its
10 business and the control of the Office;

11 2. Review and approve the budget and amend to make supplemental
12 appropriations;

13 3. Advise in the appointment and compensation of officers,
14 agents, and employees of the Office;

15 4. Establish performance-based incentive compensation
16 structures to enhance organizational and individual performance,
17 both for the Executive Director and his or her employees;

18 5. Supervise the letting of all contracts and purchases for the
19 Office, with all purchases of personal property to be made through
20 the Office of Management and Enterprise Services;

21 6. Form committees, which may include representatives who are
22 not members of the Board, to undertake more extensive study and
23 discussion on the issues before the Board; and

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1 7. Annually report to the Governor and the Legislature
2 electronically on the complete operation, activities, and plans of
3 the Office, together with such recommendations for future activities
4 as the Board may deem to be in the best interest of the state.

5 SECTION 8. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 5090.6 of Title 74, unless there
7 is created a duplication in numbering, reads as follows:

8 Immediately upon the appointment of the Executive Director, he
9 or she shall become vested with the duties and powers of the
10 management and control of the Oklahoma Office of Economic
11 Development, Growth, and Expansion under such provisions, orders,
12 rules, and regulations as may be prescribed by the Oklahoma Economic
13 Development, Growth, and Expansion Board, and in addition thereto
14 shall have the following specific powers and duties:

15 1. To manage and control, under the supervision of the Board,
16 all economic development projects in this state;

17 2. To appoint and employ such assistants, administrative
18 leadership, clerical help, and other employees as the Board may deem
19 necessary, subject to the approval of the Board. The Executive
20 Director shall fix and determine the salaries and wages to be paid
21 under and subject to the rules and regulations as promulgated by the
22 Board; and

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1 3. To exercise such powers and duties relating to the direction
2 of the state's economic development efforts conferred upon the
3 Office as may be delegated to him or her by the Board.

4 SECTION 9. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 5090.7 of Title 74, unless there
6 is created a duplication in numbering, reads as follows:

7 A. The Oklahoma Office of Economic Development, Growth, and
8 Expansion is granted all powers necessary for the carrying out of
9 its statutory purposes including, but not limited to, the power to:

10 1. Administer the provisions of this act or any duty as
11 directed by the state;

12 2. Establish a presence for the Office in a location housed
13 with the Oklahoma Department of Commerce;

14 3. Administer funds from the Economic Development, Growth, and
15 Expansion Revolving Fund created in Section 13 of this act;

16 4. Promulgate rules to carry out the provisions of this act;

17 5. Enter into contracts or agreements for studies, professional
18 services, grant administration and procurement, research projects,
19 supplies, or any other services the Office deems necessary to carry
20 out its purpose;

21 6. Cooperate with any private, local, state, or national
22 commission, organization, agency, or group and to make contracts and
23 agreements for joint programs beneficial to Oklahoma's economic
24 development;

1 7. Hire outside legal counsel as provided in Section 250.4 of
2 Title 75 of the Oklahoma Statutes;

3 8. Accept donations, grants, contributions, and gifts from any
4 public or private sources and deposit such in the Economic
5 Development, Growth, and Expansion Revolving Fund;

6 9. Provide input and authorize an annual plan of work and
7 marketing plan;

8 10. Provide guidance, approve objectives, and conduct frequent
9 reviews of the organization's progress to ensure that the focus
10 remains on its mission;

11 11. Render advice and assistance and provide services to state
12 agencies, local and regional economic development entities, private
13 firms, and the other person providing services or facilities for
14 economic development; and

15 12. Develop, undertake, and provide programs, alone or in
16 conjunction with any person, for economic research, industrial
17 development research, and all other research that may lead to
18 economic development.

19 B. It shall be the duty of the Office to encourage, stimulate,
20 and support the development and expansion of the economy of
21 Oklahoma. The Office is charged with the duty and responsibility
22 to:

23 1. Create and implement a strategic economic development plan,
24 including identifying critical industries;

1 2. Create and implement effective economic development
2 marketing and promotional programming;

3 3. Make available, in conjunction and cooperation with
4 localities, chambers of commerce, industrial authorities, and other
5 public and private groups, to prospective new businesses, basic
6 information and pertinent factors of interest and concern to such
7 businesses;

8 4. Formulate, promulgate, and advance programs throughout the
9 state for encouraging the location of new businesses in the state
10 and the retention and growth of existing businesses;

11 5. Encourage and solicit private sector involvement, support,
12 and funding for economic development in this state;

13 6. Encourage the coordination of economic development efforts
14 of public institutions, regions, communities, and private industry
15 and collect and maintain data on the development and utilization of
16 economic development capabilities;

17 7. Encourage the export of products and services; and

18 8. Advise the Oklahoma Workforce Commission and its educational
19 and instructional partners of increased workforce needs for
20 particular industries or skills in accordance with the Office's
21 strategic plan and economic development activities.

22 C. The Office shall annually update and modify its economic
23 development strategic plan for this state in consultation with the
24 Governor, Lieutenant Governor, and the Legislature. The Office

1 shall prepare a report on the economic development strategic plan by
2 December 30 each year to be electronically distributed to the
3 Governor, the President Pro Tempore of the Senate, the Speaker of
4 the House of Representatives, and the fiscal directors of their
5 respective legislative chambers. The Office shall post the report
6 on its website.

7 SECTION 10. AMENDATORY 75 O.S. 2021, Section 250.4, as
8 amended by Section 37, Chapter 310, O.S.L. 2023 (75 O.S. Supp. 2023,
9 Section 250.4), is amended to read as follows:

10 Section 250.4. A. 1. Except as is otherwise specifically
11 provided in this subsection, each agency is required to comply with
12 Article I of the Administrative Procedures Act.

13 2. The Corporation Commission shall be required to comply with
14 the provisions of Article I of the Administrative Procedures Act
15 except for subsections A, B, C and E of Section 303 of this title
16 and Section 306 of this title. To the extent of any conflict or
17 inconsistency with Article I of the Administrative Procedures Act,
18 pursuant to Section 35 of Article IX of the Oklahoma Constitution,
19 it is expressly declared that Article I of the Administrative
20 Procedures Act is an amendment to and alteration of Sections 18
21 through 34 of Article IX of the Oklahoma Constitution.

22 3. The ~~Oklahoma~~ Oklahoma Military Department of the State of Oklahoma
23 shall be exempt from the provisions of Article I of the
24 Administrative Procedures Act to the extent it exercises its

1 responsibility for military affairs. Military publications, as
2 defined in Section 801 of Title 44 of the Oklahoma Statutes, shall
3 be exempt from the provisions of Article I and Article II of the
4 Administrative Procedures Act, except as provided in Section 251 of
5 this title.

6 4. The Oklahoma Ordnance Works Authority, the Northeast
7 Oklahoma Public Facilities Authority, the ~~Oklahoma~~ Office of
8 Homeland Security and the Board of Trustees of the Oklahoma College
9 Savings Plan shall be exempt from Article I of the Administrative
10 Procedures Act.

11 5. The Transportation Commission and the Department of
12 Transportation shall be exempt from Article I of the Administrative
13 Procedures Act to the extent they exercise their authority in
14 adopting standard specifications, special provisions, plans, design
15 standards, testing procedures, federally imposed requirements and
16 generally recognized standards, project planning and programming,
17 and the operation and control of the State Highway System.

18 6. The Oklahoma State Regents for Higher Education shall be
19 exempt from Article I of the Administrative Procedures Act with
20 respect to:

- 21 a. prescribing standards of higher education,
- 22 b. prescribing functions and courses of study in each
23 institution to conform to the standards,

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- c. granting of degrees and other forms of academic recognition for completion of the prescribed courses,
- d. allocation of state-appropriated funds, and
- e. fees within the limits prescribed by the Legislature.

7. Institutional governing boards within The Oklahoma State System of Higher Education shall be exempt from Article I of the Administrative Procedures Act.

8. a. The Commissioner of Public Safety and the Executive Director of Service Oklahoma shall be exempt from Sections 303.1, 304, 307.1, 308 and 308.1 of this title insofar as it is necessary to promulgate rules pursuant to the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act, to maintain a current incorporation of federal motor carrier safety and hazardous material regulations.

b. Such rules may be adopted by the Commissioner and shall be deemed promulgated twenty (20) days after notice of adoption is published in "The Oklahoma Register". Such publication need not set forth the full text of the rule but may incorporate the federal rules and regulations by reference.

c. Such copies of promulgated rules shall be filed with the Secretary of State as required by Section 251 of this title.

1 d. For any rules for which the Commissioner has
2 discretion to allow variances, tolerances or
3 modifications from the federal rules and regulations,
4 the Commissioner shall fully comply with Article I of
5 the Administrative Procedures Act.

6 9. The Council on Judicial Complaints shall be exempt from
7 Section 306 of ~~Article I of the Administrative Procedures Act~~ this
8 title, with respect to review of the validity or applicability of a
9 rule by an action for declaratory judgment, or any other relief
10 based upon the validity or applicability of a rule, in the district
11 court or by an appellate court. A party aggrieved by the validity
12 or applicability of a rule made by the Council on Judicial
13 Complaints may petition the Court on the Judiciary to review the
14 rules and issue opinions based upon them.

15 10. The Department of Corrections, State Board of Corrections,
16 county sheriffs and managers of city jails shall be exempt from
17 Article I of the Administrative Procedures Act with respect to:

- 18 a. prescribing internal management procedures for the
19 management of the state prisons, county jails and city
20 jails and for the management, supervision and control
21 of all incarcerated prisoners, and
22 b. prescribing internal management procedures for the
23 management of the probation and parole unit of the
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1 Department of Corrections and for the supervision of
2 probationers and parolees.

3 11. The State Board of Education shall be exempt from Article I
4 of the Administrative Procedures Act with respect to prescribing
5 subject matter standards as provided for in Section 11-103.6a of
6 Title 70 of the Oklahoma Statutes.

7 B. As specified, the following agencies or classes of agency
8 activities are not required to comply with the provisions of Article
9 II of the Administrative Procedures Act:

10 1. The Oklahoma Tax Commission, except as provided in
11 subsection G of Section 1140 of Title 47 of the Oklahoma Statutes;

12 2. The Commission for Human Services;

13 3. The Oklahoma Ordnance Works Authority;

14 4. The Corporation Commission;

15 5. The Pardon and Parole Board;

16 6. The Midwestern Oklahoma Development Authority;

17 7. The Grand River Dam Authority;

18 8. The Northeast Oklahoma Public Facilities Authority;

19 9. The Council on Judicial Complaints;

20 10. The Board of Trustees of the Oklahoma College Savings Plan;

21 11. The supervisory or administrative agency of any penal,
22 mental, medical or eleemosynary institution, only with respect to
23 the institutional supervision, custody, control, care or treatment
24 of inmates, prisoners or patients therein; provided, that the

1 provisions of Article II shall apply to and govern all
2 administrative actions of the Oklahoma Alcohol Prevention, Training,
3 Treatment and Rehabilitation Authority;

4 12. The Board of Regents or employees of any university,
5 college, or other institution of higher learning;

6 13. The Oklahoma Horse Racing Commission, its employees or
7 agents only with respect to hearing and notice requirements on the
8 following classes of violations which are an imminent peril to the
9 public health, safety and welfare:

- 10 a. any rule regarding the running of a race,
- 11 b. any violation of medication laws and rules,
- 12 c. any suspension or revocation of an occupation license
13 by any racing jurisdiction recognized by the
14 Commission,
- 15 d. any assault or other destructive acts within
16 Commission-licensed premises,
- 17 e. any violation of prohibited devices, laws and rules,
18 or
- 19 f. any filing of false information;

20 14. The Commissioner of Public Safety and the Executive
21 Director of Service Oklahoma only with respect to driver license
22 hearings and hearings conducted pursuant to the provisions of
23 Section 2-115 of Title 47 of the Oklahoma Statutes;

24

1 15. The Administrator of the Oklahoma Department of Securities
2 only with respect to hearings conducted pursuant to provisions of
3 the Oklahoma Take-over Disclosure Act of 1985;

4 16. Hearings conducted by a public agency pursuant to Section
5 ~~962~~ 903A of Title 47 of the Oklahoma Statutes;

6 17. The ~~Oklahoma~~ Military Department of the State of Oklahoma;

7 18. The University Hospitals Authority, including all hospitals
8 or other institutions operated by the University Hospitals
9 Authority;

10 19. The Oklahoma Health Care Authority Board and the
11 Administrator of the Oklahoma Health Care Authority; ~~and~~

12 20. The ~~Oklahoma~~ Office of Homeland Security; and

13 21. The Oklahoma Office of Economic Development, Growth, and
14 Expansion created in Section 4 of this act only to the extent of
15 hiring outside legal counsel.

16 SECTION 11. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 5090.8 of Title 74, unless there
18 is created a duplication in numbering, reads as follows:

19 A. It is the intent of the Legislature that the creation of the
20 Legislative Evaluation and Development Committee shall review
21 financing for individual incentive packages including, but not
22 limited to, packages offering tax incentives, funds for economic
23 development, and when the annual investment exceeds Seventy-five
24 Million Dollars (\$75,000,000.00) for any business, new or existing

1 currently in Oklahoma, or when one or more of the incentives in the
2 incentive package is not authorized under current law or an
3 amendment by the Legislature is being sought to one or more
4 currently existing incentives included in the incentive package. In
5 addition to the required review of certain incentive packages as
6 prescribed by this section, the Committee may, in its discretion,
7 also review potential economic development projects presented by
8 private sector businesses or state authorities which would be
9 financed by public funds.

10 B. There is hereby created within the Legislature the
11 Legislative Evaluation and Development Committee to evaluate and
12 propose economic projects provided by the Oklahoma Office of
13 Economic Development, Growth, and Expansion. The Committee shall
14 consist of:

15 1. Four members of the Senate to be appointed by the President
16 Pro Tempore of the Senate; and

17 2. Four members of the House of the Representatives to be
18 appointed by the Speaker of the House of Representatives.

19 The President Pro Tempore of the Senate and the Speaker of the
20 House of Representatives shall serve as co-chairs for the Committee.

21 C. The quorum of the Committee shall consist of at least five
22 members. Meetings of the oversight Committee shall be governed by
23 joint rules of the Legislature. Members of the Committee may
24 receive reimbursement from the Legislative Service Bureau for actual

1 and necessary expenses incurred in connection with their duties as
2 members of the Committee in accordance with other provisions of law
3 relating to travel reimbursement for members of the Legislature.
4 Members serving on this Committee shall submit to nondisclosure
5 agreements and adhere to the confidentiality of the material
6 discussed in meetings that affect the economic development of this
7 state.

8 SECTION 12. AMENDATORY 74 O.S. 2021, Section 85.7, as
9 last amended by Section 1, Chapter 339, O.S.L. 2023 (74 O.S. Supp.
10 2023, Section 85.7), is amended to read as follows:

11 Section 85.7. A. 1. Except as otherwise provided by the
12 Oklahoma Central Purchasing Act, or associated rules:

- 13 a. every state agency shall initiate all acquisitions by
14 the submission of a requisition to the Purchasing
15 Division, and
- 16 b. no state agency shall make an acquisition for an
17 amount exceeding Fifty Thousand Dollars (\$50,000.00)
18 or the limit determined by the State Purchasing
19 Director pursuant to rules authorized by Section 85.5
20 of this title, not to exceed Two Hundred Fifty
21 Thousand Dollars (\$250,000.00), without submission of
22 a requisition to the Purchasing Division for issuance
23 of a solicitation for the acquisition on behalf of the
24 agency. Any exemption from competitive bid

1 requirements of the Oklahoma Central Purchasing Act
2 further exempts the acquisition from requisition
3 requirements of the act.

4 2. The State Purchasing Director may request additional
5 information necessary to adequately review a requisition to ensure
6 compliance with the Oklahoma Central Purchasing Act and associated
7 rules. If the State Purchasing Director determines that an
8 acquisition is not necessary, excessive or not justified, the State
9 Purchasing Director shall deny the requisition.

10 3. The provisions of the Oklahoma Central Purchasing Act shall
11 not preclude a state agency from:

- 12 a. accepting gifts or donations in any manner authorized
13 by law, or
- 14 b. making an acquisition for itself without submitting a
15 requisition under this section when authorized in
16 writing by the State Purchasing Director.

17 4. Any acquisition a state agency makes shall be made pursuant
18 to the Oklahoma Central Purchasing Act and associated rules. No
19 agency shall use split purchasing for the purpose of evading the
20 requirement of competitive bidding or other requirement of the
21 Oklahoma Central Purchasing Act or associated rules. Violation of
22 this provision shall be cause for discipline of a state employee up
23 to and including termination.

1 5. The State Purchasing Director may waive or increase the
2 limit authorized for a state agency acquisition made pursuant to its
3 own competitive procedures. To perfect an otherwise valid
4 acquisition inadvertently exceeding the limit due to administrative
5 error by a state agency or unforeseeable circumstances, the state
6 agency shall request a limited waiver or increase upon the discovery
7 of the error or circumstance to the State Purchasing Director. The
8 State Purchasing Director shall report requests for waivers or
9 increases, stating the amount and whether the request was granted or
10 denied, upon request by the Governor, President Pro Tempore of the
11 Senate or Speaker of the House of Representatives.

12 6. Competitive bidding requirements of this section shall not
13 be required for the following:

14 a. contracts for master custodian banks or trust
15 companies, investment managers, investment
16 consultants, and actuaries for the state retirement
17 systems, and Oklahoma Employees Insurance and Benefits
18 Board, pension fund management consultants of the
19 Oklahoma State Pension Commission and the
20 Commissioners of the Land Office, examiners, experts,
21 or consultants for the Insurance Department whose job
22 duties are tied to ~~Market Conduct Exams~~ market conduct
23 exams, ~~Financial Exams~~ financial exams, and ~~Insurance~~
24 ~~Business Transfers~~ insurance business transfers,

1 financial institutions to act as depositories and
2 managers of the Oklahoma College Savings Plan accounts
3 and other professional services as defined in Section
4 803 of Title 18 of the Oklahoma Statutes. When
5 requested by the Oklahoma Employees Insurance and
6 Benefits Board or the governing board of a state
7 retirement system authorized to hire investment
8 managers, the Purchasing Division shall assist in the
9 process of selecting investment managers,

10 b. a state agency making such an acquisition shall notify
11 the State Purchasing Director within fifteen (15) days
12 following completion of the acquisition. A list of
13 the exempt contracts shall be provided, upon request,
14 to a member of the Appropriations and Budget Committee
15 of the House of Representatives or Appropriations
16 Committee of the Senate,

17 c. purchases of postage by state agencies made pursuant
18 to Sections 90.1 through 90.4 of this title,

19 d. a sole source acquisition made in compliance with
20 Section 85.44D.1 of this title,

21 e. an acquisition for design, development, communication
22 or implementation of the state employees flexible
23 benefits plan; provided, procedures used for the
24 acquisition are consistent with competitive bid

1 requirements of the Oklahoma Central Purchasing Act
2 and associated rules,

3 f. any acquisition of a service which the Office of
4 Management and Enterprise Services has approved as
5 qualifying for a fixed and uniform rate, subject to
6 the following:

7 (1) the Purchasing Division shall establish criteria
8 and guidelines for those services which may
9 qualify for a fixed and uniform rate,

10 (2) fixed and uniform rate contracts authorized by
11 this subsection shall be limited to contracts for
12 those services furnished to persons directly
13 benefiting from such services and shall not be
14 used by a state agency to employ consultants or
15 to make other acquisitions,

16 (3) any state agency desiring to have a service
17 qualified for a fixed and uniform rate shall make
18 a request for service qualification to the State
19 Purchasing Director and submit documentation to
20 support the request. The State Purchasing
21 Director shall approve or deny the request. If
22 approved, the state agency shall establish a
23 fixed and uniform rate for the service. No
24 contracts shall be entered into by the state

1 agency until the rate has been approved by the
2 state agency in a public hearing. The proposed
3 rate shall be clearly and separately identified
4 in the agenda of the state agency for the hearing
5 and shall be openly and separately discussed
6 during such hearing. The state agency shall
7 notify the State Purchasing Director of its
8 pending consideration of the proposed rate at
9 least thirty (30) days before the state agency is
10 to meet on the proposed rate and deliver a copy
11 of the agenda items concerning the proposed rate
12 with supporting documentation. The State
13 Purchasing Director shall communicate any
14 observation, reservation, criticism or
15 recommendation to the agency, either in person at
16 the time of the hearing or in writing delivered
17 to the state agency before or at the time of the
18 hearing. The State Purchasing Director shall
19 specifically note in the written communications
20 whether the Director has determined the rate to
21 be excessive. Any written communication
22 presented in the absence of the State Purchasing
23 Director shall be presented orally during the
24 public hearing. Whether made in person or in

1 writing, any comment made by the State Purchasing
2 Director shall be made a part of the minutes of
3 the hearing in full,

4 (4) within two (2) weeks after the convening of the
5 Legislature, the administrative officer of the
6 state agency shall furnish to the Speaker of the
7 House of Representatives, the President Pro
8 Tempore of the Senate and to any member of the
9 House or Senate, if requested by the member, a
10 complete list of all of the types of services
11 paid for by uniform fixed rates, the amount of
12 the rate last approved by the agency for the
13 service and the number of contracts then in
14 existence for each type of service. Any rate
15 which has been determined to be excessive by the
16 State Purchasing Director shall be specifically
17 identified in the list by the state agency, and

18 (5) at any time, the State Purchasing Director may
19 review, suspend or terminate a contract entered
20 into pursuant to the provisions of this paragraph
21 if the Director determines the contract is not
22 necessary, is excessive or is not justified,

23 g. an acquisition for a client of the State Department of
24 Rehabilitation Services, ~~if~~ provided ~~by~~ the agency

1 develops and maintains standards for such an
2 acquisition. The agency may elect to utilize the
3 Purchasing Division for an acquisition. The standards
4 shall foster economy, provide a short response time,
5 include appropriate safeguards, require written
6 records, ensure appropriate competition for economical
7 and efficient purchasing and shall be approved by the
8 State Purchasing Director,

9 h. structured settlement agreements entered into by the
10 ~~Attorney General's office~~ Office of the Attorney
11 General in order to settle any lawsuit involving the
12 state, the Legislature, any state agency or any
13 employee or official of the state if:

14 (1) prior to entering into any contract for the
15 services of an entity to administer a structured
16 settlement agreement, the Attorney General
17 receives proposals from at least three entities
18 engaged in providing such services, and

19 (2) the selection of a particular entity is made on
20 the basis of the response to the request which is
21 the most economical and provides the most
22 competent service which furthers the best
23 interests of the state,
24

1 i. an acquisition by a state agency pursuant to a
2 contract the State Purchasing Director enters into on
3 behalf of a state agency or awards and designates for
4 use by state agencies,

5 j. an acquisition by the Committee for Sustaining
6 Oklahoma's Energy Resources pursuant to a contract
7 with a local supplier for the purpose of holding a
8 special event or an exhibition throughout the state,
9 ~~and~~

10 k. contracts for the study, analysis, and planning, as
11 reasonably necessary, to aid in determining the
12 feasibility of leasing, selling, or privately managing
13 or developing the property or facilities under control
14 of the Oklahoma Tourism and Recreation Commission.

15 The Commission shall be exempt from the competitive
16 bidding requirements of the Oklahoma Central
17 Purchasing Act for the purpose of soliciting,
18 negotiating, and effectuating such a contract or
19 contracts; provided, that the State Purchasing
20 Director shall review and audit all uses of the
21 exemptions provided in this subparagraph biannually,

22 and

23 l. contracts for the study, analysis, and planning as
24 reasonably necessary to aid in determining the

1 feasibility of economic projects by the Oklahoma
2 Office of Economic Development, Growth, and Expansion
3 created in Section 4 of this act, provided the Office
4 develops and maintains standards for such an
5 acquisition. The standards shall foster economic
6 development, provide a short response time, include
7 appropriate safeguards, require written records, and
8 ensure appropriate competition for economical and
9 efficient purchasing.

10 7. Notwithstanding any other provision of law, an acquisition
11 may be exempted from requirements of this section by the State
12 Purchasing Director when in the State Purchasing Director's
13 discretion unusual, time-sensitive or unique circumstances exist
14 which make such exemption in the best and immediate interest of the
15 state. As used in this subsection, "State Purchasing Director"
16 shall not mean a designee. Any such acquisitions shall be described
17 in detail and publicly posted as a data feed. The description shall
18 include the name of the supplier, cost of the acquisition, reason
19 for exemption and, as applicable, detailed comparison of the
20 acquisition with comparable items, any identified cost savings
21 resulting from the acquisition and a description of benefits to the
22 state. The State Purchasing Director shall take no action under the
23 provisions of this subsection prior to such public posting.

1 B. Competitively bid acquisitions shall be awarded to the
2 lowest and best, or best value, bidder or bidders.

3 C. Bids for an amount requiring submission of requisitions to
4 the Purchasing Division shall be evaluated by the Purchasing
5 Division and the state agency receiving the acquisition. At a
6 minimum, cost and technical expertise shall be considered in
7 determining the lowest and best, or best value, bid. Further, the
8 state agency shall present its evaluation and recommendation to the
9 State Purchasing Director. A documented evaluation report
10 containing the evaluations of the Purchasing Division or the state
11 agency shall be completed prior to the contract award and such
12 report shall be a matter of public record.

13 D. Except as otherwise specifically provided by law, the
14 acquisition of food items or food products by a state agency from a
15 public trust created pursuant to Sections 176 through 180.56 of
16 Title 60 of the Oklahoma Statutes shall comply with competitive
17 bidding requirements of this section.

18 E. Cooperative contracts shall not be utilized unless the
19 purchasing cooperative and its affiliated suppliers have complied
20 with competitive bid requirements of the Oklahoma Central Purchasing
21 Act and associated rules.

22 F. Notwithstanding any provision of the Oklahoma Central
23 Purchasing Act, in all cases where federal granted funds are
24 involved, the federal laws, rules and regulations thereto shall

1 govern to the extent necessary to inure to the benefit of such funds
2 to this state.

3 G. A court order requiring an acquisition by a state agency,
4 whether or not such state agency is subject to the Oklahoma Central
5 Purchasing Act, shall not invalidate competitive bidding procedures
6 required by this section if such court order does not specify a
7 specific supplier. Any such acquisition shall comply with
8 competitive bid procedures.

9 SECTION 13. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 5090.9 of Title 74, unless there
11 is created a duplication in numbering, reads as follows:

12 A. There is hereby created in the State Treasury a revolving
13 fund for the Oklahoma Office of Economic Development, Growth, and
14 Expansion to be designated the "Economic Development, Growth, and
15 Expansion Revolving Fund". The fund shall be a continuing fund, not
16 subject to fiscal year limitations, and shall consist of all monies
17 received by the Office from appropriations and donations, grants,
18 contributions, or gifts from any public or private source. All
19 monies accruing to the credit of the fund are hereby appropriated
20 and may be budgeted and expended by the Office for the purpose of
21 attracting, retaining, and recruiting new business to Oklahoma,
22 advancing the purposes of the Office, or any other purpose proposed
23 by the Office and consented to by the Oklahoma Economic Development,
24 Growth, and Expansion Board. Expenditures from the fund shall be

1 made upon warrants issued by the State Treasurer against claims
2 filed as prescribed by law with the Director of the Office of
3 Management and Enterprise Services for approval and payment.

4 B. Notwithstanding any other provision of law, and until the
5 fiscal year ending in 2034, income and earnings on the fund shall
6 accrue to the fund and may be used for the purposes provided for in
7 this section.

8 SECTION 14. It being immediately necessary for the preservation
9 of the public peace, health or safety, an emergency is hereby
10 declared to exist, by reason whereof this act shall take effect and
11 be in full force from and after its passage and approval.

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