An Act

ENROLLED SENATE
BILL NO. 1373

By: Crain and Johnson
(Constance) of the Senate

and

Schwartz of the House

An Act relating to public health; creating the Oklahoma Plan for Comprehensive Treatment of Chronic Obstructive Pulmonary Disease Act; providing short title; directing the State Department of Health to create a COPD state plan; permitting the Department to use certain existing plans; specifying content of certain plan; approving the creation of the Oklahoma Health Information Exchange Trust; naming beneficiary; making certain approval contingent upon specified conditions; specifying requirement of certain approved declaration of trust; requiring creation of certain advisory board; providing for membership of certain advisory board; specifying membership of the trust; providing for terms of trustees; providing for inclusion of the trust under the Governmental Tort Claims Act; providing for certain immunity; amending 60 O.S. 2001, Section 178, which relates to trustees; providing for exception to certain requirement; 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 1-450 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Oklahoma Plan for Comprehensive Treatment of Chronic Obstructive Pulmonary Disease Act".

B. The State Department of Health shall create a comprehensive chronic obstructive pulmonary disease (COPD) state plan that outlines sustainable solutions for reducing the burden of COPD in Oklahoma through the coordinated implementation of multiple strategies. The Department may utilize existing plans developed by advocacy organizations as a cost-saving means of developing such strategies. These strategies shall include, without limitation, recommendations for:

1. The prevention and early detection of COPD to reduce the incidence of disease;

2. The treatment and management of COPD to ensure that health care providers offer state-of-the-art care;

3. Increasing public awareness, patient education and proper medical management of COPD among the general public and those living with COPD; and

4. Improving COPD outcomes in Oklahoma through increases in COPD funding and resources as well as ongoing effective advocacy by government leaders and people with COPD.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-132 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The state expressly approves the creation of a public trust to be named the "Oklahoma Health Information Exchange Trust", also known as "OHIET", of which the state shall be the beneficiary; provided, however, such approval shall be contingent upon satisfaction of the following conditions:

1. Finalizing the declaration of trust;

2. Adoption of the declaration of trust by an official action of the trustees of OHIET; and

3. Submission of OHIET for acceptance of the beneficial interest and approval as required by Section 177 of Title 60 of the Oklahoma Statutes.

B. The approved declaration of trust shall:

1. Specify that OHIET shall be created as a public trust pursuant to Section 176 et seq. of Title 60 of the Oklahoma Statutes and shall have the same rights, responsibilities, and attributes as any public trust created under such laws;

2. Specify that the primary purpose of OHIET shall be to:

a. serve as Oklahoma's "Qualified State-Designated Entity" for purposes of any grants awarded pursuant to 42 U.S.C., Section 300jj-33 for purposes of facilitating and expanding the electronic movement and use of health information among organizations according to nationally recognized standards, and

b. promote, develop, and sustain electronic health information exchanges at the state level; and

3. To the extent required by law, specify the adoption of bylaws and rules for the due and orderly administration and regulation of affairs of OHIET, which shall require approval in accordance with the provisions of the Administrative Procedures Act.

C. The approved declaration of trust shall also require the trustees of OHIET to establish an advisory board which shall make recommendations to the trustees. The advisory board shall include in its membership representatives of:

1. Health care providers, including providers that provide services to low income and underserved populations;

2. Health plans;

3. Patient or consumer organizations that represent the population to be served;

4. Health information technology vendors;

5. Health care purchasers and employers;

6. Public health agencies;

7. Health professions schools, universities, and colleges;

8. Clinical researchers;

9. Other users of health information technology, such as the support and clerical staff of providers and others involved in the care and care coordination of patients; and

10. Such other entities as may be determined appropriate by the Secretary of Health and Human Services pursuant to 42 U.S.C., Section 300jj-33.

D. OHIET shall have seven (7) trustees, three of which shall be appointed by the Governor, two of which shall be appointed by the President Pro Tempore of the Senate, and two of which shall be appointed by the Speaker of the House of Representatives.

E. The terms of the trustees shall be as follows:

1. Of the trustees first appointed, one member appointed by the Governor shall be appointed for a term of one (1) year, one member appointed by the President Pro Tempore of the Senate shall be appointed for a term of two (2) years, one member appointed by the Speaker of the House of Representatives shall be appointed for a term of three (3) years, one member appointed by the Governor shall be appointed for a term of four (4) years, one member appointed by the President Pro Tempore of the Senate shall be appointed for a term of five (5) years, one member appointed by the Speaker of the House of Representatives shall be appointed for a term of (5) years, and one member appointed by the Governor shall be appointed for a term of five (5) years; and

2. At the expiration of the term of each member and of each succeeding member, the entity who originally appointed such member shall appoint a successor who shall serve for a term of five (5) years. Whenever a vacancy on the trust occurs, the entity who

originally appointed such member shall fill the same by appointment and the appointee shall hold office during the unexpired term. Each member shall hold office until the member's successor has been appointed and qualified.

F. The provisions of the Governmental Tort Claims Act shall apply to OHIET as a state-beneficiary public trust created pursuant to state law. OHIET shall also be immune from liability relating to the accuracy or completeness of any information submitted by a third party to any health information exchange operated by OHIET.

SECTION 3. AMENDATORY 60 O.S. 2001, Section 178, is amended to read as follows:

Section 178. A. The instrument or will creating such trust may provide for the appointment, succession, powers, duties, term, manner of removal and compensation of the trustee or trustees subject to the provisions of subsections C and E of this section, and in all such respects the terms of said instrument or will shall be controlling. Trustees, who are public officers, shall serve without compensation, but may be reimbursed for actual expenses incurred in the performance of their duties as trustees. If the said instrument or will makes no provisions in regard to any of the foregoing, then the general laws of the state shall control as to such omission or omissions. Every person hereafter becoming a trustee of a public trust first shall take the oath of office required of an elected public officer and every officer and employee who handles funds of a public trust shall furnish a good and sufficient fidelity bond in an amount and with surety as may be specified and approved by the persons constituting a majority of each of the governing bodies of the beneficiaries of the trust, such bond to be in a surety company authorized to transact surety business in the State of Oklahoma but in no event shall any bond be required of a trustee. The cost of said bond shall be paid from funds of the trust authority. The oaths of office shall be administered by any person authorized to administer oaths in the State of Oklahoma, and shall be filed with the Secretary of State in trusts wherein the State of Oklahoma is the beneficiary; in the office of the county clerk in a trust wherein any county is beneficiary; and in the office of the clerk of the municipality in a trust wherein any municipality is the beneficiary.

B. ~~Any~~ Unless otherwise specified in another state law authorizing the creation of a state-beneficiary public trust, any public trust that hereafter names the State of Oklahoma as the beneficiary shall have five (5) trustees appointed by the Governor of the State of Oklahoma with the advice and consent of the Senate. The terms of the trustees shall be as follows: of the trustees first appointed, one member shall be appointed for a term of one (1) year; one member shall be appointed for a term of two (2) years; one member shall be appointed for a term of three (3) years; one member shall be appointed for a term of four (4) years; and one member shall be appointed for a term of five (5) years. At the expiration of the term of each member and of each succeeding member, the Governor shall appoint a successor who shall serve for a term of five (5) years. Whenever a vacancy on such trust shall occur by death, resignation or otherwise, the Governor shall fill the same by appointment and the appointee shall hold office during the unexpired term. Each member shall hold office until his successor has been appointed and qualified.

C. Any instrument or will creating a trust which is not within the scope of subsection B of this section shall provide for the appointment of a minimum of three trustees, their succession, powers, duties, term, manner of removal and compensation subject to the provisions of subsection E of this section, and in all such respects the terms of said instrument or will shall be controlling. If the instrument or will makes no provision in regard to any of the foregoing, then the general laws of the state shall control as to the omissions.

D. Meetings of trustees of all public trusts shall be open to the public to the same extent as is required by law for other public boards and commissions. Such meetings shall also be open to the press and any such equipment deemed necessary by the press to record or report the activities of the meetings. In such trusts wherein the State of Oklahoma is the beneficiary, a written notice of trustees' meetings shall be filed with the office of the Secretary of State at least three (3) days prior to the meeting date. Records of the trust and minutes of the trust meetings of any public trust shall be written and kept in a place, the location of which shall be recorded in the office of the county clerk of each county, wherein the trust instrument shall be recorded. Such records and minutes shall be available for inspection by any person during regular

business hours. Every trust created under Sections 176 et seq. of this title shall file a monthly report of all expenditures of bond proceeds with the governing body of each beneficiary and with the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate in the case of a public trust having the State of Oklahoma as beneficiary.

E. Trustees of any public trust may be removed from office for cause, including incompetency, neglect of duty, or malfeasance in office, by a district court having jurisdiction. In the case of persons appointed by the Governor, such persons shall be appointed for terms not in excess of five (5) years, and shall be subject to removal for cause. In the event of removal of a trustee under this subsection, a successor trustee shall be appointed as provided in the trust instrument. Provided, however, in the event a trustee is so removed who is also a member of the governing board of a municipal beneficiary, the successor trustee shall be appointed by the judge of the court wherein the removal occurred; said successor trustee shall serve only until the removed trustee ceases to serve as a member of the governing board of the municipal beneficiary and his successor on said board has qualified.

F. The provisions of this section shall be inapplicable to any public trust created and existing prior to July 1, 1988, if the instrument or will creating such public trust shall have been held to be a valid and binding agreement in an opinion of the Supreme Court of the State of Oklahoma; and nothing in this section shall impair or be deemed to impair the trust indenture or existing or future obligations of such public trust.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 25th day of May, 2010.

Presiding Officer of the Senate

Passed the House of Representatives the 27th day of May, 2010.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Governor this 28th
day of May, 20 10,
at 6:25 **o'clock** P **M.**

By:

Approved by the Governor of the State of Oklahoma the 7th **day of**
June, 20 10, **at** 11:03 **o'clock** P **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this
8th **day of** June, 20 10,
at 4:38 **o'clock** P. **M.**

By: