

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 55th Legislature (2016)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1039

By: Loring

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8 COMMITTEE SUBSTITUTE

9 An Act relating to corporations; enacting the
10 Oklahoma Benefit Corporation Act; stating
11 applicability; stating resolution for conflicting
12 laws; prohibiting inconsistent provisions in the
13 certificate or bylaws; defining terms; requiring
14 benefit corporation to comply with the Oklahoma
15 General Corporation Act; prescribing statement for
16 certificate of incorporation; providing for
17 certificate amendment to become benefit corporation;
18 requiring minimum vote for amendment; mandating
19 minimum vote for merger, consolidation, or
20 conversion; providing exception; allowing certificate
21 amendment to terminate status as benefit corporation;
22 requiring minimum vote for amendment; providing
23 exception; mandating minimum vote for sale or
24 disposition of all assets; directing benefit
 corporation to have a purpose; authorizing
 certificate to identify purpose; permitting
 certificate amendment to change purpose; requiring
 minimum vote for amendment; construing provision;
 listing duties for benefit corporation directors;
 limiting personal liability for directors; exempting
 director duty to individual beneficiary; clarifying
 good-faith standard for benefit corporation director;
 listing board composition; outlining benefit director
 position and duties; directing election of benefit
 director in manner prescribed; requiring benefit
 director to be independent; providing exception;
 permitting dual service; allowing additional
 qualifications of benefit director; requiring benefit
 director to prepare annual benefit report; specifying

1 contents of report; limiting liability of benefit
2 director; providing exception; listing duties for
3 benefit corporation officers; limiting personal
4 liability of officers; exempting officer duty to
5 individual beneficiary; specifying good-faith
6 standard for officers; authorizing designation of
7 benefit officer; providing powers and duties of
8 benefit officer; prohibiting actions against a
9 benefit corporation or its directors or officers;
10 providing exception; excluding money damages for
11 failure to pursue or create benefit; specifying
12 conditions for benefit enforcement proceeding;
13 specifying contents of annual benefit report;
14 providing for inclusion of certain correspondence;
15 exempting audit requirement; directing report to be
16 sent to each shareholder; prescribing timing for
17 report; mandating report to be posted on website;
18 allowing omission of proprietary information;
19 clarifying procedure if there is not a website;
20 directing delivery of report to Secretary of State
21 for filing; permitting omission of information;
22 providing for filing fee; providing for codification;
23 and providing an effective date.

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

16 SECTION 1. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1201 of Title 18, unless there
18 is created a duplication in numbering, reads as follows:

19 A. This act shall be known and may be cited as the "Oklahoma
20 Benefit Corporation Act". This act shall be applicable to all
21 benefit corporations.

22 B. The existence of a provision of this act shall not of itself
23 create an implication that a contrary or different statute or rule
24 is applicable to a corporation that is not a benefit corporation.

1 This act shall not affect a statute or rule that is applicable to a
2 corporation that is not a benefit corporation.

3 C. Except as otherwise provided in this act, the Oklahoma
4 General Corporation Act shall be generally applicable to all benefit
5 corporations. A benefit corporation may be subject simultaneously
6 to this act and the Oklahoma General Corporation Act, Professional
7 Entity Act, and other applicable business formation statutes;
8 however, the provisions of this act shall control over the
9 provisions of the Oklahoma General Corporation Act, Professional
10 Entity Act, and other applicable business formation statutes where
11 there is a conflict.

12 D. A provision of the certificate of incorporation or bylaws of
13 a benefit corporation shall not limit, be inconsistent with, or
14 supersede a provision of this act.

15 SECTION 2. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 1202 of Title 18, unless there
17 is created a duplication in numbering, reads as follows:

18 As used in the Oklahoma Benefit Corporation Act:

- 19 1. "Benefit corporation" means a corporation:
- 20 a. that has elected to become subject to the Oklahoma
21 Benefit Corporation Act, and
 - 22 b. the status of which as a benefit corporation has not
23 been terminated;

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1 2. "Benefit director" means the director designated as the
2 benefit director of a benefit corporation under Section 8 of this
3 act;

4 3. "Benefit enforcement proceeding" means any claim or action
5 or proceeding for:

6 a. failure of a benefit corporation to pursue or create
7 general public benefit or a specific public benefit
8 purpose set forth in its certificate, or

9 b. violation of any obligation, duty, or standard of
10 conduct under this act;

11 4. "Benefit officer" means the individual designated as the
12 benefit officer of a benefit corporation under Section 10 of this
13 act;

14 5. "General public benefit" means a material positive impact on
15 society and the environment, taken as a whole, assessed against a
16 third-party standard, from the business and operations of a benefit
17 corporation;

18 6. "Independent" means having no material relationship with a
19 benefit corporation or a subsidiary of the benefit corporation.
20 Serving as benefit director or benefit officer does not make an
21 individual not independent. A material relationship between an
22 individual and a benefit corporation or any of its subsidiaries will
23 be conclusively presumed to exist if any of the following apply:

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- 1 a. the individual is, or has been within the last three
2 (3) years, an employee other than a benefit officer of
3 the benefit corporation or a subsidiary,
4 b. an immediate family member of the individual is, or
5 has been within the last three (3) years, an executive
6 officer other than a benefit officer of the benefit
7 corporation or a subsidiary, or
8 c. there is beneficial or record ownership of five
9 percent (5%) or more of the outstanding shares of the
10 benefit corporation, calculated as if all outstanding
11 rights to acquire equity interests in the benefit
12 corporation had been exercised, by:
13 (1) the individual, or
14 (2) an entity:
15 (a) of which the individual is a director, an
16 officer, or a manager, or
17 (b) in which the individual owns beneficially or
18 of record five percent (5%) or more of the
19 outstanding equity interests, calculated as
20 if all outstanding rights to acquire equity
21 interests in the entity had been exercised;

22 7. "Minimum status vote" means:
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1 a. in the case of a business corporation, in addition to
2 any other required approval or vote, the satisfaction
3 of the following conditions:

4 (1) the shareholders of every class or series shall
5 be entitled to vote as a class on the corporate
6 action regardless of a limitation stated in the
7 certificate of incorporation or bylaws on the
8 voting rights of any class or series, and

9 (2) the corporate action shall be approved by the
10 affirmative vote of the shareholders of each
11 class or series entitled to cast at least two-
12 thirds of the votes that all shareholders of the
13 class or series are entitled to cast on the
14 action,

15 b. in the case of a domestic entity other than a
16 corporation, in addition to any other required
17 approval, vote, or consent, the satisfaction of the
18 following conditions:

19 (1) the holders of every class or series of equity
20 interest in the entity that are entitled to
21 receive a distribution of any kind from the
22 entity shall be entitled to vote on or consent to
23 the action regardless of any otherwise applicable
24

1 limitation on the voting or consent rights of any
2 class or series, and

3 (2) the action shall be approved by the affirmative
4 vote or consent of the holders described in
5 division (1) of this subparagraph entitled to
6 cast at least two-thirds of the votes or consents
7 that all of those holders are entitled to cast on
8 the action;

9 8. "Publicly traded corporation" means a corporation that has
10 shares listed on a national securities exchange or traded in a
11 market maintained by one or more members of a national securities
12 association;

13 9. "Specific public benefit" includes:

- 14 a. providing low-income or underserved individuals or
15 communities with beneficial products or services,
- 16 b. promoting economic opportunity for individuals or
17 communities beyond the creation of jobs in the normal
18 course of business,
- 19 c. protecting or restoring the environment,
- 20 d. improving human health,
- 21 e. promoting the arts, sciences, or advancement of
22 knowledge,
- 23 f. increasing the flow of capital to entities with a
24 purpose to benefit society or the environment, and

1 g. conferring any other particular benefit on society or
2 the environment;

3 10. "Subsidiary" means in relation to a person, an entity in
4 which the person owns beneficially or of record fifty percent (50%)
5 or more of the outstanding equity interests, calculated as if all
6 outstanding rights to acquire equity interests in the entity had
7 been exercised; and

8 11. "Third-party standard" means a recognized standard for
9 defining, reporting, and assessing corporate social and
10 environmental performance that is:

11 a. comprehensive because it assesses the effects of the
12 business and its operations upon the interests listed
13 in subparagraphs b, c, d, and e of paragraph 1 of
14 subsection A of Section 7 of this act,

15 b. developed by an entity that is not controlled by the
16 benefit corporation,

17 c. credible because it is developed by an entity that
18 both:

19 (1) has access to necessary expertise to assess
20 overall corporate social and environmental
21 performance, and

22 (2) uses a balanced multi-stakeholder approach to
23 develop the standard, including a reasonable
24 public comment period,

1 d. transparent because the following information is
2 publicly available:

3 (1) about the standard:

4 (a) the criteria considered when measuring the
5 overall social and environmental performance
6 of a business, and

7 (b) the relative weightings, if any, of those
8 criteria, and

9 (2) about the development and revision of the
10 standard:

11 (a) the identity of the directors, officers,
12 material owners, and the governing body of
13 the entity that developed and controls
14 revisions to the standard,

15 (b) the process by which revisions to the
16 standard and changes to the membership of
17 the governing body are made, and

18 (c) an accounting of the revenue and sources of
19 financial support for the entity, with
20 sufficient detail to disclose any
21 relationships that could reasonably be
22 considered to present a potential conflict
23 of interest.
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1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1203 of Title 18, unless there
3 is created a duplication in numbering, reads as follows:

4 A benefit corporation shall be incorporated in accordance with
5 the Oklahoma General Corporation Act pursuant to Section 1005 of
6 Title 18 of the Oklahoma Statutes, but its certificate of
7 incorporation shall also state that it is a benefit corporation.

8 SECTION 4. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1204 of Title 18, unless there
10 is created a duplication in numbering, reads as follows:

11 A. An existing business corporation may become a benefit
12 corporation under the Oklahoma Benefit Corporation Act by amending
13 its certificate of incorporation so that it contains, in addition to
14 the requirements of Section 1006 of Title 18 of the Oklahoma
15 Statutes, a statement that the corporation is a benefit corporation.
16 In order to be effective, the amendment shall be adopted by at least
17 the minimum status vote.

18 B. 1. Except as provided in paragraph 2 of this subsection, if
19 a domestic entity that is not a benefit corporation is a party to a
20 merger, consolidation, or conversion and the surviving, new, or
21 resulting entity in the merger, consolidation, or conversion is to
22 be a benefit corporation, the plan of merger, consolidation, or
23 conversion shall be adopted or approved by the domestic entity by at
24 least the minimum status vote.

1 2. Paragraph 1 of this subsection shall not apply in the case
2 of a corporation that is a party to a merger, consolidation, or
3 conversion if the shareholders of the corporation are not entitled
4 to vote on the merger, consolidation or conversion.

5 SECTION 5. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 1205 of Title 18, unless there
7 is created a duplication in numbering, reads as follows:

8 A. A benefit corporation may terminate its status and cease to
9 be subject to the Oklahoma Benefit Corporation Act by amending its
10 certificate of incorporation to delete the provision required by
11 Sections 3 and 4 of this act to be stated in the certificate of a
12 benefit corporation. In order to be effective, the amendment shall
13 be adopted by at least the minimum status vote.

14 B. 1. Except as provided in paragraph 2 of this subsection, if
15 a plan of merger, consolidation, or conversion would have the effect
16 of terminating the status of a business corporation as a benefit
17 corporation, the plan shall be adopted by at least the minimum
18 status vote in order to be effective.

19 2. Paragraph 1 of this subsection shall not apply in the case
20 of a corporation that is a party to a merger if the shareholders of
21 the corporation are not entitled to vote on the merger.

22 3. Any sale, lease, exchange, or other disposition of all or
23 substantially all of the assets of a benefit corporation, unless the
24 transaction is in the usual and regular course of business, shall

1 not be effective unless the transaction is approved by at least the
2 minimum status vote.

3 SECTION 6. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1206 of Title 18, unless there
5 is created a duplication in numbering, reads as follows:

6 A. A benefit corporation shall have a purpose of creating
7 general public benefit. This purpose is in addition to its purpose
8 under the Oklahoma General Corporation Act.

9 B. The certificate of incorporation of a benefit corporation
10 may identify one or more specific public benefits that it is the
11 purpose of the benefit corporation to create in addition to its
12 purposes under the Oklahoma General Corporation Act and subsection A
13 of this section. The identification of a specific public benefit
14 under this subsection does not limit the purpose of a benefit
15 corporation to create general public benefit under subsection A of
16 this section.

17 C. The creation of general public benefit and specific public
18 benefit under subsections A and B of this section shall be in the
19 best interests of the benefit corporation.

20 D. A benefit corporation may amend its certificate of
21 incorporation to add, amend, or delete the identification of a
22 specific public benefit that it is the purpose of the benefit
23 corporation to create. In order to be effective, the amendment
24 shall be adopted by at least the minimum status vote.

1 E. A professional corporation that is a benefit corporation
2 shall not violate the Professional Entity Act by having the purpose
3 to create general public benefit or a specific public benefit.

4 SECTION 7. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1207 of Title 18, unless there
6 is created a duplication in numbering, reads as follows:

7 A. In discharging the duties of their respective positions and
8 in considering the best interests of the benefit corporation, the
9 board of directors, committees of the board, and individual
10 directors of a benefit corporation:

11 1. Shall consider the effects of any action or inaction upon:

12 a. the shareholders of the benefit corporation,

13 b. the employees and work force of the benefit
14 corporation, its subsidiaries, and its suppliers,

15 c. the interests of customers as beneficiaries of the
16 general public benefit or specific public benefit
17 purposes of the benefit corporation,

18 d. community and societal factors, including those of
19 each community in which offices or facilities of the
20 benefit corporation, its subsidiaries, or its
21 suppliers are located,

22 e. the local and global environment,

23 f. the short-term and long-term interests of the benefit
24 corporation, including benefits that may accrue to the

1 benefit corporation from its long-term plans and the
2 possibility that these interests may be best served by
3 the continued independence of the benefit corporation,
4 and

5 g. the ability of the benefit corporation to accomplish
6 its general public benefit purpose and any specific
7 public benefit purpose; and

8 2. May consider other pertinent factors or the interests of any
9 other group that they deem appropriate; but

10 3. Need not give priority to a particular interest or factor
11 referred to in paragraphs 1 or 2 of this subsection over any other
12 interest or factor unless the benefit corporation has stated in its
13 certificate of incorporation its intention to give priority to
14 certain interests or factors related to the accomplishment of its
15 general public benefit purpose or of a specific public benefit
16 purpose identified in its certificate.

17 B. The consideration of interests and factors in the manner
18 provided by subsection A of this section:

19 1. Shall not constitute a violation of Section 1027 of Title 18
20 of the Oklahoma Statutes; and

21 2. Is in addition to the ability of directors to consider
22 interests and factors as provided in the Oklahoma General
23 Corporation Act.

1 C. Except as provided in the certificate of incorporation or
2 bylaws, a director is not personally liable for monetary damages
3 for:

- 4 1. Any action or inaction in the course of performing the
5 duties of a director under subsection A of this section if the
6 director performed the duties of office in compliance with Section
7 1027 of Title 18 of the Oklahoma Statutes and this section; or
- 8 2. Failure of the benefit corporation to pursue or create
9 general public benefit or specific public benefit.

10 D. A director shall not have a duty to a person that is a
11 beneficiary of the general public benefit purpose or a specific
12 public benefit purpose of a benefit corporation arising from the
13 status of the person as a beneficiary.

14 E. A director who makes a business judgment in good faith
15 fulfills the duty under this section if the director:

- 16 1. Is not interested in the subject of the business judgment;
- 17 2. Is informed with respect to the subject of the business
18 judgment to the extent the director reasonably believes to be
19 appropriate under the circumstances; and
- 20 3. Rationally believes that the business judgment is in the
21 best interests of the benefit corporation.

22 SECTION 8. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1208 of Title 18, unless there
24 is created a duplication in numbering, reads as follows:

1 A. The board of directors of a benefit corporation that is a
2 publicly traded corporation shall, and the board of any other
3 benefit corporation may, include a director, who:

4 1. Shall be designated the benefit director; and

5 2. Shall have, in addition to the powers, duties, rights, and
6 immunities of the other directors of the benefit corporation, the
7 powers, duties, rights, and immunities provided in the Oklahoma
8 Benefit Corporation Act.

9 B. The benefit director shall be elected, and may be removed,
10 in the manner provided by Section 1027 of Title 18 of the Oklahoma
11 Statutes. Except as provided in subsection F of this section, the
12 benefit director shall be an individual who is independent. The
13 benefit director may serve as the benefit officer at the same time
14 as serving as the benefit director. The certificate of
15 incorporation or bylaws of a benefit corporation may prescribe
16 additional qualifications of the benefit director not inconsistent
17 with this subsection.

18 C. The benefit director shall prepare, and the benefit
19 corporation shall include in the annual benefit report to
20 shareholders required by Section 12 of this act, the opinion of the
21 benefit director on all of the following:

22 1. Whether the benefit corporation acted in accordance with its
23 general public benefit purpose and any specific public benefit
24

1 purpose in all material respects during the period covered by the
2 report;

3 2. Whether the directors and officers complied with subsection
4 A of Section 7 and subsection A of Section 9 of this act,
5 respectively; and

6 3. If, in the opinion of the benefit director, the benefit
7 corporation or its directors or officers failed to act or comply in
8 the manner described in paragraphs 1 and 2 of this subsection, a
9 description of the ways in which the benefit corporation or its
10 directors or officers failed to act or comply.

11 D. The act or inaction of an individual in the capacity of a
12 benefit director shall constitute for all purposes an act or
13 inaction of that individual in the capacity of a director of the
14 benefit corporation.

15 E. Regardless of whether the certificate of incorporation or
16 bylaws of a benefit corporation include a provision eliminating or
17 limiting the personal liability of directors, a benefit director
18 shall not be personally liable for an act or omission in the
19 capacity of a benefit director unless the act or omission
20 constitutes self-dealing, willful misconduct, or a knowing violation
21 of law.

22 F. The benefit director of a professional corporation organized
23 under the Professional Entity Act does not need to be independent.

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1 SECTION 9. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1209 of Title 18, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Each officer of a benefit corporation shall consider the
5 interests and factors described in paragraph 1 of subsection A of
6 Section 7 of this act in the manner provided in paragraph 3 of
7 subsection A of Section 7 of this act if:

8 1. The officer has discretion to act with respect to a matter;
9 and

10 2. It reasonably appears to the officer that the matter may
11 have a material effect on the creation by the benefit corporation of
12 general public benefit or a specific public benefit identified in
13 the certificate of incorporation of the benefit corporation.

14 B. The consideration of interests and factors in the manner
15 provided in subsection A of this section shall not constitute a
16 violation of Section 1028 of Title 18 of the Oklahoma Statutes.

17 C. Except as provided in the certificate of incorporation or
18 bylaws, an officer shall not be personally liable for monetary
19 damages for:

20 1. An action or inaction as an officer in the course of
21 performing the duties of an officer under subsection A of this
22 section if the officer performed the duties of the position in
23 compliance with Section 1028 of Title 18 of the Oklahoma Statutes
24 and this section; or

1 2. Failure of the benefit corporation to pursue or create
2 general public benefit or specific public benefit.

3 D. An officer shall not have a duty to a person that is a
4 beneficiary of the general public benefit purpose or a specific
5 public benefit purpose of a benefit corporation arising from the
6 status of the person as a beneficiary.

7 E. An officer who makes a business judgment in good faith
8 fulfills the duty under this section if the officer:

9 1. Is not interested in the subject of the business judgment;

10 2. Is informed with respect to the subject of the business
11 judgment to the extent the officer reasonably believes to be
12 appropriate under the circumstances; and

13 3. Rationally believes that the business judgment is in the
14 best interests of the benefit corporation.

15 SECTION 10. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 1210 of Title 18, unless there
17 is created a duplication in numbering, reads as follows:

18 A. A benefit corporation may have an officer designated the
19 benefit officer.

20 B. A benefit officer shall have:

21 1. The powers and duties relating to the purpose of the
22 corporation to create general public benefit or specific public
23 benefit provided:

24 a. by the bylaws, or

1 b. absent controlling provisions in the bylaws, by
2 resolution or order of the board of directors; and

3 2. The duty to prepare the benefit report required by Section
4 12 of this act.

5 SECTION 11. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 1211 of Title 18, unless there
7 is created a duplication in numbering, reads as follows:

8 A. Except in a benefit enforcement proceeding, no person shall
9 bring an action or assert a claim against a benefit corporation or
10 its directors or officers with respect to:

11 1. Failure to pursue or create general public benefit or a
12 specific public benefit set forth in its certificate of
13 incorporation; or

14 2. Violation of an obligation, duty, or standard of conduct
15 under the Oklahoma Benefit Corporation Act.

16 B. A benefit corporation shall not be liable for monetary
17 damages under the Oklahoma Benefit Corporation Act for any failure
18 of the benefit corporation to pursue or create general public
19 benefit or a specific public benefit.

20 C. A benefit enforcement proceeding may be commenced or
21 maintained only:

22 1. Directly by the benefit corporation; or

23 2. Derivatively in accordance with Section 1126 of Title 18 of
24 the Oklahoma Statutes by:

- 1 a. a person or group of persons that owned beneficially
2 or of record at least two percent (2%) of the total
3 number of shares of a class or series outstanding at
4 the time of the act or omission complained of,
5 b. a director,
6 c. a person or group of persons that owned beneficially
7 or of record five percent (5%) or more of the
8 outstanding equity interests in an entity of which the
9 benefit corporation is a subsidiary at the time of the
10 act or omission complained of, or
11 d. other persons as specified in the certificate of
12 incorporation or bylaws of the benefit corporation.

13 D. For purposes of this section, a person is the beneficial
14 owner of shares or equity interests if the shares or equity
15 interests are held in a voting trust or by a nominee on behalf of
16 the beneficial owner.

17 SECTION 12. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 1212 of Title 18, unless there
19 is created a duplication in numbering, reads as follows:

20 A. A benefit corporation shall prepare an annual benefit report
21 including all of the following:

- 22 1. A narrative description of:
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1 a. the ways in which the benefit corporation pursued
2 general public benefit during the year and the extent
3 to which general public benefit was created,

4 b. both:

5 (1) the ways in which the benefit corporation pursued
6 a specific public benefit that the certificate of
7 incorporation states it is the purpose of the
8 benefit corporation to create, and

9 (2) the extent to which that specific public benefit
10 was created,

11 c. any circumstances that have hindered the creation by
12 the benefit corporation of general public benefit or
13 specific public benefit, and

14 d. the process and rationale for selecting or changing
15 the third-party standard used to prepare the benefit
16 report;

17 2. An assessment of the overall social and environmental
18 performance of the benefit corporation against a third-party
19 standard:

20 a. applied consistently with any application of that
21 standard in prior benefit reports, or

22 b. accompanied by an explanation of the reasons for:

23 (1) any inconsistent application, or
24

1 (2) the change to that standard from the one used in
2 the immediately prior report;

3 3. The name of the benefit director and the benefit officer, if
4 any, and the address to which correspondence to each of them may be
5 directed;

6 4. The compensation paid by the benefit corporation during the
7 year to each director in the capacity of a director;

8 5. The statement of the benefit director described in
9 subsection C of Section 8 of this act; and

10 6. A statement of any connection between the organization that
11 established the third-party standard, or its directors, officers or
12 any holder of five percent (5%) or more of the governance interests
13 in the organization, and the benefit corporation or its directors,
14 officers or any holder of five percent (5%) or more of the
15 outstanding shares of the benefit corporation, including any
16 financial or governance relationship which might materially affect
17 the credibility of the use of the third-party standard.

18 B. If, during the year covered by a benefit report, a benefit
19 director resigned from or refused to stand for reelection to the
20 position of benefit director, or was removed from the position of
21 benefit director, and the benefit director furnished the benefit
22 corporation with any written correspondence concerning the
23 circumstances surrounding the resignation, refusal, or removal, the
24 benefit report shall include that correspondence as an exhibit.

1 C. Neither the benefit report nor the assessment of the
2 performance of the benefit corporation in the benefit report
3 required by paragraph 2 of subsection A of this section needs to be
4 audited or certified by a third party.

5 SECTION 13. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 1213 of Title 18, unless there
7 is created a duplication in numbering, reads as follows:

8 A. A benefit corporation shall send its annual benefit report
9 to each shareholder on the earlier of:

10 1. One hundred twenty (120) days following the end of the
11 fiscal year of the benefit corporation; or

12 2. The same time that the benefit corporation delivers any
13 other annual report to its shareholders.

14 B. A benefit corporation shall post all of its benefit reports
15 on the public portion of its website, if any; but the compensation
16 paid to directors and financial or proprietary information included
17 in the benefit reports may be omitted from the benefit reports as
18 posted.

19 C. If a benefit corporation does not have a website, the
20 benefit corporation shall provide a copy of its most recent benefit
21 report, without charge, to any person that requests a copy, but the
22 compensation paid to directors and financial or proprietary
23 information included in the benefit report may be omitted from the
24 copy of the benefit report provided.

1 D. Concurrently with the delivery of the benefit report to
2 shareholders under subsection A of this section, the benefit
3 corporation shall deliver a copy of the benefit report to the
4 Secretary of State for filing, but the compensation paid to
5 directors and financial or proprietary information included in the
6 benefit report may be omitted from the benefit report as delivered
7 to the Secretary of State. The Secretary of State shall charge a
8 fee of One Hundred Dollars (\$100.00) for filing a benefit report.

9 SECTION 14. This act shall become effective November 1, 2016.

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11 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND CIVIL PROCEDURE,
12 dated 02/17/2016 - DO PASS, As Amended.

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