



***Mary Fallin***  
*Governor*

March 29, 2012

*Hand Delivery*

Zeke Campfield, reporter  
The Oklahoman

Re: Open Records Request on Affordable Care Act

Dear Mr. Campfield:

Enclosed on the attached compact disc are 51,029 pages of non-privileged documents responsive to your open records request regarding the *Affordable Care Act*.

This office reviewed all correspondence, briefings, presentations, and memorandums sent, received, and created by all levels of the Governor's office. After conducting a thorough legal review, this office asserted Open Records confidentiality on only thirty-one (31) documents consisting of one hundred (100) pages of materials. These thirty-one documents account for only two tenth of one percent (.2%) of the responsive documents and include but not limited to, executive privilege, deliberative process privilege, and attorney-client privilege. As you can see, very few documents fall within a privileged category and it has always been the practice of this administration to invoke privilege sparingly.

The Governor is firmly committed to the principles of transparent and open government. She also recognizes that there are limited circumstances where confidentiality of governmental documents is appropriate. These limited circumstances are commonly embodied in legal privileges that originate through the Constitution, Oklahoma Statutes, and judicial opinions. The legislature and judiciary carefully craft these privileges to provide for an appropriate level of access to governmental documents by the public.

As you know, Oklahoma's *Open Records Act* incorporates all Constitutional, statutory, and judicial privileges. In this document production, the Governor has invoked several legal privileges, including ones involving senior executive branch officials who are offering advice and counsel to the governor. These privileges are frequently referred to as the executive and deliberative process privileges. These executive privileges are grounded on Article 4 § 1 of the *Oklahoma Constitution* providing for separate and distinct branches of government.

These executive privileges are recognized by both the federal government and most states. For example, states specifically recognizing these privileges in court cases include; New Jersey, Maryland, Alaska, Pennsylvania, Ohio, Vermont, Delaware, California, Virginia, Kentucky, New Mexico, Colorado, Michigan, New York, Nevada, Texas, Arizona, Wisconsin, Illinois, North Carolina, Massachusetts, Wyoming and West Virginia.

Please feel free to contact me at (405) 522-8853 or Alex Weintz, Communications Director at (405) 522-8819 during business hours if you have any further questions.

Sincerely,



Steven K. Mullins  
General Counsel

Enclosures