

ENROLLED SENATE  
BILL NO. 581

By: Smith of the Senate

and

Settle of the House

An Act relating to duplicate sections; amending 3A O.S. 1991, Section 208.3, as last amended by Section 29 of Enrolled House Bill No. 1831 of the 1st Session of the 44th Oklahoma Legislature, which relates to the Oklahoma Breeding Development Fund Special Account; providing for forfeiture for certain reasons; providing for disposition of forfeited award monies; deleting limitation and expanding authorized expenditures from the Oklahoma Breeding Development Fund Special Account; deleting limitation concerning Oklahoma-bred stallion awards; adding prohibition on certain expenditures; amending 10 O.S. 1991, Section 1130, as amended by Section 4 of Enrolled Senate Bill No. 285 of the 1st Session of the 44th Oklahoma Legislature, which relates to children; deleting extraneous and outdated language relating to certain duties imposed by law on parents and legal custodians and termination of parental rights and other penalties; amending 22 O.S. 1991, Section 991c, as last amended by Section 2 of Enrolled House Bill No. 1727 of the 1st Session of the 44th Oklahoma Legislature, which relates to deferred judgment procedure; removing Highway Safety Division of the Oklahoma Department of Transportation as sole sponsor of victim's impact panel program; modifying amount of certain fee; amending 36 O.S. 1991, Section 1622, as amended by Section 6 of Enrolled House Bill No. 1605 of the 1st Session of the 44th Oklahoma Legislature, which relates to mortgages on real estate; limiting conditions under which a change or modification can be made to certain appraisals; requiring disclosure of modification to appraisal; amending 40 O.S. 1991, Section 1-210, as last amended by Section 21 of Enrolled House Bill No. 1198 of the 1st Session of the 44th Oklahoma Legislature, which relates to the definition of employment; correcting statutory reference; amending 57 O.S. 1991, Section 138, as amended by Section 5 of Enrolled House Bill No. 1767 of the 1st Session of the 44th Oklahoma Legislature, which relates to inmate class levels; deleting new prisoners being processed through the Lexington Assessment and Reception Center from automatic inclusion in class level 1; providing for the awarding of certain earned credits; amending 63 O.S. 1991, Section 1-1903,

as amended by Section 2 of Enrolled House Bill No. 1519 of the 1st Session of the 44th Oklahoma Legislature, which relates to the Nursing Home Care Act; exempting adult companion homes from the Nursing Home Care Act; amending 70 O.S. 1991, Section 6-101.40, as amended by Section 2 of Enrolled Senate Bill No. 130 of the 1st Session of the 44th Oklahoma Legislature, which relates to support employees; modifying definition of support employee; amending 70 O.S. 1991, Sections 16-110, 16-111, 16-115, 16-122 and 16-123, as amended by Sections 40, 41, 42, 43 and 44 of Enrolled House Bill No. 1744 of the 1st Session of the 44th Oklahoma Legislature, which relate to textbooks; clarifying language; deleting distribution of samples through depository; modifying procedures for requisition system; modifying stipulations concerning certain purchases of supplementary system; modifying provisions relating to the failure of a contractor to furnish certain textbooks under contract; eliminating certain reporting requirements; modifying certain recoveries; amending 74 O.S. 1991, Section 500.2, as amended by Section 4 of Enrolled House Bill No. 1209 of the 1st Session of the 44th Oklahoma Legislature, which relates to reimbursable expenses of state officers, employees and others; correcting certain agency names; authorizing the Department of Civil Emergency Management to enter into certain contracts and agreements; requiring certain expenses be paid directly to certain entities; limiting the cost for certain food and lodging; amending 74 O.S. 1991, Section 902, as last amended by Section 53 of Enrolled House Bill No. 1744 of the 1st Session of the 44th Oklahoma Legislature, which relates to the Oklahoma Public Employees Retirement System; modifying definition; providing refunds to certain members under certain conditions; repealing 3A O.S. 1991, Section 208.3, as last amended by Section 1 of Enrolled Senate Bill No. 341 of the 1st Session of the 44th Oklahoma Legislature, 10 O.S. 1991, Section 1130, as amended by Section 3 of Enrolled House Bill No. 1578 of the 1st Session of the 44th Oklahoma Legislature, 22 O.S. 1991, Section 991c, as last amended by Section 4 of Enrolled House Bill No. 1725 of the 1st Session of the 44th Oklahoma Legislature, 36 O.S. 1991, Section 1622, as amended by Section 1 of Enrolled House Bill No. 1130 of the 1st Session of the 44th Oklahoma Legislature, 40 O.S. 1991, Section 1-210, as amended by Section 3 of Enrolled Senate Bill No. 344 of the 1st Session of the 44th Oklahoma Legislature, 57 O.S. 1991, Section 138, as amended by Section 1 of Enrolled House Bill No. 1803 of the 1st Session of the 44th Oklahoma Legislature, 59 O.S. 1991, Section 137, as amended by Section 1 of Enrolled House Bill No. 1122 of the 1st Session of the 44th Oklahoma

Legislature, 63 O.S. 1991, Section 1-1903, as amended by Section 17 of Enrolled Senate Bill No. 108 of the 1st Session of the 44th Oklahoma Legislature, 70 O.S. 1991, Section 5-124, as last amended by Section 1 of Enrolled Senate Bill No. 408 of the 1st Session of the 44th Oklahoma Legislature, 70 O.S. 1991, Section 6-101.40, as amended by Section 1 of Enrolled House Bill No. 1069 of the 1st Session of the 44th Oklahoma Legislature, 70 O.S. 1991, Sections 16-110, 16-111, 16-115, 16-122 and 16-123, as amended by Sections 10, 11, 14, 19 and 20 of Enrolled House Bill No. 1298 of the 1st Session of the 44th Oklahoma Legislature, 74 O.S. 1991, Section 500.2, as amended by Section 1 of Enrolled House Bill No. 1798 of the 1st Session of the 44th Oklahoma Legislature and 74 O.S. 1991, Section 902, as last amended by Section 1 of Enrolled House Bill No. 1307 of the 1st Session of the 44th Oklahoma Legislature, which are duplicate sections; providing effective dates; and declaring an emergency.

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

SECTION 1. AMENDATORY 3A O.S. 1991, Section 208.3, as last amended by Section 29 of Enrolled House Bill No. 1831 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 208.3 A. There is hereby created in the State Treasury an agency special account for the Oklahoma Horse Racing Commission, to be designated the "Oklahoma Breeding Development Fund Special Account". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Commission for deposit in the fund pursuant to Section 205.6 of this title and from revenue received as breakage and from unclaimed pari-mutuel tickets. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Commission for the purposes specified in subsection B of this section. Expenditures from said fund shall be made upon vouchers prescribed by the State Treasurer and issued by the Commission against the Oklahoma Breeding Development Fund Special Account. Any person entitled to monies from the Oklahoma Breeding Development Fund Special Account as a purse supplement, stake, reward, or award, prior to receiving said monies, shall sign an affidavit stating that the horse involved complies with the requirements for the purse supplement, stake, reward, or award. Any person entitled to monies from the Oklahoma Breeding Development Fund Special Account as a purse supplement, stake, reward, or award ("awards"), will forfeit such monies if that person fails to comply with all requirements necessary for earning the awards. Further, any such person will forfeit such monies if, within one (1) year from the date of the race in which such award was earned, that person does not submit the state voucher for payment or for replacement in the event of an expired voucher, or if that person fails to submit all documentation required by the Oklahoma Horse Racing Commission. In such event, monies accrued from forfeiture will be returned to the Oklahoma

Breeding Development Fund for expenditure by the Commission for the purposes specified in subsection B of this section.

B. No monies shall be expended by the Commission from the Oklahoma Breeding Development Fund Special Account except for any of the following purposes:

1. To provide purse supplements to owners of Oklahoma-bred horses;

2. To provide stakes and rewards to be paid to the owners of the winning Oklahoma-bred horses in certain horse races;

3. To provide stallion awards to the owner of the Oklahoma stallion which is the sire of an Oklahoma-bred horse if such a horse wins any race conducted at a race meeting. ~~Such award shall not be paid to the owner of an Oklahoma stallion that served outside this state at any time during the calendar year in which the winning Oklahoma-bred horse was conceived;~~

4. To provide breeders awards to the owner of the Oklahoma-registered mare which is the dam of an Oklahoma-bred horse if such a horse wins any race conducted at a race meeting;

5. To provide monies for equine research through state institutions accredited for the same; ~~and~~

6. To provide monies for use in marketing, promoting and advertising the Oklahoma-Bred Program and the Oklahoma horse racing industry to the people of Oklahoma, the United States and abroad;  
and

7. To provide for the administration of the Oklahoma Breeding Development Program. The cost of administration of this subsection shall not exceed five percent (5%) of the prior year's receipts. All expenses reimbursed as administrative pursuant to this subsection shall be itemized and audited pursuant to subsection E of this section. Any monies transferred from the Oklahoma Breeding Development Fund Special Account to the Oklahoma Breeding Development Revolving Fund for administrative reimbursement found to be unsubstantiated, excessive or ineligible for reimbursement by said audit shall be returned to the Oklahoma Breeding Development Fund Special Account within thirty (30) days of the conclusion of the audit.

C. By rule and regulation the Commission shall:

1. Define the term Oklahoma-bred horse;

2. Qualify stallions for participation in Oklahoma-bred stallion awards. ~~Such stallion must not stand for service at any place outside Oklahoma during the calendar year in which the foal is conceived;~~

3. Provide for the registration of Oklahoma-domiciled mares and stallions and Oklahoma-bred horses. No such horse shall compete in the races limited to Oklahoma-bred horses unless registered with the Commission. The Commission may prescribe such forms as are necessary to determine the eligibility of such horses; provided, breeding stallions shall be eligible for registration in the Oklahoma-bred breeding program until July 1 of the breeding year. No person shall knowingly prepare or cause preparation of an application for registration of such foals which contains false information;

4. Establish a schedule of fees for the registration of Oklahoma-domiciled mares and stallions and Oklahoma-bred horses sufficient to provide for all expenses incurred in the administration of the Oklahoma Breeding Development Fund Special Account; and

5. Allow a mare registered as Oklahoma-bred racing stock which has not been registered as an Oklahoma broodmare prior to foaling to be registered as an Oklahoma broodmare upon payment of the

registration fee and a late fee not to exceed Two Hundred Dollars (\$200.00), which action shall entitle the foals of the mare to be registered as Oklahoma-bred horses provided all other qualifications of the Commission are met.

D. The Commission may contract with and designate an official registering agency to implement the registration of horses and the payment of awards from the Oklahoma Breeding Development Fund Special Account. The official registering agency shall operate under the supervision of the Commission and be subject to the rules and regulations of the Commission. The official registering agency shall receive no compensation except fees received for registration of horses.

E. The State Auditor and Inspector shall audit the Oklahoma Breeding Development Fund Special Account on an annual basis. The expense of the audit shall be paid from said Special Account.

SECTION 2. AMENDATORY 10 O.S. 1991, Section 1130, as amended by Section 4 of Enrolled Senate Bill No. 285 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 1130. A. The finding that a child is delinquent, in need of supervision or deprived shall not deprive the parents of the child of their parental rights, but a court may terminate the rights of a parent to a child in the following situations:

1. Upon a written consent of a parent, including a parent who is a minor, acknowledged as provided in paragraph (4) of Section 60.5 of this title, who desires to terminate his parental rights; provided that the court finds that such termination is in the best interests of the child; or

2. A finding that a parent who is entitled to custody of the child has abandoned it; or

3. A finding that:

a. the child is deprived, as defined in this ~~chapter~~ title, and

b. such condition is caused by or contributed to by acts or omissions of ~~his~~ the parent, and

c. termination of parental rights is in the best interests of the child, and

d. the parent has failed to show that the condition which led to the making of said finding has not been corrected although the parent has been given three (3) months to correct the condition; provided, that the parent shall be given notice of any hearing to determine if the condition has been corrected. The court may extend the time in which such parent may show the condition has been corrected, if, in the judgment of the court, such extension of time would be in the best interest of the child. During the period that the parent has to correct the condition the court may return the child to the custody of its parent or guardian, subject to any conditions which it may wish to impose or the court may place the child with an individual or an agency; or

4. A finding that a parent who does not have custody of the child has willfully failed to contribute to the support of the child as provided in a decree of divorce or in some other court order during the preceding year or, in the absence of such order, consistent with the parent's means and earning capacity; provided, that the incarceration of a parent shall not prevent termination of parental rights under this section; or

5. A conviction in a criminal action pursuant to the provisions of Sections 843, 845, 1021.3, 1111 and 1123 of Title 21 of the Oklahoma Statutes or a finding in a deprived child action either that:

- a. the parent has physically or sexually abused the child or a sibling of such child or failed to protect the child or a sibling of such child from physical or sexual abuse that is heinous or shocking to the court or that the child or sibling of such child has suffered severe harm or injury as a result of such physical or sexual abuse, or
- b. the parent has physically or sexually abused the child or a sibling of such child or failed to protect the child or a sibling of such child from physical or sexual abuse subsequent to a previous finding that such parent has physically or sexually abused the child or a sibling of such child or failed to protect the child or a sibling of such child from physical or sexual abuse; or

6. A conviction in a criminal action that the parent has caused the death of a sibling of the child as a result of the physical or sexual abuse or chronic neglect of such sibling; or

7. A finding that all of the following exist:

- a. the child is deprived, as defined in this ~~chapter~~ title, and
- b. custody of the child has been placed outside the home of a natural or adoptive parent, guardian or extended family member, and
- c. the parent whose rights are sought to be terminated has been sentenced to a period of incarceration of not less than ten (10) years, and
- d. the continuation of parental rights would result in harm to the child based on consideration of the following factors, among others: the duration of incarceration and its detrimental effect on the parent/child relationship; any previous incarcerations; any history of criminal behavior, including crimes against children; the age of the child; the evidence of abuse or neglect of the child or siblings of the child by the parent; and the current relationship between the parent and the child and the manner in which the parent has exercised parental rights and duties in the past, and
- e. termination of parental rights is in the best interests of the child.

Provided, that the incarceration of a parent shall not in and of itself be sufficient to deprive a parent of his parental rights; or

8. A finding that all of the following exist:

- a. the child is deprived as defined in this ~~chapter~~ title, and
- b. custody of the child has been placed outside the home of a natural or adoptive parent, guardian or extended family member, and
- c. the parent whose rights are sought to be terminated has a mental illness or mental deficiency, as defined by ~~paragraphs f and g of Article II of~~ Section 6-201 of Title 43A of the Oklahoma Statutes, which renders the parent incapable of adequately and appropriately exercising parental rights, duties and responsibilities, and

- d. the continuation of parental rights would result in harm or threatened harm to the child, and
- e. the mental illness or mental deficiency of the parent is such that it will not respond to treatment, therapy or medication and, based upon competent medical opinion, the condition will not substantially improve, and
- f. termination of parental rights is in the best interests of the child.

Provided, a finding that a parent has a mental illness or mental deficiency shall not in and of itself deprive the parent of his parental rights.

~~B. Unless otherwise provided for by law, any parent or legal custodian of a child who willfully omits or neglects, without lawful excuse, to perform any duty imposed upon such parent or legal custodian by law to furnish necessary food, clothing, shelter or medical attendance for such child, upon conviction, is guilty of a misdemeanor. As used in this section, the duty to furnish medical attention shall mean that the parent or legal custodian of a child must furnish medical treatment in such manner and on such occasions as an ordinarily prudent person, solicitous for the welfare of a child, would provide; such parent or legal custodian is not criminally liable for failure to furnish medical attendance for every minor or trivial complaint with which the child may be afflicted. Any person who leaves the state to avoid providing necessary food, clothing, shelter or medical attendance for such child, upon conviction, is guilty of a felony and shall be punished by imprisonment in the State Penitentiary for a period not exceeding one (1) year. Nothing in this section shall be construed to mean a child is endangered for the sole reason the parent or guardian, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination for the treatment or cure of disease or remedial care of such child; provided, that medical care shall be provided where permanent physical damage could result to such child; and that the laws, rules and regulations relating to communicable diseases and sanitary matters are not violated. Nothing contained herein shall prevent a court from immediately assuming custody of a child and ordering whatever action may be necessary, including medical treatment, to protect his health or welfare. Psychiatric and psychological testing and counseling are exempt from the provisions of this act.~~

~~C.~~ An order directing the termination of parental rights is a final appealable order.

~~D.~~ C. A parent or guardian of a child may petition the court to terminate the parental rights of a parent or the parents of a child for any of the grounds listed in paragraphs 1, 2 or 4 of subsection A of this section. A prior finding by a court that a child is delinquent, deprived or in need of supervision shall not be required for the filing of such petition by the parent or guardian.

SECTION 3. AMENDATORY 22 O.S. 1991, Section 991c, as last amended by Section 2 of Enrolled House Bill No. 1727 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 991c. A. Upon a verdict or plea of guilty or upon a plea of nolo contendere, but before a judgment of guilt, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings and place the defendant on probation under the supervision of the State Department of Corrections upon the conditions of probation prescribed by the

court. The court shall first consider restitution, administered in accordance with the provisions pertaining thereto, among the various conditions of probation it may prescribe. The court may also consider ordering the defendant to engage in a term of community service without compensation, according to a schedule consistent with the employment and family responsibilities of the defendant. Further, the court may order the defendant confined to the county jail for a period not to exceed ninety (90) days to be served in conjunction with probation. Further, the court may order the defendant to pay a sum into the court fund not to exceed the amount of fine authorized for the offense alleged against the defendant or authorized under Section 9 of Title 21 of the Oklahoma Statutes and an amount for reasonable attorney fee, to be paid into the court fund, if a court-appointed attorney has been provided to defendant.

B. In addition to any conditions of probation provided for in subsection A of this section, the court may, in the case of a person before the court for the offense of operating or being in control of a motor vehicle while the person was under the influence of alcohol, other intoxicating substance, or a combination of alcohol and another intoxicating substance, before the court for the offense of operating a motor vehicle while the ability of the person to operate such vehicle was impaired due to the consumption of alcohol, require such person to participate in one or both of the following:

1. An alcohol and drug substance abuse course, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes; and

2. A victims impact panel program ~~sponsored by the Highway Safety Division of the Oklahoma Department of Transportation~~, if such a program is offered in the county where the judgment is rendered, and to pay a fee, not ~~to exceed~~ less than Five Dollars (\$5.00) nor more than Fifteen Dollars (\$15.00) as set by the governing authority of the program and approved by the court, to the victims impact panel program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee.

C. Upon completion of the probation term, which probation term under this procedure shall not exceed five (5) years, the defendant shall be discharged without a court judgment of guilt, and the verdict or plea of guilty or plea of nolo contendere shall be expunged from the record and said charge shall be dismissed with prejudice to any further action. The procedure to expunge the defendant's record shall be as follows:

1. All references to the defendant's name shall be deleted from the docket sheet;

2. The public index of the filing of the charge shall be expunged by deletion, mark-out or obliteration;

3. Upon expungement, the court clerk shall keep a separate confidential index of case numbers and names of defendants which have been obliterated pursuant to the provisions of this section;

4. No information concerning the confidential file shall be revealed or released, except upon written order of a judge of the district court; and

5. Defendants qualifying under Section 18 of this title may petition the court to have the filing of the indictment and the dismissal expunged from the public index and docket sheet. This section shall not be mutually exclusive of Section 18 of this title.

D. Upon order of the court, the provisions of subsection C of this section shall be retroactive to September 1, 1987.

E. Upon violation of the conditions of probation, the court may enter a judgment of guilt and proceed as provided in Section 991a of this title. Further, if the probation is for a felony offense, and

the defendant violates the conditions of probation by committing another felony offense, the defendant shall not be allowed bail pending appeal.

F. The deferred judgment procedure described in this section shall only apply to defendants not having been previously convicted of a felony.

G. The deferred judgement procedure described in this section shall not apply to defendants who plead guilty or nolo contendere to a sex offense.

Provided, for the purposes of this section, the term "sex offense" shall not include a violation of paragraph 1 of subsection A of Section 1021 of Title 21 of the Oklahoma Statutes.

SECTION 4. AMENDATORY 36 O.S. 1991, Section 1622, as amended by Section 6 of Enrolled House Bill No. 1605 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 1622. A. An insurer may invest any of its funds in bonds, notes or other evidences of indebtedness which are secured by first mortgages or deeds of trust upon improved, unencumbered real property located in the United States, or which are secured by first mortgages or deeds of trust upon leasehold estates having an expired term of not less than twenty-one (21) years, inclusive of the term which may be provided by an enforceable option of renewal, in improved, unencumbered real property located in the United States.

B. Real property shall not be deemed to be encumbered within the meaning of this section by reason of the existence of instruments reserving mineral, oil or timber rights, rights-of-way, sewer rights, rights in walls, nor by reason of any liens for taxes or assessments not delinquent, nor by reason of building restrictions or other restrictive covenants, nor when such real property is subject to lease under which rents or profits are reserved to the owner, if in any event the security for such loan is a first lien upon such real property and if there is no condition or right of reentry or forfeiture under which, in the case of real property other than leaseholds, such lien can be cut off, subordinated, or otherwise disturbed or under which, in the case of leaseholds, the insurer is unable to continue the lease in force for the duration of the loan.

C. No such mortgage loan or loans made or acquired by an insurer on any one property shall, at the time of investment by the insurer, exceed eighty percent (80%) of the value, or if the loan is for purchase money, the lesser of eighty percent (80%) of the value or purchase price of the real property or leasehold securing the same, except that such loan or loans may equal the amount of any guaranty by the United States of America or by any agency or instrumentality of the United States of America or by any private insurance company licensed as an authorized insurer by the Insurance Department of the State of Oklahoma to write mortgage insurance. Additionally, no single mortgage loan to any individual shall exceed four percent (4%) of the company's admitted assets, with no more than twenty-five percent (25%) of the company's admitted assets invested in total aggregate amount in mortgage loans. The calculation of admitted assets is based on the insurer's annual statement as of December 31 last preceding the date of investment, or as shown by a current financial statement on file with the Commissioner.

Mortgage loans made or acquired by an insurer prior to December 31, 1992, shall be in compliance with the limitation provided in this subsection for total aggregate investment of admitted assets in mortgage loans by December 31, 1997. Mortgage loans made or

acquired by an insurer on or after December 31, 1992, but prior to September 1, 1993, shall be in compliance with the limitations for investment of admitted assets in single mortgage loans to individuals and total aggregate investments of admitted assets in mortgage loans provided in this subsection by December 31, 1997. Insurers shall maintain accurate and adequate records reflecting the provisions of this section and submit such records with quarterly and annual statements.

D. No such mortgage loan or loans shall be made or acquired by an insurer except after an appraisal made by a qualified appraiser for the purpose of such investment. No change or modification shall be made to such appraisal by any mortgage underwriter unless such person is licensed or certified as an appraiser pursuant to the Oklahoma Certified Real Estate Appraisers Act or unless such person has been provided by the person who made the appraisal written consent to make the modification. Such modification shall be disclosed to the seller and buyer and/or the seller's agent.

E. No mortgage loan upon a leasehold shall be made or acquired pursuant to this section unless the terms thereof shall provide for amortization payments to be made by the borrower on the principal thereof at least once in each year in amounts sufficient completely to amortize the loan within a period of four-fifths (4/5) of the term of the leasehold, inclusive of the term which may be provided by an enforceable option of renewal, which is unexpired at the time the loan is made, but in no event exceeding thirty-five (35) years.

SECTION 5. AMENDATORY 40 O.S. 1991, Section 1-210, as last amended by Section 21 of Enrolled House Bill No. 1198 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 1-210. EMPLOYMENT. "Employment" means:

(1) Any service performed prior to January 1, 1972, which was employment as defined in this section, prior to such date, and subject to the other provisions of this section, service performed after December 31, 1971, including service in interstate commerce by:

- (a) any officer of a corporation;
- (b) any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an employee; or
- (c) any individual other than an individual who is an employee under subparagraphs (a) or (b) of this paragraph who performs services for remuneration for any person:
  - (i) as an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages other than milk, or laundry or dry cleaning services, for his principal;
  - (ii) as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal, except for sideline sales activities on behalf of some other person, of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants or other similar establishments for merchandise for resale or supplies for use in their business operations;
- (d) provided, that for purposes of subparagraph (c) of this paragraph, the term "employment" shall include

services described in divisions (i) and (ii) of subparagraph (c) above performed after December 31, 1971, if:

- (i) the contract of service contemplates that substantially all of the services are to be performed personally by such individual;
- (ii) the individual does not have a substantial investment in facilities used in connection with the performance of the services, other than in facilities for transportation; and
- (iii) the services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.

(2) Service performed after December 31, 1971, and prior to January 1, 1978, by an individual in the employ of this state or any of its instrumentalities, or in the employ of this state and one or more other states or their instrumentalities, for a hospital or institution of higher education, located in this state, including seasonal or temporary employment.

(3) (a) Service performed after December 31, 1971, and prior to January 1, 1978, in the employ of this state, other than services defined in paragraph (2) of this section; that is, each officer or employee in the service of the State of Oklahoma who, after December 31, 1971, and prior to January 1, 1978, receives his compensation for service rendered to the State of Oklahoma on a warrant or check issued pursuant to a payroll certified by a department or by an elected or duly appointed officer of this state or who receives payment for the performance of personal services on a warrant issued pursuant to a payroll certified by a department and drawn by the State Treasurer against appropriations made by the Legislature from any state fund or against trust funds held by the State Treasurer, excluding any person chosen by election or appointment to fill an elective office, excluding seasonal or temporary employment, and excluding any services performed by an inmate of a state penal institution.

(b) Service performed after December 31, 1977, in the employ of this state or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of any of the foregoing and one or more other states or political subdivisions; provided, that such service is excluded from "employment" as defined in the Federal Unemployment Tax Act, 26 U.S.C., Section 3306(c) (7), and is not excluded from "employment" under paragraph (7) of this section.

(4) Service performed after December 31, 1971, by an individual in the employ of a community chest, fund, foundation or corporation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation and which does not participate

in, or intervene in, including the publishing or distributing of statements, any political campaign on behalf of any candidate for public office; provided that such organization had four or more individuals in employment for some portion of a day in each of twenty (20) different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time.

(5) Service performed after December 31, 1977, by an individual in agricultural labor as defined in division (ii) of subparagraph (a) of paragraph (15) of this section when:

- (a) such service is performed for a person who:
  - (i) during any calendar quarter in either the current or the preceding calendar year paid remuneration in cash of Twenty Thousand Dollars (\$20,000.00) or more to individuals employed in agricultural labor; or
  - (ii) for some portion of a day in each of twenty (20) different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor ten or more individuals, regardless of whether they were employed at the same moment of time.
- (b) for the purposes of this paragraph any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person shall be treated as an employee of such crew leader:
  - (i) if such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963, Public Law 95-562, ~~7 U.S.C., Section 2401 et seq.~~ 29 U.S.C., Sections 1801 through 1872; or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or crop-dusting equipment, or any other mechanized equipment, which is provided by such crew leader; and
  - (ii) if such individual is not an employee of such other person within the meaning of paragraph (1) of this section or subparagraph (d) of this paragraph.
- (c) for the purposes of this paragraph, in the case of any individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of such crew leader under subparagraph (b) of this paragraph:
  - (i) such other person and not the crew leader shall be treated as the employer of such individual; and
  - (ii) such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader, either on his own behalf or on behalf of such other person, for the service in agricultural labor performed for such other person.
- (d) for the purposes of this paragraph, the term "crew leader" means an individual who:
  - (i) furnishes individuals to perform service in agricultural labor for any other person;

- (ii) pays, either on his own behalf or on behalf of such other person, the individuals so furnished by him for the service in agricultural labor performed by them; and
- (iii) has not entered into a written agreement with such other person (farm operator) under which such individual is designated as an employee of such other person.

(6) The term "employment" shall include domestic service after December 31, 1977, in a private home, local college club or local chapter of a college fraternity or sorority performed for a person who paid cash remuneration of One Thousand Dollars (\$1,000.00) or more after December 31, 1977, in the current calendar year or the preceding calendar year to individuals employed in such domestic service in any calendar quarter.

(7) For the purposes of paragraphs (2), (3) and (4) of this section the term "employment" does not apply to service performed:

- (a) in the employ of:
  - (i) a church or convention or association of churches; or
  - (ii) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches;
- (b) by a duly ordained, commissioned or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;
- (c) prior to January 1, 1978, in the employ of a school which is not an institution of higher education; after December 31, 1977, in the employ of a governmental entity referred to in paragraphs (2) and (3) of this section if such service is performed by an individual in the exercise of duties:
  - (i) as an elected official;
  - (ii) as a member of a legislative body, or a member of the judiciary of a state or political subdivision;
  - (iii) as a member of the State National Guard or Air National Guard;
  - (iv) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;
  - (v) in a position which, under or pursuant to the laws of this state, is designated as a major nontenured policymaking or advisory position, or a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight (8) hours per week;
- (d) in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work;

- (e) as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work-relief or work-training; or
- (f) prior to January 1, 1978, for a hospital in a state prison or other state correctional institution by an inmate of the prison or correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution.

(8) The term "employment" shall include the service of an individual who is a citizen of the United States, performed outside the United States, except in Canada, after December 31, 1971, in the employ of an American employer other than service which is deemed "employment" under the provisions of paragraphs (11) or (12) of this section or the parallel provisions of another state's law, if:

- (a) the employer's principal place of business in the United States is located in this state;
- (b) the employer has no place of business in the United States, but:
  - (i) the employer is an individual who is a resident of this state;
  - (ii) the employer is a corporation which is organized under the laws of this state; or
  - (iii) the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state;
- (c) none of the criteria of subparagraphs (a) and (b) of this paragraph are met but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state;
- (d) an "American employer", for purposes of this subsection, means a person who is:
  - (i) an individual who is a resident of the United States;
  - (ii) a partnership if two-thirds or more of the partners are residents of the United States;
  - (iii) a trust, if all of the trustees are residents of the United States; or
  - (iv) a corporation organized under the laws of the United States or of any state; and
- (e) the term "United States", for the purposes of this subsection, includes the states, the District of Columbia, the Commonwealth of Puerto Rico and the Virgin Islands.

(9) Notwithstanding paragraph (11) of this section, all service performed after December 31, 1971, by an officer or member of the crew of an American vessel on or in connection with such vessel, if the operating office, from which the operations of such vessel operating on navigable waters within, or within and without, the United States are ordinarily and regularly supervised, managed, directed and controlled is within this state.

(10) Notwithstanding any other provisions of the Employment Security Act of 1980, Section 1-101 et seq. of this title, "employment":

- (a) includes any service with respect to which a tax is required to be paid under any federal law imposing a

tax against which credit may be taken for contributions required to be paid into a state unemployment fund, and

- (b) includes any service which is required to be "employment" for full tax credit to be allowed against the tax imposed by the Federal Unemployment Tax Act of 1954, Public Law 591, Chapter 736, as amended, 26 U.S.C., Section 3301 et seq.

(11) The term "employment" shall include an individual's entire service, performed within or both within and without this state if:

- (a) the service is localized in this state; or
- (b) the service is not localized in any state but some of the service is performed in this state and:
  - (i) the individual's base of operations, or, if there is no base of operations, then the place from which the individual's employment is directed or controlled is in this state; or
  - (ii) the individual's base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this state.

- (12) (a) services covered by an election pursuant to Section 3-203 of this title, and
- (b) services covered by an arrangement pursuant to Section 4-701 et seq. of this title between the Commission and the agency charged with the administration of any other state or federal unemployment compensation law, pursuant to which all services performed by an individual for an employing unit are deemed to be performed entirely within this state, shall be deemed to be employment if the Commission has approved an election of the employing unit for whom such services are performed, pursuant to which the entire service of such individual during the period covered by such election is deemed to be insured work.

(13) Service shall be deemed to be localized within a state if:

- (a) the service is performed entirely within such state; or
- (b) the service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state; for example, is temporary or transitory in nature or consists of isolated transactions.

(14) Notwithstanding any other provision of this subsection, services performed by an individual for wages or under any contract of hire shall be deemed to be employment subject to this act unless and until it is shown to the satisfaction of the Commission that:

- (a) such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract of hire and in fact; and
- (b) such individual is customarily engaged in an independently established trade, occupation, profession, or business; or
- (c) such service is outside the usual course of the business for which such service is performed and that such service is performed outside of all the places of business of the enterprise for which such service is performed.

- (15) The term "employment" shall not include:
- (a) (i) services performed prior to January 1, 1978, in the employ of the owner or tenant operating a farm, in connection with the cultivation of the soil, the harvesting of crops, or the raising, feeding, or management of livestock, poultry, bees, furbearing animals and wildlife, nurseries, or greenhouses or in connection with the processing, packing or marketing of produce of such farms, nurseries or greenhouses and as an incident to such operations, as provided in this division.
  - (ii) services performed after December 31, 1977, by an individual in agricultural labor, except as provided under paragraph (5) of this section. For purposes of this subparagraph, the term "agricultural labor" means remunerated service performed in agricultural labor as defined in the Federal Unemployment Tax Act, 26 U.S.C. 3306(k).
  - (b) domestic service, except as provided under paragraph (6) of this section, in a private home, local college club, or local chapter of a college fraternity or sorority;
  - (c) service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one (21) in the employ of his father or mother, or both father and mother;
  - (d) service performed in the employ of the United States government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by the Employment Security Act of 1980, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of the Employment Security Act of 1980 shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals and services; provided that if this state shall not be certified for any year by the Secretary of Labor of the United States under Section 3304(c) of the Federal Internal Revenue Code, 26 U.S.C., Section 3304(c), the payments required of such instrumentalities with respect to such year shall be refunded by the Commission from the fund in the same manner and within the same period as is provided in Section 3-304 of this title with respect to contributions erroneously collected;
  - (e) prior to January 1, 1978, service performed in the employ of this state or of any other state, or of any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by this state or by one or more states or political subdivisions; and any service performed in the employ of any instrumentality of this state or of one or more states or political subdivisions to the extent that the instrumentality is, with respect to

such service, exempt under the Constitution of the United States from the tax imposed by Section 3301 of the Federal Internal Revenue Code, 26 U.S.C. 3301, except as otherwise provided in paragraphs (2) and (3) of this section;

- (f) service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress;
- (g) service performed in the employ of a foreign government, including service as a consul or other officer or employee or a nondiplomatic representative;
- (h) service performed in the employ of an instrumentality wholly owned by a foreign government:
  - (i) if the service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof; and
  - (ii) if the Commission finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof;
- (i) service covered by an arrangement between the Commission and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by such employing unit's duly approved election, are deemed to be performed entirely within the jurisdiction of such other state or federal agency;
- (j) service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four-year course in a medical school chartered or approved pursuant to state law;
- (k) service performed by an individual for a person, firm, association, trust, partnership or corporation as an insurance agent, or as an insurance solicitor or as a licensed real estate agent, if all such service performed by such individual for such person is performed for remuneration solely by way of commissions or fees;
- (l) service performed by an individual under the age of eighteen (18) in the delivery and distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;
- (m) service performed in the employ of a school, college or university, if such service is performed:

- (i) by a student who is enrolled and is regularly attending classes at such school, college, or university, or
- (ii) by the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that:
  - (I) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university; and
  - (II) such employment will not be covered by any program of unemployment insurance;
- (n) service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this provision shall not apply to service performed in a program established for or on behalf of an employer or group of employers;
- (o) service performed in the employ of a hospital, if such service is performed by a patient of such hospital;
- (p) services performed by cooperative extension personnel holding federal appointments employed by state institutions of higher learning;
- (q) earnings of employees being paid by state warrants who are presently covered by the Federal Unemployment Compensation Act, 5 U.S.C., Section 8501 et seq., by virtue of their federal status;
- (r) cosmetology services performed by an individual in a beauty shop, as defined by Section 199.1 of Title 59 of the Oklahoma Statutes, pursuant to an agreement whereby the owner of the beauty shop leases or rents facilities for cosmetology to such individual;
- (s) barbering services performed by an individual in a barber shop, as defined by Section 70 of Title 59 of the Oklahoma Statutes, pursuant to an agreement whereby the owner of the barber shop leases or rents facilities for barbering to such individual;
- (t) in-home services performed in a medical care program such as the nontechnical medical care program, or social services program, as certified and approved by the Department of Human Services or the Federal Health Care Financing Administration or as a participant in a work or training program administered by the Department of Human Services;
- (u) riding services performed by a jockey and services performed by a trainer of race horses in an approved race licensed by the Oklahoma Horse Racing Commission;
- (v) service performed by an individual whose remuneration consists solely of commissions, overrides, bonuses, and differentials related to sales or other output derived from in-person sales to, or solicitation of orders from, ultimate consumers primarily in the home, or otherwise than in a permanent retail establishment;

- (w) service performed by a person, commonly referred to as "owner-operator", who owns or leases a truck-tractor or truck for hire, provided said owner-operator actually operates the truck-tractor or truck and, further, that the entity contracting with the owner-operator is not the lessor of the truck-tractor or truck;
- x. services performed as a chopper of cotton who weeds or thins cotton crops by hand or hoe. This subsection shall be interpreted and applied consistently with the Federal Unemployment Tax Act, 26 U.S.C., Sections 3304(a)(6)(A) and 3306(k).

SECTION 6. AMENDATORY 57 O.S. 1991, Section 138, as amended by Section 5 of Enrolled House Bill No. 1767 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 138. A. Except as otherwise provided by law, every inmate of a state correctional institution shall have their term of imprisonment reduced monthly, based upon the class level to which they are assigned. Earned credits may be subtracted from the total credits accumulated by an inmate, upon recommendation of the institution's disciplinary committee, following due process, and upon approval of the warden or superintendent. Each earned credit is equivalent to one (1) day of incarceration. Lost credits may be restored by the warden or superintendent upon approval of the classification committee. If a maximum and minimum term of imprisonment is imposed, the provisions of this subsection shall apply only to the maximum term. No deductions shall be credited to any inmate serving a sentence of life imprisonment; however, a complete record of the inmate's participation in work, school, vocational training, or other approved program shall be maintained by the Department for consideration by the paroling authority.

B. The Department of Corrections is directed to develop a written policy and procedure whereby inmates shall be assigned to one (1) of four (4) class levels determined by an adjustment review committee of the facility to which the inmate is assigned. The policies and procedures developed by the Department shall include, but not be limited to, written guidelines pertaining to awarding credits for rehabilitation, obtaining job skills and educational enhancement, participation in and completion of alcohol/chemical abuse programs, incentives for inmates to accept work assignments and jobs, work attendance and productivity, conduct record, participation in programs, cooperative general behavior, and appearance. When assigning inmates to a class level the adjustment review committee shall consider all aspects of the policy and procedure developed by the Department, including but not limited to, the criteria for awarding credits required by this subsection.

C. If an inmate who has been assessed to be capable of benefiting from education programs refuses assignment to an education program, the inmate shall remain in class level 1 until such time as the inmate accepts an educational assignment.

D. 1. Class levels shall be as follows:

- a. Class level 1 shall include inmates not eligible to participate in class levels 2 through 4, and shall include, but not be limited to, ~~new prisoners being processed through the Lexington Assessment and Reception Center,~~ inmates on escape status, inmates refusing job, education, or program assignments, inmates removed from job, education, or program

assignments due to misconduct or nonperformance, or inmates subject to disciplinary action.

- b. Class level 2 shall include an inmate who has been given a work, education, or program assignment, has received a good evaluation for participation in the work, education, or program assignment, and has received a good evaluation for personal hygiene and maintenance of living area.
- c. Class level 3 shall include an inmate who has been incarcerated at least four (4) months, has received an excellent work, education, or program evaluation, and has received an excellent evaluation for personal hygiene and maintenance of living area.
- d. Class level 4 shall include an inmate who has been incarcerated at least ten (10) months, has received an outstanding work, education, or program evaluation, and has received an outstanding evaluation for personal hygiene and maintenance of living area.

2. Class level corresponding credits are as follows:

- Class 1 - 0 Credits per month;
- Class 2 - 22 Credits per month;
- Class 3 - 33 Credits per month;
- Class 4 - 44 Credits per month.

Each inmate shall receive the above specified monthly credits for the class to which he is assigned.

3. In addition to the criteria established for each class in paragraph 1 of this subsection, the following requirements shall apply to each of levels 2 through 4:

- a. satisfactory participation in the work, education, or program assignment at the standard required for the particular class level;
- b. maintenance of a clean and orderly living area and personal hygiene at the standard required for the particular class level;
- c. cooperative behavior toward facility staff and other inmates;
- d. satisfactory participation in the requirements of the previous class level.

4. The evaluation scale for assessing performance shall be as follows:

- a. Outstanding - For inmates who display consistently exceptional initiative, motivation, and work habits.
- b. Excellent - For inmates who display above-average work habits with only minor errors and rarely perform below expectations.
- c. Good - For inmates who perform in a satisfactory manner and complete tasks as required, doing what is expected, with only occasional performance above or below expectations.
- d. Fair - For inmates who may perform satisfactorily for some periods of time, but whose performance is marked by obviously deficient and weak areas and could be improved.
- e. Poor - For inmates whose performance is unsatisfactory and falls below expected and acceptable standards.

E. The policy and procedure developed by the Department of Corrections shall include provisions for adjustment review committees of not less than three (3) members for each such committee. Each committee shall consist of a classification team supervisor who shall act as chairman, the case manager for the

inmate being reviewed or classified, a correctional officer or inmate counselor, and not more than two other members, if deemed necessary, determined pursuant to policy and procedure to be appropriate for the specific adjustment review committee or committees to which they are assigned. At least once every four (4) months the adjustment review committee for each inmate shall evaluate the class level status and performance of the inmate and determine whether or not the class level for the inmate should be changed.

Any inmate who feels aggrieved by a decision made by an adjustment review committee may utilize normal grievance procedures in effect with the Department of Corrections and in effect at the facility in which the inmate is incarcerated.

F. Inmates granted medical leaves for treatment that cannot be furnished at the penal institution where incarcerated shall be allowed the time spent on medical leave as time served. Any inmate classified by the Department of Corrections as being physically or mentally disabled for work or placed into administrative segregation for nondisciplinary reasons by the institution's administration may be placed in Class 2. The length of any jail term served by an inmate before being transported to a state correctional institution pursuant to a judgment and sentence of incarceration shall be deducted from his term of imprisonment at the state correctional institution. Inmates sentenced to the Department of Corrections and detained in a county jail as a result of the Department's reception scheduling procedure shall be awarded earned credits as provided for in subparagraph b of paragraph 1 of subsection D of this section, beginning on the date of the judgment and sentence, unless the inmate is convicted of a misdemeanor or felony committed in the jail while the inmate is awaiting transport to the Lexington Assessment and Reception Center.

G. Additional achievement earned credits for successful completion of departmentally approved programs or for attaining goals or standards set by the Department shall be awarded as follows:

- High School Diploma or Equivalent General Education Diploma 90 credits;
- Certification of Completion of Vocational Training 80 credits;
- Successful completion of Alcohol/Chemical Abuse Treatment Program of not less than four (4) months continuous participation 70 credits;
- Successful completion of other Educational Accomplishments or other programs not specified in this subsection 10 - 30 credits;

Achievement earned credits are subject to loss and restoration in the same manner as earned credits. No inmate shall receive more than ninety (90) achievement credits per calendar year.

H. The accumulated time of every inmate shall be tallied monthly and maintained by the institution where the term of imprisonment is being served. A record of said accumulated time shall be:

1. Sent to the administrative office of the Department of Corrections on a quarterly basis; and

2. Provided to the inmate.

I. As of the effective date of this act, all inmates currently under the custody of the Department of Corrections shall receive their assignments and all credits from that date forward shall be calculated pursuant to this act.

SECTION 7. AMENDATORY 63 O.S. 1991, Section 1-1903, as amended by Section 2 of Enrolled House Bill No. 1519 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 1-1903. A. No person shall establish, operate, or maintain in this state any facility without first obtaining a license as required by the Nursing Home Care Act, Section 1-1901 et seq. of this title.

B. The Nursing Home Care Act shall not apply to residential care homes, adult companion homes, domiciliary care units operated by the Department of Veterans Affairs which are operated as a separate facility or which are operated in conjunction with a nursing facility, or to hotels, motels, boarding houses, rooming houses, or other places that furnish board or room to their residents.

C. Unless otherwise prohibited by federal law or unless the enactment of the provisions of this subsection would result in the loss of federal funds to the state, the following licensing and regulation provisions concerning Oklahoma Veterans Center nursing facilities shall be in effect:

1. Regardless of a licensee's previous state licensure category as Oklahoma Veterans Center nursing facilities, the State Department of Health shall issue licenses to all previously state-licensed Oklahoma Veterans Centers who surrendered their licenses to the State Department of Health;

2. On and after July 1, 1993, the State Department of Health may accept for purposes of continuation or denial of licensure for such nursing facilities:

- a. the findings of the annual inspection reports conducted by the United States Department of Veterans Affairs State Homes Program Station of Jurisdiction, or
- b. the findings of a licensure inspection by the State Department of Health;

3. Each Oklahoma Veterans Center nursing facility licensed pursuant to the provisions of this section shall be regulated as an existing nursing facility for the purposes of meeting state and federal standards;

4. The physical plants of these existing facilities shall not be required to comply with the Life Safety Code Standards adopted by the State of Oklahoma for new construction unless the State Health Department finds that:

- a. the physical plant or life safety conditions pose an imminent threat to the residents of the facility,
- b. a major renovation project is undertaken within the existing facility, or
- c. new attached construction is added; and

5. Certificate of need review shall not be required for any addition, deletion, modification or new construction of current or future State Veterans Center nursing facilities.

D. The Nursing Home Care Act shall not authorize any person to engage in any manner in the practice of the healing arts or the practice of medicine, as defined by law.

E. The Nursing Home Care Act shall not apply to a facility which is not charging or receiving periodic compensation for services rendered, and not receiving any county, state, or federal assistance.

SECTION 8. AMENDATORY 70 O.S. 1991, Section 6-101.40, as amended by Section 2 of Enrolled Senate Bill No. 130 of the 1st

Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 6-101.40 A support employee who has been employed by a local board of education for more than one (1) year shall be subject to suspension, demotion, termination or nonreemployment only for cause, as designated by the policy of the local board of education, adopted as provided in Section 6-101.43 of this title. This section shall not be construed to prevent layoffs for lack of funds or work. For purposes of this act, "support employee" means a full-time employee of a school district as determined by the standard period of labor which is customarily understood to constitute full-time employment for the type of services performed by the employee who is employed a minimum of ~~one hundred seventy-five (175)~~ one hundred seventy-two (172) days and who provides those services, not performed by professional educators or licensed teachers, which are necessary for the efficient and satisfactory functioning of a school district and shall not include adult education instructors or adult coordinators employed by area vocational-technical school districts.

SECTION 9. AMENDATORY 70 O.S. 1991, Section 16-110, as amended by Section 40 of Enrolled House Bill No. 1744 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 16-110. As soon as any contract ~~shall have been~~ is entered into for the furnishing of textbooks for use in the public schools of the state, the secretary of the State Textbook Committee shall send a list of the textbooks selected by the State Textbook Committee to every superintendent of schools and local textbook committee in the state, which list shall show the respective prices of such textbooks and contain such other information as the secretary shall deem advisable, ~~and the~~. The secretary shall annually publish and distribute a list of all textbooks that have been selected and that are then in force.

SECTION 10. AMENDATORY 70 O.S. 1991, Section 16-111, as amended by Section 41 of Enrolled House Bill No. 1744 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 16-111. A. The superintendent of schools of each school district in the state shall appoint a local textbook committee consisting of not fewer than three nor more than nine members. Each committee shall have one lay member, with the remainder of the members being teachers employed in the public schools of the district, a majority of whom shall be classroom teachers. The superintendent of schools or a designee who shall be a principal or a curriculum specialist shall serve as ~~chairman~~ chairperson of such local textbook committee.

B. ~~The publisher of a textbook selected by the State Textbook Committee shall deposit with the publisher's Oklahoma depository sufficient copies of each approved textbook so that each local textbook committee may examine any or all new adoptions. Upon receiving a written request therefor from a local textbook committee, the State Board of Education shall instruct the proper depository to furnish to the local textbook committee a reasonable number of examination copies of each textbook selected by the State Textbook Committee, in the subjects taught or to be taught in schools under their jurisdiction. The cost of each advanced copy shall be charged against the value of textbooks allowed any school district retaining or using the same; provided, that any such advance copy in new condition may be returned to the control of the publisher's Oklahoma depository, within five (5) months after receipt thereof, if there is no longer a need therefor, for credit~~

~~of the value previously charged against said district. The publisher may, at his discretion, upon the written request of any duly appointed local textbook committee, furnish to such local textbook committee examination copies of such textbook, the teacher edition of such textbook, if one is published, and any teaching aids used with such textbook, free of charge~~ Upon the written request of any duly appointed local textbook coordinator, the publisher of a textbook selected by the State Textbook Committee shall furnish at least one examination copy of the textbook and the teacher edition of the textbook, if one is published, and a copy of software for purposes of complete demonstration and review, if available, to the school district so that the local textbook committee may examine any or all new adoptions in the subjects taught or to be taught in schools in the district.

C. On or before a date to be fixed by the State Board of Education, each local textbook committee shall adopt textbooks from the multiple list selected by the State Textbook Committee in such manner as shall be prescribed by the State Board of Education. Each local textbook committee shall serve without compensation and shall cease to exist when local adoptions have been completed and shall be replaced by another local textbook committee appointed in the same manner as herein provided.

D. On or before a date to be fixed by the State Board of Education, the superintendent ~~of schools~~ of each school district shall submit to the State Board of Education a requisition for all of the textbooks adopted by the local textbook committee that will be needed for the ensuing year in the school or schools for which such adoptions were made, and immediately upon receipt of such requisitions it shall be the duty of the State Board of Education to make requisitions on the proper depository or depositories for such textbooks. ~~Provided, that the State Board of Education may, for good cause, permit supplemental requisitions to be submitted, and may fill such requisitions after the date specified.~~ Any local adopting unit superintendent of a school district may requisition any textbooks placed on the official multiple textbook list, if such requisition does not exceed the allocation for each school district as provided herein in Section 16-114 of this title.

SECTION 11. AMENDATORY 70 O.S. 1991, Section 16-115, as amended by Section 42 of Enrolled House Bill No. 1744 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 16-115. All contractors shall establish and maintain a suitable and convenient depository or depositories in the State of Oklahoma where a stock of their books to supply all immediate demands shall be kept. Said depository or depositories may be operated jointly with other contractors. Each contractor shall maintain at ~~his~~ the depository a sufficient supply of textbooks for individuals or boards of education desiring to purchase the same and shall be required to sell such books to any individual or board of education at the same price at which the textbook is sold to the State of Oklahoma plus cost of transportation to the individual or board of education purchasing the textbook. Upon the failure of any contractor to carry a sufficient stock of books at ~~his~~ the depository to take care of all immediate demands of the State of Oklahoma and others requesting the same, or to furnish the textbooks as required by ~~his~~ the contract, ~~the superintendent of schools wherein such books have not been furnished shall report the facts to the Attorney General, who shall bring suit on account of such failure in the name of the State of Oklahoma in the district court of Oklahoma County, and shall recover on the bond given by such~~

~~contractor for the full value of the books not furnished as required, and in addition thereto the sum of One Hundred Dollars (\$100.00), and each day of failure to furnish the books shall constitute a separate offense, and the amount so recovered shall be placed to the credit of the General Revenue Fund of the state, and in addition thereto the State Board of Education shall have power to recover on the bond given by such contractor for the full value of the books not furnished as required by the contract and terminate said contract.~~

SECTION 12. AMENDATORY 70 O.S. 1991, Section 16-122, as amended by Section 43 of Enrolled House Bill No. 1744 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 16-122. Any person who directly or indirectly promises or offers to give, or causes to be promised, offered or given, any money, books, bribe, present or reward or any valuable thing whatsoever to any member of the State Board of Education, the State Textbook Committee, or a local textbook committee, or any member of a board of education, teacher or other person with the intent to influence ~~his or her~~ a decision on any question, matter, cause or proceeding in the selection or adoption of any textbooks, or series of textbooks, upon conviction, shall be guilty of a felony and punishable as such. Any teacher in the public schools of Oklahoma, any superintendent ~~of schools~~ of a school district or any employee of a school district who shall in any way be interested in the profits, proceeds or sale of any school textbook used in the public schools under ~~his~~ such person's charge, or with which ~~he~~ such person is connected in any official capacity, upon conviction, shall be guilty of a misdemeanor, and ~~upon conviction thereof~~, shall be punished by a fine of not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars (\$200.00), and shall in addition thereto forfeit ~~his~~ the office or position.

SECTION 13. AMENDATORY 70 O.S. 1991, Section 16-123, as amended by Section 44 of Enrolled House Bill No. 1744 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 16-123. Any member of the State Board of Education and any member of the State Textbook Committee who directly or indirectly solicits, receives or agrees to receive any money, goods, bribe, present, reward or any valuable thing whatsoever with the intent, and which will have the effect, to influence ~~his or her~~ a decision on any question, matter, cause or proceeding in the selection or adoption of any textbook or series of textbooks provided for in this article, upon conviction, shall be guilty of a felony and punishable as such.

Any ~~district~~ superintendent of schools, any member of a board of education, and any member of a local textbook committee who directly or indirectly solicits, receives or agrees to receive any money, goods, bribe, present, reward or any valuable thing whatsoever with the intent and which will have the effect to influence ~~his or her~~ a decision on any question, matter, cause or proceeding in the selection or adoption of any textbook or series of textbooks, upon conviction, shall be guilty of a misdemeanor, and ~~upon conviction thereof~~ shall be punished by a fine of not to exceed Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for a term of not to exceed six (6) months, or both such fine and imprisonment.

SECTION 14. AMENDATORY 74 O.S. 1991, Section 500.2, as amended by Section 4 of Enrolled House Bill No. 1209 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 500.2 A. Officials and employees of the state, traveling on authorized state business, may be reimbursed for expenses incurred in such travel in accordance with the provisions of this act and existing statutes relating to state travel. Persons who are not state employees, but who are performing substantial and necessary services to the state which have been directed or approved by the appropriate department official shall enjoy the protection of the sovereign immunity of the state to the same extent as a paid employee. Such persons may be reimbursed for expenses incurred during authorized official travel under these same statutory provisions, provided it is indicated on the claim the person is not a state employee, a description of services performed is entered, and the agency head by his approval of the claim certifies such services were substantial and necessary, and germane to the duties and functions of the reimbursing agency. Travel expenses incurred by a person during the course of seeking employment with a state agency, unless such travel is performed at the request of the employing agency, shall not be considered expenses incurred in performing substantial and necessary services to the state and shall not be reimbursed under the provisions of this act.

B. The chief administrative officer of the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma Military Department, the Department of Corrections, the Department of Central Services and the Department of Civil ~~Defense~~ Emergency Management and the State Fire Marshal may arrange for and charge meals and lodging for a contingent of state personnel moved into an area for the purpose of preserving the public health, safety or welfare or for the protection of life or property. The cost for meals or lodging so charged shall not exceed the amount authorized in this act.

The chief administrative officer of each agency involved in an operation as provided for above shall require the vendor furnishing meals, lodging or both meals and lodging to submit an itemized statement for payment.

When a claim for lodging is made for a contingent of state personnel, individual members of the contingent may not submit a claim for lodging. When a claim for meals is made for a contingent of state personnel, individual members of the contingent may not submit a claim for meals.

C. The Department of Public Safety is hereby authorized to enter into contracts and agreements for the payment of classroom space, food and lodging expenses as may be necessary for law enforcement officers attending any official course of instruction sponsored or conducted by the Department of Public Safety. Such expenses may be paid for directly to the contracting agency or business establishment. Provided, the cost for food and lodging for each law enforcement officer shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

D. The Oklahoma Tourism and Recreation Department is hereby authorized to enter into contracts and agreements for the payment of food and lodging expenses as may be necessary for employees attending an official course of instruction or training conducted or sponsored by the Oklahoma Tourism and Recreation Department. Such expenses may be paid for directly to the contracting agency or business establishment. Provided, the cost for food and lodging for each employee shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

E. The Oklahoma Department of Commerce is hereby authorized to enter into contracts and agreements for the payment of food,

lodging, meeting facility and beverage expenses as may be necessary for sponsoring seminars and receptions relating to economic development and science and technology issues. Such expenses may be paid directly to the contracting agency or business establishment. The Director of the Oklahoma Department of Commerce shall provide a quarterly report of such expenditures to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

F. The Oklahoma Center for the Advancement of Science and Technology is hereby authorized to enter into contracts and agreements for the payment of food, lodging, meeting facility and beverage expenses necessary for sponsoring meetings and conferences relating to economic development and science and technology issues. Such contracts or agreements shall be awarded on a competitive basis and expenses may be paid directly to the contracting agency or business establishment. The President of the Oklahoma Center for the Advancement of Science and Technology shall provide a quarterly report of such expenditures to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

G. The State Fire Marshal is hereby authorized to enter into contracts and agreements for the payment of classroom space, food and lodging expenses as may be necessary for law enforcement officers attending any official course of instruction sponsored or conducted by the State Fire Marshal. Such expenses may be paid for directly to the contracting agency or business establishment. Provided, the cost for food and lodging for each law enforcement officer shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

H. The Department of Civil Emergency Management is hereby authorized to enter into contracts and agreements for the payment of classroom space, food and lodging expenses as may be necessary for official courses of instruction and conferences sponsored by the Department of Civil Emergency Management. Such expenses may be paid directly to the contracting agency or business establishment. Provided, the cost for food and lodging for each student or attendee shall not exceed the total daily rate as provided for in the State Travel Reimbursement Act.

I. State agencies are authorized to make direct purchases of commercial airline tickets for use by employees in approved out-of-state travel. Each claim or invoice submitted to the Director of State Finance for the payment of such purchase shall bear the airline identifying ticket number, the name of the airline, total cost of each ticket purchased, class of accommodation, social security number and name of the employee for whom the ticket was purchased, and shall be filed on claim forms as prescribed by the Director of State Finance. An affidavit shall state that said employee did use any direct purchase commercial airline ticket received for his or her approved out-of-state travel.

~~J.~~ J. State agencies are authorized to make direct purchases of lodging at facilities operated by the Oklahoma Tourism and Recreation Department. Such lodging shall be at the rate authorized by Section 500.9 of this title. Claims for payment shall be filed on claim forms as prescribed by the Office of State Finance.

~~K.~~ K. State agencies are authorized to enter into contracts and agreements with the Oklahoma Tourism and Recreation Department for the payment of food, lodging and other authorized expenses as may be necessary for employees attending conferences, meetings or training sessions conducted or sponsored by the contracting agencies. Provided the cost for food and lodging for each employee shall not

exceed the total daily rate as provided in the State Travel Reimbursement Act, Section 500.1 et seq. of this title.

~~K.~~ L. The Oklahoma Department of Human Services is hereby authorized to enter into contracts and agreements for the payment of food and lodging expenses as may be necessary for employees attending an official course of instruction or training conducted or sponsored by the Oklahoma Department of Human Services. Such expenses may be paid directly to the contracting agency or business establishment. The cost for food and lodging for each employee shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

SECTION 15. AMENDATORY 74 O.S. 1991, Section 902, as last amended by Section 53 of Enrolled House Bill No. 1744 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 902. As used in this act:

(1) "System" means the Oklahoma Public Employees Retirement System as established by this act and as it may hereafter be amended;

(2) "Accumulated contributions" means the sum of all contributions by a member to the System which shall be credited to the member's account;

(3) "Act" means Sections 901 to 932, inclusive, of this title;

(4) "Actuarial equivalent" means a deferred income benefit of equal value to the accumulated deposits or benefits when computed upon the basis of the actuarial tables in use by the System;

(5) "Actuarial tables" means the actuarial tables approved and in use by the Board at any given time;

(6) "Actuary" means the actuary or firm of actuaries employed by the Board at any given time;

(7) "Agent" means the individual designated by each participating employer through whom System transactions and communication shall be directed;

(8) "Beneficiary" means any person named by a member to receive any benefits as provided for by this act. If there is no beneficiary living at time of member employee's death, his estate shall be the beneficiary;

(9) "Board" means the Oklahoma Public Employees Retirement System Board of Trustees;

(10) "Compensation" means all salary and wages, including amounts deferred under deferred compensation agreements entered into between a member and a participating employer, but exclusive of payment for overtime, payable to a member of the System for personal services performed for a participating employer, including maintenance, or any allowance in lieu thereof provided a member as a part of compensation but shall not include compensation or reimbursement for traveling, or moving expenses, or except as otherwise provided in this paragraph, any compensation in excess of Twenty-five Thousand Dollars (\$25,000.00) per annum which shall be the maximum compensation level. An active member of the System may elect to have a maximum compensation level of Forty Thousand Dollars (\$40,000.00) per annum. Such an election shall be made in writing and filed with the System. Any member, who at the time the member was eligible to make an election to increase the member's maximum compensation level failed to make an election or chose not to increase the maximum compensation level of the member to Forty Thousand Dollars (\$40,000.00), may elect to increase the member's maximum compensation level if the election is made within three (3) years of the member's initial opportunity to make the election. Any such member making the election shall pay to the System the amount

of contribution the member would have paid had the member made the election on January 1, 1988. Any member, who at the time the member was eligible to make an election to increase the member's maximum compensation level chose to increase the compensation level of the member to Forty Thousand Dollars (\$40,000.00), may elect to decrease the member's maximum compensation level to Twenty-five Thousand Dollars (\$25,000.00) if the election is made within three (3) years of the initial election to increase the maximum compensation level. Upon the receipt of the election to reduce the maximum compensation level, the Board shall pay to the member the contribution made by the member in excess of the contribution required on a maximum compensation level of Twenty-five Thousand Dollars (\$25,000.00) within sixty (60) days of said election. Members whose salaries exceed Twenty-five Thousand Dollars (\$25,000.00) after the effective date of this act shall file the election when the salary exceeds Twenty-five Thousand Dollars (\$25,000.00). Any such election by a member shall be irrevocable. Salary shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986 and any amount of non-elective salary reduction under Section 414(h) of the Internal Revenue Code of 1986. A member who has voluntarily elected to contribute at the maximum compensation level, upon retirement, shall be refunded, pursuant to procedures established by the Board, the employee contributions made on compensation which is in excess of the final average compensation of the member and was not used to determine the member's final average compensation;

(11) "Credited service" means the sum of participating service, prior service and elected service;

(12) "Dependent" means a parent, child, or spouse of a member who is dependent upon the member for at least one-half (1/2) of his support;

(13) "Effective date" means the date upon which the System becomes effective by operation of law;

(14) "Eligible employer" means the state and any county, county hospital, city or town, conservation districts, and any public or private trust in which a county, city or town participates and is the primary beneficiary is to be an eligible employer for the purpose of this act only, whose employees are covered by Social Security and are not covered by or eligible for another retirement plan authorized under the laws of this state which is in operation on the initial entry date. Emergency medical service districts may join the System upon proper application to the Board. Provided affiliation by a county hospital shall be in the form of a resolution adopted by the board of control.

(a) If a class or several classes of employees of any above-defined employers are covered by Social Security and are not covered by or eligible for and will not become eligible for another retirement plan authorized under the laws of this state, which is in operation on the effective date, such employer shall be deemed an eligible employer, but only with respect to that class or those classes of employees as defined in this section.

(b) A class or several classes of employees who are covered by Social Security and are not covered by or eligible for and will not become eligible for another retirement plan authorized under the laws of this state, which is in operation on the effective date, and when the qualifications for employment in such class or classes are set by state law; and when such

class or classes of employees are employed by county or municipal government pursuant to such qualifications; and when the services provided by such employees are of such nature that they qualify for matching by or contributions from state or federal funds administered by an agency of state government which qualifies as a participating employer, then the agency of state government administering the state or federal funds shall be deemed an eligible employer, but only with respect to that class or those classes of employees as defined in this subsection; provided, that the required contributions to the retirement plan may be withheld from the contributions of state or federal funds administered by the state agency and transmitted to the System on the same basis as the employee and employer contributions are transmitted for the direct employees of the state agency. The retirement or eligibility for retirement under the provisions of law providing pensions for service as a volunteer fire fighter shall not render any person ineligible for participation in the benefits provided for in this act. An employee of any public or private trust in which a county, city or town participates and is the primary beneficiary shall be deemed to be an eligible employee for the purpose of this act only;

(15) "Employee" means any officer or employee of a participating employer, whose employment is not seasonal or temporary and whose employment requires at least one thousand (1,000) hours of work per year and whose salary or wage is equal to the hourly rate of the monthly minimum wage for state employees as provided in Section 284 of this title. For those eligible employers outlined in Section 910 of this title, the rate shall be equal to the hourly rate of the monthly minimum wage for that employer. Each employer, whose minimum wage is less than the state's minimum wage, shall inform the System of the minimum wage for that employer. This notification shall be by resolution of the governing body.

- (a) Any employee of the county extension agents who is not currently participating in the Teachers' Retirement System shall be a member of this System.
- (b) Eligibility shall not include any employee who is a contributing member of the United States Civil Service Retirement System.
- (c) It shall be mandatory for an officer, appointee or employee of the office of district attorney to become a member of this System if he is not currently participating in a county retirement system. Provided further, that if an officer, appointee or employee of the office of district attorney is currently participating in such county retirement system, he is ineligible for this System as long as he is eligible for such county retirement system. Any eligible officer, appointee or employee of the office of district attorney shall be given credit for prior service as defined in this section. The provisions outlined in Section 917 of this title shall apply to those employees who have previously withdrawn their contributions.
- (d) Eligibility shall also not include any officer or employee of the Oklahoma Employment Security Commission, except for those officers and employees of

the Commission electing to transfer to this System pursuant to the provisions of Section 910.1 of this title or any other class of officers or employees specifically exempted by the laws of this state, unless there be a consolidation as provided by Section 912 of this title. Employees of the Oklahoma Employment Security Commission who are ineligible for enrollment in the Employment Security Commission Retirement Plan, that was in effect on January 1, 1964, shall become members of this System.

(e) Any employee employed by the Legislative Service Bureau, State Senate or House of Representatives for the full duration of a regular legislative session shall be eligible for membership in the System regardless of classification as a temporary employee and may participate in the System during the regular legislative session at the option of the employee. For purposes of this subsection, the determination of whether an employee is employed for the full duration of a regular legislative session shall be made by the Legislative Service Bureau if such employee is employed by the Legislative Service Bureau, the State Senate if such employee is employed by the State Senate, or by the House of Representatives if such employee is employed by the House of Representatives. Once such an employee makes a choice to participate or not, the choice shall be binding for all future legislative sessions during which the employee is employed. Notwithstanding the previous sentence, any employee, who is eligible for membership in the System because of the provisions of this subsection and who was employed by the State Senate or House of Representatives after January 1, 1989, may file an election, in a manner specified by the Board, to participate as a member of the System prior to September 1, 1989. Each regular legislative session during which a legislative employee or an employee of the Legislative Service Bureau participates full time shall be counted as six (6) months of full-time participating service. Notwithstanding the provisions of this paragraph, a temporary legislative session employee who elected to become a member of the System may withdraw from the System effective the day said employee elected to participate in the System upon written request to the Board. Any such request must be received by the Board prior to October 1, 1990. All employee contributions made by the temporary legislative session employee shall be returned to the employee without interest within four (4) months of receipt of the written request;

(16) "Entry date" means the date as of which an eligible employer joins the System. The first entry date pursuant to this act shall be January 1, 1964;

(17) "Executive Director" means the managing officer of the System employed by the Board under this act;

(18) "Final average compensation" means the average annual salary, including amounts deferred under deferred compensation agreements entered into between a member and a participating employer, up to, but not exceeding the allowable amounts defined in subsection (10) of this section received during any three (3) of the

last five (5) years of participating service immediately preceding retirement or termination of employment, or, if participating service is less than three (3) years, the average annual compensation up to but not exceeding the allowable amounts defined in subsection (10) of this section paid to the member during the full period of participating service. Provided, no member shall retire with a final average salary in excess of Twenty-five Thousand Dollars (\$25,000.00) unless the member has made the required election and has paid the required contributions on such salary in excess of Twenty-five Thousand Dollars (\$25,000.00);

(19) "Fiscal year" means the period commencing July 1 of any year and ending June 30 of the next year;

(20) "Fund" means the Oklahoma Public Employees Retirement Fund as created by this act;

(21) "Leave of absence" means a period of absence from employment without pay, authorized and approved by the employer and acknowledged to the Board, and which after the effective date does not exceed two (2) years;

(22) "Member" means an eligible employee or elected official who is in the System and is making the required employee or elected official contributions, or any former employee or elected official who shall have made the required contributions to the System and shall have not received a refund or withdrawal;

(23) "Military service" means service in the Armed Forces of the United States in time of war or national emergency, as defined in Section 67.13a of Title 72, from which the member was honorably discharged;

(24) "Normal retirement date" means the date on which a member may retire with full retirement benefits as provided in this act, such date being whichever occurs first:

(a) the first day of the month coinciding with or following a member's sixty-second birthday;

(b) for any person who became a member prior to July 1, 1992, the first day of the month coinciding with or following the date at which the sum of a member's age and number of years of credited service total eighty (80);

(c) for any person who became a member after June 30, 1992, the first day of the month coinciding with or following the date at which the sum of a member's age and number of years of credited service total ninety (90); or

(d) in addition to subparagraphs (a), (b) and (c) of this paragraph, the first day of the month coinciding with or following a member's fiftieth birthday if the member has at least twenty (20) years of full-time-equivalent employment as a correctional or probation and parole officer with the Department of Corrections and at the time of retirement, the member was a correctional or probation and parole officer with the Department of Corrections;

(25) "Participating employer" means an eligible employer who has agreed to make contributions to the System on behalf of its employees;

(26) "Participating service" means the period of employment after the entry date for which credit is granted a member;

(27) "Prior service" means the period of employment of a member by an eligible employer prior to his entry date for which credit is granted a member under this act;

(28) "Retirant" means a member who has retired under the System;

(29) "Retirement benefit" means a monthly income with benefits accruing from the first day of the month coinciding with or following retirement and ending on the last day of the month in which death occurs or the actuarial equivalent thereof paid in such manner as specified by the member pursuant to this act or as otherwise allowed to be paid at the discretion of the Board;

(30) "Social Security" means the old-age survivors and disability section of the Federal Social Security Act;

(31) "Total disability" means a physical or mental disability accepted for disability benefits by the Federal Social Security System;

(32) "Service-connected disability benefits" means military service benefits which are for a service-connected disability rated at twenty percent (20%) or more by the Veterans Administration or the Armed Forces of the United States;

(33) "Elected official" means a person elected to a state office in the legislative or executive branch of state government or a person elected to a county office for a definite number of years and shall include an individual who is appointed to fill the unexpired term of an elected state official;

(34) "Elected service" means the period of service as an elected official; and

(35) "Limitation year" means the year used in applying the limitations of Section 415 of the Internal Revenue Code of 1986, which year shall be the calendar year.

SECTION 16. REPEALER 10 O.S. 1991, Section 1130, as amended by Section 3 of Enrolled House Bill No. 1578 of the 1st Session of the 44th Oklahoma Legislature, 36 O.S. 1991, Section 1622, as amended by Section 1 of Enrolled House Bill No. 1130 of the 1st Session of the 44th Oklahoma Legislature, 40 O.S. 1991, Section 1-210 as amended by Section 3 of Enrolled Senate Bill No. 344 of the 1st Session of the 44th Oklahoma Legislature, 57 O.S. 1991, Section 138, as amended by Section 1 of Enrolled House Bill No. 1803 of the 1st Session of the 44th Oklahoma Legislature, 63 O.S. 1991, Section 1-1903, as amended by Section 17 of Enrolled Senate Bill No. 108 of the 1st Session of the 44th Oklahoma Legislature, 70 O.S. 1991, Section 6-101.40, as amended by Section 1 of Enrolled House Bill No. 1069 of the 1st Session of the 44th Oklahoma Legislature, 70 O.S. 1991, Sections 16-110, 16-111, 16-115, 16-122 and 16-123, as amended by Sections 10, 11, 14, 19 and 20 of Enrolled House Bill No. 1298 of the 1st Session of the 44th Oklahoma Legislature and 74 O.S. 1991, Section 500.2, as amended by Section 1 of Enrolled House Bill No. 1798 of the 1st Session of the 44th Oklahoma Legislature, are hereby repealed.

SECTION 17. REPEALER 3A O.S. 1991, Section 208.3, as last amended by Section 1 of Enrolled Senate Bill No. 341 of the 1st Session of the 44th Oklahoma Legislature, 22 O.S. 1991, Section 991c, as last amended by Section 4 of Enrolled House Bill No. 1725 of the 1st Session of the 44th Oklahoma Legislature and 59 O.S. 1991, Section 137, as amended by Section 1 of Enrolled House Bill No. 1122 of the 1st Session of the 44th Oklahoma Legislature, are hereby repealed.

SECTION 18. REPEALER 70 O.S. 1991, Section 5-124, as last amended by Section 1 of Enrolled Senate Bill No. 408 of the 1st Session of the 44th Oklahoma Legislature and 74 O.S. 1991, Section 902, as last amended by Section 1 of Enrolled House Bill No. 1307 of the 1st Session of the 44th Oklahoma Legislature, are hereby repealed.

SECTION 19. Sections 7, 8, 9, 10, 11, 12, 13, 14, 15 and 18 of this act shall become effective July 1, 1993.

SECTION 20. Sections 1, 2, 3, 4, 6 and 17 of this act shall become effective September 1, 1993.

SECTION 21. 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 28th day of May, 1993.

President of the Senate

Passed the House of Representatives the 28th day of May, 1993.

Speaker of the House of Representatives