

## **SENATE FLOOR VERSION**

March 6, 2025

3 COMMITTEE SUBSTITUTE  
FOR  
4 SENATE BILL NO. 650

4 SENATE BILL NO. 650 By: Paxton

An Act relating to public utilities; defining term; requiring the governing body of a public utility to adopt a plan for components of maintenance and operation of public utilities; providing for contents of plan; specifying process for notice; allowing for public utilities to be in compliance upon approval of plan; authorizing certain state agencies to verify certain provisions of plan; preventing certain recovery of damages under certain circumstances; amending 51 O.S. 2021, Sections 152, as last amended by Section 111, Chapter 452, O.S.L. 2024, 154, and 155, as amended by Section 21, Chapter 228, O.S.L. 2022 (51 O.S. Supp. 2024, Sections 152 and 155), which relate to The Governmental Tort Claims Act; defining term; increasing award amounts for certain claims; specifying certain accidents and occurrences; providing for the process and amounts awarded under certain circumstances; expanding exemptions for liability by the state or political subdivisions; updating statutory references and language; making language gender neutral; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified

22 in the Oklahoma Statutes as Section 37-235 of Title 11, unless there  
23 is created a duplication in numbering, reads as follows:

1       A. As used in this section, "public utility" means a  
2 municipally owned utility or other publicly owned utility providing  
3 sewage services through a sanitary sewer system.

4       B. The governing body of the public utility shall adopt a plan  
5 that includes, but is not limited to, the following:

6       1. Mapping and recordkeeping of a sanitary sewer system for  
7 maintenance and operation of the system;

8       2. A policy of inspections, cleaning, and root control of sewer  
9 lines that contains the following elements:

10       a. an inspection program of sewer lines to determine  
11              whether sewage flows are clear, moderately occluded,  
12              or severely occluded,

13       b. a program of routine maintenance of sewer lines, and

14       c. a treatment program for sewer lines identified as  
15              having blockages due to root infiltration, of which  
16              the public utility has notice, with root control  
17              through either mechanical or chemical treatments;

18       3. A policy of responding to calls for sanitary sewer overflows  
19              (SSOs) to clear municipal sewer mains, flush with water and  
20              deodorize the land upon which SSO has occurred, and remove SSO  
21              debris from land upon which SSO has occurred;

22       4. Adoption of a "Fats, Oils, and Grease (FOG) Ordinance" that  
23              makes unlawful the improper introduction of fats, oils, or grease  
24              from nonresidential entities that are connected to the sanitary

1      sewer system and incorporating pre-treatment regulations adopted by  
2      the Department of Environmental Quality for such entities. Public  
3      utilities shall periodically notify sanitary sewer system  
4      participants and dischargers of the restrictions within this  
5      paragraph;

6            5. Adoption of an ordinance requiring new construction or  
7      remodels of existing buildings to be connected to the sanitary sewer  
8      system, including the installation of a backflow prevention device  
9      on the private service line connecting the structure to the sanitary  
10     sewer main line;

11            6. Adoption of a policy that will notify private residential  
12     property owners who are connected to the sanitary sewer system of  
13     the option to provide additional personal protection through  
14     installation of a backflow prevention system on the private service  
15     line connecting the property to the sanitary sewer main line. At  
16     the discretion of the governing body of the public utility, after  
17     considering available funding, private residential property owners  
18     connected to the sewer system may be offered public assistance with  
19     installation and inspection of backflow prevention devices;

20            7. Adoption of a funding availability model that identifies:

- 21                a. the total revenue from ratepayers that can reasonably  
22                    be expected over a fiscal year,
- 23                b. other funding sources from municipal revenues that can  
24                    reasonably be expected to be contributed to the

1                   sanitary sewer system operations, maintenance, or  
2                   capital improvements,  
3                 c. external sources of funding from local, state,  
4                   federal, or tribal entities that could be available  
5                   for sanitary sewer system operations, maintenance, or  
6                   capital improvements, and  
7                 d. bonding capacities, whether revenue bonds or general  
8                   obligation bonds, that could be available for sanitary  
9                   sewer system operations, maintenance, or capital  
10                  improvements.

11 Funding availability models shall be reviewed at least every five  
12 (5) years to include a rate study recommending reasonable rates for  
13 those connected to the sanitary sewer system; and

14                 8. Adoption of a five-year capital improvement plan that  
15 considers dedication of funding available to:

16                 a. repair or replace sanitary sewer lines that have been  
17                   identified as severely occluded,  
18                 b. repair or replace municipal sanitary sewer lift  
19                   stations necessary for the continued operation of the  
20                   system, and  
21                 c. access or purchase equipment for operation of the  
22                   municipal sanitary sewer system serving the citizens  
23                   of the municipality that are connected to the  
24                   municipal sanitary sewer system.

1       C. Notification as described in paragraphs 4 and 6 of  
2 subsection B of this section shall be satisfied by annual  
3 publication in a newspaper of general circulation within the service  
4 area of the public utility, publication on the public utility  
5 sponsored website, or annual inserts in ratepayer monthly utility  
6 bills. Nothing in this subsection shall be construed to prohibit a  
7 public utility from making multiple notifications to ratepayers in  
8 the one-year period.

9       D. Public utilities that implement policies prescribed in  
10 subsection B of this section shall be considered in compliance with  
11 the provisions of this section.

12      E. The Oklahoma Water Resources Board and other state agencies  
13 that provide funding to public utilities for water and wastewater  
14 improvements shall ensure that any ranking structure for approval of  
15 applications for funding considers the sustainability efforts of  
16 systems that adopted the plans identified in this statute.

17      F. There shall be no right of recovery for personal injury from  
18 a sanitary sewer overflow, provided that the utility charged with  
19 operation of the sanitary sewer system is working to maintain its  
20 sanitary sewer system in accordance with the guidance and criteria  
21 promulgated by the governing body pursuant to subsection B of this  
22 section and any criteria or guidelines promulgated by a governmental  
23 entity under an interlocal cooperative agreement pursuant to Section  
24 1001 et seq. of Title 74 of the Oklahoma Statutes, as such

1 components are determined by the governing body to be fiscally  
2 achievable considering available revenue streams to the public  
3 utility to fund the same. While those municipalities qualifying for  
4 relief under this section shall be exempt from personal injury  
5 damage claims of annoyance and inconvenience associated with a  
6 sanitary sewer overflow that alleges a nuisance-based cause of  
7 action, nothing herein shall otherwise prohibit a right of recovery  
8 for property damages associated with a sanitary sewer overflow in  
9 accordance with The Governmental Tort Claims Act.

10 SECTION 2. AMENDATORY 51 O.S. 2021, Section 152, as last  
11 amended by Section 111, Chapter 452, O.S.L. 2024 (51 O.S. Supp.  
12 2024, Section 152), is amended to read as follows:

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

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

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

17 3. "Charitable health care provider" means a person who is  
licensed, certified, or otherwise authorized by the laws of this  
18 state to administer health care in the ordinary course of business  
or the practice of a profession and who provides care to a medically  
19 indigent person, as defined in paragraph 9 of this section, with no  
20 expectation of or acceptance of compensation of any kind;

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

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

- 10       a. any person holding an interest in real or personal  
11              property which suffers a loss, provided that the claim  
12              of the person shall be aggregated with claims of all  
13              other persons holding an interest in the property and  
14              the claims of all other persons which are derivative  
15              of the loss, and that multiple claimants shall be  
16              considered a single claimant,
- 17       b. the individual actually involved in the accident or  
18              occurrence who suffers a loss, provided that the  
19              individual shall aggregate in the claim the losses of  
20              all other persons which are derivative of the loss, or
- 21       c. in the case of death, an administrator, special  
22              administrator or a personal representative who shall  
23              aggregate in the claim all losses of all persons which  
24              are derivative of the death;

- 1           6. "Community health care provider" means:
- 2           a. a health care provider who volunteers services at a
- 3           community health center that has been deemed by the
- 4           U.S. Department of Health and Human Services as a
- 5           federally qualified health center as defined by 42
- 6           U.S.C., Section 1396d(l)(2)(B),
- 7           b. a health provider who provides services to an
- 8           organization that has been deemed a federally
- 9           qualified look-alike community health center, and
- 10          c. a health care provider who provides services to a
- 11           community health center that has made application to
- 12           the U.S. Department of Health and Human Services for
- 13           approval and deeming as a federally qualified look-
- 14           alike community health center in compliance with
- 15           federal application guidance, and has received
- 16           comments from the U.S. Department of Health and Human
- 17           Services as to the status of such application with the
- 18           established intent of resubmitting a modified
- 19           application, or, if denied, a new application, no
- 20           later than six (6) months from the date of the
- 21           official notification from the U.S. Department of
- 22           Health and Human Services requiring resubmission of a
- 23           new application;
- 24

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

5           a. Employee also includes:

- 6              (1) all elected or appointed officers, members of  
7 governing bodies and other persons designated to  
8 act for an agency or political subdivision, but  
9 the term does not mean a person or other legal  
10 entity while acting in the capacity of an  
11 independent contractor or an employee of an  
12 independent contractor,  
13              (2) from September 1, 1991, through June 30, 1996,  
14 licensed physicians, licensed osteopathic  
15 physicians and certified nurse-midwives providing  
16 prenatal, delivery or infant care services to  
17 State Department of Health clients pursuant to a  
18 contract entered into with the State Department  
19 of Health in accordance with paragraph 3 of  
20 subsection B C of Section 1-106 of Title 63 of  
21 the Oklahoma Statutes but only insofar as  
22 services authorized by and in conformity with the  
23 terms of the contract and the requirements of  
24

Section 1-233 of Title 63 of the Oklahoma  
Statutes, and

- (3) any volunteer, full-time or part-time firefighter when performing duties for a fire department provided for in subparagraph j of paragraph 11 12 of this section.

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

- (1) physicians acting in an administrative capacity,
  - (2) resident physicians and resident interns participating in a graduate medical education program of the University of Oklahoma Health Sciences Center, the Oklahoma State University College of Osteopathic Medicine ~~of Oklahoma State University~~, or the Department of Mental Health and Substance Abuse Services,
  - (3) faculty members and staff of the University of Oklahoma Health Sciences Center and the Oklahoma State University College of Osteopathic Medicine ~~of Oklahoma State University~~, while engaged in teaching duties,

- (4) physicians who practice medicine or act in an administrative capacity as an employee of an agency of the State of Oklahoma,
  - (5) physicians who provide medical care to inmates pursuant to a contract with the Department of Corrections,
  - (6) any person who is licensed to practice medicine pursuant to Title 59 of the Oklahoma Statutes, who is under an administrative professional services contract with the Oklahoma Health Care Authority under the auspices of the Oklahoma Health Care Authority Chief Medical Officer, and who is limited to performing administrative duties such as professional guidance for medical reviews, reimbursement rates, service utilization, health care delivery and benefit design for the Oklahoma Health Care Authority, only while acting within the scope of such contract,
  - (7) licensed medical professionals under contract with city, county, or state entities who provide medical care to inmates or detainees in the custody or control of law enforcement agencies,

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

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

Physician faculty members and physician staff of the University of Oklahoma Health Sciences Center and the Oklahoma State University College of Osteopathic Medicine ~~of Oklahoma State University~~ not acting in an administrative capacity or engaged in teaching duties are not employees or agents of the state.

c. For the purposes of The Governmental Tort Claims Act, employee shall include independent contractors and

1                   employees of independent contractors while actively  
2                   engaged in the transport of individuals in need of  
3                   initial assessment, emergency detention, or protective  
4                   custody as authorized by Section 1-110 of Title 43A of  
5                   the Oklahoma Statutes.

6                   d. Except as provided in subparagraph b of this  
7                   paragraph, in no event shall the state be held liable  
8                   for the tortious conduct of any physician, resident  
9                   physician or intern while practicing medicine or  
10                  providing medical treatment to patients.

11                  e. For purposes of The Governmental Tort Claims Act,  
12                  members of the state military forces on state active  
13                  duty orders or on Title 32 active duty orders are  
14                  employees of this state, regardless of the place,  
15                  within or outside this state, where their duties as  
16                  employees are performed;

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

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

10. "Municipality" means any incorporated city or town, and all institutions, agencies or instrumentalities of a municipality;
11. "Occurrence" means a loss arising out of an accident or event or a continuous or repeated exposure to substantially the same general harmful conditions. All losses arising out of an accident or event or a continuous or repeated exposure to substantially the same general harmful conditions shall be deemed to have arisen out of one occurrence;

12. "Political subdivision" means:

- a. a municipality,
  - b. a school district, including, but not limited to, a technology center school district established pursuant to Section 4410, 4411, 4420 or 4420.1 of Title 70 of the Oklahoma Statutes,
  - c. a county,
  - d. a public trust where the sole beneficiary or beneficiaries are a city, town, school district or county. For purposes of The Governmental Tort Claims Act, a public trust shall include:
    - (1) a municipal hospital created pursuant to Sections 30-101 through 30-109 of Title 11 of the Oklahoma Statutes, a county hospital created pursuant to Sections 781 through 796 of Title 19 of the Oklahoma Statutes, or is created pursuant to a

1 joint agreement between such governing  
2 authorities, that is operated for the public  
3 benefit by a public trust created pursuant to  
4 Sections 176 through 180.4 of Title 60 of the  
5 Oklahoma Statutes and managed by a governing  
6 board appointed or elected by the municipality,  
7 county, or both, who exercises control of the  
8 hospital, subject to the approval of the  
9 governing body of the municipality, county, or  
10 both,

11 (2) a public trust created pursuant to Sections 176  
12 through 180.4 of Title 60 of the Oklahoma  
13 Statutes after January 1, 2009, the primary  
14 purpose of which is to own, manage, or operate a  
15 public acute care hospital in this state that  
16 serves as a teaching hospital for a medical  
17 residency program provided by a college of  
18 osteopathic medicine and provides care to

19 indigent persons, and

20 (3) a corporation in which all of the capital stock  
21 is owned, or a limited liability company in which  
22 all of the member interest is owned, by a public  
23 trust,

- 1                   e. for the purposes of The Governmental Tort Claims Act  
2                         only, a housing authority created pursuant to the  
3                         provisions of the Oklahoma Housing Authorities Act,  
4                   f. for the purposes of The Governmental Tort Claims Act  
5                         only, corporations organized not for profit pursuant  
6                         to the provisions of the Oklahoma General Corporation  
7                         Act for the primary purpose of developing and  
8                         providing rural water supply and sewage disposal  
9                         facilities to serve rural residents,  
10                  g. for the purposes of The Governmental Tort Claims Act  
11                         only, districts formed pursuant to the Rural Water,  
12                         Sewer, Gas and Solid Waste Management Districts Act,  
13                  h. for the purposes of The Governmental Tort Claims Act  
14                         only, master conservancy districts formed pursuant to  
15                         the Conservancy Act of Oklahoma,  
16                  i. for the purposes of The Governmental Tort Claims Act  
17                         only, a fire protection district created pursuant to  
18                         the provisions of Section 901.1 et seq. of Title 19 of  
19                         the Oklahoma Statutes,  
20                  j. for the purposes of The Governmental Tort Claims Act  
21                         only, a benevolent or charitable corporate volunteer  
22                         or full-time fire department for an unincorporated  
23                         area created pursuant to the provisions of Section 592  
24                         et seq. of Title 18 of the Oklahoma Statutes,

- 1           k. for purposes of The Governmental Tort Claims Act only,  
2           an ~~Emergency Services Provider~~ emergency services  
3           provider rendering services ~~within the boundaries of a~~  
4           Supplemental ~~Emergency Services District~~ pursuant to  
5           an existing contract between the ~~Emergency Services~~  
6           Provider emergency services provider and the State  
7           Department of Health. Provided, however, that the  
8           acquisition of commercial liability insurance covering  
9           the activities of such ~~Emergency Services Provider~~  
10          emergency services provider performed within this  
11          state shall not operate as a waiver of any of the  
12          limitations, immunities or defenses provided for  
13          political subdivisions pursuant to the terms of The  
14          Governmental Tort Claims Act,
- 15         l. for purposes of The Governmental Tort Claims Act only,  
16          a conservation district created pursuant to the  
17          provisions of the Conservation District Act,
- 18         m. for purposes of The Governmental Tort Claims Act,  
19          districts formed pursuant to the Oklahoma Irrigation  
20          District Act,
- 21         n. for purposes of The Governmental Tort Claims Act only,  
22          any community action agency established pursuant to  
23          Sections 5035 through ~~5040~~ 5040.1 of Title 74 of the  
24          Oklahoma Statutes,

- o. for purposes of The Governmental Tort Claims Act only, any organization that is designated as a youth services agency, pursuant to Section 2-7-306 of Title 10A of the Oklahoma Statutes,
- p. for purposes of The Governmental Tort Claims Act only, any judge presiding over a drug court, as defined by Section 471.1 of Title 22 of the Oklahoma Statutes,
- q. for purposes of The Governmental Tort Claims Act only, any child-placing agency licensed by this state to place children in foster family homes,
- r. for purposes of The Governmental Tort Claims Act only, a circuit engineering district created pursuant to Section 687.1 of Title 69 of the Oklahoma Statutes,
- s. for purposes of ~~the~~ The Governmental Tort Claims Act only, a substate planning district, regional council of government or other entity created pursuant to Section 1001 et seq. of Title 74 of the Oklahoma Statutes, and
- t. for purposes of The Governmental Tort Claims Act only, a regional transportation authority created pursuant to Section 1370.7 of Title 68 of the Oklahoma Statutes including its contract operator and any railroad operating in interstate commerce that sells a property interest or provides services to a regional

1           transportation authority or allows the authority to  
2           use the property or tracks of the railroad for the  
3           provision of public passenger rail service to the  
4           extent claims against the contract operator or  
5           railroad arise out of or are related to or in  
6           connection with such property interest, services or  
7           operation of the public passenger rail service.

8           Provided, the acquisition of commercial liability  
9           insurance to cover the activities of the regional  
10          transportation authority, contract operator or  
11          railroad shall not operate as a waiver of any  
12          liabilities, immunities or defenses provided pursuant  
13          to the provisions of ~~the~~ The Governmental Tort Claims  
14          Act,

15         and all their institutions, instrumentalities or agencies;

16         12. 13. "Scope of employment" means performance by an employee  
17         acting in good faith within the duties of the employee's office or  
18         employment or of tasks lawfully assigned by a competent authority  
19         including the operation or use of an agency vehicle or equipment  
20         with actual or implied consent of the supervisor of the employee,  
21         but shall not include corruption or fraud;

22         13. 14. "State" means the State of Oklahoma or any office,  
23         department, agency, authority, commission, board, institution,  
24         hospital, college, university, public trust created pursuant to

1 Title 60 of the Oklahoma Statutes of which the State of Oklahoma is  
2 the beneficiary, or other instrumentality thereof;

3 ~~14.~~ 15. "State active duty" shall be defined in accordance with  
4 Section 801 of Title 44 of the Oklahoma Statutes;

5 ~~15.~~ 16. "State military forces" shall be defined in accordance  
6 with Section 801 of Title 44 of the Oklahoma Statutes;

7 ~~16.~~ 17. "Title 32 active duty" shall be defined in accordance  
8 with Section 801 of Title 44 of the Oklahoma Statutes; and

9 ~~17.~~ 18. "Tort" means a legal wrong, independent of contract,  
10 involving violation of a duty imposed by general law, statute, the  
11 Constitution of the State of Oklahoma, or otherwise, resulting in a  
12 loss to any person, association or corporation as the proximate  
13 result of an act or omission of a political subdivision or the state  
14 or an employee acting within the scope of employment; provided,  
15 however, a tort shall not include a claim for inverse condemnation.

16 SECTION 3. AMENDATORY 51 O.S. 2021, Section 154, is  
17 amended to read as follows:

18 Section 154. A. The total liability of the state and its  
19 political subdivisions on claims within the scope of The  
20 Governmental Tort Claims Act, arising out of an accident or  
21 occurrence happening after October 1, 1985, Section 151 et seq. of  
22 this title, shall not exceed:

23 1. ~~Twenty-five Thousand Dollars (\$25,000.00)~~ Thirty-five  
24 Thousand Dollars (\$35,000.00) for any claim or to any claimant who

1 has more than one claim for loss of property, including related  
2 consequential damages, arising out of a single act, accident, or  
3 occurrence;

4 2. For physical injury from a municipal overflow or backup,  
5 Five Thousand Dollars (\$5,000.00) per individual person occupying  
6 the structure at the time of the occurrence not to exceed an  
7 aggregate damage amount of Twenty Thousand Dollars (\$20,000.00) per  
8 occurrence regardless of the number of persons affected by the  
9 occurrence;

10 3. For nuisance, annoyance, or inconvenience damages from a  
11 municipal overflow or backup, Five Thousand Dollars (\$5,000.00) per  
12 individual person occupying the structure at the time of the  
13 occurrence not to exceed an aggregate damage amount of Twenty  
14 Thousand Dollars (\$20,000.00) per occurrence regardless of the  
15 number of persons affected by the occurrence;

16 4. Except as otherwise provided in this paragraph, One Hundred  
17 Twenty-five Thousand Dollars (\$125,000.00) to any claimant for a  
18 claim for any other loss arising out of a single act, accident, or  
19 occurrence. The limit of liability for the state or any city or  
20 county with a population of three hundred thousand (300,000) or more  
21 according to the latest Federal Decennial Census, or a political  
22 subdivision as defined in subparagraph s of paragraph ~~11~~ 12 of  
23 Section 152 of this title, shall not exceed One Hundred Seventy-five  
24 Thousand Dollars (\$175,000.00). Except however, the limits of the

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

13 ~~3.~~ 5. One Million Dollars (\$1,000,000.00) for any number of  
14 claims for indemnification pursuant to Section 162 of this title  
15 arising out of a single occurrence or accident.

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

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

- 4           a. the individual was charged, by indictment or  
5 information, with the commission of a public offense  
6 classified as a felony,
- 7           b. the individual did not plead guilty to the offense  
8 charged, or to any lesser included offense, but was  
9 convicted of the offense,
- 10          c. the individual was sentenced to incarceration for a  
11 term of imprisonment as a result of the conviction,
- 12          d. the individual was imprisoned solely on the basis of  
13 the conviction for the offense, and
- 14          e. (1) in the case of a pardon, a determination was made  
15 by either the Pardon and Parole Board or the  
16 Governor that the offense for which the  
17 individual was convicted, sentenced and  
18 imprisoned, including any lesser offenses, was  
19 not committed by the individual, or  
20 (2) in the case of judicial relief, a court of  
21 competent jurisdiction found by clear and  
22 convincing evidence that the offense for which  
23 the individual was convicted, sentenced and  
24 imprisoned, including any lesser included

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

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

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

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

23  
24

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~~ each claimant bears to the aggregate awards and  
11 settlements for all claims against the state or its political  
12 subdivisions arising out of the occurrence. When the amount of the  
13 aggregate losses presented by a single claimant exceeds the limits  
14 ~~of paragraph 1 or 2~~ of subsection A of this section, each person  
15 suffering a loss shall be entitled to that person's proportionate  
16 share.

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

23       F. The state or a political subdivision may petition the court  
24 that all parties and actions arising out of a single accident or

1 occurrence shall be joined as provided by law, and upon order of the  
2 court the proceedings upon good cause shown shall be continued for a  
3 reasonable time or until such joinder has been completed. The state  
4 or political subdivision shall be allowed to interplead in any  
5 action which may impose on it any duty or liability pursuant to The  
6 Governmental Tort Claims Act.

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

15 SECTION 4. AMENDATORY 51 O.S. 2021, Section 155, as  
16 amended by Section 21, Chapter 228, O.S.L. 2022 (51 O.S. Supp. 2024,  
17 Section 155), is amended to read as follows:

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

- 20 1. Legislative functions;
- 21 2. Judicial, quasi-judicial, or prosecutorial functions, other  
22 than claims for wrongful criminal felony conviction resulting in  
23 imprisonment provided for in Section 154 of this title;
- 24 3. Execution or enforcement of the lawful orders of any court;

1       4. Adoption or enforcement of or failure to adopt or enforce a  
2 law, whether valid or invalid, including, but not limited to, any  
3 statute, charter provision, ordinance, resolution, rule, regulation  
4 or written policy;

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

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

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

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

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

18       10. Natural conditions of property of the state or political  
19 subdivision;

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

23       12. Licensing powers or functions including, but not limited  
24 to, the issuance, denial, suspension or revocation of or failure or

1 refusal to issue, deny, suspend or revoke any permit, license,  
2 certificate, approval, order or similar authority;

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

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

11       15. Absence, condition, location or malfunction of any traffic  
12 or road sign, signal or warning device unless the absence,  
13 condition, location or malfunction is not corrected by the state or  
14 political subdivision responsible within a reasonable time after  
15 actual or constructive notice or the removal or destruction of such  
16 signs, signals or warning devices by third parties, action of  
17 weather elements or as a result of traffic collision except on  
18 failure of the state or political subdivision to correct the same  
19 within a reasonable time after actual or constructive notice.

20 Nothing herein shall give rise to liability arising from the failure  
21 of the state or any political subdivision to initially place any of  
22 the above signs, signals or warning devices. The signs, signals and  
23 warning devices referred to herein are those used in connection with  
24 hazards normally connected with the use of roadways or public ways

1 and do not apply to the duty to warn of special defects such as  
2 excavations or roadway obstructions;

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

4       17. Misrepresentation, if unintentional;

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

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

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

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

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

- a. "public" includes, but is not limited to, students during nonschool hours and school staff when not working as employees of the school, and
- b. "recreation" means any indoor or outdoor physical activity, either organized or unorganized, undertaken for exercise, relaxation, diversion, sport or pleasure, and that is not otherwise covered by paragraph 20 or 21 of this section;

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

14        24. The activities of the state military forces when on state  
15 active duty orders or on Title 32 active duty orders;

16        25. Provision, equipping, operation or maintenance of any  
17 prison, jail or correctional facility, or injuries resulting from  
18 the parole or escape of a prisoner or injuries by a prisoner to any  
19 other prisoner; provided, however, this provision shall not apply to  
20 claims from individuals not in the custody of the Department of  
21 Corrections based on accidents involving motor vehicles owned or  
22 operated by the Department of Corrections;

23        26. Provision, equipping, operation or maintenance of any  
24 juvenile detention facility, or injuries resulting from the escape

1 of a juvenile detainee, or injuries by a juvenile detainee to any  
2 other juvenile detainee;

3       27. Any claim or action based on the theory of manufacturer's  
4 products liability or breach of warranty, either expressed or  
5 implied;

6       28. Any claim or action based on the theory of indemnification  
7 or subrogation; provided, however, a political subdivision as  
8 defined in subparagraph s of paragraph ~~11~~ 12 of Section 152 of this  
9 title may enter into a contract with a contract operator or any  
10 railroad operating in interstate commerce that sells a property  
11 interest or provides services to a regional transportation

12 authority, or allows the regional transportation authority to use  
13 the railroad's property or tracks for the provision of public  
14 passenger rail service, providing for the allocation of financial  
15 responsibility, indemnification, or the procurement of insurance for  
16 the parties for all types of claims or damages, provided that funds  
17 have been appropriated to cover the resulting contractual obligation  
18 at the time the contract is executed. The acquisition of commercial  
19 liability insurance to cover the activities of the regional  
20 transportation authority, contract operator or railroad shall not  
21 operate as a waiver of any of the liabilities, immunities or  
22 defenses provided for political subdivisions pursuant to the  
23 provisions of The Governmental Tort Claims Act. A contract entered  
24 into under this paragraph shall not affect rights of employees under

1    the Federal ~~Employers~~ Employers' Liability Act or the ~~Federal~~  
2    Railway Labor Act;

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

5        30. Acts or omissions done in conformance with then current  
6    recognized standards;

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

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

17       33. Any court-ordered community sentence;

18       34. Remedial action and any subsequent related maintenance of  
19   property pursuant to and in compliance with an authorized  
20   environmental remediation program, order, or requirement of a  
21   federal or state environmental agency;

22       35. The use of necessary and reasonable force by a school  
23   district employee to control and discipline a student during the  
24

1 time the student is in attendance or in transit to and from the  
2 school, or any other function authorized by the school district;

3       36. Actions taken in good faith by a school district employee  
4 for the out-of-school suspension of a student pursuant to applicable  
5 Oklahoma Statutes; ~~or~~

6       37. Use of a public facility opened to the general public  
7 during an emergency;

8       38. Flooding, backups, or stoppages of storm sewers or sanitary  
9 sewers that are caused by unordinary rainfall events, considering  
10 duration and intensity of the rainfall events, that result in flows  
11 that exceed the design capacity of the sewer system;

12       39. Sanitary sewer overflows that have occurred on lines within  
13 the sanitary sewer system where no report of a blockage, backup, or  
14 overflow has been made to the political subdivision or utility  
15 operator within the preceding three (3) years; or

16       40. A sanitary sewer overflow occurring on private property,  
17 provided that the utility operator is in compliance with Section 1  
18 of this act. This paragraph shall not apply to claims for loss of  
19 property.

20       SECTION 5. This act shall become effective November 1, 2025.

21 COMMITTEE REPORT BY: COMMITTEE ON ENERGY  
22 March 6, 2025 - DO PASS AS AMENDED BY CS