

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1012

By: Settle of the House

and

Smith of the Senate

AS INTRODUCED

An Act relating to duplicate sections; merging duplicate sections; amending 12A O.S. 1991, Section 9-302, as amended by Section 3, Chapter 143, O.S.L. 1994 (12A O.S. Supp. 1994, Section 9-302), 17 O.S. 1991, Sections 352 and 353, as last amended by Sections 4 and 5, Chapter 352, O.S.L. 1994 (17 O.S. Supp. 1994, Sections 352 and 353), 19 O.S. 1991, Sections 339, as last amended by Section 1, Chapter 34, O.S.L. 1994, and 1505, as last amended by Section 1, Chapter 131, O.S.L. 1994 (19 O.S. Supp. 1994, Sections 339 and 1505), Section 3, Chapter 282, O.S.L. 1993, as amended by Section 37, Chapter 323, O.S.L. 1994 (25 O.S. Supp. 1994, Section 307.1), 63 O.S. 1991, Sections 1-2008.1 and 1-2014.2, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Sections 23 and 24, Chapter 373, O.S.L. 1994 (27A O.S. Supp. 1994, Sections 2-7-117 and 2-7-118), 29 O.S. 1991, Sections 4-110 and 4-112, as last amended by Sections 1 and 2, Chapter 372, O.S.L. 1994 (29 O.S. Supp. 1994, Sections 4-110 and 4-112), 36 O.S. 1991, Section 1425, as last amended by Section 1,

Chapter 337, O.S.L. 1994 (36 O.S. Supp. 1994, Section 1425), 37 O.S. 1991, Section 577, as amended by Section 19, Chapter 361, O.S.L. 1994 (37 O.S. Supp. 1994, Section 577), 43 O.S. 1991, Section 118, as last amended by Section 14, Chapter 356, O.S.L. 1994 (43 O.S. Supp. 1994, Section 118), 43A O.S. 1991, Section 5-101, as amended by Section 3, Chapter 207, O.S.L. 1994 (43A O.S. Supp. 1994, Section 5-101), 47 O.S. 1991, Sections 2-300, as last amended by Section 1, Chapter 44, O.S.L. 1994, 6-205, as last amended by Section 4, Chapter 387, O.S.L. 1994, 11-902, as last amended by Section 5, Chapter 387, O.S.L. 1994, and 761, as last amended by Section 9, Chapter 387, O.S.L. 1994 (47 O.S. Supp. 1994, Sections 2-300, 6-205, 11-902 and 761), 57 O.S. 1991, Section 57, as amended by Section 4, Chapter 367, O.S.L. 1994 (57 O.S. Supp. 1994, Section 57), 59 O.S. 1991, Section 1309, as last amended by Section 3, Chapter 331, O.S.L. 1994 (59 O.S. Supp. 1994, Section 1309), Section 6, Chapter 332, O.S.L. 1993, as amended by Section 46, Chapter 382, O.S.L. 1994 and Section 7, Chapter 332, O.S.L. 1993, as amended by Section 4, Chapter 282, O.S.L. 1994 (63 O.S. Supp. 1994, Sections 5008 and 5009), 68 O.S. 1991, Sections 205, as last amended by Section 1, Chapter 385, O.S.L. 1994, and 304, as amended by Section 8, Chapter 278, O.S.L. 1994 (68 O.S. Supp. 1994, Sections 205 and 304), 70 O.S. 1991, Sections 3-104, as last amended by Section 1, Chapter 378, O.S.L. 1994, 17-105, as last amended by Section 1, Chapter 371, O.S.L. 1994, 17-116.2, as last amended by Section 7, Chapter 383, O.S.L.

1994, and 509.2, as last amended by Section 2, Chapter 345, O.S.L. 1994 (70 O.S. Supp. 1994, Sections 3-104, 17-105, 17-116.2 and 509.2), 74 O.S. 1991, Sections 18c, as amended by Section 47, Chapter 382, O.S.L. 1994, 18 l, as last amended by Section 6, Chapter 282, O.S.L. 1994, 85.7, as last amended by Section 2, Chapter 233, O.S.L. 1994, 192, as amended by Section 8, Chapter 367, O.S.L. 1994, 213, as last amended by Section 4, Chapter 317, O.S.L. 1994, 500.18, as last amended by Section 8, Chapter 283, O.S.L. 1994, 902, as last amended by Section 8, Chapter 383, O.S.L. 1994, 913.4, as amended by Section 9, Chapter 383, O.S.L. 1994, and 920, as amended by Section 12, Chapter 383, O.S.L. 1994 (74 O.S. Supp. 1994, Sections 18c, 18 l, 85.7, 192, 213, 500.18, 902, 913.4 and 920), and 75 O.S. 1991, Sections 303, as amended by Section 7, Chapter 384, O.S.L. 1994, and 308, as last amended by Section 9, Chapter 384, O.S.L. 1994 (75 O.S. Supp. 1994, Sections 303 and 308), which are duplicate sections; merging earlier passed versions of each such duplicate section with last passed version of the section; repealing 12A O.S. 1991, Section 9-302, as amended by Section 8, Chapter 46, O.S.L. 1994 (12A O.S. Supp. 1994, Section 9-302), 17 O.S. 1991, Sections 352 and 353, as last amended by Sections 1 and 2, Chapter 341, O.S.L. 1994 (17 O.S. Supp. 1994, Sections 352 and 353), 19 O.S. 1991, Sections 339 and 1505, as last amended by Sections 3 and 6, Chapter 6, O.S.L. 1994 (19 O.S. Supp. 1994, Sections 339 and 1505), Section 3, Chapter 282, O.S.L. 1993, as amended by

Section 14, Chapter 293, O.S.L. 1994 (25 O.S. Supp. 1994, Section 307.1), 63 O.S. 1991, Sections 1-2008.1 and 1-2014.2, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Sections 21 and 22, Chapter 353, O.S.L. 1994 (27A O.S. Supp. 1994, Sections 2-7-117 and 2-7-118), 29 O.S. 1991, Sections 4-110 and 4-112, as last amended by Sections 7 and 8, Chapter 318, O.S.L. 1994 (29 O.S. Supp. 1994, Sections 4-110 and 4-112), 36 O.S. 1991, Sections 901, as amended by Section 1, Chapter 331, O.S.L. 1994, and 1425, as last amended by Section 4, Chapter 272, O.S.L. 1994 and by Section 2, Chapter 294, O.S.L. 1994 (36 O.S. Supp. 1994, Sections 901 and 1425), 37 O.S. 1991, Section 577, as amended by Section 5, Chapter 258, O.S.L. 1994 (37 O.S. Supp. 1994, Section 577), 43 O.S. 1991, Section 118, as last amended by Section 1, Chapter 185, O.S.L. 1994 (43 O.S. Supp. 1994, Section 118), 43A O.S. 1991, Section 5-101, as amended by Section 2, Chapter 180, O.S.L. 1994 (43A O.S. Supp. 1994, Section 5-101), 47 O.S. 1991, Sections 2-300, as last amended by Section 13, Chapter 2, O.S.L. 1994, 6-205, as last amended by Section 3, Chapter 243, O.S.L. 1994, 11-902, as last amended by Section 3, Chapter 308, O.S.L. 1994 and by Section 2, Chapter 314, O.S.L. 1994, and 761, as last amended by Section 4, Chapter 308, O.S.L. 1994 (47 O.S. Supp. 1994, Sections 2-300, 6-205, 11-902 and 761), 57 O.S. 1991, Section 57, as amended by Section 1, Chapter 368, O.S.L. 1994 (57 O.S. Supp. 1994, Section 57), 59 O.S. 1991, Section 1309, as last amended by Section 1, Chapter 186,

O.S.L. 1994 (59 O.S. Supp. 1994, Section 1309),  
Section 6, Chapter 332, O.S.L. 1993, as amended by  
Section 3, Chapter 282, O.S.L. 1994, and Section 7,  
Chapter 332, O.S.L. 1993, as amended by Section 1,  
Chapter 103, O.S.L. 1994 (63 O.S. Supp. 1994,  
Sections 5008 and 5009), 68 O.S. 1991, Sections  
205, as last amended by Section 5, Chapter 278,  
O.S.L. 1994, 304, as amended by Section 6, Chapter  
258, O.S.L. 1994, and Section 3, Chapter 275,  
O.S.L. 1993, as last amended by Section 34, Chapter  
278, O.S.L. 1994 (68 O.S. Supp. 1994, Sections 205,  
304 and 3603), 70 O.S. 1991, Sections 3-104, as  
last amended by Section 1, Chapter 344, O.S.L.  
1994, 17-105, as last amended by Section 1, Chapter  
145, O.S.L. 1994 and by Section 1, Chapter 370,  
O.S.L. 1994, 17-116.2, as last amended by Section  
2, Chapter 370, O.S.L. 1994 and by Section 4,  
Chapter 380, O.S.L. 1994, and 509.2, as last  
amended by Section 1, Chapter 190, O.S.L. 1994 (70  
O.S. Supp. 1994, Sections 3-104, 17-105, 17-116.2  
and 509.2), 74 O.S. 1991, Sections 18c, as amended  
by Section 47, Chapter 242, O.S.L. 1994, 18 l, as  
last amended by Section 7, Chapter 280, O.S.L.  
1994, 85.7, as last amended by Section 1, Chapter  
223, O.S.L. 1994, 192, as amended by Section 2,  
Chapter 368, O.S.L. 1994, 213, as last amended by  
Section 2, Chapter 92, O.S.L. 1994, 500.18, as last  
amended by Section 2, Chapter 281, O.S.L. 1994,  
902, as last amended by Section 3, Chapter 370,  
O.S.L. 1994 and by Section 1, Chapter 381, O.S.L.  
1994, 913.4, as amended by Section 4, Chapter 381,  
O.S.L. 1994, 920, as amended by Section 6, Chapter

381, O.S.L. 1994, and 3601, as last amended by Section 16, Chapter 283, O.S.L. 1994 (74 O.S. Supp. 1994, Sections 18c, 18 l, 85.7, 192, 213, 500.18, 902, 913.4, 920 and 3601) and 75 O.S. 1991, Sections 303, as amended by Section 3, Chapter 182, O.S.L. 1994, and 308, as last amended by Section 4, Chapter 182, O.S.L. 1994 (75 O.S. Supp. 1994, Sections 303 and 308), which are the earlier passed duplicate sections; and declaring an emergency.

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

SECTION 1. AMENDATORY 12A O.S. 1991, Section 9-302, as amended by Section 3, Chapter 143, O.S.L. 1994 (12A O.S. Supp. 1994, Section 9-302), is amended to read as follows:

Section 9-302. When Filing is Required to Perfect Security Interest - Security Interests to Which Filing Provisions of This Article Do Not Apply.

(1) A financing statement must be filed to perfect all security interests except the following:

- (a) A security interest in collateral in possession of the secured party pursuant to the provisions of Section 9-305 of this title; or
- (b) A security interest temporarily perfected in instruments or documents without delivery pursuant to the provisions of Section 9-304 of this title or in proceeds for a ten-day period pursuant to the provisions of Section 9-306 of this title; or
- (c) A security interest created by an assignment of a beneficial interest in a trust or a decedent's estate;  
or

- (d) A purchase money security interest in consumer goods except for a vehicle as provided in paragraph (h) of this subsection; or
- (e) An assignment of accounts which does not transfer, alone or in conjunction with other assignments to the same assignee, a significant part of the outstanding accounts of the assignor; or
- (f) A security interest of a collecting bank, pursuant to the provisions of Section ~~4-208~~ 4-210 of this title or in securities pursuant to the provisions of Section 8-321 of this title or arising according to the ~~article~~ articles on Sales and Leases as stated in Section 9-113 of this title or covered in subsection (3) of this section; or
- (g) An assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder; or
- (h) A security interest in a vehicle as defined in Section ~~23-2b~~ 1110 of Title 47 of the Oklahoma Statutes for which a certificate of title may be properly issued by the Oklahoma Tax Commission, except as otherwise provided for in Section ~~23-2b~~ 1110 of Title 47 of the Oklahoma Statutes; or
- (i) A security interest in a deposit account. Such a security interest is perfected:
  - (i) when the certificate of deposit is an instrument, by the secured party taking possession of the certificate of deposit; and
  - (ii) when the certificate of deposit is a general intangible, by written notice to the issuer of the certificate of deposit by the secured party that reasonably identifies the certificate of

deposit and provides reasonable proof of the claimed security interest. Notification to the issuer of a certificate of deposit by a secured party of the secured party's security interest in the certificate of deposit imposes no obligation on the issuer to the secured party, including any obligation to acknowledge the notice. An issuer by written acknowledgment of a notice from a secured party may assume an obligation to the secured party in the circumstances and under the conditions specified in the acknowledgment.

(2) If a secured party assigns a perfected security interest, no filing as provided for in this article is required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(3) The filing of a financing statement otherwise required by this article is not necessary or effective to perfect a security interest in property subject to:

- (a) a statute or treaty of the United States that provides for a national or international registration or a national or international certificate of title or that specifies a place of filing different from that specified in this article for filing of the security interest; or
- (b) a statute of this state that provides for central filing of, or that requires indication or delivery for indication on a certificate of title of, any security interests in the property, but, during any period in which collateral is inventory held for sale by a person who is in the business of selling goods of that kind, the filing provisions of Sections 9-401 et seq.



of this title apply to a security interest in that collateral created by him as debtor; or

- (c) a certificate of title statute of another jurisdiction pursuant to the provisions of which delivery for indication or indication of a security interest on the certificate is required as a condition of perfection as stated in subsection (2) of Section 9-103.1 of this title.

(4) Compliance with a statute or treaty described in subsection (3) of this section is equivalent to the filing of a financing statement pursuant to the provisions of this article, and a security interest in property subject to the statute or treaty can be perfected only by compliance with such statute or treaty except as provided for in Section 9-103.1 of this title on multiple state transactions. Duration and renewal of perfection of a security interest perfected by compliance with the statute or treaty are governed by the provisions of the statute or treaty, but, in other respects, the security interest is subject to the provisions of this article.

SECTION 2. AMENDATORY 17 O.S. 1991, Section 352, as last amended by Section 4, Chapter 352, O.S.L. 1994 (17 O.S. Supp. 1994, Section 352), is amended to read as follows:

Section 352. As used in the Oklahoma Petroleum Storage Tank Release Indemnity Program:

1. "Administrator" means the person hired by the General Administrator of the Corporation Commission to administer the Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund and the Oklahoma Petroleum Storage Tank Release Indemnity Program;

2. "Distributor" means:

- a. every person importing or causing to be imported into this state any motor fuel, diesel fuel or blending material for use, distribution, or sale and

distribution, or sale and delivery after the same reaches this state. "Distributor" does not mean persons importing motor fuel only in the supply tank of a vehicle originally provided by the manufacturer of the motor vehicle as a container for motor fuel or diesel fuel to propel such motor vehicle, nor does "distributor" mean persons only importing motor fuel, diesel fuel or blending material into the state under circumstances requiring that they be licensed as "Motor Fuel/Diesel Fuel Importers for Use" as defined in subsection (g) of Section 601 of Title 68 of the Oklahoma Statutes and who are actually so licensed,

- b. any person producing, refining, preparing, distilling, blending, manufacturing, or compounding motor fuel or blending material in this state for use, distribution or sale and delivery in this state,
- c. any person within this state producing or collecting what is commonly known as drip, casinghead or natural gasoline,
- d. any person who has in his possession or buys for sale or use motor fuel, diesel fuel or blending material from any person other than a licensed distributor, retailer or dealer,
- e. any person other than a retailer or dealer who sells motor fuel, diesel fuel or blending material to anyone except a licensed distributor,
- f. any person who makes bulk sales of motor fuel, diesel fuel or blending material, and
- g. any other person, including a retailer or dealer, who has filed an application for and has procured a distributor's license in the manner provided by the Oklahoma Motor Fuel/Diesel Fuel Importers for Use Tax

Code, Section 601 et seq. of Title 68 of the Oklahoma Statutes;

3. "Eligible person" means any:

- a. owner or operator of a storage tank system who has incurred liability as a result of an eligible release, and who meets the requirements specified in Section 356 of this title, or
- b. person who on or after November 8, 1984, purchases property on which an underground storage tank system is located if:
  - (1) the underground storage tank system was located on the property on November 8, 1984,
  - (2) such person could not have known that such underground storage tank system existed. The burden shall be upon such purchaser to show that such purchaser did not know or should not have known of the existence of such underground storage tank system,
  - (3) the owner or operator of the underground storage tank system responsible for the system cannot be determined by the Corporation Commission or the Administrator, or the owner or operator of the underground storage tank system responsible for the system is incapable, in the judgment of the Corporation Commission, of properly carrying out any necessary corrective action, and
  - (4) either, funds are unavailable from the Oklahoma Leaking Underground Storage Tank Trust Fund or the underground storage tank system is not eligible for corrective action taken pursuant to Section ~~934.1~~ 365 of ~~Title 82 of the Oklahoma Statutes~~ this title;

4. "Eligible release" means a release for which allowable costs, as determined by the Administrator, are reimbursable to or on behalf of an eligible person;

5. "Indemnity Fund" means the Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund;

6. "Indemnity Fund Program" means the Oklahoma Petroleum Storage Tank Release Indemnity Program established to administer the Indemnity Fund;

7. "Investigation" means activities taken to identify, confirm, monitor or delineate the physical extent of a release and which result in the selection of an appropriate means to remediate a release and specific design criteria for such remediation upon which competitive bids may be reasonably based.

8. "Maintenance level" means the minimum balance of the Indemnity Fund to be maintained and below which the Indemnity Fund balance will fall when the balance of the Indemnity Fund is below the dollar amount of disbursements from the Indemnity Fund for the payment of claims during the preceding six (6) months plus Five Million Dollars (\$5,000,000.00);

9. "Owner" means:

- a. in the case of an underground storage tank system in use on November 8, 1984, or brought into use after that date, any person who holds title to, controls, or possesses an interest in an underground storage tank system used for the storage, use, or dispensing of regulated substances, or
- b. in the case of an underground storage tank system in use before November 8, 1984, but no longer in service on that date, any person who holds title to, controls, or possesses an interest in an underground storage tank system immediately before the discontinuation of its use.

The term "owner" does not include a person who holds an interest in an underground tank system solely for financial security unless through foreclosure or other related actions the holder of a security interest has taken possession of the underground tank system;

10. "Motor fuel, diesel fuel and blending materials" have the same meaning as those terms are defined by Section 501 of Title 68 of the Oklahoma Statutes;

11. "Person" means any individual, trust, firm, joint stock company or corporation, corporation, limited liability company, partnership, association, any representative appointed by order of the court, municipality, county, school district, or other political subdivision of the state, or any interstate body. The term also includes a consortium, a joint venture, a commercial entity, or any other legal entity. The term also refers to any agency of the State of Oklahoma which purchases property containing underground storage tanks from an owner or operator qualified to access the Indemnity Fund and upon which an eligible release has occurred prior to the agency acquiring the property;

12. "Reimbursement" means either:

- a. repayment of an approved claim to an eligible person for allowable costs resulting from an eligible release, or
- b. payment of an approved claim submitted on behalf of an eligible person for allowable costs resulting from an eligible release;

13. "Release" means any spilling, overfilling, leaching, emitting, discharging, escaping, or unintentional disposing of the petroleum from a storage tank system into the environment of the state. The term release includes but is not limited to suspected releases of petroleum from a storage tank system, identified as a

result of positive sampling, testing or monitoring results, or identified in any similarly reliable manner;

14. "Sale" means every gallon of motor fuel, diesel fuel, or blending materials sold, or stored and distributed, or withdrawn from storage, within the state, for sale or use. No gallon of motor fuel, diesel fuel, or blending materials shall be the basis more than once of the assessment imposed by Section 354 of this title;

15. "Storage tank" or "storage tank system" means an underground storage system as such term is defined by the Oklahoma Underground Storage Tank Regulation Act or an aboveground tank as such term is defined by the Oklahoma Aboveground Tank Regulation Act; and

16. "Tax Commission" means the Oklahoma Tax Commission.

SECTION 3. AMENDATORY 17 O.S. 1991, Section 353, as last amended by Section 5, Chapter 352, O.S.L. 1994 (17 O.S. Supp. 1994, Section 353), is amended to read as follows:

Section 353. A. There is hereby created within the Corporation Commission, the "Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund". The General Administrator of the Corporation Commission shall hire an Administrator who shall administer the Indemnity Fund and Indemnity Fund Program. The Indemnity Fund shall be administered by the Administrator for the benefit of those persons determined to be eligible by the Administrator to receive total or limited reimbursement for:

1. The costs determined to be eligible by the Corporation Commission in preparing a corrective action plan;

2. The cost of corrective action taken in response to an eligible release;

3. Payment of claims for property damage or personal injury resulting from an eligible release; and

4. Necessary costs incidental to the cost of the corrective action taken and for filing and obtaining reimbursement from the Indemnity Fund.

B. Reimbursements made to or for the benefit of eligible persons shall be exempt from the Central Purchasing Act, Section 85.1 et seq. of Title 74 of the Oklahoma Statutes.

C. 1. Costs incurred as a result of a release from a storage tank system owned or operated by this state or by the federal government are not reimbursable pursuant to the provisions of the Oklahoma Petroleum Storage Tank Release Indemnity Program. State and federally owned facilities shall take the proper corrective action as may be necessary to protect the environment from a leaking storage tank system. Provided, that an agency of the state may access said fund for reimbursement when it purchases property containing underground storage tanks from an owner or operator qualified to access the Indemnity Fund and upon which an eligible release has occurred prior to the agency acquiring the property. In such case, the agency of the state shall be reimbursed for allowable costs in excess of Five Thousand Dollars (\$5,000.00) at the same level or amount of reimbursement as the qualified owner or operator would have received pursuant to Section 356 of Title 17 of the Oklahoma Statutes.

2. Costs incurred as a result of a release from a storage tank system owned or operated by a Class I Railroad are not reimbursable pursuant to the provisions of the Oklahoma Petroleum Storage Tank Release Indemnity Program.

D. The Indemnity Fund shall consist of:

1. All monies received by the Corporation Commission as proceeds from the assessment imposed pursuant to Section 354 of this title;

2. Interest attributable to investment of money in the Indemnity Fund; and

3. Money received by the Corporation Commission in the form of gifts, grants, reimbursements, or from any other source intended to be used for the purposes specified by or collected pursuant to the provisions of the Oklahoma Petroleum Storage Tank Release Indemnity Program.

E. 1. The monies deposited in the Indemnity Fund shall at no time become monies of the state and shall not become part of the general budget of the Corporation Commission or any other state agency. Except as otherwise authorized by this subsection, no monies from the Indemnity Fund shall be transferred for any purpose to any other state agency or any account of the Corporation Commission or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

2. No monies from the Indemnity Fund shall be used to pay or reimburse the Corporation Commission for, in whole or in part, the salary of any employee involved in the regulation of underground or aboveground storage tanks pursuant to the Oklahoma Underground Storage Tank Regulation Act or the Oklahoma Aboveground Tank Regulation Act or the administration of programs pursuant to said acts, including the development, review and approval of corrective action plans as required by the regulatory programs.

3. Monies in the Indemnity Fund shall only be expended for:

- a. reimbursements to eligible persons unless duly assigned to another, and
- b. costs incurred by the Indemnity Fund Program for the administration of the fund and costs incurred for the sole purpose of evaluating claims and determining whether specific claims qualify for payment or reimbursement from such Indemnity Fund.

Any costs incurred by the Corporation Commission pursuant to the provisions of the Oklahoma Petroleum Storage Tank Release Indemnity Program shall not exceed the actual expenditures made by the



Corporation Commission to implement the provisions of the Oklahoma Petroleum Storage Tank Release Indemnity Program.

4. Payment of claims from the Indemnity Fund shall not become or be construed to be an obligation of this state. No claims submitted for reimbursement from the Indemnity Fund shall be paid with state monies.

SECTION 4. AMENDATORY 19 O.S. 1991, Section 339, as last amended by Section 1, Chapter 34, O.S.L. 1994 (19 O.S. Supp. 1994, Section 339), is amended to read as follows:

Section 339. A. The county commissioners shall have power:

1. To make all orders respecting the real property of the county, to sell the public grounds of the county and to purchase other grounds in lieu thereof; and for the purpose of carrying out the provisions of this section it shall be sufficient to convey all the interests of the county in such grounds when an order made for the sale and a deed is executed in the name of the county by the chairman of the board of county commissioners, reciting the order, and signed and acknowledged by him for and on behalf of the county-;

2. To audit the accounts of all officers having the care, management, collection or disbursement of any money belonging to the county or appropriated for its benefit-;

3. To construct and repair bridges and to open, lay out and vacate highways: Provided, however, that when any state institution, school or department shall own, lease or otherwise control land on both sides of any established highway, the governing board or body of the same shall have the power to vacate, alter or relocate said highway adjoining said property in the following manner:

If it should appear that it would be to the best use and interest of such institution, school or department to vacate, alter or relocate such highway, the governing board or body shall notify the board of county commissioners, in writing, of their intention to

hold a public hearing and determine whether to vacate, alter or relocate such highway, setting forth the location and terminals of said road, and all data concerning the proposed right-of-way if changed or relocated, and shall give fifteen (15) days' notice of such hearing by publication in some newspaper in the county or counties in which the road is located, and such hearing shall be held at the county seat of the county in which the road is located, and if a county line road, may be heard in either county. At such hearing testimony may be taken, and any protests or suggestions shall be received as to the proposed measure, and at the conclusion thereof if the governing board or body shall find that it would be to the best use and interest of such institution, school or department, and the public generally, they may make an appropriate order either vacating, altering or relocating said highway, which order shall be final; provided further, that such institution, school or department may by agreement share the cost of changing any such road; and provided further, that no property owner shall be denied access to a public highway by such order-i

4. Until January 1, 1983, to furnish necessary blank books, plats, blanks and stationery for the clerk of the district court, county clerk, register of deeds, county treasurer and county judge, sheriff, county surveyor and county attorney, justices of the peace, and constables, to be paid for out of the county treasury; also a fireproof vault sufficient in which to keep all the books, records, vouchers and papers pertaining to the business of the county-i

5. To set off, organize and change the boundaries of townships and to designate and give names therefor: Provided, that the boundaries of no township shall be changed within six (6) months next preceding a general election-i

6. To lease tools, apparatus, machinery or equipment of the county to another political subdivision or a state agency. The Association of County Commissioners of Oklahoma, the Oklahoma State

University Center for Local Government Technology and the Office of the State Auditor and Inspector, together, shall establish a system of uniform rates for the leasing of such tools, apparatus, machinery and equipment-;:

7. To jointly, with other counties, buy heavy equipment and to loan or lease such equipment across county lines-;:

8. To develop minimum personnel policies for the county with the approval of a majority of all county elected officers-;:

9. To purchase, rent, or lease-purchase uniforms, safety devices and equipment for the officers and employees of the county. The county commissioners may pay for any safety training or safety devices and safety equipment out of the general county funds or any county highway funds available to the county commissioners-;:

10. To provide for payment of notary commissions, filing fees, and the cost of notary seals and bonds-;:

11. To do and perform such other duties and acts that the board of county commissioners may be required by law to do and perform-;:  
and

12. To make purchases at a public auction pursuant to the county purchasing procedures in Section 1505 of this title.

B. The county commissioners of a county or, in counties where there is a county budget board, the county budget board may designate money from general county funds for the designated purpose of drug enforcement and drug abuse prevention programs within the county.

C. When any lease or lease purchase is made on behalf of the county by the board pursuant to the provisions of this section, the county shall be allowed to have trade in values for transactions involving the Oklahoma Central Purchasing Act, Section 85.1 et seq. of Title 74 of the Oklahoma Statutes.

SECTION 5. AMENDATORY 19 O.S. 1991, Section 1505, as last amended by Section 1, Chapter 131, O.S.L. 1994 (19 O.S. Supp. 1994, Section 1505), is amended to read as follows:

Section 1505. The following procedures shall be used by counties for the requisition, purchase, lease-purchase, rental, and receipt of supplies, materials, and equipment for the maintenance, operation, and capital expenditures of county government unless otherwise provided for by law.

A. The procedure for requisitioning items for county offices shall be as follows:

1. The requesting department shall prepare a requisition form in triplicate. The requisition shall contain any specifications for an item as deemed necessary by the requesting department. The form shall be prescribed by the State Auditor and Inspector;

2. The requesting department shall retain a copy of the requisition and forward the original requisition and a copy to the county purchasing agent; and

3. Upon receipt of the requisition, the county purchasing agent, within two (2) working days, shall begin the bidding and purchasing process as provided for in this section. Nothing in this section shall prohibit the transfer of supplies, materials, or equipment between county departments upon a written agreement between county officers.

B. The bid procedure for selecting a vendor for the purchase, lease-purchase, or rental of supplies, materials, and equipment used by a county shall be as follows:

1. The county purchasing agent shall request written recommendations from all county officers pertaining to commonly used supplies, materials, and equipment. From such recommendations and available requisition, purchase, or inventory records, the county purchasing agent shall prepare a list of items commonly used by county officers. The county purchasing agent shall request from the

Purchasing Division of the Department of Central Services all contracts quoting the price the state is paying for said items. The county purchasing agent shall either request the Purchasing Division of the Department of Central Services to make the purchase for the county or solicit bids for unit prices on said items for periods of not to exceed twelve (12) months in the manner described in paragraph 2 of this subsection. If the county purchasing agent receives a requisition for an item for which the county purchasing agent does not have a current bid, the county purchasing agent shall request from the Purchasing Division of the Department of Central Services all contracts quoting the price the state is paying for the item. The county purchasing agent shall either request the Purchasing Division of the Department of Central Services to make the purchase for the county or solicit bids in the manner described in paragraph 2 of this subsection. Nothing in this paragraph shall prohibit bids from being taken on an item currently on a twelve-month bid list, at any time deemed necessary by the county purchasing agent. Whenever the county purchasing agent deems it necessary to take a bid on an item currently on a twelve-month bid list, the reason for the bid shall be entered into the minutes of the board of county commissioners;

2. Bids shall be solicited by mailing a notice to all persons or firms who have made a written request of the county purchasing agent that they be notified of such bid solicitation and to all other persons or firms who might reasonably be expected to submit bids. Notice of solicitation of bids shall also be published one time in a newspaper of general circulation in the county. Notices shall be mailed and published at least ten (10) days prior to the date on which the bids are opened. Proof of the mailing shall be made by the affidavit of the person mailing the request for bids and shall be made a part of the official records of the county purchasing agent. Whenever any prospective supplier or vendor

dealing in or listing for sale any particular item or article required to be purchased or acquired by sealed bids fails to enter or offer a sealed bid for three successive bid solicitations, the name of the supplier or vendor may be dropped from the mailing lists of the board of county commissioners;

3. The sealed bids received from vendors and the state contract price received from the Purchasing Division of the Department of Central Services shall be given to the county clerk by the county purchasing agent. The county clerk shall forward the sealed bids and state contract price, if any, to the board of county commissioners;

4. The board of county commissioners, in an open meeting, shall open the sealed bids and compare them to the state contract price. The board of county commissioners shall select the lowest and best bid based upon the availability of material and transportation cost to the job site within thirty (30) days of said meeting. For any special item not included on the list of commonly used items, the requisitioning official shall review the bids and submit a written recommendation to the board before final approval. The board of county commissioners shall keep a written record of the meeting as required by law, and any time the lowest bid was not considered to be the lowest and best bid, the reason for said conclusion shall be recorded. Whenever the board of county commissioners rejects the written recommendation of the requisitioning official pertaining to a special item, the reasons for the rejection shall be entered in their minutes and stated in a letter to the requisitioning official and county purchasing agent;

5. The county purchasing agent shall notify the successful bidders and shall maintain a copy of the notification. The county purchasing agent shall prepare and maintain a vendors list specifying the successful bidders and shall notify each county officer of the list. The county purchasing agent may remove any

vendor from such list who refuses to provide goods or services as provided by contract if the removal is authorized by the board of county commissioners. The county purchasing agent may make purchases from the successful bidders for a price at or below the bid price. If a vendor who is the low bidder cannot or will not sell goods or services as required by a county bid contract, the county purchasing agent may purchase from the next low bidder or take quotations as provided in paragraph 6 of this section, provided, however, such purchase does not exceed Two Thousand Five Hundred Dollars (\$2,500.00). Bids in excess of Two Thousand Five Hundred Dollars (\$2,500.00) shall be re-bid; and

6. When bids have been solicited as provided for by law and no bids have been received, the procedure shall be as follows:

- a. the county purchasing agent shall determine if potential vendors are willing to commit to a firm price for a reduced period of time, and, if such is the case, the bid procedure described in this subsection shall be followed, or
- b. if vendors are not willing to commit to a firm price for a reduced period, the purchasing agent shall solicit and record at least three quotes of current prices available to the county and authorize the purchase of goods based on the lowest and best quote as it becomes necessary to acquire such goods. The quotes shall be recorded on a form prescribed by the State Auditor and Inspector and shall be attached to the purchase order and filed with the county clerk's copy of the purchase order. Any time the lowest quote was not considered to be the lowest and best quote, the reason for this conclusion shall be recorded by the county purchasing agent and transmitted to the county clerk, or

c. if three quotes are not available, a memorandum to the county clerk from the county purchasing agent shall describe the basis upon which a purchase is authorized. The memorandum shall state the reasons why the price for such a purchase is the lowest and best under the circumstances. The county clerk shall then attach the memorandum to the county clerk's copy of the purchase order and file both in the office of the county clerk.

C. After selection of a vendor, the procedure for the purchase, lease-purchase, or rental of supplies, materials, and equipment used by a county shall be as follows:

1. The county purchasing agent shall prepare a purchase order in quadruplicate and submit it with a copy of the requisition to the county clerk;

2. The county clerk shall then encumber the amount stated on the purchase order and assign a sequential number to the purchase order;

3. If there is an unencumbered balance in the appropriation made for that purpose by the county excise board, the county clerk shall so certify in the following form:

I hereby certify that the amount of this encumbrance has been entered against the designated appropriation accounts and that this encumbrance is within the authorized available balance of said appropriation.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
County Clerk/Deputy  
of \_\_\_\_\_ County.

In instances where it is impossible to ascertain the exact amount of the indebtedness sought to be incurred at the time of recording the encumbrance, an estimated amount may be used. No purchase order



shall be valid unless signed by the county purchasing agent and certified by the county clerk~~;~~; and

4. The county clerk shall file a copy of the purchase order and return the original purchase order and two copies to the county purchasing agent who shall file a copy, retain the other copy for the county road and bridge inventory officer if the purchase order is for the purchase of equipment, supplies, or materials for the construction or maintenance of roads and bridges, and submit the original purchase order to the receiving officer of the requesting department.

D. The procedure for the receipt of items shall be as follows:

1. A receiving officer for the requesting department shall be responsible for receiving all items delivered to that department;

2. Upon the delivery of an item, the receiving officer shall determine if a purchase order exists for the item being delivered;

3. If no such purchase order has been provided, the receiving officer shall refuse delivery of the item;

4. If a purchase order is on file, the receiving officer shall obtain a delivery ticket, bill of lading, or other delivery document and compare it with the purchase order. If any item is back ordered, the back order and estimated date of delivery shall be noted in the receiving report;

5. The receiving officer shall complete a receiving report in quadruplicate which shall state the quantity and quality of goods delivered. The receiving report form shall be prescribed by the State Auditor and Inspector. The person delivering the goods shall acknowledge the delivery by signature, noting the date and time;

6. The receiving officer shall file the original receiving report and submit:

- a. the original purchase order and a copy of the receiving report to the county purchasing agent, and

- b. a copy of the receiving report with the delivery documentation to the county clerk;

7. The county purchasing agent shall file the original purchase order and a copy of the receiving report;

8. Upon receipt of the original receiving report and the delivery documentation, the county clerk shall maintain a file until such time as an invoice is received from the vendor;

9. The invoice shall state the name and address of the vendor and must be sufficiently itemized to clearly describe each item purchased, the unit price when applicable, the number or volume of each item purchased, the total price, the total purchase price, and the date of the purchase;

10. Upon receipt of an invoice, the county clerk shall compare the following documents:

- a. requisition,
- b. purchase order,
- c. invoice with noncollusion affidavit as required by law,
- d. receiving report, and
- e. delivery document.

The documents shall be available for public inspection during regular business hours; and

11. If the documents conform as to the quantity and quality of the items, the county clerk shall prepare a warrant for payment according to procedures provided for by law.

E. The following procedures are for the processing of purchase orders:

1. Purchase orders may be allowed and paid at the first meeting of the board of county commissioners after five (5) days have elapsed following the date of the filing of the purchase order, provided that purchase orders for the salaries of the county

officers and their full-time assistants, deputies and employees may be allowed and paid immediately after filing;

2. The board of county commissioners shall consider said purchase orders so presented and act upon said purchase orders, by allowing in full or in part or by holding for further information or disallowing the same. The disposition of purchase orders shall be indicated by the board of county commissioners, showing the amounts allowed or disallowed and shall be signed by at least two members of the board of county commissioners. Any claim held over for further information shall be acted upon by allowing or disallowing same at any future meeting of the board held within seventy-five (75) days from the date of filing of the purchase order. Any purchase order not acted upon within the seventy-five (75) days from the date of filing shall be deemed to have been disallowed, but such disallowance shall not prevent the refiling of said purchase order at the proper time; and

3. Whenever any allowance, either in whole or in part, is made upon any purchase order presented to the board of county commissioners and is accepted by the person making the claim, such allowance shall be a full settlement of the entire purchase order and provided that the cashing of warrant shall be considered as acceptance by the claimant.

F. The procedure upon consumption or disposal of supplies, materials, or equipment shall be as follows:

1. For consumable items other than road or bridge items having an original cost greater than ~~Two Hundred Fifty Dollars (\$250.00)~~ Five Hundred Dollars (\$500.00), a record of the date and place of consumption shall be prepared by the consuming department and filed bimonthly with the board of county commissioners;

2. For consumable road or bridge items or materials, a monthly report of the road and bridge projects completed during said period shall be prepared by the consuming department and filed with the

county clerk. The report shall contain a record of the date, the place, and the purpose for the use of the road or bridge items or materials. For purposes of identifying county bridges, the board of county commissioners shall number each bridge subject to its jurisdiction;

3. For equipment other than road or bridge equipment which originally cost more than Two Hundred Fifty Dollars (\$250.00), a copy of the minutes required by Section 421 of this title shall be filed with the board of county commissioners; and

4. For road or bridge equipment which originally cost more than Two Hundred Fifty Dollars (\$250.00), a copy of the minutes required by Section 421 of this title shall be filed with the board of county commissioners.

G. Inventory forms and reports shall be retained for not less than two (2) years after all audit requirements for the state and federal government have been fulfilled and after any pending litigation involving the forms and reports has been resolved.

H. The procedures provided for in this section shall not apply when a county officer certifies that an emergency exists requiring an immediate expenditure of funds. Such an expenditure of funds shall not exceed ~~Seven Hundred Fifty Dollars (\$750.00)~~ One Thousand Five Hundred Dollars (\$1,500.00). The county officer shall give the county purchasing agent a written explanation of the emergency. The county purchasing agent shall attach the written explanation to the purchase order. Said purchases shall be paid by attaching a properly itemized invoice, as described in this section, to a purchase order which has been prepared by the county purchasing agent and submitting them to the county clerk for filing, encumbering, and consideration for payment by the board of county commissioners.

SECTION 6. AMENDATORY Section 3, Chapter 282, O.S.L. 1993, as amended by Section 37, Chapter 323, O.S.L. 1994 (25 O.S. Supp. 1994, Section 307.1), is amended to read as follows:

Section 307.1 A. No public body shall hold meetings by teleconference except:

1. The Variance and Appeals Boards created in Sections 1021.1, 1697 and 1850.16 of Title 59 of the Oklahoma Statutes;

2. Oklahoma Futures;

~~2.~~ 3. The Oklahoma State Regents for Higher Education; and

~~3.~~ 4. The Oklahoma Board of Medical Licensure and Supervision.

B. No public body authorized to hold meetings by teleconference shall conduct an executive session by teleconference.

SECTION 7. AMENDATORY 63 O.S. 1991, Section 1-2008.1, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 23, Chapter 373, O.S.L. 1994 (27A O.S. Supp. 1994, Section 2-7-117), is amended to read as follows:

Section 2-7-117. A. Two or more persons generating hazardous waste may enter into a compact to construct and operate a multi-user on-site treatment facility for the exclusive use of the members of such compact. Such facility shall not be used as a hazardous waste facility for off-site treatment, storage or disposal of hazardous waste.

B. To be eligible for a permit issued pursuant to the provisions of this section and the Oklahoma Hazardous Waste Management Act, a multi-user on-site treatment facility shall meet the following criteria:

1. The facility may be co-owned by the generators of hazardous waste who are members of the compact;

2. Each member of the compact shall be identified in the application and permit. In addition, the individual hazardous waste generated by each member shall be separately and distinctly

characterized in the application and in the permit and shall meet the compatibility requirements established by the Department;

3. The facilities generating hazardous waste which is to be treated at the multi-user on-site treatment facility shall be located within the same county as the multi-user on-site treatment facility;

4. The multi-user on-site treatment facility shall be located upon the property of one of the compact members;

5. Financial responsibility requirements shall be the responsibility of the compact members and shall be prorated according to the relative amount of hazardous waste of a generator to be treated at the facility; and

6. The Department may require such other criteria and information in order to determine if the multi-user on-site treatment facility is physically and technically suitable for the hazardous waste to be treated at the facility.

C. A multi-user on-site treatment facility, located within an industrial park which treats, stores or disposes of wastes that are produced only ~~by the industries located~~ within that industrial park, may be owned or operated by persons other than the generators of the waste.

D. Upon compliance with the provisions of the Oklahoma Hazardous Waste Management Act, this section and rules promulgated thereunder, the Department shall issue a permit for the construction and operation of a multi-user on-site treatment facility.

E. The board of county commissioners of the county in which a multi-user on-site treatment facility is proposed to be located shall review all transportation routes between such proposed location and the facilities generating hazardous waste which are operated by members of the compact. The provisions of Section 2-7-115 of this title relating to county roads and bridges shall apply to permit applications for multi-user on-site treatment facilities.

SECTION 8. AMENDATORY 63 O.S. 1991, Section 1-2014.2, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 24, Chapter 373, O.S.L. 1994 (27A O.S. Supp. 1994, Section 2-7-118), is amended to read as follows:

Section 2-7-118. A. Facilities that recycle hazardous waste shall be exempt from subsection C of Section 2-7-113 and Section 2-7-115 of this title with regard to those units exclusively used in the recycling process. Off-site hazardous waste recycling facilities are subject to the requirements specified by the Oklahoma Hazardous Waste Management Act for an operations permit, and shall also meet design standards as promulgated by the Board. Such recycling facilities which were in existence on July 1, 1990, may but shall not be required to file an operations permit application pursuant to the provisions of the Oklahoma Hazardous Waste Management Act. A permit modification is not required for a permitted recycling facility to use new, improved, or better methods of recycling if the Department has approved the plans as being environmentally acceptable. An approved class 1 operations permit modification shall be required for a permitted recycling facility to increase the capacity of its recycling units or add new or different recycling units.

B. No hazardous waste having a heating value less than five thousand (5,000) British Thermal Units per pound shall be burned as fuel in any unit in this state permitted as a hazardous waste recycling unit.

C. No hazardous waste which has a heating value of less than five thousand (5,000) British Thermal Units per pound when blended with other materials or wastes to produce a hazardous waste fuel with a heating value equal to or exceeding five thousand (5,000) British Thermal Units per pound shall be burned as fuel in any unit in this state permitted as a hazardous waste recycling unit.

SECTION 9. AMENDATORY 29 O.S. 1991, Section 4-110, as last amended by Section 1, Chapter 372, O.S.L. 1994 (29 O.S. Supp. 1994, Section 4-110), is amended to read as follows:

Section 4-110. A. Except as otherwise provided in the Oklahoma Wildlife Conservation Code, no person shall fish, pursue, harass, catch, kill, take in any manner, use, have in possession, sell, or transport all or any portion of fish without having first procured a license for such from the Director or from any of the authorized agents of the Department. The Commission may designate two (2) days per year in which residents and nonresidents may fish without first procuring a fishing license pursuant to the provisions of this section.

B. Pursuant to the provisions of this Code, persons excepted from the license requirements of this section are:

1. Legal residents under sixteen (16) years of age on the first day of the current calendar year and nonresidents under sixteen (16) years of age from states which do not require nonresident fishing licenses for persons under sixteen (16) years of age;

2. Legal residents sixty-four (64) years of age or older and nonresidents sixty-four (64) years of age or older from states which do not require nonresident fishing licenses for persons sixty-four (64) years of age or older, provided such resident has obtained a senior citizen's license pursuant to the provisions of Section 4-133 of this title;

3. Legal resident veterans having a disability of sixty percent (60%) or more;

4. Legal resident owners or tenants, their spouses, parents, grandparents, children and their spouses, grandchildren and their spouses who fish in private ponds on land owned or leased by them;

5. Every Oklahoma citizen who is serving in a branch of the United States Armed Forces, is on properly authorized leave of absence from military duty, has in his possession proper written



evidence showing such authorized leave, and is serving outside the State of Oklahoma at the time of such fishing;

6. Any patient of an institution of the State of Oklahoma established for the care and treatment of mental illness or alcohol or drug dependency or any developmentally disabled person residing in any group home or other institution or developmentally disabled persons when accompanied by an attendant of such institution or legal guardian of said patient, or when fishing on institutional property;

7. Any person under eighteen (18) years of age who is in the legal and physical custody of the State of Oklahoma or one of its agencies by court order;

8. Any person who is legally blind or who has any other physical impairment, as certified by a duly qualified physician, which prevents him from properly using fishing apparatus without the assistance of another person, and any one person actually accompanying and actually assisting such legally blind or otherwise physically impaired person while the latter is fishing. This certification shall be carried by the individual while fishing;

9. Nonresidents under fourteen (14) years of age;

10. Job Corps trainees of this state, provided that such trainees shall have on their persons a duly authorized identification card issued by their respective Job Corps Center and shall present such card upon request, in lieu of a fishing license. The trainees shall return their cards to their respective Job Corps Center when the trainees leave their respective Job Corps training programs;

11. Any legal resident having a proven disability which renders him nonambulatory and confines him to a wheelchair as certified by a duly qualified physician; and

12. Any person who is fishing with a pole and line, trotline, or throwline in streams, natural lakes, natural ponds, and mine pits

in the county in which he is a resident, or in streams, natural lakes, natural ponds, and mine pits which form a part of the boundary line of the county in which he is a resident, when using any bait other than commercial or artificial bait, blood, stink bait, cut fish, and shrimp.

C. Except as otherwise provided for in the Oklahoma Wildlife Conservation Code, the fee for an annual license issued pursuant to the provisions of this section shall be:

1. For legal residents, Eleven Dollars and fifty cents (\$11.50); and

2. For nonresidents, Twenty-seven Dollars and fifty cents (\$27.50), provided the Commission may enter into reciprocity agreements with states wherein nonresident license fees shall be in conformity with such reciprocal agreements. For a fourteen-day nonresident permit license, Nineteen Dollars (\$19.00). For a five-day nonresident permit license, Nine Dollars (\$9.00). Of the amount of monies collected pursuant to the provisions of this paragraph, Five Dollars (\$5.00) of the license fee for nonresidents, Two Dollars and fifty cents (\$2.50) of the fourteen-day nonresident permit fee and One Dollar and fifty cents (\$1.50) of the five-day nonresident permit fee shall be deposited in the Wildlife Habitat Fund created pursuant to the provisions of Section 4-132 of this title.

D. Legal residents who have resided in this state for at least six (6) months and who are receiving Social Security Disability benefits or Supplemental Security Income benefits or both may purchase a disability fishing license from the Director for Ten Dollars (\$10.00) for five (5) years.

E. 1. Any person arrested while violating the provisions of this section who does not meet the requirements of subsection H of this section, may purchase a substitute temporary thirty-day license from the arresting game warden in lieu of posting bond. The fee for

a substitute license purchased pursuant to the provisions of this subsection shall be:

1. ~~For a.~~ for legal residents, ~~Thirty-five Dollars (\$35.00);~~ Fifty Dollars (\$50.00), and
2. ~~For b.~~ for nonresidents, ~~Seventy-five Dollars (\$75.00)~~ Ninety Dollars (\$90.00).

~~The~~ 2. Except as otherwise provided by this subsection, the fees from licenses purchased pursuant to the provisions of this subsection shall be deposited in the Wildlife Conservation Fund to be used exclusively for developing, managing, preserving, and protecting wildlife and wildlife habitat.

3. Of the fees for temporary licenses collected pursuant to the provisions of this subsection:

- a. Five Dollars (\$5.00) of the fee for each license shall be deposited in the Law Enforcement Officer Training Account of the Wildlife Conservation Fund created pursuant to Section 3-312 of this title, and
- b. Ten Dollars (\$10.00) of the fee for each license shall be deposited in the Nongame Wildlife Improvement Fund created pursuant to Section 3-310 of this title.

F. Unless a substitute license is purchased as provided for by subsection E of this section, any resident of this state convicted of violating the provisions of this section shall be punished by the imposition of a fine of not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00) or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both said fine and imprisonment.

G. Unless a substitute license is purchased as provided for by subsection E of this section, any nonresident convicted of violating this section shall be punished by a fine of not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) or

by imprisonment in the county jail for a period not more than thirty (30) days, or by both such fine and imprisonment.

H. Any person producing proof in court that a current fishing license issued by the Department of Wildlife Conservation to such person was in force at the time of the alleged offense shall be entitled to dismissal of a charge of violating this section upon payment of court costs; however, if proof of fishing license is presented to the court or district attorney within seventy-two (72) hours after the violation, the charge shall be dismissed without payment of court costs.

SECTION 10. AMENDATORY 29 O.S. 1991, Section 4-112, as last amended by Section 2, Chapter 372, O.S.L. 1994 (29 O.S. Supp. 1994, Section 4-112), is amended to read as follows:

Section 4-112. A. Except as otherwise provided for in the Oklahoma Wildlife Conservation Code, no person may hunt, pursue, trap, harass, catch, kill, take or attempt to take in any manner, use, have in possession, sell, or transport all or any portion of any wildlife except fish, without having first procured a license for such from the Director or from any authorized agents of the Department. The Commission shall designate a consecutive Saturday and Sunday in September of each year as free hunting days in which residents of this state may hunt without first procuring a hunting license pursuant to the provisions of this section.

B. Pursuant to the provisions of this Code, persons excepted from the license requirement of this section are:

1. Legal residents of Oklahoma under sixteen (16) years of age on the first day of the current calendar year;

2. Legal residents of Oklahoma sixty-four (64) years of age or older provided such persons have obtained a senior citizen's license pursuant to the provisions of Section 4-133 of this title;

3. Legal resident veterans having a disability of sixty percent (60%) or more;

4. Legal resident owners or tenants who hunt on land owned or leased by them;

5. Every citizen of Oklahoma serving in a branch of the United States Armed Forces, who is on properly authorized leave from military duty, who has in his possession proper written evidence showing such authorized leave, and who is serving outside the State of Oklahoma at the time of such hunting;

6. Any nonresident under fourteen (14) years of age; and

7. Legal residents having a proven disability which renders them nonambulatory and confines them to a wheelchair, as certified by a medical doctor duly licensed to practice medicine in this state.

C. Except as otherwise provided for in the Oklahoma Wildlife Conservation Code, the fees for licenses listed in this subsection are:

1. a. Annual hunting licenses for nonresidents hunting game other than deer, antelope, or elk, Eighty-four Dollars (\$84.00); for deer, Two Hundred Dollars (\$200.00); for antelope and elk, Two Hundred Fifty Dollars (\$250.00). There shall be no exemptions for deer, antelope, elk, or turkey. For a five-day nonresident hunting license to hunt game other than deer, antelope, elk, turkey, or pheasant, the fee shall be Thirty-four Dollars (\$34.00).
- b. Of the amount of monies collected pursuant to the provisions of this paragraph, Five Dollars (\$5.00) of the license fee for hunting game other than deer, antelope and elk, Five Dollars (\$5.00) of the license fee for hunting deer, Five Dollars (\$5.00) of the license fee for hunting antelope and elk and Two Dollars and fifty cents (\$2.50) of the five-day hunting license shall be deposited in the Wildlife

Habitat Fund created pursuant to the provisions of Section 4-132 of this title.

- c. The Oklahoma Wildlife Department shall not issue any nonresident deer, antelope, or elk licenses to residents of any other state which has a deer season but does not allow Oklahoma residents the opportunity to purchase nonresident licenses in their state.

2. Disability hunting license, residents of this state for at least six (6) months and who are receiving Social Security Disability benefits or Supplemental Security Income benefits or both may purchase a disability hunting license from the Director for Ten Dollars (\$10.00) for five (5) years.

3. Deer gun hunting license, residents, Fifteen Dollars and seventy-five cents (\$15.75). There shall be no exemptions except for residents sixty-four (64) years of age or older provided such residents have obtained a senior citizen's license pursuant to the provisions of Section 4-133 of this title and for legal residents of Oklahoma under eighteen (18) years of age provided such residents shall be required to pay a deer gun hunting license fee of Thirteen Dollars and seventy-five cents (\$13.75). In addition, veterans who are totally disabled as certified by the U.S. Veterans Administration shall be exempt from the fees specified pursuant to this paragraph.

4. Deer archery hunting license, residents, Fifteen Dollars and seventy-five cents (\$15.75). No exemptions.

5. Primitive firearms license, residents, Fifteen Dollars and seventy-five cents (\$15.75). No exemptions.

6. Elk or antelope hunting license, residents, Thirty-four Dollars and twenty-five cents (\$34.25). No exemptions.

7. Bonus, special or second deer gun hunting license, residents, Fifteen Dollars and seventy-five cents (\$15.75). No exemptions except for residents sixty-five (65) years of age or

older provided such residents have obtained a senior citizen's license pursuant to the provisions of Section 4-133 of this title. In addition, veterans who are totally disabled, if certified by the U.S. Veterans Administration shall be exempt from the fees specified pursuant to this paragraph.

D. The fees for hunting licenses, except as provided for in the Oklahoma Wildlife Conservation Code, are:

1. Legal residents, Eleven Dollars and fifty cents (\$11.50); and
2. Commercial hunting area ten-day permit, resident or nonresident, Five Dollars (\$5.00).

E. The provisions of this section shall not be construed to require a hunting license, resident or nonresident, of any person merely because he participates, as owner or handler of an entry, as an official, or as a spectator in the conduct of a field trial or performance test of dogs, whether he is a resident or nonresident of the State of Oklahoma. No license to hunt shall be required of any person engaged in training or working dogs, provided said person is in no way engaged in hunting and does not take or attempt to take in any manner any game.

F. 1. Any person arrested for hunting game other than deer, antelope, elk, or turkey without a valid hunting license as required by the provisions of subsection A of this section may purchase a substitute temporary thirty-day license from the arresting game warden in lieu of posting bond. Proof of hunter safety certification will not be required for such temporary substitute license. The fee for a substitute license purchased pursuant to the provisions of this subsection shall be:

- ~~1. For a.~~ for legal residents, ~~Thirty-five Dollars (\$35.00);~~ Fifty Dollars (\$50.00), and

2. ~~For b.~~ for nonresidents, One Hundred Thirty Dollars  
~~(\$130.00)~~ One Hundred Forty-five Dollars  
(\$145.00).

The 2. Except as otherwise provided for by this subsection, the  
fees from licenses purchased pursuant to the provisions of this  
subsection shall be deposited in the Wildlife Conservation Fund to  
be used exclusively for developing, managing, preserving, and  
protecting wildlife and wildlife habitat.

3. Of the fees for temporary licenses collected pursuant to the  
provisions of this subsection:

- a. Five Dollars (\$5.00) of the fee for each license shall  
be deposited in the Law Enforcement Officer Training  
Account of the Wildlife Conservation Fund created  
pursuant to Section 3-312 of this title, and
- b. Ten Dollars (\$10.00) of the fee for each license shall  
be deposited in the Nongame Wildlife Improvement Fund  
created pursuant to Section 3-310 of this title.

G. Any person producing proof in court that a current hunting  
license issued by the Department of Wildlife Conservation to such  
person was in force at the time of the alleged offense shall be  
entitled to dismissal of a charge of violating this section upon  
payment of court costs; however, if proof of hunting license is  
presented to the court or district attorney within seventy-two (72)  
hours after the violation, the charge shall be dismissed without  
payment of court costs.

H. Unless a substitute license is purchased as provided for by  
subsection F of this section, any resident convicted of violating  
the provisions of this section shall be punished by the imposition  
of a fine of not less than Twenty-five Dollars (\$25.00) nor more  
than One Hundred Dollars (\$100.00), or by imprisonment in the county  
jail for a period not to exceed thirty (30) days, or by both said  
fine and imprisonment.



I. Unless a substitute license is purchased as provided for by subsection F of this section, any nonresident convicted of violating the provisions of this section shall be punished by the imposition of a fine of not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for a period not to exceed six (6) months, or by both said fine and imprisonment.

SECTION 11. AMENDATORY 36 O.S. 1991, Section 1425, as last amended by Section 1, Chapter 337, O.S.L. 1994 (36 O.S. Supp. 1994, Section 1425), is amended to read as follows:

Section 1425. The Commissioner shall not issue, continue, or permit to continue any license of an insurance agent, surplus lines insurance broker, or limited insurance representative except in compliance with the following:

A. Application shall be made to the Commissioner by the applicant on a form prescribed by the Commissioner.

B. 1. The application for an insurance agent, managing general agent, or limited insurance representative license shall be accompanied by a written appointment. The appointment shall be made by an officer of the insurer designating the applicant as an insurance agent, managing general agent, or limited insurance representative for such lines of insurance as the applicant will be authorized to write for said insurer. All appointments for any licensee shall be submitted on behalf of the appointing insurer on a form prescribed by the Commissioner and shall remain in force until the renewal date. The renewal dates may be staggered throughout the year for appointments of agents, managing general agents, and limited insurance representatives by notifying the various companies in writing of the expiration and renewal date being assigned to agents and limited insurance representatives of said companies by the Commissioner and by making appropriate adjustment in said annual appointment fee.

2. For the renewal licensure of an applicant, the applicant shall submit either a letter from the appointing insurer verifying acceptance of responsibility for the actions of the applicant in the scope of that person's employment, or submit an errors and omissions policy acceptable to the Commissioner, or, if errors and omissions coverage is provided by the insurer for agents by utilizing a blanket errors and omissions policy for coverage, a copy of the policy providing the errors and omissions coverage shall be on file with the Commissioner of insurance. The insurer providing coverage shall submit a list of all agents covered by such policy when renewal applications are to be submitted. Provided, however, in the case of title insurance, scope of employment shall be limited to the issuance of commitments and policies and other duties only as specifically expressed in the agency contract.

C. Every applicant for licensing as an insurance agent, managing general agent, or limited insurance representative pursuant to the provisions of the Insurance Agents Licensing Act, except a partnership or corporation, shall be eighteen (18) years of age or older.

D. 1. Except as provided in paragraph 2 of this subsection, an applicant shall not be a full-time employee of the government of the United States or of the executive or administrative branches of the government of this state or any county or municipality in this state.

2. a. The provisions of this subsection shall not apply to applicants for life or accident and health insurance agents' licenses or limited representatives.

b. The provisions of this subsection shall not apply to persons who hold an elective office except the office of Insurance Commissioner.

c. For the purpose of this subsection, a teacher shall not be considered a full-time employee of the

executive or administrative branches of the government of the state or of any county or municipality in the state.

E. All applications shall be accompanied by the applicable fees. An appointment shall terminate upon failure to pay the prescribed annual renewal fee.

The Insurance Commissioner shall collect in advance the following fees and licenses:

1. For filing appointment of Insurance Commissioner as agent for service of process \$10.00
2. Miscellaneous:
  - a. Certificate of Commissioner, under seal .. \$3.00
  - b. Agent's study manual:
    - Life, Accident & Health ..... not to exceed \$30.00
    - Property and Casualty ..... not to exceed \$30.00
  - c. for filing Agency Articles of Incorporation \$20.00
3. Examination for license:
  - a. For each examination covering laws and one line of insurance \$30.00
  - b. For each examination covering laws and two or more lines of insurance \$40.00
4. Licenses:
  - a. Agent's license, each year, regardless of number of companies represented \$30.00
  - b. Agent's license for sale or solicitation of separate accounts or agreements, as provided for in Section 6061 of this title \$30.00
  - c. Limited insurance representative license, each year \$20.00
  - d. Temporary license as agent ..... \$20.00

- e. Managing general agent's license, each year \$30.00
  - f. Surplus lines broker's license, each year \$50.00
  - g. Insurance vending machine, each machine, each year \$50.00
  - h. Insurance consultant's license, resident or nonresident, each year \$50.00
5. Filing notice of appointment of agent, managing general agent, or limited insurance representative by insurer, each license of each agent or representative, each year \$20.00
  6. Renewal fee for all licenses shall be the same as the initial license fee.
  7. The fee for a duplicate license shall be one-half (1/2) the fee of an original license.
  8. Late application for the renewal of a license shall require a fee of double the original license fee.

F. The fees and monies received by the Insurance Commissioner pursuant to the provisions of paragraphs 1 and 2 of subsection E of this section shall be deposited with the State Treasurer, who shall place the same to the credit of the State Insurance Commissioner Revolving Fund for the purpose of fulfilling and accomplishing the conditions and purposes of this act.

The fees and monies received by the Insurance Commissioner pursuant to the provisions of paragraphs 3 through 8 of subsection E of this section shall be paid into the State Treasury to the credit of the General Revenue Fund of the state.

G. There is hereby created in the State Treasury the State Insurance Commissioner Revolving Fund which shall be a continuing fund not subject to fiscal year limitations. The revolving fund shall consist of fees and monies received by the Insurance Commissioner as required by law to be deposited in said fund and any other funds not dedicated in the Oklahoma Insurance Code. The revolving fund shall be used to fund the general operations of the

Insurance Commissioner's Office for the purpose of fulfilling and accomplishing the conditions and purposes of this act. All expenditures from said revolving fund shall be on claims approved by the Insurance Commissioner and filed with the Director of State Finance for payment.

~~H. At the close of the fiscal year ending June 30, 1988, and at the close of each fiscal year thereafter any unencumbered and unexpended monies in the State Insurance Commissioner Revolving Fund in excess of Five Hundred Thousand Dollars (\$500,000.00) shall be transferred to the General Revenue Fund of the state.~~

~~I.~~ All fees, fines, monies, and license fees authorized by the provisions of this section and not dedicated by the provisions of subsection F of this section to the State Insurance Commissioner Revolving Fund shall be paid into the State Treasury to the credit of the General Revenue Fund of this state.

~~J.~~ I. Prior to issuance of a license as an insurance consultant or surplus lines insurance broker, the applicant shall file with the Commissioner and thereafter, for as long as the license remains in effect, shall keep in force a bond in an amount of not less than Five Thousand Dollars (\$5,000.00) and not more than Forty Thousand Dollars (\$40,000.00) with an authorized corporate surety approved by the Commissioner. The exact amount of the bond shall be determined pursuant to the rules and regulations of the Commissioner and shall be based upon the actual or reasonably estimated premium for policies issued in connection with the services of the licensee. The surety shall notify the Commissioner of any changes in the bond of any licensee. The aggregate liability of the surety for any and all claims on a bond required by the provisions of this subsection shall in no event exceed the amount of the bond. No such bond shall be terminated unless at least thirty (30) days' prior written notice of the termination is given by the surety to the licensee and the Commissioner. Upon termination of the license for which the bond

was in effect, the licensee shall notify the surety within ten (10) working days.

All surety protection required by the provisions of this section is to inure to the benefit of any party aggrieved by the acts of a consultant or broker arising pursuant to his conduct as a licensed insurance consultant or surplus lines insurance broker.

~~K.~~ J. The Commissioner shall issue an insurance agent's license, managing general agent's license, insurance consultant's license, or a limited insurance representative's license to any duly qualified resident or nonresident of this state, whether an individual, partnership, or corporation, as follows:

1. An applicant may qualify as a resident if he resides in this state. Any license issued pursuant to any such application claiming residency in this state for licensing in this state shall constitute an election of residency in this state and shall be void if the licensee, while holding a resident license in this state, also holds or makes application for a license in or thereafter claims to be a resident of any other state or other jurisdiction or ceases to be a resident of this state. However, if the applicant is a resident of a community or trade area, the border of which is contiguous with the state line of this state, the applicant may qualify as a resident in such other state and may hold a license from each state;

2. a. An applicant may qualify for a license pursuant to the provisions of the Insurance Agents Licensing Act as a nonresident only if he holds a resident agent's license in any state of the United States, a province of Canada, or any other foreign country, in which he claims residency and with which the Commissioner has executed a reciprocal licensing agreement. The applicant shall provide to the Commissioner an original certification of licensure status from the resident state of the applicant. A license issued to

a nonresident of this state shall grant the same rights and privileges afforded a resident licensee, except as otherwise provided for by law. A corporation or partnership otherwise qualified to hold a license as a nonresident agent shall be licensed pursuant to the provisions of this section:

- (1) if the principal purpose of the corporation or partnership is the transacting of insurance business,
- (2) if said corporation or partnership is not a subsidiary or affiliate of a corporation or partnership not so qualified, and
- (3) if such corporation or partnership does not own stock in or is not a partner in any corporation or partnership licensed as a resident pursuant to Section 1424 of this title.

b. The Commissioner shall not issue a license to any nonresident applicant until said applicant files with the Commissioner his designation of the Commissioner as the person upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of any interested person arising out of the insurance business of the applicant in this state. This designation shall constitute an agreement that said service of process is of the same legal force and validity as personal service of process in this state upon the nonresident licensee. Service of process upon any such licensee in any such action or proceeding in any court of competent jurisdiction of this state may be made by serving the Commissioner with three copies thereof and by paying to the Commissioner a fee of Ten Dollars (\$10.00). The

Commissioner shall forward a copy of the process by mail with return receipt requested to the licensee at his last-known address of record or principal place of business, and the Commissioner shall keep a record of all process so served upon him.

- c. Service of process upon any such licensee in any action or proceeding instituted by the Commissioner pursuant to the provisions of this Code shall be made by the Commissioner by mailing the process by mail with return receipt requested to the licensee at his last-known address of record or principal place of business.

Service of process upon any nonresident licensee is sufficient, provided notice of the service and a copy of the process are sent within ten (10) days thereafter to the licensee at his last-known address of record or principal place of business by mail with return receipt requested.

If the Commissioner revokes or suspends any nonresident's license through a formal proceeding pursuant to the provisions of this Code, the Commissioner shall promptly notify the appropriate Commissioner of the licensee's state of residence of the action and of the particulars thereof.

- d. A nonresident of this state may be licensed without taking a written examination if the Commissioner of the state of residence of the applicant certifies by facsimile signature and seal that the applicant has passed a similar written examination, or has been a continuous holder, prior to the time said written examination was required, of a license similar to the



license for which application is being made in this state.

- e. When, by the laws or regulations of any other state or jurisdiction, any limitation of rights and privileges, conditions precedent, or any other requirements are imposed upon residents of this state who are nonresident applicants or licensees of the other state or jurisdiction in addition to or in excess of those imposed on nonresidents pursuant to the provisions of the Insurance Agents Licensing Act, the same requirements shall be imposed upon such residents of the other state or jurisdiction;

3. An applicant for a surplus lines insurance broker's license shall be licensed in this state as a resident insurance agent qualified as to the line or lines of insurance to be written;

4. An applicant for any license required by the provisions of the Insurance Agents Licensing Act shall be deemed by the Commissioner to be competent, trustworthy, financially responsible, and of good personal and business reputation;

- 5. a. It shall be unlawful for any person whose license to act as an insurance agent, limited insurance representative, managing general agent, insurance consultant, or surplus lines insurance broker has been suspended, revoked, surrendered, or refused to do or perform any of the acts of an insurance agent, limited insurance representative, managing general agent, insurance consultant, or surplus lines insurance broker. Any person convicted of violating the provisions of this section shall be guilty of a felony and shall be punished by the imposition of a fine of not more than One Thousand Dollars (\$1,000.00) or shall be committed to the custody of the Department of

Corrections for not less than one (1) year nor more than five (5) years, or be punished by both said fine and commitment to custody.

- b. It shall be unlawful for any insurance agent, limited insurance representative, managing general agent, insurance consultant, or surplus lines insurance broker to assist, aid, or conspire with a person whose license as an insurance agent, limited insurance representative, managing general agent, insurance consultant, or surplus lines insurance broker has been suspended, revoked, surrendered, or refused to engage in any acts as an insurance agent, limited insurance representative, managing general agent, insurance consultant, or surplus lines insurance broker. Any person convicted of violating the provisions of this section shall be guilty of a felony and shall be punished by the imposition of a fine of not more than One Thousand Dollars (\$1,000.00) or shall be committed to the custody of the Department of Corrections for not less than one (1) year nor more than five (5) years, or be punished by both said fine and commitment to custody;

6. It shall be unlawful for any person to do or perform any of the acts of an insurance agent, limited insurance representative, managing general agent, surplus lines insurance broker, or insurance consultant without being duly licensed, or for any partnership or corporation, or any person acting on behalf of a partnership or corporation, to violate any of the provisions of subsection B of Section 1424 of this title. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor and shall be punished by the imposition of a fine of not more than Five Hundred Dollars (\$500.00) or imprisonment in the county jail for not

less than six (6) months nor more than one (1) year, or be punished by both said fine and imprisonment;

7. a. After completion and filing of the application with the Commissioner, except as provided in Section 1426 of this title, the Commissioner shall subject each applicant for license as an insurance agent, surplus lines insurance broker, insurance consultant, or limited insurance representative to a written examination as to his competence to act as a licensee, which each applicant shall personally take and pass to the satisfaction of the Commissioner.
- b. If the applicant is a partnership or corporation, the examination shall be taken by each individual who is to act for the corporation or partnership as an agent, surplus lines insurance broker, limited insurance representative, or insurance consultant.
- c. Each examination for a license shall be approved for use by the Commissioner and shall reasonably test the knowledge of the applicant as to the lines of insurance, policies, and transactions to be handled pursuant to the license applied for, the duties and responsibilities of the licensee, and the pertinent insurance laws of this state.
- d. Examination for licensing shall be at such reasonable times and places as are designated by the Commissioner.
- e. The Commissioner shall give, conduct, and grade all examinations in a fair and impartial manner and without discrimination among individuals examined.
- f. The applicant shall pass the examination with a grade determined by the Commissioner to indicate satisfactory knowledge and understanding of the line

or lines of insurance for which the applicant seeks qualification. Within ten (10) days after the examination, the Commissioner shall inform the applicant and the appointing insurer, when applicable, as to whether or not the applicant has passed. Formal evidence of said licensing shall be issued by the Commissioner to the licensee within a reasonable time.

- g. An applicant who has failed to pass the first examination for the license applied for may take a second examination within thirty (30) days following the first examination. Examination fees for subsequent examinations shall not be waived.
  - h. An applicant who has failed to pass the first two examinations for the license applied for shall not be permitted to take a subsequent examination until the expiration of six (6) months after the last previous examination. A current application, company appointments, and applicable fees shall be submitted with each request to take a subsequent examination;
8. a. If the Commissioner finds that the applicant has not fully met the requirements for licensing, he shall refuse to issue the license and promptly notify the applicant and the appointing insurer, when applicable, in writing, of the denial, stating the grounds therefor.
- b. If for any reason a license is not issued by the Commissioner, all fees accompanying the application for the license as insurance agent, surplus lines insurance broker, insurance consultant, and limited insurance representative shall be deemed earned and shall not be refundable;

9. Every licensed agent shall notify the Commissioner of any change in his address as shown on the license as issued within ten (10) days after the change; and

10. Every licensed agent shall provide a place of business which is accessible to the public. The provisions of this section shall not prohibit the business of insurance in the residence of a licensed agent.

~~H.~~ K. If an agent or agents choose to use a facsimile signature stamp in his or their business, then such stamp shall be proof that the agent or agents have authorized the signing of any documents relating to the business of insurance.

~~M.~~ L. It shall be unlawful for any insurer to discriminate among or between the agents it has appointed. Any person or company convicted of violating the provisions of this section shall be guilty of a misdemeanor and shall be punished by the imposition of a fine of not more than Five Hundred Dollars (\$500.00) or imprisonment in the county jail for not less than six (6) months nor more than one (1) year, or be punished by both said fine and imprisonment.

M. It shall be unlawful for any insurance agent to receive an ownership interest in any policy, by assignment or otherwise, unless the agent has an insurable interest in the life of the insured.

SECTION 12. AMENDATORY 37 O.S. 1991, Section 577, as amended by Section 19, Chapter 361, O.S.L. 1994 (37 O.S. Supp. 1994, Section 577), is amended to read as follows:

Section 577. A. Every holder of a mixed beverage, beer and wine, caterer, hotel beverage or special event license, issued by the Alcoholic Beverage Laws Enforcement Commission, shall obtain a mixed beverage tax permit from the Oklahoma Tax Commission prior to engaging, within this state, in the sale, preparation or service of mixed beverages, ice, or nonalcoholic beverages that are sold, prepared or served to be mixed with alcoholic beverages. Each licensee shall file a verified application for a mixed beverage tax

permit with the Tax Commission, setting forth information as may be required by the Tax Commission.

The Tax Commission, or its designated agent, shall issue, without any fees or charges therefor, a mixed beverage tax permit in the name of the licensee for the place of business set forth in the application upon verification that:

1. The applicant is a holder of a mixed beverage, beer and wine, caterer, hotel beverage or special event license issued by the Alcoholic Beverage Laws Enforcement Commission;

2. The applicant has posted a surety bond or other negotiable collateral to protect the proper payment of the gross receipts taxes;

3. The applicant is a holder of a sales tax permit for the place of business set forth in the application; and

4. The applicant is not delinquent in the payment of any gross receipts taxes or sales taxes.

A mixed beverage tax permit issued prior to September 1, 1994, shall expire three (3) years after September 1, 1994; provided, if the holder thereof is also the holder of a sales tax permit, a mixed beverage tax permit issued prior to September 1, 1994, shall be valid for three (3) years or until expiration of the sales tax permit, whichever is earlier, after which a renewal permit shall be valid for three (3) years. The manner for renewals of less than three (3) years shall be prescribed by the Tax Commission.

B. A separate mixed beverage tax permit for each place of business to be operated must be obtained and no charge therefor shall be made by the Tax Commission. The Tax Commission shall grant and issue to each applicant a separate permit for each place of business in this state, upon proper application therefor and verification thereof by the Tax Commission.

C. A mixed beverage tax permit is not assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated in the permit.

D. It shall be unlawful for any person to engage in a business subject to the provisions of this section prior to the issuance of a mixed beverage tax permit. Any person who engages in a business subject to the provisions of this section without a mixed beverage tax permit or permits, or after a permit has been suspended, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than One Thousand Dollars (\$1,000.00) or incarcerated for not more than sixty (60) days, or by both such fine and imprisonment.

E. Any person operating under a mixed beverage tax permit as provided in this section shall, upon discontinuance of business by sale or otherwise, return such permit to the Tax Commission for cancellation, together with payment of any unpaid or accrued taxes. Failure to surrender a mixed beverage tax permit and pay any and all accrued taxes will be sufficient cause for the Tax Commission to refuse to issue a mixed beverage tax permit subsequently to such person to engage in or transact any business in this state subject to the provisions of this section.

F. Whenever a holder of a mixed beverage tax permit fails to comply with any provisions of any state alcoholic beverage laws or tax laws, the Tax Commission, after giving ten (10) days' notice in writing of the time and place of hearing to show cause why this permit should not be revoked, may revoke or suspend the permit. A mixed beverage tax permit shall be renewed upon removal of cause or causes of revocation or suspension. Mixed beverage tax permits are conditioned upon the proper and timely payment of all taxes due and in the event a holder of a mixed beverage tax permit becomes delinquent in reporting or paying any tax due under the provisions of state tax law, any duly authorized agent of the Tax Commission

may cancel the permit and it shall be renewed only upon the filing of proper reports and payment of all taxes due and application for renewal in accordance with subsection A of this section.

G. Upon revocation or suspension of the mixed beverage, beer and wine, caterer, hotel beverage or special event license by the ABLE Commission, the Tax Commission, or its duly authorized agent, shall temporarily suspend the mixed beverage tax permit issued to said licensee in accordance with Section 212 of Title 68 of the Oklahoma Statutes.

SECTION 13. AMENDATORY 43 O.S. 1991, Section 118, as last amended by Section 14, Chapter 356, O.S.L. 1994 (43 O.S. Supp. 1994, Section 118), is amended to read as follows:

Section 118. A. Except in those cases where parties represented by counsel have agreed to a different disposition, there shall be a rebuttable presumption in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of the following guidelines is the correct amount of child support to be awarded. The district or administrative court may deviate from the level of child support suggested by these guidelines where the amount of support so indicated is unjust, inequitable, unreasonable or inappropriate under the circumstances, or not in the best interests of the child or children involved. The court shall not take into account any stepchildren of such parent in making the determination, but in making such determination, the court may take into account the reasonable support obligations of either parent as to only natural, legal, or legally adopted minor children in the custody of said parent. If the district or administrative court deviates from the amount of support indicated by these guidelines, it shall make specific findings of fact supporting such action.

B. Child support guidelines are as follows:



1. All child support shall be computed as a percentage of the combined gross income of both parents. The Child Support Guideline Schedule as provided in Section 119 of this title shall be used for such computation. The child support obligations of each parent shall be computed, and the noncustodial parent's share shall be paid monthly to the custodial parent;

2. Gross income includes income from any source, except as excluded in this act, and includes but is not limited to income from salaries, wages, commissions, bonuses, dividends, severance pay, pensions, rent, interest income, trust income, annuities, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, gifts and prizes. Specifically excluded are actual child support received for children not before the court and benefits received from means-tested public assistance programs, including but not limited to Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), Food Stamps, General Assistance and State Supplemental Payments for Aged, Blind and the Disabled;

3. For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, gross income is defined as gross receipts minus ordinary and necessary expenses required for self-employment or business operation. Specifically excluded from ordinary and necessary expenses for purposes of this section are amounts determined by the district or administrative court to be inappropriate for determining gross income for purposes of calculating child support. The district or administrative court shall carefully review income and expenses from self-employment or operation of a business to determine an appropriate level of gross income available to the parent to satisfy a child support obligation. A determination of business income for tax purposes

shall not control for purposes of determining a child support obligation.

Expense reimbursements or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business shall be counted as income if they are significant and reduce personal living expenses. Such payments may include but are not limited to a company car, free housing, or reimbursed meals;

4. For purposes of computing gross income of the parents, the district or administrative court shall include for each parent, either the actual monthly income, the average of the gross monthly income for the time actually employed during the previous three (3) years, or the minimum wage paid for a forty-hour week, whichever is the most equitable. If equitable, the district or administrative court may instead impute as gross monthly income for either parent the amount a person with comparable education, training and experience could reasonably expect to earn; provided, however, that if a person is permanently physically or mentally incapacitated, the child support obligation shall be computed on the basis of actual monthly gross income;

5. The amount of any preexisting district or administrative court order for current child support for children not before the court or for support alimony arising in a prior case shall be deducted from gross income to the extent payment is actually made under such order;

6. The amount of reasonable expenses of the parties attributable to debt service for preexisting, jointly acquired debt of the parties may be deducted from gross income to the extent payment of such debt is actually made. In any case where deduction for such debt service is made, the district or administrative court may make provision for prospective upward adjustments of support made possible by the reasonable anticipated reduction or elimination of such debt service;

7. The results of paragraphs 2, 3, 4, 5 and 6 of this subsection shall be denominated "adjusted gross income";

8. The adjusted gross income of both parents shall be added together and the Child Support Guideline Schedule consulted for the total combined child support;

9. After the total combined child support is determined, the percentage share of each parent shall be allocated by computing the percentage contribution of each parent to the combined adjusted gross income and allocating that same percentage to the child support obligation to determine the base child support obligation of each parent;

10. The actual dependent medical insurance premium shall be determined by the district or administrative court. The premium shall be allocated between the parents in the same proportion as base child support;

11. The obligor shall receive credit for the obligee's allocated share of medical insurance premium which the obligor pays directly to the provider. The obligor shall pay his or her (obligor's) allocated share of the medical insurance premiums to obligee, if obligee pays the premium to the provider;

12. The district or administrative court shall then determine the "actual" child care expenses reasonably necessary to enable both parents to maintain employment or to conduct an active search for employment;

13. The actual child care costs incurred due to employment or active employment search of either parent, or incurred as a result of either parent actually attending school for the purpose of enhancing their employment or income, shall be allocated in the same proportion as base child support. ~~Provided, if~~ If the district or administrative court determines that it will not cause detriment to the child, in lieu of payment of child care costs incurred during employment, active employment search, or while the custodial parent

is attending school, the noncustodial parent may be allowed to provide ~~alternate~~ care of the child during such time. The noncustodial parent shall be designated the "obligor". The custodial parent shall be designated the "obligee". Obligor's proportionate amount of the child care fee for that month shall be paid to the obligee on or before the date the child care fee is due to the provider. The district or administrative court shall require the obligee to provide obligor with timely documentation of any change in the amount of the child care fee;

14. Visitation transportation expenses shall be determined by the court on a case by case basis and may be allocated as an addition to or as a credit against the child support obligation of the obligor. Such expenses may be adjusted at any time the court deems it equitable;

15. Payment of reasonable and necessary medical, dental, orthodontic, optometrical, psychological or any other physical or mental health expenses of the child not reimbursed by insurance shall be determined by the district or administrative court on a case by case basis and may be allocated in addition to the child support obligation of the payor, as a percentage contribution by each parent toward future expenses;

16. If the district or administrative court adopts a joint custody plan meeting the requirements of Section 109 of this title, the plan must provide for the support of the child equivalent to the amount of combined support the child would otherwise receive under these guidelines. The district or administrative court shall have the authority, however, to accept a plan which allocates the payment of actual expenses of the children, rather than designating one custodial parent the "obligor" and one the "obligee", if the district or administrative court finds the payments allocated to each respective parent are substantially equivalent to the amount of the child support obligation of the parent under these guidelines;

17. If each parent is awarded custody of one or more children, the child support obligation of each parent shall be computed for each custodial arrangement separately using the percentage applicable for the children residing with each parent. The obligation of each parent shall be compared with the other. The difference between the obligations of each parent shall be paid to the parent with the smaller obligation in order to equalize the child support spent on all of the children, regardless of the custodial arrangements. The court shall not take into account any stepchildren of such parent in making the determination but only natural, legal, or legally adopted minor children in the custody of either parent may be taken into account in determining child support;

18. The district or administrative court may make adjustments to child support guidelines for periods of extended visitation;

19. Child support orders may be modified if the support amount is not in accordance with the child support guidelines or upon other material change in circumstances. Unless the parties agree to the contrary, a completed child support computation form provided for in Section 120 of this title shall be required to be filed with the child support order. The child support guidelines provided in this act shall be used in computing child support, subject to the discretion of the district or administrative court to deviate from the guidelines where the amount of support is unjust, inequitable, unreasonable or inappropriate under the circumstances, or not in the best interests of the child or children involved, and such deviation is supported by specific findings. A child support order shall not be construed to be a per child order unless specified by the district or administrative court in the order. Child support is not automatically modified in a child support order which provides for more than one child when one of those children reaches majority or is not otherwise entitled to support pursuant to the support order;

however, such circumstance shall constitute a material change in circumstances;

20. The child support computation worksheet provided in Section 120 of this title shall be signed by the district judge or administrative law judge;

21. Child support orders may include such provisions as the district or administrative court deems appropriate to assure that the child support payments to the custodial parent are used for the support of the child;

22. The district or administrative court shall require and enforce a complete disclosure of assets by both parents; and

23. Child support orders issued for prior-born children of the payor may not be modified for the purpose of providing support for later-born children.

SECTION 14. AMENDATORY 43A O.S. 1991, Section 5-101, as amended by Section 3, Chapter 207, O.S.L. 1994 (43A O.S. Supp. 1994, Section 5-101), is amended to read as follows:

Section 5-101. A. Any person alleged to be mentally ill or alcohol- or drug-dependent to a degree which warrants institutional treatment or care, and who is not in confinement in a jail or adult lock-up facility on a criminal charge and who has no criminal charges pending against him or her, may be admitted to and confined in an institution within the Department of Mental Health and Substance Abuse Services, a state psychiatric hospital, or a licensed private institution by compliance with any one of the following procedures:

1. Emergency admission;
2. On voluntary application; and
3. On involuntary court certification.

B. Any person alleged to be mentally ill or alcohol- or drug-dependent to a degree which warrants institutional treatment or care and who has criminal charges pending against him or her but is not

confined in a jail or adult lock-up facility may be admitted to an institution within the Department, a state psychiatric hospital or a licensed private institution pursuant to the provisions of subsection A of this section; provided, the institution or hospital ~~is~~ shall be authorized to take such reasonable steps as necessary to assure the protection of the public, the residents of the institution or hospital and the person, including but not limited to segregation and private facilities. Provided further, treatment received pursuant to this subsection shall not constitute a defense in any criminal proceeding except as otherwise provided by Title 22 of the Oklahoma Statutes.

C. Any person confined pursuant to a criminal charge may be admitted to and confined pursuant to a court order issued in compliance with the provisions of Section 1175.6 of Title 22 of the Oklahoma Statutes.

No person shall be deprived of his or her liberty on the grounds that ~~he~~ such person is, or is supposed to be, mentally ill or in need of mental health treatment, except in accordance with the provisions of the Mental Health Law, Section 1-101 et seq. of this title.

SECTION 15. AMENDATORY 47 O.S. 1991, Section 2-300, as last amended by Section 1, Chapter 44, O.S.L. 1994 (47 O.S. Supp. 1994, Section 2-300), is amended to read as follows:

Section 2-300. As used in this act:

1. "System" means the Oklahoma Law Enforcement Retirement System;
2. "Act" means Sections 2-300 through 2-313 of this title;
3. "Board" means the Oklahoma Law Enforcement Retirement Board of the System;
4. "Fund" means the Oklahoma Law Enforcement Retirement Fund;
5. "Member" means all law enforcement officers of the Oklahoma Highway Patrol and the State Capitol Division of the Department of

Public Safety and all commissioned officers in the Gunsmith/Ammunition Reloader Division of the Department of Public Safety who have obtained certification from the Council on Law Enforcement Education and Training, the Oklahoma State Bureau of Investigation, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and the Oklahoma Alcoholic Beverage Control Board designated to perform duties in the investigation and prevention of crime and the enforcement of the criminal laws of this state, and members of the Communications Division to include radio technicians, tower technicians and commissioned officers of the Lake Patrol Division of the Oklahoma Department of Public Safety, park rangers of the Oklahoma Tourism and Recreation Department and inspectors of the Oklahoma State Board of Pharmacy, provided that all persons who shall be offered a position of a law enforcement officer shall participate in the System upon the person meeting the requisite post offer - pre-employment physical examination standards which shall be subject to the following requirements:

- a. all such persons shall be of good moral character, free from deformities, mental or physical conditions, or disease and alcohol or drug addiction which would prohibit the person from performing the duties of a law enforcement officer,
- b. said physical-medical examination shall pertain to age, sight, hearing, agility and other conditions the requirements of which shall be established by the Board,
- c. the person shall be required to meet the conditions of this subsection prior to the beginning of actual employment but after an offer of employment has been tendered by a participating employer,



- d. the Board shall have authority to deny or revoke membership of any person submitting false information in such person's membership application,
- e. the Board shall have final authority in determining eligibility for membership in the System, pursuant to the provisions of this subsection;

6. "Normal retirement date" means the date at which the member is eligible to receive the unreduced payments of the member's accrued retirement benefit. Such date shall be the first day of the month coinciding with or following the date the member:

- a. completes twenty (20) years of vesting service; or
- b. attains sixty-two (62) years of age with ten (10) years of vesting service; or
- c. attains sixty-two (62) years of age, if:
  - (1) the member has been transferred to this System from the Oklahoma Public Employees Retirement System on or after July 1, 1981; and
  - (2) the member would have been vested had the member continued to be a member of the Oklahoma Public Employees Retirement System;

A member who was required to join the System effective July 1, 1980, because of the transfer of the employing agency from the Oklahoma Public Employees Retirement System to the System, and was not a member of the Oklahoma Public Employees Retirement System on the date of such transfer shall be allowed to receive credit for prior law enforcement service rendered to this state, if the member is not receiving or eligible to receive retirement credit or benefits for such service in any other public retirement system, upon payment to the System of the employee contribution the member would have been subject to had the member been a member of the System at the time, plus five percent (5%) interest. Service credit received pursuant to this paragraph shall be used in determining the member's

retirement benefit, and shall be used in determining years of service for retirement or vesting purposes;

7. "Actual paid base salary" means the salary received by a member, excluding payment for any accumulated leave or uniform allowance. Salary shall include any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986;

8. "Final average salary" means the average of the highest thirty (30) consecutive complete months of actual paid gross salary. Gross salary shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986 and any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986. Only salary on which required contributions have been made may be used in computing the final average salary;

9. "Credited service" means the period of service used to determine the amount of benefits payable to a member. Credited service shall consist of the period during which the member participated in the System or the predecessor Plan as an active employee in an eligible membership classification, plus any service prior to the establishment of the predecessor Plan which was credited under the predecessor Plan and for officers of the Oklahoma State Bureau of Investigation and the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control who became members of the System on July 1, 1980, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1980, and for members of the Communications and Lake Patrol Divisions of the Oklahoma Department of Public Safety, who became members of the System on July 1, 1981, any service credited under the predecessor Plan or the Oklahoma Public Employees Retirement System as of June 30, 1981, and for law enforcement officers of the Oklahoma Alcoholic Beverage Control Board who become members of the System on July 1, 1982, any service credited under the Oklahoma Public Employees

Retirement System as of June 30, 1982, and for park rangers of the Oklahoma Tourism and Recreation Department who became members of the System on July 1, 1985, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1985, and for inspectors of the Oklahoma State Board of Pharmacy who became members of the System on July 1, 1986, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1986, for law enforcement officers of the State Capitol Division of the Department of Public Safety who became members of the System effective July 1, 1993, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1993, and for all commissioned officers in the Gunsmith/Ammunition Reloader Division of the Department of Public Safety who became members of the System effective July 1, 1994, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1994;

10. "Disability" means a physical or mental condition which, in the judgment of the Board, totally and presumably permanently prevents the member from engaging in the usual and customary duties of the occupation of the member and thereafter prevents the member from performing the duties of any occupation or service for which the member is qualified by reason of training, education or experience. A person is not under a disability when capable of performing a service to the employer, regardless of occupation, providing the salary of the employee is not diminished thereby; and

11. "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. AMENDATORY 47 O.S. 1991, Section 6-205, as last amended by Section 4, Chapter 387, O.S.L. 1994 (47 O.S. Supp. 1994, Section 6-205), is amended to read as follows:

Section 6-205. A. The Department of Public Safety shall forthwith revoke the driver license or driving privilege of any

person, whether adult or juvenile, upon receiving a record of conviction in any municipal, state or federal court within the United States of any of the following offenses, when such conviction has become final:

1. Manslaughter or negligent homicide resulting from the operation of a motor vehicle;

2. Driving or being in actual physical control of a motor vehicle while under the influence of alcohol or any other intoxicating substance or the combined influence of alcohol and any other intoxicating substance; provided, however, the Department shall not additionally revoke such license pursuant to this subsection if the person's driving privilege has been revoked because of a test result or test refusal pursuant to Sections 753 or 754 of this title arising from the same circumstances which resulted in the conviction;

3. Any felony during the commission of which a motor vehicle is used;

4. Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another;

5. Perjury or the making of a false affidavit or statement under oath to the Department under the Uniform Vehicle Code, Section 1-101 et seq. of this title, or under any other law relating to the ownership or operation of motor vehicles;

6. A misdemeanor or felony conviction for unlawfully possessing, distributing, dispensing, manufacturing or trafficking in a controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of Title 63 of the Oklahoma Statutes;

7. Driving or being in actual physical control of a vehicle while under eighteen (18) years of age with a blood or breath

alcohol concentration of two-hundredths (0.02) or more, or evidence of the presence or concentration of other intoxicating substance; or

8. Driving or being in actual physical control of a vehicle while the ability to operate said vehicle is impaired by the consumption of alcohol or other substance, other than alcohol, which is capable of being ingested, inhaled, injected or absorbed into the human body and is capable of adversely affecting the central nervous system, vision, hearing or other sensory or motor functions.

B. The first license revocation under any provision of this section,    except for paragraph 2, 6, 7 or 8 of subsection A of this section,    shall be for a period of one (1) year. Such period shall not be modified.

C. A license revocation under any provision of this section,    except for paragraph 2, 6, 7 or 8 of subsection A of this section,    shall be for a period of three (3) years if a prior revocation under this section, except under paragraph 2 of subsection A of this section, commenced within the preceding five-year period as shown by the Department's record. Such period shall not be modified.

D. The period of license revocation under paragraph 2 or 6 of subsection A of this section shall be governed by the provisions of Section 6-205.1 of this title.

E. The period of license revocation under paragraph 7 of subsection A of this section shall be governed by the provisions of Sections 6-107.1 and 6-107.2 of this title.

F. The period of license revocation under paragraph 8 of subsection A of this section shall be governed by the provisions of Section 761 of this title.

SECTION 17. AMENDATORY 47 O.S. 1991, Section 11-902, as last amended by Section 5, Chapter 387, O.S.L. 1994 (47 O.S. Supp. 1994, Section 11-902), is amended to read as follows:

Section 11-902. A. It is unlawful and punishable as provided in this section for any person to drive, operate, or be in actual physical control of a motor vehicle within this state who:

1. Has a blood or breath alcohol concentration, as defined in Section 756 of this title, of ten-hundredths (0.10) or more at the time of a test of such person's blood or breath administered within two (2) hours after the arrest of such person;

2. Is under the influence of alcohol;

3. Is under the influence of any other intoxicating substance to a degree which renders such person incapable of safely driving or operating a motor vehicle; or

4. Is under the combined influence of alcohol and any other intoxicating substance to a degree which renders such person incapable of safely driving or operating a motor vehicle.

B. The fact that any person charged with a violation of this section is or has been lawfully entitled to use alcohol or a controlled dangerous substance or any other intoxicating substance shall not constitute a defense against any charge of violating this section.

As used in this title, the term "other intoxicating substance" shall mean any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of Title 63 of the Oklahoma Statutes, and any other substance, other than alcohol, which is capable of being ingested, inhaled, injected, or absorbed into the human body and is capable of adversely affecting the central nervous system, vision, hearing or other sensory or motor functions.

C. Every person who is convicted of a violation of the provisions of this section shall be deemed guilty of a misdemeanor for the first offense and shall be punished by imprisonment in jail for not less than ten (10) days nor more than one (1) year, and a fine of not more than One Thousand Dollars (\$1,000.00). Any person

who within ten (10) years after a previous conviction of a violation of this section is convicted of a second ~~or subsequent~~ offense pursuant to the provisions of this section or has a prior conviction after October 31, 1984, in a municipal criminal court of record for the violation of a municipal ordinance prohibiting the offense provided for in subsection A of this section and within ten (10) years of such municipal conviction is convicted under the provision of this section shall be deemed guilty of a felony and shall be sentenced to the custody of the Department of Corrections for not less than one (1) year and not to exceed five (5) years, and a fine of not more than Two Thousand Five Hundred Dollars (\$2,500.00). Any person who is convicted of a second felony offense under the provisions of this section shall be sentenced to the custody of the Department of Corrections for not less than one (1) year and not to exceed seven (7) years and a fine of not more than Five Thousand Dollars (\$5,000.00). Any person who is convicted of a third or subsequent felony offense under the provisions of this section shall be sentenced to the custody of the Department of Corrections for not less than one (1) year and not to exceed (10) years and a fine of not more than Five Thousand Dollars (\$5,000.00).

D. When a person is sentenced to the custody of the Department of Corrections, the person shall be processed through the Lexington Assessment and Reception Center. The Department of Corrections shall classify and assign the person to one or more of the following:

1. The Department of Mental Health and Substance Abuse Services pursuant to paragraph 1 of subsection A of Section 612 of Title 57 of the Oklahoma Statutes;

2. The Electronic Monitoring Program pursuant to Section 510.9 of Title 57 of the Oklahoma Statutes with participation in a substance abuse treatment program and follow-up treatment;

3. A correctional facility operated by the Department of Corrections; or

4. Other alternative to incarceration authorized by law.

E. In the event a felony conviction does not result in the person being sentenced to the custody of the Department of Corrections, the person shall be required to serve not less than ten (10) days of community service, or to undergo inpatient rehabilitation or treatment in a public or private facility with at least minimum security for a period of not less than forty-eight (48) consecutive hours, notwithstanding the provisions of Sections 991a, 991a-2 and 996.3 of Title 22 of the Oklahoma Statutes.

F. The Department of Mental Health and Substance Abuse Services and the Department of Corrections may certify to the Department of Public Safety that a person has successfully completed a treatment program and is successfully complying with any follow-up treatment required by the Department of Corrections. In such case, the person shall be given credit therefor as fulfillment of all provisions of Section 3-453 of Title 43A of the Oklahoma Statutes and shall be permitted to apply for reinstatement of any suspension, revocation, cancellation or denial order withdrawing his privilege to drive.

G. The Department of Public Safety is hereby authorized to reinstate any suspended or revoked license when the applicant meets the statutory requirements which affect his existing driving privilege.

H. Any person who is found guilty of a violation of the provisions of this section ~~may~~ shall be ~~referred~~ ordered to participate in, prior to sentencing, to an alcoholism alcohol and drug substance abuse evaluation program offered by a facility designated or qualified practitioner certified by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating the receptivity to treatment and prognosis of the person. The court shall order the person to reimburse the facility or



qualified practitioner for the evaluation in an amount. The Department of Mental Health and Substance Abuse Services shall establish a fee schedule, based upon a person's ability to pay, provided the fee for an evaluation shall not to exceed Seventy-five Dollars (\$75.00). The evaluation shall be conducted at a certified facility, the office of a qualified practitioner or at another location as ordered by the court. The facility or qualified practitioner shall, within seventy-two (72) hours from the time the person is assessed, submit a written report to the court for the purpose of assisting the court in its final sentencing determination. No person, agency or facility operating an alcohol and drug substance abuse evaluation program certified by the Department of Mental Health and Substance Abuse Services shall solicit or refer any person evaluated pursuant to this section for any treatment program or alcohol and drug substance abuse service in which such person, agency or facility has a vested interest; however, this provision shall not be construed to prohibit the court from ordering participation in or any person from voluntarily utilizing a treatment program or alcohol and drug substance abuse service offered by such person, agency or facility. If a person is sentenced to the custody of the Department of Corrections and the court has received a written evaluation report pursuant to this subsection, the report shall be furnished to the Department of Corrections with the judgment and sentence. Any evaluation report submitted to the court pursuant to this subsection shall be handled in a manner which will keep such report confidential from the general public's review. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence in the event the defendant fails or refuses to comply with an order of the court to obtain the evaluation required by this subsection. As used in this subsection, "qualified practitioner" means a person with at least a bachelor's degree in substance abuse

treatment, mental health or a related health care field and at least two (2) years' experience in providing alcohol treatment, other drug abuse treatment, or both alcohol and other drug abuse treatment who is certified each year by the Department of Mental Health and Substance Abuse Services to provide these assessments. However, any person who does not meet the requirements for a qualified practitioner as defined herein, but who has been previously certified by the Department of Mental Health and Substance Abuse Services to provide alcohol or drug treatment or assessments, shall be considered a qualified practitioner provided all education, experience and certification requirements stated herein are met within two (2) years from June 7, 1994. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence and any other sanction authorized by law for failure or refusal to comply with an order of the court.

I. Any person who is found guilty of a violation of the provisions of this section may be required by the court to attend a victims impact panel program, if such a program is offered in the county where the judgment is rendered, and to pay a fee, not 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 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.

SECTION 18. AMENDATORY 47 O.S. 1991, Section 761, as last amended by Section 9, Chapter 387, O.S.L. 1994 (47 O.S. Supp. 1994, Section 761), is amended to read as follows:

Section 761. A. Any person who operates a motor vehicle while his ability to operate such motor vehicle is impaired by the consumption of alcohol, or any other substance, other than alcohol, which is capable of being ingested, inhaled, injected or absorbed into the human body and is capable of adversely affecting the

central nervous system, vision, hearing or other sensory or motor functions shall be subject to a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

B. Upon the receipt of any person's record of conviction of driving while impaired, when such conviction has become final, the Department of Public Safety shall suspend the driving privilege of such person, as follows:

1. The first suspension shall be for thirty (30) days;

2. The second suspension shall be for a period of six (6) months. Such suspension shall not be subject to modification; and

3. The third or subsequent suspension shall be for twelve (12) months. Such suspension shall not be subject to modification.

Provided, however, the Department shall not suspend such privilege pursuant to this subsection if said person's driving privilege has been revoked based upon a test result or test refusal pursuant to Section 753 or Section 754 of this title arising from the same circumstances which resulted in the conviction.

C. The violations as set out in this section shall not be bondable under Section 1115.3 of Title 22 of the Oklahoma Statutes.

D. Any person who is found guilty of a violation of the provisions of this section or pleading guilty or nolo contendere for a violation of any provision of this section shall be ordered to participate in, prior to sentencing, an alcoholism evaluation program offered by a facility or qualified practitioner certified by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating the receptivity to treatment and prognosis of the person. The court shall order the person to reimburse the facility or qualified practitioner for the evaluation. The Department of Mental Health and Substance Abuse Services shall establish a fee schedule, based upon a person's ability to pay,

provided the fee for an evaluation shall not exceed Seventy-five Dollars (\$75.00). The evaluation shall be conducted at a certified facility, the office of a qualified practitioner or at another location as ordered by the court. The facility or qualified practitioner shall, within seventy-two (72) hours from the time the person is assessed, submit a written report to the court for the purpose of assisting the court in its final sentencing determination. No person, agency or facility operating an alcohol and drug substance abuse evaluation program certified by the Department of Mental Health and Substance Abuse Services shall solicit or refer any person evaluated pursuant to this section for any treatment program or alcohol and drug substance abuse service in which such person, agency or facility has a vested interest; however, this provision shall not be construed to prohibit the court from ordering participation in or any person from voluntarily utilizing a treatment program or alcohol and drug substance abuse service offered by such person, agency or facility. Any evaluation report submitted to the court pursuant to this subsection shall be handled in a manner which will keep such report confidential from the general public's review. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence and any other sanction authorized by law for failure or refusal to comply with an order of the court. As used in this subsection, "qualified practitioner" means a person with at least a bachelor's degree in substance abuse treatment, mental health or a related health care field and at least two (2) years' experience in providing alcohol treatment, other drug abuse treatment, or both alcohol and other drug abuse treatment who is certified each year by the Department of Mental Health and Substance Abuse Services to provide these assessments. However, any person who does not meet the requirements for a qualified practitioner as defined herein, but who has been previously certified by the Department of Mental Health

and Substance Abuse Services to provide alcohol or drug treatment or assessments, shall be considered a qualified practitioner provided all education, experience and certification requirements stated herein are met within two (2) years from June 7, 1994.

SECTION 19. AMENDATORY 57 O.S. 1991, Section 57, as amended by Section 4, Chapter 367, O.S.L. 1994 (57 O.S. Supp. 1994, Section 57), is amended to read as follows:

Section 57. A. In the city and county jails in this state, there shall be provided sufficient and convenient apartments for confining prisoners of different sexes and classification separate and apart from each other.

B. In the city and county jails in this state, there shall be a system of classifying prisoners, based upon the severity of the charges, past criminal history and other relevant factors.

C. In the city and county jails in this state, prisoners classified pursuant to subsection B of this section may be confined two per cell or barrack-style, provided the living space meets the square footage requirements set forth in Section 192 of Title 74 of the Oklahoma Statutes.

D. All funds used by the Department of Corrections to contract with private contractors for the building of prisons and pre-release centers will be subject to appropriations by the Legislature.

E. Nothing in this section shall authorize contracts with private contractors for construction of prison facilities, unless authorized by the Legislature.

SECTION 20. AMENDATORY 59 O.S. 1991, Section 1309, as last amended by Section 3, Chapter 331, O.S.L. 1994 (59 O.S. Supp. 1994, Section 1309), is amended to read as follows:

Section 1309. A. A renewal license shall be issued by the Insurance Commissioner to a licensee who has continuously maintained same in effect, without further examination, upon payment of a renewal fee of One Hundred Dollars (\$100.00) for a bail bondsman and

proof of completion of eight (8) hours of continuing education as required by Section 1308.1 of this title. The renewal fee shall be submitted by September 15 of each year. Such licensee shall in all other respects be required to comply with and be subject to the provisions of Section 1301 et seq. of this title.

B. In case of renewal of a professional bondsman license, the application shall also provide a financial statement prepared by an accounting firm or individual holding a permit to practice public accounting in this state in accordance with generally accepted principles of accounting procedures showing assets, liabilities, and net worth, said statement to be as of a date not earlier than ninety (90) days prior to submission of the license renewal application. The statements shall be attested to by an unqualified opinion of the accounting firm or individual holding a permit to practice public accounting in this state that prepared the statement or statements. The statement shall be submitted by September 15 of each year.

C. In case of renewal of a property bondsman license, the application shall also provide a county assessor's written statement stating the property's assessed value for each property used to post bonds and a written statement from any lien holder stating the current payoff amount on each lien for each property used to post bonds. The written statements shall be submitted by September 15 of each year.

D. If the license is not renewed or the renewal fee is not paid by September 30 of each year, such license shall expire automatically pursuant to Section 1304 of this title. If after November 30 of each year the license has not been renewed or the renewal fee paid, then such licensee shall be required to apply for a license as a new applicant.

~~D.~~ E. Late renewal fees shall be double the original fee.

SECTION 21. AMENDATORY Section 6, Chapter 332, O.S.L. 1993, as amended by Section 46, Chapter 382, O.S.L. 1994 (63 O.S. Supp. 1994, Section 5008), is amended to read as follows:

Section 5008. A. The administrator of the Oklahoma Health Care Authority shall be the ~~Chairman of the Health Care Authority Board~~ and shall be the chief executive officer of the Authority and shall act for the Authority in all matters except as may be otherwise provided by law. The powers and duties of the Administrator shall include but not be limited to:

1. Supervision of the activities of the Authority;

2. Formulation and recommendation of rules for approval or rejection by the Oklahoma Health Care Authority Board and enforcement of rules and standards promulgated by the Board;

3. Preparation of the plans, reports and proposals required by the Oklahoma Health Care Authority Act, Section 5003 et seq. of this title, other reports as necessary and appropriate, and an annual budget for the review and approval of the Board; and

4. Employment of such staff as may be necessary to perform the duties of the Authority including but not limited to an attorney to provide legal assistance to the Authority for the Medicaid program.

B. The administrator shall establish a contract bidding process ~~that encourages~~ which:

1. Encourages competition among entities contracting with the Authority for state-purchased and state-subsidized health care, ~~is timely to;~~

2. Coincides with the state budgetary process, ~~and sets~~

3. Specifies conditions for awarding contracts to any insuring entity.

C. The administrator may appoint advisory committees as necessary to assist the Authority with the performance of its duties or to provide the Authority with expertise in technical matters.

D. The administrator shall ~~appoint~~ convene a committee composed of representatives of the State Department of Health, the Department of Mental Health and Substance Abuse Services, the Department of Human Services, the Office of the Insurance Commissioner, the State Insurance Fund, the Oklahoma Basic Health Benefits Board, the Department of Veterans Affairs, the Physicians Manpower Training Commission and other appropriate state agencies to assist with the preparation of a proposed plan for the transfer of other entities to the ~~authority~~ Authority and continued sharing of data and resources by these entities.

1. Each agency on the committee shall designate an individual to serve as its representative on the committee.

2. The ~~proposal~~ plan shall be submitted to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives on or before January 1, ~~1994~~ 1995.

SECTION 22. AMENDATORY Section 7, Chapter 332, O.S.L. 1993, as amended by Section 4, Chapter 282, O.S.L. 1994 (63 O.S. Supp. 1994, Section 5009), is amended to read as follows:

Section 5009. A. On and after July 1, 1993, the Oklahoma Health Care Authority shall be the state entity designated by law to assume the responsibilities for the preparation and development for converting the present delivery of the Oklahoma Medicaid Program to a managed care system. The system shall emphasize:

1. Managed care principles, including a capitated, prepaid system with either full or partial capitation, provided that highest priority shall be given to development of prepaid capitated health plans;

2. Use of primary care physicians to establish the appropriate type of medical care a Medicaid recipient should receive; and

3. Preventative care.

The Authority shall also study the feasibility of allowing a private entity to administer all or part of the managed care system.



B. On and after January 1, 1995, the Authority shall be the designated state agency for the administration of the Oklahoma Medicaid Program.

1. The Authority shall contract with the Department of Human Services for the determination of Medicaid eligibility and other administrative or operational functions related to the Oklahoma Medicaid Program as necessary and appropriate.

2. To the extent possible and appropriate, upon the transfer of the administration of the Oklahoma Medicaid Program, the Authority shall employ the personnel of the Medical Services Division of the Department of Human Services.

3. The Department of Human Services and the Authority shall jointly prepare a transition plan for the transfer of the administration of the Oklahoma Medicaid Program to the Authority. The transition plan shall include provisions for the retraining and reassignment of employees of the Department of Human Services affected by said transfer. The transition plan shall be submitted to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives on or before January 1, 1995.

SECTION 23. AMENDATORY 68 O.S. 1991, Section 205, as last amended by Section 1, Chapter 385, O.S.L. 1994 (68 O.S. Supp. 1994, Section 205), is amended to read as follows:

Section 205. A. The records and files of the Tax Commission concerning the administration of this article or of any state tax law shall be considered confidential and privileged, except as otherwise provided for by law, and neither the Tax Commission nor any employee engaged in the administration of the Tax Commission or charged with the custody of any such records or files nor any person who may have secured information from the Tax Commission shall disclose any information obtained from said records or files or from

any examination or inspection of the premises or property of any person.

B. Neither the Tax Commission nor any employee engaged in the administration of the Tax Commission or charged with the custody of any such records or files shall be required by any court of this state to produce any of the records or files for the inspection of any person or for use in any action or proceeding, except when the records or files or the facts shown thereby are directly involved in an action or proceeding pursuant to the provisions of this article or of the state tax law, or when the determination of the action or proceeding will affect the validity or the amount of the claim of the state pursuant to any state tax law, or when the information contained in the records or files constitutes evidence of violation of the provisions of this article or of any state tax law.

C. The provisions of this section shall not prevent the Tax Commission from disclosing the following information and no liability whatsoever, civil or criminal, shall attach to any member of the Tax Commission or any employee thereof for any error or omission in the disclosure of such information:

1. The delivery to a taxpayer or his duly authorized representative of a copy of any report or any other paper filed by him pursuant to the provisions of this article or of any state tax law;

2. The Oklahoma Tax Commission from entering into reciprocal agreements with other state agencies or agencies of the federal government to exchange any information that is not protected by the federal Privacy Protection Act, 42 U.S.C., Section 2000aa et seq.;

3. The publication of statistics so classified as to prevent the identification of a particular report and the items thereof;

4. The examination of said records and files by the State Auditor and Inspector or his duly authorized agents;

5. The disclosing of information or evidence to the Attorney General or any district attorney when said information or evidence is to be used by said officials to prosecute violations of the criminal provisions of this article or of any state tax law. Said information disclosed to the Attorney General or any district attorney shall be kept confidential by them and not be disclosed except when presented to a court in a prosecution for violation of the tax laws of this state, and a violation by the Attorney General or district attorney by otherwise releasing the information shall be a felony;

6. The use by any division of the Tax Commission of any information or evidence in the possession of or contained in any report or return filed with any other division of the Tax Commission;

7. The furnishing, at the discretion of the Tax Commission, of any information disclosed by said records or files to any official person or body of this state, any other state or of the United States who is concerned with the administration or assessment of any similar tax in this state, any other state or the United States;

8. The furnishing of information to other state agencies for the limited purpose of aiding in the collection of debts owed by individuals to said requesting agencies;

9. The furnishing of information requested by any member of the general public and stated in the sworn lists or schedules of taxable property of public service corporations organized, existing, or doing business in this state which are submitted to and certified by the State Board of Equalization pursuant to the provisions of Section 2454 of this title and Section 21 of Article X of the Oklahoma Constitution, provided such information would be a public record if filed pursuant to Sections 2433 and 2434 of this title on behalf of a corporation other than a public service corporation;

10. The furnishing of information requested by any member of the general public and stated in the findings of the Oklahoma Tax Commission as to the adjustment and equalization of the valuation of real and personal property of the counties of the state, which are submitted to and certified by the State Board of Equalization pursuant to the provisions of Section 2462 of this title and Section 21 of Article X of the Oklahoma Constitution;

11. The furnishing of information to an Oklahoma wholesaler of nonintoxicating beverages, licensed under the provisions of Section 163.1 et seq. of Title 37 of the Oklahoma Statutes, of the licensed retailers authorized by law to purchase nonintoxicating beverages in this state or the furnishing of information to a licensed Oklahoma wholesaler of shipments by licensed manufacturers into this state;

12. The furnishing of information as to the issuance or revocation of any tax permit ~~or~~, license or exemption by the Tax Commission as provided for by law. Such information shall be limited to the name of the person issued said permit ~~or~~, license or exemption, the name of the business entity authorized to engage in business pursuant to said permit ~~or~~, license or exemption, the address of said business entity, and the grounds for said revocation;

13. The posting of notice of revocation of any tax permit or license upon the premises of the place of business of any business entity which has had any tax permit or license revoked by the Tax Commission as provided for by law. Such notice shall be limited to the name of the person issued said permit or license, the name of the business entity authorized to engage in business pursuant to said permit or license, the address of said business entity, and the grounds for said revocation;

14. The furnishing of information upon written request by any member of the general public as to the outstanding and unpaid amount due and owing by any taxpayer of this state for any delinquent tax,

together with penalty and interest, for which a tax warrant or a certificate of indebtedness has been filed pursuant to law;

15. After the filing of a tax warrant pursuant to law, the furnishing of information upon written request by any member of the general public as to any agreement entered into by the Tax Commission concerning a compromise of tax liability for an amount less than the amount of tax liability stated on such warrant;

16. The disclosure of information necessary to complete the performance of any contract authorized by Sections 255 and 262 of this title to any person with whom the Oklahoma Tax Commission has contracted;

17. The disclosure of information to any person for a purpose as authorized by the taxpayer pursuant to a waiver of confidentiality. The waiver shall be in writing and shall be made upon such form as the Commission may prescribe;

18. The disclosure of information required in order to comply with the provisions of Section 2369 of this title;

19. The disclosure to an employer, as defined in Sections 2385.1 and 2385.3 of this title, of information required in order to collect the tax imposed by Section 2385.2 of this title;

20. The disclosure to a plaintiff of a corporation's last-known address shown on the records of the Franchise Tax Division of the Commission in order for such plaintiff to comply with the requirements of Section 2004 of Title 12 of the Oklahoma Statutes;

21. The disclosure to any person as determined by the Commission to be necessary if, pursuant to the provisions of Section 510 of this title, a distributor of motor fuel and diesel fuel is required to sell such fuel on a tax-paid basis;

22. The disclosure of information directly involved in the resolution of the protest by a taxpayer to an assessment of tax or additional tax or the resolution of a claim for refund filed by a taxpayer, including the disclosure of the pendency of an

administrative proceeding involving such protest or claim, to a person called by the Tax Commission as an expert witness or as a witness whose area of knowledge or expertise specifically addresses the issue addressed in the protest or claim for refund. Said disclosure to a witness shall be limited to information pertaining to the specific knowledge of that witness as to the transaction or relationship between taxpayer and witness;

23. The disclosure of information necessary to implement an agreement authorized by Section 2702 of this title when such information is directly involved in the resolution of issues arising out of the enforcement of a municipal sales tax ordinance. Said disclosure shall be to the governing body or to the municipal attorney, if so designated by the governing body;

24. The furnishing of information regarding incentive payments made pursuant to the provisions of Sections 3601 through 3609 of this title or incentive payments made pursuant to the provisions of Sections 3501 through 3508 of this title; ~~or~~

25. The furnishing to a prospective purchaser of any business, or his authorized representative, of information relating to any liabilities, delinquencies, assessments or warrants of the prospective seller of the business which have not been filed of record, established, or become final and which relate solely to the seller's business. Any disclosure under this paragraph shall only be allowed upon the presentment by the prospective buyer, or his authorized representative, of the purchase contract and a written authorization between the parties; or

26. The notification to the suppliers of a motor fuel distributor who has been required by the Tax Commission to sell motor fuel or diesel fuel on a tax-paid basis pursuant to the provisions of subsection (c) of Section 510 of this title.

D. The Tax Commission shall cause to be prepared and made available for public inspection in the office of the Tax Commission

in such manner as it may determine an annual list containing the name and post office address of each person, whether individual, corporate, or otherwise, making and filing an income tax return with the Tax Commission.

It is specifically provided that no liability whatsoever, civil or criminal, shall attach to any member of the Tax Commission or any employee thereof for any error or omission of any name or address in the preparation and publication of said list.

E. It is further provided that the provisions of this section shall be strictly interpreted and shall not be construed as permitting the disclosure of any other information contained in the records and files of the Tax Commission relating to income tax or to any other taxes.

F. Unless otherwise provided for in this section, any violation of the provisions of this section shall constitute a misdemeanor and shall be punishable by the imposition of a fine not exceeding One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for a term not exceeding one (1) year, or by both said fine and imprisonment, and the offender shall be removed or dismissed from office.

G. Offenses described in Section 2376 of this title shall be reported to the appropriate district attorney of this state by the Tax Commission as soon as said offenses are discovered by the Tax Commission or its agents or employees. The Tax Commission shall make available to the appropriate district attorney or to the authorized agent of said district attorney its records and files pertinent to said prosecutions, and said records and files shall be fully admissible as evidence for the purpose of said prosecutions.

SECTION 24. AMENDATORY 68 O.S. 1991, Section 304, as amended by Section 8, Chapter 278, O.S.L. 1994 (68 O.S. Supp. 1994, Section 304), is amended to read as follows:

Section 304. ~~(a)~~ A. Every manufacturer, wholesaler, warehouseman, jobber or distributor of cigarettes in this state, as a condition of carrying on such business, shall annually secure from the Tax Commission a written license, and shall pay therefor an annual fee of Twenty-five Dollars (\$25.00). This license, which will be for the ensuing year, must at all times be displayed in a conspicuous place so that it can be seen. Persons operating more than one place of business must secure a license for each place of business. "Place of business" shall be construed to include the place where orders are received, or where cigarettes are sold. If cigarettes are sold on or from any vehicle, the vehicle shall constitute a place of business and the regular license fee of Twenty-five Dollars (\$25.00) shall be paid with respect thereto. However, if the vehicle is owned or operated by a place of business for which the regular Twenty-five Dollars (\$25.00) is paid, the annual fee for the license with respect to such vehicle shall be only Ten Dollars (\$10.00).

Provided, that no license for the sale of cigarettes or tobacco shall be issued to any manufacturer, wholesaler, warehouseman, jobber or distributor who does not maintain a place of business within the State of Oklahoma at which all products sold within this state are stocked, sold and delivered, and from which vehicles classed as a "place of business", as hereinabove defined, are loaded and operated, and where all records and accounts are kept, and necessary accounting procedures are performed; but these provisions shall not apply to manufacturers, wholesalers, warehousemen, jobbers or distributors having a place of business located in another state where such state does not require manufacturers, wholesalers, warehousemen, jobbers or distributors who have their place of business in Oklahoma to maintain a warehouse or place of business in such other state in order to secure a license to do business in such state.



Provided, further, that the Oklahoma Tax Commission shall not authorize the use of a stamp-metering device by any manufacturer, wholesaler, warehouseman, jobber or distributor who does not maintain a warehouse or wholesale establishment or place of business within the State of Oklahoma from which cigarettes are received, stocked and sold and where such metering device is kept and used; but the Tax Commission may, in its discretion, permit the use of such metering device by manufacturers, wholesalers, warehousemen, jobbers or distributors of cigarettes residing wholly within another state where such state permits a licensed Oklahoma resident, manufacturer, wholesaler, warehouseman, jobber or distributor of cigarettes the use of the metering device of such state without first requiring that such manufacturer, wholesaler, warehouseman, jobber or distributor establish a place of business in such other state. The provisions of this paragraph relating to metering devices shall not apply to states which do not require the affixing of tax stamps to packages of cigarettes before same are offered for sale in such states.

~~(b)~~ B. Every retailer in this state, as a condition of carrying on such business, shall ~~annually~~ secure from the Tax Commission a license and shall pay therefor ~~an annual~~ a fee of ~~Ten Dollars~~ ~~(\$10.00)~~ Thirty Dollars (\$30.00). Such license, which will be for the ensuing ~~year~~ three (3) years, must at all times be displayed in a conspicuous place so that it can be seen. A license issued prior to September 1, 1994, shall be valid until it expires. Upon expiration of such license, the retailer to whom such license was issued may obtain a renewal license which shall be valid for three (3) years or until expiration of the retailer's sales tax permit, whichever is earlier, after which a renewal license shall be valid for three (3) years. The manner and prorated fee for renewals shall be prescribed by the Tax Commission. Every person operating under such license as a retailer and who owns or operates more than one

place of business must secure a license for each place of business. "Place of business" shall be construed to include places where orders are received or where cigarettes are sold.

~~(e)~~ C. Every distributing agent shall, as a condition of carrying on such business, pursuant to written application on a form prescribed by and in such detailed form as the Tax Commission may require, annually secure from the Tax Commission a license, and shall pay therefor an annual fee of One Hundred Dollars (\$100.00). An application shall be filed and a license obtained for each place of business owned or operated by a distributing agent. The license, which will be for the ensuing year, shall be consecutively numbered, nonassignable and nontransferable, and shall authorize the storing and distribution of unstamped cigarettes within this state when such distribution is made upon interstate orders only.

~~(d)~~ ~~(1)~~ D. 1. All wholesale, retail, and distributing agent's licenses shall be nonassignable and nontransferable from one person to another person. Such licenses may be transferred from one location to another location after an application has been filed with the Commission requesting such transfer and after the approval of the Commission.

~~(2)~~ 2. Wholesale, retail, and distributing agent's licenses shall be applied for on a form prescribed by the Commission. Any person operating as a wholesaler, retailer, or distributing agent must at all times have an effective unexpired license which has been issued by the Commission. If any such person or licensee continues to operate as such on a license issued by the Commission which has expired, or operates without ever having obtained from the Commission such license, he shall, after becoming delinquent for a period in excess of fifteen (15) days pay to the Commission, in addition to the annual license fee, a penalty of twenty-five cents (\$0.25) per day on each delinquent license for each day so operated

in excess of fifteen (15) days. The penalty provided for herein shall not exceed the annual license fee for such license.

SECTION 25. AMENDATORY 70 O.S. 1991, Section 3-104, as last amended by Section 1, Chapter 378, O.S.L. 1994 (70 O.S. Supp. 1994, Section 3-104), is amended to read as follows:

Section 3-104. The control of the State Department of Education and the supervision of the public school system of Oklahoma shall be vested in the State Board of Education and, subject to limitations otherwise provided by law, the State Board of Education shall:

1. Establish and prescribe the duties of an executive officer who shall be the State Superintendent of Public Instruction and whose duties shall include the responsibility to give advice and make recommendations to the Board on all matters pertaining to the policies and administration of the State Department of Education and the public school system;

2. Adopt policies and make rules for the operation of the State Department of Education and the public school system of the state;

3. Organize and have control of the administrative and supervisory agencies, divisions, personnel and their appointment and salaries and other operations necessary to carry out the powers, duties and functions of the Board and its executive officer;

4. Have authority to require the coordination of all divisions of the State Department of Education through its executive officer, delegate general supervision of all employees to its executive officer, require all recommendations to be presented through its executive officer, require its executive officer to be responsible for interpretation of the Board's policy, require any employee of the Board to present any specific matter directly to the Board;

5. Appoint, prescribe the duties and fix the compensation of a secretary, an attorney and all other personnel necessary for the proper performance of the functions of the State Board of Education. The secretary shall not be a member of the Board;

6. Submit to the Governor a departmental budget based upon major functions of the Department supported by detailed data on needs and proposed operations as partially determined by the budgetary needs of local school districts filed with the State Board of Education for the ensuing fiscal year. Appropriations therefor shall be made in lump-sum form for each major item in the budget as follows:

- a. state aid to schools,
- b. the supervision of all other functions of general and special education including general control, free textbooks, school lunch, Indian education and all other functions of the Board and an amount sufficient to adequately staff and administer these services, and
- c. the Board shall determine the details by which the budget and the appropriations are administered.

Annually, the Board shall make preparations to consolidate all of the functions of the Department in such a way that the budget can be based on two items, administration and aid to schools. A maximum amount for administration shall be designated as a part of the total appropriation;

7. On the first day of December preceding each regular session of the Legislature, prepare and deliver to the Governor and the Legislature a report for the year ending June 30 immediately preceding said regular session of the Legislature. Said report shall contain:

- a. detailed statistical and other information concerning enrollment, attendance, expenditures including State Aid, and other pertinent data for all public schools in this state,

- b. reports from each and every division, department, institution or other agency under the supervision of the Board,
- c. recommendations for the improvement of the public school system of the state,
- d. a statement of the receipts and expenditures of the State Board of Education for the past year, and
- e. a statement of plans and recommendations for the management and improvement of public schools and such other information relating to the educational interests of the state as may be deemed necessary and desirable;

8. Provide for the formulation and adoption of curricula, courses of study and other instructional aids necessary for the adequate instruction of pupils in the public schools;

9. Have full and exclusive authority in all matters pertaining to standards of qualifications and the certification of persons for instructional, supervisory and administrative positions and services in the public schools of the state, and shall formulate rules governing the issuance and revocation of certificates for superintendents of schools, principals, supervisors, librarians, clerical employees, school nurses, school bus drivers, visiting teachers, classroom teachers and for other personnel performing instructional, administrative and supervisory services, but not including members of boards of education and other employees who do not work directly with pupils, and may charge and collect reasonable fees for the issuance of such certificates. All funds collected by the State Department of Education for the issuance of certificates to instructional, supervisory and administrative personnel in the public schools of the state shall be deposited in the "Teachers' Certificate Fund" in the State Treasury and may be expended by the State Board of Education to reimburse the activities of the

Educational Professional Standards Board for actual and necessary travel expenses as provided in the State Travel Reimbursement Act in attending meetings of the Board, its committees and subcommittees, for consultative services, publication costs, actual and necessary travel expenses as provided in the State Travel Reimbursement Act incurred by persons performing research work, and other expenses found necessary by the State Board of Education for the improvement of the preparation and certification of teachers in Oklahoma.

Provided, that the requirements for a certificate for ~~district~~ superintendent of schools and principal shall include not less than a standard master's degree, such other professional education and requirements as may be fixed by the State Board of Education and a minimum of two (2) years' successful teaching, supervisory or administrative experience in public schools. Provided, further, that certificates may be revoked by the State Board of Education for willful violation of any rule of the State Board of Education or of any federal or state law or other proper cause but only after sufficient hearing has been given before the State Board of Education, provided that teaching in a Head Start program or programs shall be used for renewal of a standard teaching certificate;

10. Promulgate rules governing the classification, inspection, supervision and accrediting of all public nursery, kindergarten, elementary and secondary schools and on-site educational services provided by public school districts or state-accredited private schools in partial hospitalization programs, day treatment programs, and day hospital programs as defined in this act for persons between the ages of three (3) and twenty-one (21) years of age in the state. However, no school shall be denied accreditation solely on the basis of average daily attendance.

Any school district which maintains an elementary school and faces the necessity of relocating its school facilities because of

construction of a lake, either by state or federal authority, which will inundate the school facilities, shall be entitled to receive probationary accreditation from the State Board of Education for a period of five (5) years after the effective date of this act and any school district, otherwise qualified, shall be entitled to receive probationary accreditation from the State Board of Education for a period of two (2) consecutive years to attain the minimum average daily attendance. The Head Start and public nurseries or kindergartens operated from Community Action Program funds shall not be subjected to the accrediting rules of the State Board of Education. Neither will the State Board of Education make rules affecting the operation of the public nurseries and kindergartens operated from federal funds secured through Community Action Programs even though they may be operating in the public schools of the state. However, any of the Head Start or public nurseries or kindergartens operated under federal regulations may make application for accrediting from the State Board of Education but will be accredited only if application for the approval of the programs is made. The status of no school district shall be changed which will reduce it to a lower classification until due notice has been given to the proper authorities thereof and an opportunity given to correct the conditions which otherwise would be the cause of such reduction.

Private and parochial schools may be accredited and classified in like manner as public schools or, if an accrediting association is approved by the State Board of Education, by procedures established by the State Board of Education to accept accreditation by such accrediting association, if application is made to the State Board of Education for such accrediting. No private, parochial or other nonpublic school may be accredited unless the members of the faculty hold state certificates as required of teachers in public

~~schools and unless the standards of said schools comply in every respect with those prescribed for public schools;~~

11. Be the legal agent of the State of Oklahoma to accept, in its discretion, the provisions of any Act of Congress appropriating or apportioning funds which are now, or may hereafter be, provided for use in connection with any phase of the system of public education in Oklahoma. It shall prescribe such rules as it finds necessary to provide for the proper distribution of such funds in accordance with the state and federal laws;

12. Be and is specifically hereby designated as the agency of this state to cooperate and deal with any officer, board or authority of the United States Government under any law of the United States which may require or recommend cooperation with any state board having charge of the administration of public schools unless otherwise provided by law;

13. Be and is hereby designated as the "State Educational Agency" referred to in Public Law 396 of the 79th Congress of the United States, which law states that said act may be cited as the "National School Lunch Act", and said State Board of Education is hereby authorized and directed to accept the terms and provisions of said act and to enter into such agreements, not in conflict with the Constitution of Oklahoma or the Constitution and Statutes of the United States, as may be necessary or appropriate to secure for the State of Oklahoma the benefits of the school lunch program established and referred to in said act;

14. Have authority to secure and administer the benefits of the National School Lunch Act, Public Law 396 of the 79th Congress of the United States, in the State of Oklahoma and is hereby authorized to employ or appoint and fix the compensation of such additional officers or employees and to incur such expenses as may be necessary for the accomplishment of the above purpose, administer the



distribution of any state funds appropriated by the Legislature required as federal matching to reimburse on children's meals;

15. Accept and provide for the administration of any land, money, buildings, gifts, donation or other things of value which may be offered or bequeathed to the schools under the supervision or control of said Board;

16. Have authority to require persons having administrative control of all school districts in Oklahoma to make such regular and special reports regarding the activities of the schools in said districts as the Board may deem needful for the proper exercise of its duties and functions. Such authority shall include the right of the State Board of Education to withhold all state funds under its control, to withhold official recognition, including accrediting, until such required reports have been filed and accepted in the office of said Board and to revoke the certificates of persons failing or refusing to make such reports;

17. Have general supervision of the school lunch program. The State Board of Education may sponsor workshops for personnel and participants in the school lunch program and may develop, print and distribute free of charge or sell any materials, books and bulletins to be used in such school lunch programs. There is hereby created in the State Treasury a revolving fund for the Board, to be designated the School Lunch Workshop Revolving Fund. The fund shall consist of all fees derived from or on behalf of any participant in any such workshop sponsored by the State Board of Education, or from the sale of any materials, books and bulletins, and such funds shall be disbursed for expenses of such workshops and for developing, printing and distributing of such materials, books and bulletins relating to the school lunch program. The fund shall be administered in accordance with the Revolving Fund Procedures Act;

18. Prescribe all forms for school district and county officers to report to the State Board of Education where required. The State

Board of Education shall also prescribe a list of appropriation accounts by which the funds of school districts shall be budgeted, accounted for and expended; and it shall be the duty of the State Auditor and Inspector in prescribing all budgeting, accounting and reporting forms for school funds to conform to such lists;

19. Provide for the establishment of a uniform system of pupil and personnel accounting, records and reports;

20. Have authority to provide for the health and safety of school children and school personnel while under the jurisdiction of school authorities;

21. Provide for the supervision of the transportation of pupils;

22. Have authority, upon request of the local school board, to act in behalf of the public schools of the state in the purchase of transportation equipment;

23. Have authority and is hereby required to perform all duties necessary to the administration of the public school system in Oklahoma as specified in the Oklahoma School Code; and, in addition thereto, those duties not specifically mentioned herein if not delegated by law to any other agency or official;

24. Administer the State Public Common School Building Equalization Fund established by Section 32 of Article X of the Oklahoma Constitution. Any royalties, bonuses, rentals or other monies derived from oil and gas and all other mineral leases on lands that have been or may be granted by the United States to the state for the use and benefit of the common schools, or lands that are or may be held by the Commissioners of the Land Office for the use and benefit of the common schools, the proceeds of the sale of easements, improvements and sand and gravel on any such lands, the proceeds of all property that shall fall to the state by escheat, penalties for unlawful holding of real estate by corporations, and capital gains on assets of the permanent school funds, shall be

deposited in such State Public Common School Building Equalization Fund, which shall be used to aid school districts in acquiring buildings under rules prescribed by the State Board of Education, as the administering agency, subject to the limitations fixed by Section 32 of Article X of the Oklahoma Constitution. The State Board of Education shall prescribe rules for making grants of aid from, and for otherwise administering, such fund, and may employ and fix the duties and compensation of technicians, aides, clerks, stenographers, attorneys and other personnel deemed necessary to perform its duties; and the cost of administering such fund shall be paid from funds currently available for the operation of the State Department of Education. It shall be the duty of the State Board of Education, the Commissioners of the Land Office and all other public agencies, officers and employees to observe and comply with the provisions of this paragraph, in all respects; and they shall not be held liable for any amount, penalty or punishment for having done so, unless and until they are directed to do otherwise by a court of competent jurisdiction;

25. Recognize that the Director of the Oklahoma Department of Corrections shall be the administrative authority for the schools which are maintained in the state reformatories and shall appoint the principals and teachers in such schools. Provided, that rules of the State Board of Education for the classification, inspection and accreditation of public schools shall be applicable to such schools; and such schools shall comply with standards set by the State Board of Education;

26. Have authority to administer a revolving fund which is hereby created in the State Treasury, to be designated the Statistical Services Revolving Fund. The fund shall consist of all monies received from the various school districts of the state, the United States Government, and other sources for the purpose of furnishing or financing statistical services and for any other

purpose as designated by the Legislature. The State Board of Education is hereby authorized to enter into agreements with school districts, municipalities, the United States Government, foundations and other agencies or individuals for services, programs or research projects. The Statistical Services Revolving Fund shall be administered in accordance with the Revolving Fund Procedures Act, Section 155 et seq. of Title 62 of the Oklahoma Statutes; and

27. Have authority to review preliminary plans for new construction and major alteration of public school buildings where structural changes are proposed. No bids shall be let for the construction or major alteration of any public school building until preliminary plans and specifications for such construction or alteration have been submitted to and reviewed by the State Department of Education. The period of time during which such review is conducted by the State Department of Education shall not exceed thirty (30) days. The State Department of Education shall advise each local school district regarding said review of preliminary plans and specifications. Provided, nothing in this subsection shall be construed as repealing any ordinance or building code of any city, town or county.

SECTION 26. AMENDATORY 70 O.S. 1991, Section 17-105, as last amended by Section 1, Chapter 371, O.S.L. 1994 (70 O.S. Supp. 1994, Section 17-105), is amended to read as follows:

Section 17-105. (1) (a) Any member who has attained age fifty-five (55) or who has completed thirty (30) years of creditable service, as defined in Section 17-101 of this title, or for any person who initially became a member prior to July 1, 1992, regardless of whether there were breaks in service after July 1, 1992, whose age and number of years of creditable service total eighty (80) may be retired upon filing a written application for such retirement, ~~or for any~~. Such a retirement date will also apply to any person who became a member of the sending system as defined

in this act, prior to July 1, 1992, regardless of whether there were breaks in service after July 1, 1992. Any person who became a member after June 30, 1992, whose age and number of years of creditable service total ninety (90) may be retired upon filing a written application for such retirement. The application shall be filed on the form provided by the Board of Trustees for this purpose, not less than thirty (30) days nor more than ninety (90) days before the date of retirement.

(b) An individual who becomes a member of the Teachers' Retirement System after July 1, 1967, shall be employed by the public schools, state colleges or universities of Oklahoma for a minimum of ten (10) years and be a contributing member of the Teachers' Retirement System of Oklahoma for a minimum of ten (10) years to qualify for monthly retirement benefits from the Teachers' Retirement System of Oklahoma. Provided, however, any individual who was a contributing member of the system for a minimum of ten (10) years and withdrew such individual's accumulated contributions upon termination of employment may repay to the system such contributions with interest as determined by the Board for the purpose of receiving monthly retirement benefits from the system. All repayments made as provided for in this subsection shall be made prior to September 1, 1986.

(c) Any member with ten (10) or more years of Oklahoma teaching service and whose accumulated contributions during such period have not been withdrawn shall be given an indefinite extension of membership beginning with the sixth year following his last contributing membership and shall become eligible to apply for retirement and be retired upon attaining age fifty-five (55).

(d) Members currently teaching in the public schools of Oklahoma past the fiscal year during which age seventy (70) was attained and who have not retired shall be granted the privilege of making up the five percent (5%) contributions, plus interest, for

the years taught after age seventy (70). Such member shall be given an indefinite extension of membership and be eligible to retire upon the filing of proper application for retirement as hereinbefore provided.

(2) An unclassified optional member who has retired or who retires at sixty-two (62) years of age or older or whose retirement is because of disability shall have his minimum retirement benefits calculated on an average salary of Five Thousand Three Hundred Fifty Dollars (\$5,350.00) or, if a larger monthly allowance would result, an amount arrived at pursuant to application of the formula prescribed herein.

(3) No member shall receive a lesser retirement benefit than he would have received under the law in effect at the time he retired. Any individual under the Teachers' Retirement System, who through error in stating the title of the position which he held, may, at the discretion of the Board of Trustees, be changed from the nonclassified optional group to the classified group for the purpose of calculating retirement benefits.

Any individual regardless of residence, who has a minimum of ten (10) years of teaching in Oklahoma schools prior to July 1, 1943, or who taught in Oklahoma schools prior to 1934 and thereafter taught a minimum of ten (10) years and who does not qualify under the present retirement system, or who has a minimum of thirty (30) years of teaching in Oklahoma schools and has reached seventy (70) years of age prior to July 1, 1984, and is not otherwise eligible to receive any benefits from the retirement system shall receive a minimum of One Hundred Fifty Dollars (\$150.00) per month in retirement benefits from the Teachers' Retirement System of Oklahoma plus any general increase in benefits for annuitants as may be provided hereafter by the Legislature. Each individual must apply to the Teachers' Retirement System for such benefit and provide evidence to the Teachers' Retirement System that the service was actually rendered.

The surviving spouse of any person who made application for the benefit provided for by this paragraph during his lifetime but did not receive said benefit may submit an application to the system for payment of said benefit for those months during the lifetime of the deceased person that he was eligible for but did not receive the benefit. Upon approval of the application by the Board of Trustees, the benefit shall be paid to the surviving spouse in one lump sum.

(4) The value of each year of prior service is the total monthly retirement benefit divided by the number of years of creditable service.

(5) Upon application of a member who is actively engaged in teaching in Oklahoma or his employer, any member who has been a contributing member for ten (10) years may be retired by the Board of Trustees not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing thereof, on a disability retirement allowance, provided that it is found by the Board of Trustees after medical examination of such member by a duly qualified physician that such member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired. The Board of Trustees shall give due consideration to the conclusions and recommendations in the certified written report of the Medical Board of the Teachers' Retirement System regarding the disability application of such member. If a member is determined to be eligible for disability benefits pursuant to the Social Security System, then such determination shall entitle the member to the authorized disability retirement allowance provided by law. For members who are not eligible for disability benefits pursuant to the Social Security System, the Board of Trustees shall apply the same standard for which provision is made in the first two sentences of this subsection for determining the eligibility of a person for such

disability benefits in making a determination of eligibility for disability benefits as authorized by this subsection.

(6) (a) A member who at the time of retirement has been found to be permanently physically or mentally incapacitated to teach school shall receive a minimum monthly retirement payment for life or until such time as the member may be found to be recovered to the point where he may return to teaching. Any member retired before the effective date of this act shall be eligible to receive the monthly retirement allowance herein provided, but such payment shall not begin until the first payment due him after the effective date of this act, and shall not be retroactive. The Board of Trustees is empowered to make such rules and regulations as it considers proper to preserve equity in retirements under this provision.

(b) A member who has qualified for retirement benefits under disability retirement shall have the total monthly payment deducted from his accumulated contributions plus interest earned and any money remaining in the member's account after the above deductions at the death of the member shall be paid in a lump sum to the beneficiary or to the estate of the member. Provided, if the deceased disabled member had thirty (30) years or more of creditable service and the death occurred after June 30, 1981, and death occurred prior to the disabled member receiving twelve monthly retirement payments, a surviving spouse may elect to receive the retirement benefit to which the deceased member would have been entitled at the time of death under the Option 2 Plan of Retirement provided for in subsection (8) of this section in lieu of the death benefit provided for in this subsection and in subsection (12) of this section.

(c) Once each year the Board of Trustees may require any disabled annuitant who has not yet attained the age of sixty (60) years to undergo a medical examination, such examination to be made at the place of residence for said disabled annuitant or other place



mutually agreed upon by a physician or physicians designated by the Board of Trustees. Should any disabled annuitant who has not yet attained the age of sixty (60) years refuse to submit to at least one medical examination in any such year by a physician or physicians designated by the Board of Trustees his allowance may be discontinued until he submits to such examination.

(d) Should the Medical Board report and certify to the Board of Trustees that such disabled annuitant is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and the average final compensation, and should the Board of Trustees concur in such report then the amount of his pension shall be reduced to an amount which, together with his retirement allowance and that amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be later increased, the amount of his pension may be further modified, provided the new pension shall not exceed that amount of the pension originally granted nor an amount, which when added to the amount earnable by the member, together with his annuity, equals the amount of his average final compensation.

(e) Should a disabled annuitant be restored to active service, his disability retirement allowance shall cease and he shall again become a member of the Teachers' Retirement System and shall make regular contributions as required under this article. The unused portion of his accumulated contributions shall be reestablished to his credit in the Teachers' Savings Fund. Any such prior service certificates on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect.

(7) Should a member before retirement under this act make application for withdrawal duly filed with the Board of Trustees and approved by it, not earlier than four (4) months after the date of termination of such service as a teacher, the contribution standing to the credit of his individual account in the Teachers' Savings

Fund shall be paid to him or, in the event of his death before retirement, shall be paid to such person or persons as he shall have nominated by written designation, duly executed and filed with the Board of Trustees; provided, however, if there be no designated beneficiary surviving upon such death, such contributions shall be paid to his administrators, executors, or assigns, together with interest as hereinafter provided. In lieu of a lump-sum settlement at the death of the member, the amount of money the member has on deposit in the Teachers' Savings Fund and the money the member has on deposit in the Teachers' Deposit Fund may be paid in monthly payments to a designated beneficiary, who must be the spouse, under the Maximum or Option 1 Plan of Retirement providing the monthly payment shall be not less than Twenty-five Dollars (\$25.00) per month. The monthly payment shall be the actuarial equivalent of the amount becoming due at the member's death based on the sex of the spouse and the age the spouse has attained at the last birthday prior to the member's death. Provided further, if there be no designated beneficiary surviving upon such death, and the contributions standing to the credit of such member do not exceed Two Hundred Dollars (\$200.00), no part of such contributions shall be subject to the payment of any expense of the last illness or funeral of the deceased member or any expense of administration of the estate of such deceased and the Board of Trustees, upon satisfactory proof of the death of such member and of the name or names of the person or persons who would be entitled to receive such contributions under the laws of descent and distribution of the state, may authorize the payment of accumulated contributions to such person or persons. A member terminating his membership by withdrawal shall have the interest computed at a rate of interest determined by the Board of Trustees and paid to him subject to the following schedule:

(a) If termination occurs within seven (7) years from the date membership began, no part of such interest accumulations shall be paid.

(b) With at least seven (7) but less than sixteen (16) years of membership, fifty percent (50%) of such interest accumulations shall be paid.

(c) With at least sixteen (16) but less than twenty-one (21) years of membership, sixty percent (60%) of such interest accumulations shall be paid.

(d) With at least twenty-one (21) but less than twenty-six (26) years of membership, seventy-five percent (75%) of such interest accumulations shall be paid.

(e) With at least twenty-six (26) years of membership, ninety percent (90%) of such interest accumulations shall be paid.

In case of death of an active member, the interest shall be calculated and restored to the member's account and paid to his beneficiary.

(8) (a) In lieu of his retirement allowance payable throughout life for such an amount as determined under this section, the member may select a retirement allowance for a reduced amount payable under any of the following options the present value of which is the actuarial equivalent thereof.

(b) A member may select the option under which he desires to retire at the end of the school year in which he attains age seventy (70) and said option shall be binding and cannot be changed. Provided further that if a member retires before age seventy (70), no election of an option shall be effective in case an annuitant dies before the first payment due under such option has been received.

(c) The first payment of any benefit selected shall be made on the first day of the month following approval of the retirement by the Board of Trustees. If the named designated beneficiary under

Option 2 or 3 dies at any time after the member's retirement date, but before the death of the member, the member shall return to the retirement benefit, including any post retirement benefit increases the member would have received had the member not selected Option 2 or 3 of this subsection. The benefit shall be determined at the date of death of the designated beneficiary or July 1, 1994, whichever is later. This increase shall become effective the first day of the month following the date of death of the designated beneficiary or July 1, 1994, whichever is later, and shall be payable for the member's remaining lifetime. The member shall notify the Teachers' Retirement System of Oklahoma of the death of the designated beneficiary in writing. In the absence of said written notice being filed by the member notifying the Teachers' Retirement System of Oklahoma of the death of the designated beneficiary within six (6) months of the date of death, nothing in this subsection shall require the Teachers' Retirement System of Oklahoma to pay more than six (6) months of retrospective benefits increase.

Option 1. If he dies before he has received in annuity payments the present value of his annuity as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement; or

Option 2. A member takes a reduced retirement allowance for life. Upon the death of the member the payments shall continue to the member's designated beneficiary, who must be a spouse, for the life of the beneficiary. The written designation of the beneficiary, who must be a spouse, must be duly acknowledged and filed with the Board of Trustees at the time of the member's retirement; or

Option 3. A member receives a reduced retirement allowance for life. Upon the death of the member one-half (1/2) of the retirement allowance paid the member shall be continued throughout the life of the designated beneficiary, who must be a spouse. A written designation of a beneficiary must be duly acknowledged and filed with the Board of Trustees at the time of the member's retirement; or

Option 4. Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate, provided such other benefit or benefits, together with the reduced retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the Board of Trustees; or

Option 5. A member receives a reduced retirement allowance for life. If the member dies within twenty-five (25) years from the date of commencement of the retirement payments, such payments shall be continued to the beneficiary of the member during the balance of the twenty-five-year period. The written designation of the beneficiary, who must be a spouse, shall be duly acknowledged and filed with the Board of Trustees at the time of the member's retirement.

(9) The governing board of any "public school", as that term is defined in Section 17-101 of this title, is hereby authorized and empowered to pay additional retirement allowances or compensation to any person who was in the employ of such public school for not less than ten (10) school years preceding the date of his retirement. Payments so made shall be a proper charge against the current appropriation or appropriations of any such public school for salaries for the fiscal year in which such payments are made. Such payments shall be made in regular monthly installments in such amounts as the governing board of any such public school, in its judgment, shall determine to be reasonable and appropriate in view

of the length and type of service rendered by any such person to such public school by which such person was employed at the time of retirement. All such additional payments shall be uniform, based upon the length of service and the type of services performed, to persons formerly employed by such public school who have retired or been retired in accordance with the provisions of this act.

The governing board of any such public school may adopt rules and regulations of general application outlining the terms and conditions under which such additional retirement benefits shall be paid, and all decisions of such board shall be final.

(10) In addition to the teachers' retirement herein provided, teachers may voluntarily avail themselves of the Federal Social Security Program upon a district basis.

(11) For those members who joined the System prior to July 1, 1992, upon the death of an in-service member, the system shall pay to the designated beneficiary of the member or, if there is no designated beneficiary or if the designated beneficiary predeceases the member, to the estate of the member, the sum of Eighteen Thousand Dollars (\$18,000.00) as a death benefit. Provided, if the deceased member had ten (10) years or more of creditable service and the death occurred after February 1, 1985, a surviving spouse may elect to receive the retirement benefit to which the deceased member would have been entitled at the time of death under the Option 2 plan of retirement in lieu of the death benefit provided for in this subsection. Provided further, if the death occurred after June 1, 1987, and the surviving spouse elects to receive the retirement benefit to which the deceased member would have been entitled at the time of death under the Option 2 plan of retirement, the retirement benefit shall be determined using the average annual salary of the deceased member during any three (3) of the last five (5) years of participating service, but not to exceed Forty Thousand Dollars (\$40,000.00).

(12) Upon the death of an annuitant who has contributed to the system, the retirement system shall pay to the designated beneficiary of the annuitant or, if there is no designated beneficiary or if the designated beneficiary predeceases the annuitant, to the estate of the annuitant, the sum of Four Thousand Dollars (\$4,000.00) as a death benefit.

SECTION 27. AMENDATORY 70 O.S. 1991, Section 17-116.2, as last amended by Section 7, Chapter 383, O.S.L. 1994 (70 O.S. Supp. 1994, Section 17-116.2), is amended to read as follows:

Section 17-116.2 A. 1. Beginning July 1, 1987, and prior to July 1, 1995, a member who retires on or after the member's normal retirement age or whose retirement is because of disability shall receive an annual allowance for life, payable monthly, in an amount equal to two percent (2%) of the member's highest three-year average salary upon which member contributions were made, multiplied by the number of the member's years of creditable service.

A classified member who retired prior to July 1, 1986, shall have his retirement allowance calculated on a minimum average salary of Eleven Thousand Five Hundred Dollars (\$11,500.00) or on his current minimum average salary plus Two Thousand Dollars (\$2,000.00), whichever is greater. Beginning July 1, 1994, a classified member who retired prior to July 1, 1993, shall have the member's retirement allowance calculated on the member's current minimum average salary plus Five Hundred Fifty Dollars (\$550.00). An unclassified member who retired prior to July 1, 1986, shall have his retirement allowance calculated on a minimum average salary of Nine Thousand Five Hundred Dollars (\$9,500.00) or on his current minimum average salary plus One Thousand Dollars (\$1,000.00), whichever is greater. Beginning July 1, 1994, an unclassified member who retired prior to July 1, 1993, shall have the member's retirement allowance calculated on the member's current minimum average salary plus Two Hundred Seventy-five Dollars (\$275.00).

Those individuals receiving benefits pursuant to subsection (3) of Section 17-105 of this title whose benefits commenced prior to July 1, 1993, shall receive an increase in benefits of two and one-half percent (2 1/2%). No retirement benefit payments shall be made retroactively.

Except for those members retiring because of a disability, the retirement allowance shall be subject to adjustment for those members retiring before normal retirement age in accordance with the actuarial equivalent factors adopted by the Board of Trustees.

2. Beginning July 1, 1995, a member who retires on or after the member's normal retirement age or whose retirement is because of disability shall receive an annual allowance for life, payable monthly as follows:

- a. if the member becomes a member after June 30, 1995, and was not eligible to become a member prior to July 1, 1995, in an amount equal to two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of creditable service, or
- b. if the member became a member or is eligible to become a member prior to July 1, 1995, and elected to have a maximum compensation level in excess of Twenty-five Thousand Dollars (\$25,000.00) pursuant to paragraph 1 of subsection C of this section or pursuant to subsection E of this section, or if the member's salary has never exceeded Twenty-five Thousand Dollars (\$25,000.00) prior to July 1, 1995, in an amount equal to:
  - (1) two percent (2%) of the member's average salary upon which member contributions were made not to exceed Forty Thousand Dollars (\$40,000.00), multiplied by the number of the member's years of



credited service authorized and performed prior to July 1, 1995, plus any years of prior service authorized under this title, plus

(2) two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of credited service authorized and performed after June 30, 1995, or

c. if the member became a member or is eligible to become a member prior to July 1, 1995, and was eligible to elect to have a maximum compensation level in excess of Twenty-five Thousand Dollars (\$25,000.00) and did not elect or elected not to have a maximum compensation level of Forty Thousand Dollars (\$40,000.00) pursuant to paragraph 1 of subsection C of this section or pursuant to subsection E of this section, in an amount equal to:

(1) two percent (2%) of the member's average salary upon which member contributions were made not to exceed Twenty-five Thousand Dollars (\$25,000.00), multiplied by the number of the member's years of credited service authorized and performed prior to July 1, 1995, plus any years of prior service authorized under this title, plus

(2) two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of credited service authorized and performed after June 30, 1995.

B. Except as otherwise provided for in this section, the amount contributed by each member to the retirement system shall be:

1. Beginning July 1, 1992 through June 30, 1996, six percent (6%) of the regular annual compensation of such member not in excess of Twenty-five Thousand Dollars (\$25,000.00); and

2. Beginning July 1, 1996 through June 30, 1997, six and one-half percent (6 1/2%) of the regular annual compensation of such member not in excess of Twenty-five Thousand Dollars (\$25,000.00); and

3. Beginning July 1, 1997, seven percent (7%) of the regular annual compensation of such member.

C. 1. Prior to July 1, 1995, an active member of the System may elect to have a maximum compensation level of Forty Thousand Dollars (\$40,000.00). Such an election shall be made in writing and filed with the System. Members whose salaries are in excess of Twenty-five Thousand Dollars (\$25,000.00) on the effective date of this act shall file the election with the System prior to January 1, 1988. 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). If a member makes such an election, the member shall contribute the following amounts:

a. beginning July 1, 1992 through June 30, 1993, eleven percent (11%) of the regular annual compensation of such member that is in excess of Twenty-five Thousand Dollars (\$25,000.00) and is not in excess of Forty Thousand Dollars (\$40,000.00),

b. beginning July 1, 1993 through June 30, 1994, nine percent (9%) of the regular annual compensation of such member that is in excess of Twenty-five Thousand Dollars (\$25,000.00) and is not in excess of Forty Thousand Dollars (\$40,000.00), and

c. beginning July 1, 1994 through June 30, 1995, eight percent (8%) of the regular annual compensation of

such member that is in excess of Twenty-five Thousand Dollars (\$25,000.00) and is not in excess of Forty Thousand Dollars (\$40,000.00). Except as provided in subsection E of this section, any such election shall be irrevocable.

2. After June 30, 1995, in addition to the amount contributed by each member to the retirement system pursuant to subsection B of this section, the total amount contributed by each member to the retirement system shall include, beginning July 1, 1995 through June 30, 1997, seven percent (7%) of the regular annual compensation of each member that is in excess of Twenty-five Thousand Dollars (\$25,000.00).

D. For purposes of this act, regular annual compensation shall include:

1. Normal periodic payments of money for service the right to which accrues on a regular basis in proportion to the service performed, such periodic payments shall include payments for staff development or other periodic payments to qualifying employees of the employer;

2. Amounts that would otherwise qualify as salary under paragraph 1 of this subsection but are not received directly by the member pursuant to a good faith, voluntary written salary reduction agreement in order to finance payments to a deferred compensation or tax-sheltered annuity program or to finance benefit options under a cafeteria plan qualifying under the United States Internal Revenue Code, 26 U.S.C., Section 101 et seq.;

3. Group health and disability insurance, group term life insurance, annuities and pension plans, provided on a periodic basis to all qualified employees of the employer, which qualify as fringe benefits under the United States Internal Revenue Code.

Excluded from regular annual compensation are expense payments, allowances, payment for unused vacation and sick leave, any payment

made for reason of termination or retirement not specifically provided for in paragraphs 1 through 3 of this subsection, maintenance or other nonmonetary compensation, payment received as an independent contractor or consultant, any benefit payments not made pursuant to a valid employment agreement, or any compensation not described in paragraphs 1 through 3 of this subsection.

E. 1. Any member who was a contributing member of the Retirement System between July 1, 1987, and June 30, 1995, who at the time the member was eligible to make an election to increase the maximum compensation level of the member, 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 make back contributions to the Retirement System. The member shall complete a new election form and file with the Board of Trustees, the form and a payment equaling the difference between the amount contributed at the twenty-five-thousand-dollar level and the appropriate contribution on compensation in excess of Twenty-five Thousand Dollars (\$25,000.00) up to a maximum of Forty Thousand Dollars (\$40,000.00) shall be made prior to the official retirement date of the member. The required payment shall include any contribution required by the employing school district, and shall include interest compounded annually at ten percent (10%) per annum of both employer and employee contributions.

2. Any changes made pursuant to this subsection shall be irrevocable.

F. 1. An individual who withdrew from the Teachers' Retirement System and whose salary was in excess of Seven Thousand Eight Hundred Dollars (\$7,800.00) and had elected to contribute only on Seven Thousand Eight Hundred Dollars (\$7,800.00) before his withdrawal shall contribute on the earning ceiling as provided for in this section on his reentry into membership in the Teachers' Retirement System.

2. An individual who elected to contribute on a maximum of Seven Thousand Eight Hundred Dollars (\$7,800.00) per annum shall, beginning July 1, 1979, contribute on his earning ceiling as provided for in this section.

3. Any member who elected to contribute on Seven Thousand Eight Hundred Dollars (\$7,800.00) prior to January 1, 1978, and whose salary was more than Seven Thousand Eight Hundred Dollars (\$7,800.00) during the school years 1974-75 through 1978-79 may elect to make back contributions to the retirement system by paying the five percent (5%) contributions on the difference between Seven Thousand Eight Hundred Dollars (\$7,800.00) and the actual salary of the member, not to exceed Ten Thousand Dollars (\$10,000.00) for each applicable school year, plus interest compounded annually at ten percent (10%) per annum. Such payment shall be made prior to the official retirement date of the member.

G. Each employer shall cause to be deducted from the salary of each member on each and every payroll of such employer for each and every payroll period, the proper percentage of his earnable compensation as provided for in subsection B of this section.

1. Deductions shall begin with the first payroll period of the school year. In determining the amount earnable by a member in a payroll period, the Board of Trustees shall consider the rate of annual compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from compensation for any period less than a full period, and to facilitate the making of deductions, it may modify the deduction required of any member by such an amount as shall not exceed one-tenth of one percent (1/10 of 1%) of the annual compensation upon the basis of which such deduction is to be made. Prior to January 1, 1991, any active contributing member who joined the System subsequent to July 1, 1943, may pay the normal cost, which shall mean the single sum which would have been paid under

existing statutes at the time the service was performed, plus interest, for years of teaching service in Oklahoma from the date of establishment of the System in 1943 to date of membership, in a lump sum, or in installments equal to establishing one (1) year of creditable service. Effective January 1, 1991, any active contributing member who joined the System subsequent to July 1, 1943, may pay the amount determined by the Board of Trustees pursuant to Section 17-116.8 of this title for years of teaching service in Oklahoma from the date of establishment of the System in 1943 to date of membership, in a lump sum, or in installments equal to establishing one (1) year of creditable service. For purposes of this option, teaching service in Oklahoma shall include the teaching of vocational agricultural courses within Oklahoma for the federal government. Years for which contributions are paid shall count as membership service under this plan. A member may receive credit for not more than five (5) years of teaching service rendered while in the Peace Corps or in the public schools of a territory of the United States or the public schools, American Military Dependent Schools or state colleges or state universities outside this state by paying his contributions, plus interest, and membership fees to the retirement system, subject to the regulations of the Board of Trustees, providing he is not receiving and is not eligible to receive retirement credit or benefits from said service in any other public retirement system of this state, or any other state or territory of the United States subject to the following provisions:

- a. the member is required to have two (2) years of employed service teaching earned in Oklahoma for each year of Peace Corps, territorial, out-of-state, noncovered in-state or military membership credit granted.
- b. prior to January 1, 1991, the out-of-state or noncovered in-state payment shall be the normal cost,

which means the single sum which would have been paid under existing law at the time the service was performed, plus interest, on the basis of what his annual salary would have been in Oklahoma or out of state, whichever is greater, had he been employed as a teacher. Effective January 1, 1991, the Peace Corps, territorial, out-of-state or noncovered in-state payment shall be the amount determined by the Board of Trustees pursuant to Section 17-116.8 of this title.

2. In addition to the deductions hereinabove provided for, any member who becomes a member of the Armed Forces of the United States of America during any period of national emergency, including World War II, the Korean conflict, the Vietnam conflict or others as may be determined by the Board of Trustees, or whose entrance into or training for the teaching profession was interrupted by his entrance into the Armed Forces, and who was or shall have become a member of the Teachers' Retirement System shall be granted the privilege of making up his five percent (5%) contributions as provided for in this section until January 1, 1991, for not to exceed five (5) years of service in the Armed Forces by electing to pay said contributions on the basis of the rate of pay in his contract as a teacher at the time his service in the Armed Forces commenced or in the case of a teacher who was not teaching prior to entering the Armed Forces, on the basis of the salary of the first year of teaching after being honorably discharged from the Armed Forces. Effective January 1, 1991, the member will receive such service upon payment of the amount determined by the Board of Trustees pursuant to Section 17-116.8 of this title. Such contributions shall be credited in the regular manner, and the period for which said contributions were paid shall be counted as creditable years of service and allocated to the period during which the military service was rendered, except that the period for which contributions were paid must have been

continuous and shall be credited in the aggregate, regardless of fiscal year limitations.

3. Retirement benefits for all service credits purchased pursuant to this subsection shall be determined in accordance with the provisions of paragraph 2 of this subsection.

H. For those members who joined the System prior to July 1, 1992, the total creditable service of a member who retires or terminates employment and elects a vested benefit shall include not to exceed one hundred twenty (120) days of unused sick leave accumulated subsequent to August 1, 1959. Twenty (20) days of unused sick leave shall equal one (1) month for purposes of creditable service credit. If the member becomes a member or was eligible to become a member prior to July 1, 1995, the year of credit received in this section shall be treated as service earned prior to July 1, 1995. This paragraph shall apply to members retiring or vesting on or after the effective date of this act and shall not be retroactive.

I. Any member who shall be absent from the teaching service because of election to the State Legislature or appointment to the executive branch in an education-related capacity shall be allowed to retain his membership in the Teachers' Retirement System upon payment of the contribution required of other members and employers of said members as provided for in this section and his service credits shall continue to be accumulated during such absence, provided he is not receiving and is not eligible to receive retirement credits or benefits from said service beginning after July 1, 1992, in other public retirement systems.

J. Any member who shall be absent from the teaching service because of election or appointment as a local, state or national education association officer shall be allowed to retain his membership in the Teachers' Retirement System upon payment of the contribution required of other members and employers of said members



as provided for in this section and his service credits shall continue to be accumulated during such absence. Provided, however, any one such absence shall not exceed eight (8) continuous years. No member who has less than ten (10) years of contributory service on July 1, 1994, may make this election after June 30, 1994.

Members contributing to the System on July 1, 1994, may continue to contribute under this subsection until they have completed eight (8) years allowed by this subsection.

K. A member may receive credit for those years of service accumulated by the member while employed by an entity which is a participating employer in the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System, or the Oklahoma Public Employees Retirement System, if the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system. A member also may receive credit for those years of service with the Oklahoma Department of Wildlife or with an employer that is a participating employer within one of the state retirement systems specifically referred to in this section when at the time of such service by the member the employer was not such a participating employer, if the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system. To receive the service credit provided in this subsection, the member shall pay the amount determined by the Board of Trustees pursuant to Section 17-116.8 of this title. For purposes of this subsection, creditable service transferred from the Oklahoma Public Employees Retirement System shall include service authorized under paragraph (f) of subsection (2) of Section 913 of Title 74 of the Oklahoma Statutes as amended from time to time. Members who retire prior to July 1, 1993, shall have their monthly benefit adjusted to include all

services accrued under paragraph (f) of subsection (2) of Section 913 of Title 74 of the Oklahoma Statutes. Provided however, any adjustment of existing retirement benefits caused by reason of inclusion of such service authorized under paragraph (f) of subsection (2) of Section 913 of Title 74 of the Oklahoma Statutes shall not affect any retirement benefit paid prior to July 1, 1993.

L. 1. An active member of the Teachers' Retirement System of Oklahoma may receive credit for those years of service accumulated by the member while a member of the Oklahoma Public Employees Retirement System if:

- a. the member is an active member of the Teachers' Retirement System of Oklahoma, and
- b. the member provides notice to the Oklahoma Public Employees Retirement System and the Teachers' Retirement System of Oklahoma of the member's election to transfer said service credit, and
- c. the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system, notwithstanding the years of service sought to be transferred under this subsection.

Members electing to take advantage of the transfer authorized by this subsection who are receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system shall have all service credit with the Oklahoma Public Employees Retirement System canceled which is not transferred to the Teachers' Retirement System of Oklahoma. Service credit transferred to the Teachers' Retirement System of Oklahoma under this subsection shall also be canceled with the Oklahoma Public Employees Retirement System.

2. For purposes of this subsection, the "sending system" shall mean the Oklahoma Public Employees Retirement System. The

"receiving system" shall mean the Teachers' Retirement System of Oklahoma.

a. Within thirty (30) days notification of an intent to transfer is received by the sending system, the sending system shall, according to its own rules and regulations:

- (1) for members who have accrued at least eight (8) years of credited service with the sending system, determine the present value of the member's earned benefits attributable to the years of service sought to be transferred, discounted according to the member's age at the time of transfer and computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation, but shall not make any projections regarding future salary. For employees who have accrued at least eight (8) years of credited service, the sending system shall use the product of this calculation for purposes of determining the transfer fee to be paid by the employee under subparagraph c of this paragraph so long as it is greater than the product of the calculation in division (2) of this subparagraph, and
- (2) determine the sum of the employee and employer contributions applicable to the years of service sought to be transferred plus interest consistent

with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation. For all non-vested members, and for members who have accrued at least eight (8) years of credited service, if the product of this calculation is greater than the product of the calculation in division (1) of this subparagraph, the sending system shall use the product of this calculation for purposes of determining the amount to be transferred by the sending system under subparagraph c of this paragraph and any transfer fee to be paid by the member under subparagraph d of this paragraph.

- b. Within thirty (30) days notification of an intent to transfer is received by the receiving system, the receiving system shall determine, according to the system's own rules and regulations, the present value of the member's incremental projected benefits discounted according to the member's age at the time of the transfer. Incremental projected benefits shall be the difference between the projected benefit said member would receive without transferring the service credit and the projected benefit after transfer of service credit computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest, salary projections and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation.
- c. The sending system shall, within sixty (60) days from the date notification of an intent to transfer is

received by the sending system, transfer to the receiving system the amount determined in subparagraph a of this paragraph. Except if the cost as calculated under subparagraph a of this paragraph is greater than the actuarial value of the incremental benefit in the receiving system, as established in subparagraph b of this paragraph, the sending system shall send the receiving system an amount equal to the actuarial value of the incremental projected benefit in the receiving system.

d. In order to receive the credit provided for in paragraph 1 of this subsection, if the cost of the actuarial value of the incremental benefit to the receiving system is greater than the cost as calculated under subparagraph a of this paragraph for the same years of service to the sending system as established in subparagraphs a and b of this paragraph, the employee shall pay any difference.

3. Within sixty (60) days of successfully completing all of the requirements for transfer under this subsection, the sending system shall pay the receiving system any amount due under this subsection. Within sixty (60) days of successfully completing all of the requirements for transfer under this subsection, the member shall pay the receiving system any amount due under this subsection. In the event that the member is unable to pay the transfer fee provided for in this subsection by the due date, the Board of Trustees of the receiving system shall permit the member to amortize the transfer fee over a period not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the Board of Trustees permits an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings each

year. Any member who ceases to make payment, terminates, retires or dies before completing the payments provided for in this section shall receive prorated service credit for only those payments made, unless the unpaid balance is paid by said member, his or her estate or successor in interest within six (6) months after said member's death, termination of employment or retirement, provided no retirement benefits shall be payable until the unpaid balance is paid, unless said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance.

4. Years of service transferred pursuant to this subsection shall be used both in determining the member's retirement benefit and in determining the years of service for retirement and/or vesting purposes. Notwithstanding this rule and the provisions of paragraph (24) of Section 17-101 of this title, and Section 17-105 of this title, and subsection A of this section, the retirement date of the member who makes an election to transfer service credit as provided in this subsection shall not occur unless the member continues to participate as an active contributing member in the Teachers' Retirement System of Oklahoma for at least one (1) full year after the date of the election. Years of service rendered as a member of the Oklahoma Public Employees Retirement System prior to July 1, 1992, if any, shall be deemed to be years of service rendered as a member of the Teachers' Retirement System of Oklahoma prior to July 1, 1992, and shall qualify such person as a member of the Teachers' Retirement System of Oklahoma before July 1, 1992.

5. Notwithstanding the requirements of subsection (5) of Section 917 of Title 74 of the Oklahoma Statutes, members electing to take advantage of the transfer authorized by this subsection who have withdrawn their contributions from the sending system shall remit to the sending system the amount of the accumulated contributions the member has withdrawn plus simple interest of ten percent (10%) per annum prior to making said election or the

election shall be deemed invalid and the transfer shall be canceled. If such an election is deemed invalid and the transfer is canceled, the accumulated contribution remitted to the sending system by the member who originally withdrew their contributions shall be returned to the member. The member's rights and obligations regarding any service credit reestablished in the sending system due to a failure to satisfy the requirements of this subsection shall be determined by the sending system in accordance with Section 901 et seq. of Title 74 of the Oklahoma Statutes.

6. If any member fails for any reason to satisfy the requirements of this subsection, the election to transfer service credit shall be void and of no effect, and any service credited as a result of this transfer shall be canceled. If such service is canceled, the years of canceled service credit which were unsuccessfully transferred to the receiving system from the sending system shall be reestablished in the sending system. The member's rights and obligations regarding any service credit reestablished in the sending system due to a failure to satisfy the requirements of this subsection shall be determined by the sending system in accordance with Section 901 et seq. of Title 74 of the Oklahoma Statutes.

7. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection.

M. Any member whose regular annual compensation was not determined as provided for by law may pay the member contribution required pursuant to subsection B of this section on such amount not included in the member's regular annual compensation and receive credit for such amount in the calculation of the member's benefit. The employees must pay the employer contributions required pursuant to Section 17-108.1 of this title. Interest at the rate of ten percent (10%) per annum shall be charged to both employee and employer contributions.

~~M.~~ N. Any active member who elected during the 1978-79 school year to pay the difference between five percent (5%) on actual salary not exceeding Ten Thousand Dollars (\$10,000.00) and six percent (6%) on actual salary not exceeding Fifteen Thousand Dollars (\$15,000.00) shall receive credit for one (1) year of credited service upon receipt and approval of a proper request by the Board of Trustees.

~~N.~~ O. Effective July 1, 1988, any member who is employed by the Governor, the State Senate, the House of Representatives or the Legislative Service Bureau shall be allowed to elect to retain membership in the Retirement System upon payment of the accrued and current member contributions and employer contributions as provided in subsection B of this section and Section 17-108.1 of this title. Such contributions may be paid on behalf of the member by the employing entity. Upon payment of such contributions, service credits shall continue to be accumulated during such employment. Accrued contributions shall be paid to the Retirement System by August 1, 1989. Current contributions shall be paid to the Retirement System by the tenth of the following month beginning with the month of July 1989.

SECTION 28. AMENDATORY 70 O.S. 1991, Section 509.2, as last amended by Section 2, Chapter 345, O.S.L. 1994 (70 O.S. Supp. 1994, Section 509.2), is amended to read as follows:

Section 509.2 A. The local board of education shall recognize an employee organization designated by an election of the employees in an appropriate bargaining unit as the exclusive representative of all the employees in such unit. The members of an employee organization shall be employees as defined in paragraphs 1, 2 and 3 of this subsection and Section 1-116 of this title. The recognition of such employee organization shall be made by the local board no later than fourteen (14) days after said election. Any person who desires not to be represented by any organization may so state in



writing to his or her board of education. Appropriate bargaining units are defined as follows; however, such definition shall not be construed, of itself, as requiring that bargaining units engage in bargaining or act to disengage from bargaining:

1. Employees who are employed and certified as principals and assistant principals and who have responsibilities for the supervision of classroom teachers shall constitute an appropriate unit;

2. All other employees who are required by the position in which employed to be licensed or certified as teachers or entry year teachers as those terms are defined in Section 1-116 of this title and who do not hold supervisory authority with respect to other teachers in the district shall constitute an appropriate unit; and

3. All employees who are not required by their job description to be a principal, licensed or certified teacher, superintendent or other administrator shall constitute a separate bargaining unit. Provided, if employees categorized according to paragraphs 2 and 3 of this subsection were organized for bargaining as a single unit as of April 14, 1986, or are at any time employed in a district having fewer than seventy-five employees in the two categories taken together, said employees may, for such time as a majority of the employees in each category indicate by secret ballot vote they share a single community of interest, constitute a single appropriate unit. Further provided, any final judgment of the Oklahoma Supreme Court denying such community of interest in any school district shall have the effect of rendering inappropriate all units, in whatever school districts they exist, which include employees of both categories.

B. 1. Within seven (7) business days of receiving a sealed packet containing an employee petition filed by or on behalf of thirty-five percent (35%) or more of the employees in a unit, such petition calling for an election to determine which, if any,

employee organization represents the employees in a bargaining unit, the board shall arrange for verification that there are a sufficient number of correct names to constitute at least thirty-five percent (35%) of the employees in the unit. Such arrangements shall include the transmitting of the sealed packet and a list of employees eligible to be included in the bargaining unit to the individual designated pursuant to the provisions of paragraph 2 of this subsection.

2. The petition calling for the secret ballot election shall contain only the names of employees of the bargaining unit who have signed and dated said petition. The Within thirty (30) days of receipt of the sealed packet by the county election board, the sealed packet shall be opened and the petition shall be verified by an individual designated by the election board of the county in which the school district has its main office. Upon verification of the number of signatures on the petition, the county election board shall notify in writing the district board of education and any employee organization that has requested notice of the verification. Under no circumstances shall the individual so designated reveal the names of employees who signed or did not sign the petition. If an employee has signed more than one petition, the name of the employee shall be removed from each petition.

3. The period of time for signing of a recognition petition shall commence upon receipt of written notification by the local school board from an organization indicating that it intends to circulate a petition and shall cease thirty (30) days thereafter. Provided, if an organization recognized as representative of a unit for bargaining is being challenged for discontinuation of representation as provided in paragraph 8 of subsection C of this section or is being challenged by another organization seeking recognition, the period for signing shall commence on the first day of February and end on the last day of that same February.

C. 1. Not less than thirty (30) days nor more than forty-five (45) days after receipt of notification that the petition has been verified as sufficient, a secret ballot election shall be held to determine which, if any, employee organization shall represent the unit. No election shall be held for a unit within which a valid election was held in the preceding two (2) years.

The local board shall recognize within ten (10) days an organization which, on the effective date of this act, has obtained signed authorization from a majority of the employees eligible to be included in the unit but has not been recognized. No election shall be held for such unit within two (2) years of recognition. An appropriate election ballot shall be printed for this election, which contains the names of all employee organizations having presented a petition verified as signed by at least thirty-five percent (35%) of the employees eligible to be in the unit to represent or currently recognized as representing the unit; provided, no such organization shall be shown on the ballot unless the organization pays to the local board a filing fee of Two Hundred Fifty Dollars (\$250.00). The ballot shall also provide an option whereby any employee of the unit may indicate a preference that the unit not be represented by any organization. Every organization that receives at least fifteen percent (15%) of the vote in the election shall be reimbursed the Two Hundred Fifty Dollars (\$250.00) by the local board. The local board shall use any remaining filing fee money to help offset the cost of the validation process of the petition, if any, as well as any election costs incurred.

2. When none of the choices on the ballot receives a majority of the votes, a runoff election shall be conducted on the fourteenth day following the first election between the two choices which received the largest number of votes in the preceding election.

3. The employee organization or organizations and the local school board shall, by agreement, determine the method by which each

election shall be conducted. All costs incurred in an election shall be shared equally by all parties involved.

If no agreement can be reached within fourteen (14) days prior to the election, the local board of education shall notify the county election board of the county in which the board is located of such fact, and the following method for conducting the secret ballot election shall be followed and conducted by the county election board:

- a. At the time of such notice, the board of education shall provide to the county election board:
  - (1) a list of all the polling places for the election, such list to include every middle school or junior high school and the central administration office in the district;
  - (2) a list of names of all the persons eligible to vote in said election, such list to be in alphabetical order and duplicated in such number that there shall be one for each polling place, plus an additional five copies;
  - (3) the names of each organization entitled to have its name appear on the ballot; and
  - (4) the date of the election.
- b. Ballots for the election shall be printed by the county election board in the same manner as for other elections conducted by the county election board, insofar as is possible. The names of organizations shall be listed on the ballot in the order in which said names are furnished to the county election board by the board of education. The option specifying that no organization shall represent the employee bargaining unit shall be listed last on the ballot, in such language as may be specified by the local board.

- c. The secretary of the county election board shall appoint an inspector, judge and clerk for each polling place. Said inspector, judge and clerk shall be selected from among the regular precinct officials in the county.
- d. Polling places shall be open from 7:00 a.m. to 7:00 p.m. on the day of the election. Any eligible person who appears to vote no later than 7:00 p.m. shall be entitled to vote.
- e. Eligible voters may vote after signing their signatures beside their names on the list of names of all the persons eligible to vote in said election. The voter shall place his or her ballot in the ballot box in the presence of the inspector.
- f. Each organization entitled to have its name appear on the ballot shall be permitted to appoint one challenger at each polling place. Each such challenger shall be properly identified as such, and shall be limited to inquiring of a prospective voter, said prospective voter's name, address, job classification and work site. The challenger may challenge the right of any prospective voter to vote by so informing the judge. Upon being so challenged, the prospective voter may vote if, after being informed by the judge of such a challenge, the voter signs his or her signature beside his or her name on the list of names of all the persons eligible to vote in said election. If same occurs, the judge shall write the words "Challenged by \_\_\_\_\_" beside the voter's signature.
- g. The county election board shall certify in writing the results of the election to the board of education on

the day following the election and on the same day shall mail a copy of the certification to all employee organizations that have requested copies of the certification.

- h. Costs of the election shall be paid to the county election board by the board of education. Said costs shall include the regular salaries of the inspector, judge, clerk, in addition to all other necessary and reasonable costs. Such costs shall include compensation for members of the county election board, including the secretary.
- i. Anyone guilty of voting more than one time in said election will be guilty of a misdemeanor and subject to a fine of Two Hundred Dollars (\$200.00) or thirty (30) days in the county jail.

4. No employee shall use regularly scheduled duty time for campaign purposes.

5. A list of the employees eligible to vote in the election including their names, addresses, phone numbers, job classification and work site shall be provided not less than fourteen (14) days before the election to each organization listed on the official ballot.

6. No organization which at the time this act takes effect is representing a bargaining unit as a result of having gained recognition on the basis of signed authorization or secret ballot election and is in the process of collective bargaining for the 1986-87 school year shall be subject to the election provisions of this section until collective bargaining for the 1986-87 school year has ended.

7. Any local board or organization challenging the results of any election held pursuant to the provisions of this section shall post with the district court a bond of One Thousand Dollars

(\$1,000.00) which shall be forfeited if the court finds that the challenge is in bad faith.

8. In any February more than two (2) years after recognition of an organization pursuant to the provisions of this section and upon the receipt of a petition calling for discontinuation of representation signed by thirty-five percent (35%) of the employees eligible to be included in the unit, a local board shall call an election to determine whether the members of a unit wish to discontinue being represented for bargaining. If a majority of the votes cast are votes to discontinue representation, efforts to gain recognition by any organization shall be prohibited for a period of two (2) years commencing with the expiration of the contract then in force. The ballots used in such election shall, without reference to any organization by name, offer the single choice of continued representation or discontinuation of representation.

SECTION 29. AMENDATORY 74 O.S. 1991, Section 18c, as amended by Section 47, Chapter 382, O.S.L. 1994 (74 O.S. Supp. 1994, Section 18c), is amended to read as follows:

Section 18c. Subject to the exceptions hereinafter set out, no state officer, board or commission, except the Corporation Commission, the Board of Managers of the State Insurance Fund, the Oklahoma Tax Commission, the Commissioners of the Land Office, the Oklahoma Public Welfare Commission also known as the Commission for Human Services, the Board of Corrections, the Oklahoma Health Care Authority, the Department of Public Safety, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, the Transportation Commission ~~and the Office of Public Affairs,~~ the Department of Central Services, the Oklahoma Merit Protection Commission, the Office of Personnel Management, and the Oklahoma Water Resources Board, shall have authority to employ or appoint attorneys to advise or represent said officer, board or commission, in any matter, and all the legal

duties of such officer, board or commission shall devolve upon and are hereby vested in the Attorney General; provided that the Governor shall have authority to employ special counsel to protect the rights or interest of the state as provided in Section 6 of this title; and provided further, that liquidation agents of banks shall have the authority to employ local counsel, with the consent of the Bank Commissioner and the Attorney General and the approval of the district court. At the request of any state officer, board or commission, except the Corporation Commission, the Board of Managers of the State Insurance Fund, Oklahoma Tax Commission and the Commissioners of the Land Office, the Grand River Dam Authority, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission and the Interstate Oil and Gas Compact Commission, the Attorney General shall defend any action in which they may be sued in their official capacity, and at their request the Attorney General shall have authority to institute suits in the name of the State of Oklahoma on their relation, provided after investigation he is convinced there is sufficient legal merit to justify the action. Provided however, any officer, board, or commission which has the authority to employ or appoint attorneys may request that the Attorney General defend any action arising pursuant to the provisions of the Governmental Tort Claims Act. Provided further, that nothing in this section shall be construed to repeal or affect the provisions of the statutes of this state pertaining to attorneys and legal advisors of the several commissions and departments of state last hereinabove mentioned, and all acts and parts of acts pertaining thereto shall be and remain in full force and effect.

SECTION 30. AMENDATORY 74 O.S. 1991, Section 18 l, as last amended by Section 6, Chapter 282, O.S.L. 1994 (74 O.S. Supp. 1994, Section 18 l), is amended to read as follows:



Section 18 l. The Office of the Attorney General may levy and collect a reasonable fee from the Department of Consumer Credit, the Office of Personnel Management, the Teachers' Retirement System of Oklahoma, the Oklahoma Public Employees Retirement System, the Oklahoma Development Finance Authority, the Oklahoma Industrial Finance Authority, the Oklahoma Student Loan Authority, the Department of Mental Health and Substance Abuse Services, the Oklahoma Health Care Authority, the Board of Regents of Oklahoma Colleges, the Oklahoma State Regents for Higher Education, the State Department of Vocational and Technical Education, the Oklahoma Department of Veterans Affairs, the State Fire Marshal Commission, the Commission on Children and Youth, the State Department of Agriculture, the Oklahoma Human Rights Commission, the Oklahoma Law Enforcement Retirement System, the Oklahoma Police Pension and Retirement System, ~~and~~ the Oklahoma Tourism and Recreation Department, and the Department of Rehabilitation Services for the purpose of providing legal services requested by such entities. All fees collected in accordance with the provisions of this section shall be deposited in the Attorney General's Revolving Fund created pursuant to Section 20 of this title.

SECTION 31. AMENDATORY 74 O.S. 1991, Section 85.7, as last amended by Section 2, Chapter 233, O.S.L. 1994 (74 O.S. Supp. 1994, Section 85.7), is amended to read as follows:

Section 85.7 A. No acquisition or contract shall be made without the submission of competitive bids by the State Purchasing Director, except as provided in this section.

1. Any acquisition or contract for an amount of Two Thousand Five Hundred Dollars (\$2,500.00) or less shall be exempted from competitive bidding procedures. Separate contracts or acquisitions for the individual components of a total project or service or split purchasing for the purpose of evading the requirement of competitive bidding shall be deemed a felony. The State Purchasing Director may

waive or increase the two-thousand-five-hundred-dollar limit up to, but not to exceed, a contract or purchase price of ten percent (10%) above the open market limit to perfect an otherwise valid acquisition or contract inadvertently exceeding the two-thousand-five-hundred-dollar limit due to administrative error or unforeseeable circumstances. Requests for such waiver or increase shall be promptly submitted upon the discovery of such error or circumstance to the State Purchasing Director in a form prescribed by said Director setting forth the facts. All requests for such waiver or increase in amount, whether granted or denied, shall be reported monthly to the offices of the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives.

2. Contracts for master custodian banks or trust companies, investment managers and investment consultants for state retirement systems, the State Insurance Fund, and the State and Education Employees Group Insurance Board, the pension fund management consultants of the Oklahoma State Pension Commission and actuarial, architectural, engineering, legal or other professional services as such term is defined in Section 803 of Title 18 of the Oklahoma Statutes shall be exempt from competitive bidding procedures. The Department of Central Services shall send a copy of such contracts or a list of such contracts to any member of the House or Senate Appropriations Committee, if requested by such member.

3. Competitive bids shall not be required for any emergency acquisitions or contracts involving Five Thousand Dollars (\$5,000.00) or less, when upon written request of the State Purchasing Director specifying the facts and circumstances giving rise thereto, the Governor may certify in writing the existence of an emergency authorizing the acquisition or contract.

4. Competitive bids for services to alleviate a serious environmental emergency shall not be required if, upon the request of the Chairman of the Corporation Commission, the Governor having

examined the facts and circumstances of the case, certifies in writing the existence of a serious environmental emergency. A serious environmental emergency for the purpose of this section means a situation within the jurisdiction of the Commission:

- a. in which serious damage to the environment will quickly occur if immediate action is not taken, and the damage will be so significant that the urgent need for action outweighs the public policy strongly favoring competitive bids, or
- b. a situation in which human life or safety is in imminent danger or significant property interests are threatened with imminent destruction.

5. Purchases or acquisitions for repairs of equipment and machinery in emergencies, or of livestock through a market agency, dealer, commission house or livestock auction market bonded or licensed under federal or state law shall not be subject to the competitive bid requirements of this section or any other provisions of the Oklahoma Central Purchasing Act.

6. Purchases or acquisitions of human organs and internal prostheses for the Oklahoma Medical Center, shall not be subject to the competitive bid requirements of this section or any other provisions of the Oklahoma Central Purchasing Act.

7. Any contract for the restoration of historical sites and museums shall not be subject to the competitive bid requirements of this section or any other provision of the Oklahoma Central Purchasing Act. The procedures will be followed except contractor and bid selection will be the prerogative of the Oklahoma Historical Society Board and selection will be based on contractors' documented qualifications and experience.

8. Purchases of postage by state agencies shall be made in accordance with the provisions of Sections 90.1 through 90.4 of this title.

9. Any sole source contract shall not be subject to competitive bidding procedures. Any agency requesting products or services pursuant to a sole source contract shall comply with Section 89 of this title.

10. Contracts for the design, development, communication or implementation of the state employees flexible benefits plan shall not be subject to the requirements of this section, provided that the Flexible Benefits Advisory Council shall use procedures consistent with the competitive bid requirements of the Oklahoma Central Purchasing Act.

11. a. Any contract for a service for which the Department of Central Services has approved as qualifying for a fixed and uniform rate shall not be subject to competitive bid procedures.
- b. The Department of Central Services shall establish criteria and guidelines for those services which may be qualified for a fixed and uniform rate.
- c. The exception to competitive bid procedures authorized by this paragraph shall be limited to contracts for those services furnished to persons directly benefiting from such services and shall not be used by any agency to employ consultants or to purchase products.
- d. Any agency desiring to have a service qualified for a fixed and uniform rate shall make a request for such qualification to the Department of Central Services and shall submit any documentation necessary to support such request. The Department of Central Services shall either approve or deny the request. If the Department of Central Services qualifies such services for a fixed and uniform rate, the agency requesting such qualification shall establish a fixed

and uniform rate for such service, provided no contracts shall be entered into by the agency until such rate has been approved by the agency in a public hearing. Prior to approval, the proposed rate shall be clearly and separately identified in the agenda of the agency for the hearing and shall be openly and separately discussed during such hearing. In addition, the agency shall notify the Director of the Department of Central Services of its pending consideration of the proposed rate at least thirty (30) days before the agency is to meet on the proposed rate. Along with such notice, the agency shall deliver to the Department of Central Services a copy of the agenda items concerning the proposed rate with all supporting documentation and materials. The Director of the Department of Central Services shall communicate any observation, reservation, criticism or recommendation to the agency, either in person at the time of the hearing or in writing delivered to the agency before or at the time of the hearing. The Director of the Department of Central Services shall specifically note in such written communications if the Director of the Department of Central Services has determined the rate to be excessive. Any such written communication presented in the absence of the Director of the Department of Central Services shall be presented orally during the public hearing. Whether made in person or in writing any comment made by the Director of the Department of Central Services shall be made a part of the minutes of the hearing in full.

- e. Within two (2) weeks after the convening of the Legislature, the administrative officer of each state

agency shall furnish to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and to any member of the House or Senate, if requested by such member, a complete list of all of the types of services paid for by uniform fixed rates, the amount of the rate last approved by the agency for the service, and the number of contracts then in existence for each type of service. Any rate which has been determined to be excessive by the Director of the Department of Central Services shall be specifically identified in such list.

- f. At any time, the Director of the Department of Central Services is authorized to review, suspend, or terminate a contract entered into pursuant to the provisions of this paragraph if the Director of the Department of Central Services determines the contract is not necessary, is excessive, or is not justified.

12. Purchases of or contracts for specifically prescribed nonmedical adaptive technology-related items for individuals with disabilities who are clients of the Department of Rehabilitation Services and which item is prescribed by a physician, rehabilitation engineer, qualified rehabilitation technician or qualified sensory aids specialist shall not be subject to the competitive bid requirements of this section. The Commission for Rehabilitation Services shall develop standards for the acquisition of such nonmedical adaptive technology-related items and may elect to utilize Central Purchasing when appropriate. Such standards shall foster economy, short response time, and shall include appropriate safeguards and written records to assure appropriate competition and economical and efficient purchasing and shall be approved by the Director of Central Purchasing.

13. Purchases of or contracts for specifically prescribed nonmedical assistive technology-related items not exceeding Two Thousand Five Hundred Dollars (\$2,500.00) for individuals under sixteen (16) years of age who are recipients of Supplemental Security Income and which are prescribed by a physician, qualified sensory aids specialists or qualified special education instructors shall not be subject to the competitive bid requirements. The Department of Human Services shall develop standards for the acquisition of such nonmedical assistive technology-related items and may elect to utilize Central Purchasing when appropriate. Such standards shall foster economy, short response time, and shall include appropriate safeguards and written records to assure appropriate competition and economical and efficient purchasing and shall be approved by the Director of Central Purchasing.

B. Acquisitions or contracts shall be awarded to the lowest and best bidder therefor at a specified time and place, which shall be open to the public, with such preference between bidders offering substantially the same products or services at substantially the same prices, as may be set under the authority of Section 85.5 of this title.

C. Bids for professional service contracts shall be evaluated by the State Purchasing Director and the agency contracting for such service. Both cost and technical expertise shall be considered in determining the lowest and best bid. Further, such agency shall present its evaluation and recommendation to the State Purchasing Director. A documented evaluation report containing the evaluations of the State Purchasing Director and the agency contracting for such service shall be completed prior to the awarding of a professional service contract and such report shall be a matter of public record.

D. When requested by the governing body of a state retirement system, the State Insurance Fund or the State and Education Employees Group Insurance Board which are authorized to hire

investment managers, the Department of Central Services shall assist the governing body of a state retirement system, the Fund or the Board in the process of selecting investment managers. When requested by the Flexible Benefits Advisory Council, the Department of Central Services shall assist the Council in the process of selecting contracts for the design, development, communication or implementation of the state employees flexible benefits plan.

E. Except as otherwise specifically provided by law, the acquisition of food items or food products by a state public agency from a public trust created pursuant to Sections 176 through 180.56 of Title 60 of the Oklahoma Statutes shall comply with competitive bidding procedures pursuant to the provisions of this section.

SECTION 32. AMENDATORY 74 O.S. 1991, Section 192, as amended by Section 8, Chapter 367, O.S.L. 1994 (74 O.S. Supp. 1994, Section 192), is amended to read as follows:

Section 192. A. The State Department of Health shall inspect at least once each year all city and county jails to ensure compliance with the standards promulgated pursuant to the provisions of this section. Such standards shall provide:

1. Uniform admission and release procedures; and
2. Uniform, safe, and sensible security measures; and
3. Proper, fit, and sanitary conditions; and
4. Inmates are being fed a wholesome and adequate diet; and
5. Inmates have adequate clothing and a living area of no less than forty (40) square feet of floor space per inmate plus twenty (20) square feet of floor space in such living area per each additional inmate in existing facilities, and no less than sixty (60) square feet of floor space per cell for two prisoners in facilities constructed after November 1, 1985. Nothing in this section shall be construed to prohibit double-celling of prisoners, provided there exists no less than forty (40) square feet per initial inmate plus twenty (20) square feet for each additional



prisoner. In every barrack-style housing area the square footage shall meet the minimum requirements provided in Section 192 of this title. Such facility shall have showers with hot and cold running water, toilets, and water basins provided in the ratio of not less than one to every twenty prisoners. Counties may build barrack-style jails, single or double cell, to meet the security needs of the county for minimum security prisoners. These jails shall meet all the minimum requirements set forth in this section or any other provision of law. Except as otherwise provided in this section, all facilities under this section shall have showers with hot and cold running water, toilets and water basins provided in the ratio of not less than one to every twenty prisoners. Counties may also build tent jails, which shall be temporary in nature, to meet the security needs of the county for minimum security prisoners. The temporary tent jails shall not be required to meet the minimum requirements set forth in this section or any other provision of law. The State Board of Health shall promulgate minimum standards for temporary tent jails which standards shall be designed to specifically address and take into consideration the temporary status of the inmate housing needs of the county; and

6. Inmates are properly advised of rules of the facility in which they are detained; and

7. Staff members receive training in order to assist them to better perform their assigned tasks, such training to be provided by the Jail Inspection Division of the State Department of Health. All employees who work in direct contact with inmates after the first year of employment shall receive, at a minimum, four (4) hours' review of material as required by the Jail Inspection Division and at a maximum, eight (8) hours of jailer training per year after the first year of employment; and

8. Proper steps are taken to ensure the safety and segregation of women, the infirm, and minors; and

9. Adequate medical care, provided such medical care shall be limited to illnesses or injuries incurred during the time beginning with the arrest and throughout the time of incarceration. This shall not prevent an inmate from applying for assistance and receiving assistance provided the inmate meets or exceeds established requirements; and

10. No person is confined without twenty-four-hour supervision; and

11. At least one designated exit in the facility that will permit prompt evacuation of inmates and staff in an emergency. A facility in existence on November 1, 1985, shall not be required to construct additional exits if it has one exit which is deemed adequate by the State Fire Marshal.

In the event said inspection shall reveal to the State Department of Health the commission of a crime or crimes incidental to the operations of a city or county jail facility, it shall be the duty of the Department to initiate a complaint with the appropriate district attorney, and to cooperate in the prosecution of the alleged offender in the event an information is filed pursuant to said complaint.

B. Any county, city, or town may operate a holding facility for the incarceration of persons under arrest who are to be charged with a crime, which holding facility shall not be required to meet the standards established in this section for jails, as long as no person is held therein for a period longer than twelve (12) hours and as long as some employee of said county, city, or town is available to render aid to or to release any person so confined in the event aid or release is required because of a health or life endangering emergency.

C. Within ninety (90) days after the effective date of this act, the State Board of Health shall promulgate new rules governing square footage requirements, double-celling of prisoners and the

ratio of showers, toilets, and water basins to prisoners. The rules so promulgated shall be governed by the guidelines enumerated in this section, and shall be designed to carry out the intent and purpose of the guidelines. Each city or county jail facility in this state shall be in compliance with the rules so promulgated on or before January 1, 1995.

D. The State Department of Health shall employ inspectors and other personnel as necessary and specifically authorized by the Legislature in order to carry out the provisions of this section and may rent or purchase premises or equipment in order to assist inspectors in the performance of their functions.

SECTION 33. AMENDATORY 74 O.S. 1991, Section 213, as last amended by Section 4, Chapter 317, O.S.L. 1994 (74 O.S. Supp. 1994, Section 213), is amended to read as follows:

Section 213. A. It shall be the duty of the State Auditor and Inspector to examine and report upon the books and financial accounts of the several public, educational, charitable, penal and reformatory institutions belonging to the state; to prescribe and enforce correct methods of keeping financial accounts of the state institutions and instruct the proper officers thereof in the performance of their duties concerning the same; to examine the books and accounts of all public institutions under the control of the state at least once each year. Any officer of such public, educational, charitable, penal and reformatory institutions who shall refuse or willfully neglect to comply with such direction of the State Auditor and Inspector within a reasonable time shall be guilty of a misdemeanor.

B. If requested in accordance with subsection C of 70 O.S. 3909, the State Auditor and Inspector shall perform a quality control review of the internal audit functions required by each board of regents of institutions of higher education at least once every three (3) years. This review shall be in accordance with the

"Quality Assurance Review Manual for Internal Auditing" developed by the Institute of Internal Auditors or any successor organization thereto.

C. No later than July 1, 1997, the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall appoint a special joint interim committee, the sole purpose of which shall be to review and evaluate the effectiveness of the quality control reviews specified in subsection B of this section for the fiscal years ending on June 30, 1995, 1996, and 1997. A copy of the final report of the interim committee, including any recommendations for modification of the Oklahoma Statutes, shall be distributed to each member of the Legislature no later than December 1, 1997.

D. The State Auditor and Inspector shall perform a special audit on common school districts and area vocational-technical districts upon receiving a written request to do so by any of the following: the Governor, Attorney General, President Pro Tempore of the Senate ~~or~~, Speaker of the House of Representatives, or State Board of Education. The State Auditor and Inspector shall perform a special audit on any institution of higher education within The Oklahoma State System of Higher Education whenever the State Auditor and Inspector deems it appropriate or upon receiving a written request to do so by any of the following: the Governor, the Attorney General, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the governing board of the institution of higher education, or the president of the institution of higher education. The special audit shall include, but not necessarily be limited to, a compliance audit. The special audit shall be conducted according to the American Institute of Certified Public Accountants' "Statements on Auditing Standards". Such audits shall be designed to review items for management's compliance with statutes, ~~regulations~~ rules, policies and internal control procedures or other items applicable to each entity. The costs of

any such audit shall be borne by the audited entity and may be defrayed, in whole or in part, by any federal funds available for that purpose.

SECTION 34. AMENDATORY 74 O.S. 1991, Section 500.18, as last amended by Section 8, Chapter 283, O.S.L. 1994 (74 O.S. Supp. 1994, Section 500.18), is amended to read as follows:

Section 500.18 A. Except for members of the Legislature, the Governor and the Lieutenant Governor, provisions of Sections 500.1 through 500.18 of this title shall be mandatory as to all officials and employees of all departments, boards, commissions and institutions of the state, regardless of the provisions of any other act of the Legislature, except as provided by this section. The enactment of any measure in the future providing for travel reimbursement of state officers and employees on the basis of "actual and necessary" expenses or in any other manner inconsistent with Sections 500.1 through 500.18 of this title shall be deemed to provide for reimbursement in accordance with Sections 500.1 through 500.18 of this title unless a contrary intent is explicitly expressed in this section. Sections 500.1 through 500.18 of this title shall not apply, however, to travel reimbursements made by political subdivisions of this state, except as otherwise provided by law.

B. The agencies listed below are authorized certain exceptions and/or exemptions to the provisions of Sections 500.1 through 500.18 of this title to the extent specified:

1. State Department of Agriculture:

The actual and reasonable expenses of travel and subsistence in pursuing and developing markets for Oklahoma agricultural products incurred by the Commissioner, Deputy Commissioner and such employees designated by the State Board of Agriculture within the marketing development programs of the Department of Agriculture shall be reimbursed to the employee incurring such expenses. Reimbursement

of such expenses shall be in accordance with rules and regulations adopted by the Board. Such expenses claimed shall, prior to reimbursement, be reviewed by the Board at each regular meeting and individually approved or disapproved.

2. Wheat Utilization, Research and Market Development Commission:

The actual and reasonable expenses of travel, lodging and subsistence in pursuing and developing markets for Oklahoma wheat and wheat products incurred by the Commission, staff and such persons authorized by the Commission shall be reimbursed to the person incurring such expenses. Expenses of wheat trade officials on wheat trade missions from foreign countries and from other states can be reimbursed to the person previously authorized by the Commission to incur the expense. No actual and reasonable expenses shall be paid except for time spent working with wheat trade officials on wheat trade missions. Reimbursement of such expenses shall be made in accordance with rules and regulations adopted by the Commission. Such expenses claimed shall, prior to reimbursement, be reviewed by the Commission at each regular meeting and individually approved or disapproved.

3. Department of Public Safety:

Not more than seven personnel assigned by the Commissioner for executive security shall be allowed their actual and necessary traveling expenses, upon claims approved by the Commissioner, when traveling with the Governor or at his request.

4. Department of Corrections:

The Department of Corrections shall be exempt from limitations of reimbursement for rented automobiles, as set forth in Section 500.5 of Title 74 of the Oklahoma Statutes, when such rental is by a Correctional Officer or Transportation Officer for the limited purpose of transporting inmates. Reimbursement for such expense shall be on the basis of actual cost.

5. Oklahoma Tourism and Recreation Department:

Authorization is provided the Oklahoma Tourism and Recreation Commission and Department staff who promote in-state and out-of-state business to Oklahoma's state-operated parks and lodges and the tourism and recreation industry, the actual and necessary expense of travel, subsistence and entertainment for this purpose.

Authorization is also provided the Director of the Oklahoma Tourism and Recreation Department to reimburse the Publisher of Oklahoma Today magazine and its staff for expenses for meals and other entertainment in order to gain advertising and promotion for Oklahoma Today magazine. Reimbursement of all actual and necessary expenses shall be in accordance with rules and regulations adopted by the Commission on Tourism and Recreation.

6. Oklahoma Department of Commerce:

- a. The actual and necessary expenses incurred by the Director and other employees of the Department authorized by the Director for the purpose of business recruitment shall be reimbursed to such employee. Reimbursement of such expenses shall be in accordance with rules and regulations adopted by the Director of the Oklahoma Department of Commerce. Such expenses claimed shall prior to reimbursement be reviewed by the Director and individually approved or disapproved.
- b. The Department, at the discretion of the Director, may charter aircraft for the purposes of carrying out its duties and responsibilities related to business recruitment and to implement the duties of the Director. The cost of such charter shall be exempt from the provisions of Section 500.6 of this title. Claims filed with the Office of State Finance shall bear the following certification:

The best interests of the citizens of Oklahoma were better served in that conventional ground transportation was not practical or feasible for this trip, aircraft from the Department of Public Safety was not available for this trip, and no other claim has been or will be filed as a payment for the cost of transportation in connection with this trip herein claimed.

7. Office of Public Affairs:

The actual expenses of travel and subsistence incurred by the Director, Assistant Director and any employee approved by the Director of the Office of Public Affairs outside the state in recruiting and evaluating professional money managers for the state's pension funds shall be reimbursed to the employee incurring such expenses. Reimbursement for lodging expenses shall be supported by three telephone bids from hotels within a reasonable distance of the activity for which the travel was approved.

8. Oklahoma Futures:

The actual and necessary expenses incurred by the members of Oklahoma Futures in the performance of their duties shall be reimbursed to the members incurring such expenses. Reimbursement of all actual and necessary expenses shall be in accordance with rules and regulations adopted by Oklahoma Futures.

9. Oklahoma Development Finance Authority:

The actual and necessary expenses incurred by the members and employees of the Oklahoma Development Finance Authority in the performance of their duties shall be reimbursed to the person incurring such expenses. Reimbursement of all actual and necessary expenses shall be in accordance with the bylaws of the Authority.

10. Oklahoma Center for the Advancement of Science and Technology:



The actual and necessary expenses incurred by the members and employees of the Oklahoma Center for the Advancement of Science and Technology in the performance of their duties shall be reimbursed to the person incurring such expenses. Reimbursement of all actual and necessary expenses shall be in accordance with the bylaws of the Center.

11. Center for International Trade Development:

The actual and necessary expenses of travel, lodging and subsistence incurred by the Director and authorized employees of the Center for International Trade Development for performance of their duties for the purpose of business recruitment and assistance shall be reimbursed to the person incurring such expenses. Reimbursement of such expenses shall be in accordance with the rules and regulations adopted by the Director of the Center for International Trade Development. Such expenses claimed shall be reviewed and individually approved or disapproved, prior to reimbursement, first by the Director, and finally by either the Vice President, Business and Finance of Oklahoma State University or the President of Oklahoma State University.

12. Oklahoma State Bureau of Investigation:

The actual and necessary expenses incurred by the Director and other employees of the Bureau authorized by the Director as a result of conducting investigations shall be reimbursed to each such employee incurring the expenses. Reimbursement of the expenses shall be in accordance with rules and regulations adopted by the Director of the Oklahoma State Bureau of Investigation. Prior to reimbursement, expenses claimed shall be reviewed by the Director and individually approved or disapproved.

13. Department of Human Services:

- a. The actual and necessary expenses of travel, lodging and subsistence incurred by employees of the Legal Division in the performance of their duties for the

purpose of representing the Department of Human Services or any of its officials, employees, institutions or hospitals at any proceeding, including depositions, held before any court, administrative body or representative thereof, shall be reimbursed to the employee incurring such expenses. Such expenses claimed shall be approved by the General Counsel and the Director of Human Services prior to reimbursement.

- b. The Department, at the discretion of the Director, may charter aircraft when determined by the Director such charter would be more practical or less expensive than normal modes of transportation and when aircraft of the Department of Public Safety are unavailable. The costs of such charter shall be exempt from the provisions of Section 500.6 of this title.

14. Oklahoma State Bureau of Narcotics and Dangerous Drugs Control:

The actual and necessary expenses incurred by the Director and other employees of the Bureau authorized by the Director as a result of conducting investigations shall be reimbursed to each such employee incurring the expenses. Reimbursement of the expenses shall be in accordance with rules and regulations adopted by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. Prior to reimbursement, expenses claimed shall be reviewed by the Director and individually approved or disapproved.

15. University Hospitals:

The actual and necessary expenses of travel, lodging and subsistence incurred by employees of the Legal Office in the performance of their duties for the purpose of representing the University Hospitals or any of its officials, employees, institutions or hospitals at any proceeding, including depositions, held before any court, administrative body or representative

thereof, shall be reimbursed to the employee incurring such expenses. Such expenses claimed shall be approved by the Chief Executive Officer of the University Hospitals or by the University Hospitals Authority.

16. Oklahoma Historical Society:

The actual and necessary expenses of travel, subsistence and entertainment incurred by the Executive Director, Deputy Director and any employees designated by the Executive Committee of the Oklahoma Historical Society Board of Directors in pursuing and developing programs and projects for the preservation and marketing of Oklahoma history shall be reimbursed to the person incurring the expenses. Reimbursement of expenses shall be in accordance with rules adopted by the Oklahoma Historical Society Board of Directors. Prior to reimbursement, expenses claimed shall be reviewed by the Executive Committee at a regularly scheduled meeting and each claim shall be individually approved or disapproved.

C. The agencies listed in subsection B of this section shall be required to report annually the actual expenses excepted or exempted from Sections 500.1 through 500.18 of this title to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives. The report shall be submitted no later than the first day of September following the end of each fiscal year.

SECTION 35. AMENDATORY 74 O.S. 1991, Section 902, as last amended by Section 8, Chapter 383, O.S.L. 1994 (74 O.S. Supp. 1994, Section 902), 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)~~ (8) "Board" means the Oklahoma Public Employees Retirement System Board of Trustees;

~~(10)~~ (9) "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 the maximum compensation level, provided:

- (a) For compensation for service prior to July 1, 1994, the maximum compensation level shall be Twenty-five

Thousand Dollars (\$25,000.00) per annum, unless the member made an election, in writing and filed with the System, to increase the member's maximum compensation level to Forty Thousand Dollars (\$40,000.00) per annum. The election and payment of all contributions due must have been completed within three (3) years of the member's initial opportunity to increase the compensation level. Any active member whose initial opportunity to make the election was on or after July 1, 1991, but no later than June 30, 1994, may make the election by filing the written election form with the System and paying the amount of contribution the member would have paid had the member made the election when initially eligible; provided, this election and payment must be completed no later than February 1, 1995.

- (b) For compensation for service on or after July 1, 1994, through June 30, 1995, the maximum compensation level shall be Fifty Thousand Dollars (\$50,000.00) per annum; for compensation for service on or after July 1, 1995, through June 30, 1996, the maximum compensation level shall be Sixty Thousand Dollars (\$60,000.00) per annum; for compensation for service on or after July 1, 1996 through June 30, 1997, the maximum compensation level shall be Seventy Thousand Dollars (\$70,000.00) per annum; and for compensation for service on or after July 1, 1997 through June 30, 1998, the maximum compensation level shall be Eighty Thousand Dollars (\$80,000.00) per annum. For compensation for services on or after July 1, 1998, there shall be no maximum compensation level for retirement purposes.

(c) Any active member whose compensation exceeded Twenty-five Thousand Dollars (\$25,000.00) prior to July 1, 1994, and who failed to make a timely election to increase the member's maximum compensation level pursuant to paragraph (a) of this subsection, may do so at any time prior to retirement. Any such member electing this maximum compensation level for service prior to July 1, 1994, shall pay to the System a sum equal to the total amount of contributions that would have been required by the member had a timely election been made, plus seven and one-half percent (7.5%) interest compounded annually. Members so making this election may amortize the payments as provided in subsection B of Section 913.5 of this title.

(d) Compensation for retirement purposes 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.

(e) A member who has voluntarily elected to increase the maximum compensation level pursuant to paragraph (a) of this subsection, 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)~~ (10) "Credited service" means the sum of participating service, prior service and elected service;

~~(12)~~ (11) "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)~~ (12) "Effective date" means the date upon which the System becomes effective by operation of law;

~~(14)~~ (13) "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)~~ (14) "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)~~ (15) "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)~~ (16) "Executive Director" means the managing officer of the System employed by the Board under this act;

~~(18)~~ (17) "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 maximum compensation levels as provided in subsection ~~(10)~~ (9) of this section received as follows:

- (a) for service rendered prior to July 1, 1994, the highest three (3) of the last ten (10) years of participating service immediately preceding July 1, 1994, or, if participating service is less than three (3) years, the full period of participating service prior to July 1, 1994. Provided, no member shall retire with a final average compensation for service rendered prior to July 1, 1994, 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); and

- (b) for service rendered after July 1, 1994, the highest three (3) of the last ten (10) years of participating service immediately preceding retirement or termination of employment, or if participating service is less than three (3) years, the full period of participating service after July 1, 1994;

~~(19)~~ (18) "Fiscal year" means the period commencing July 1 of any year and ending June 30 of the next year;

~~(20)~~ (19) "Fund" means the Oklahoma Public Employees Retirement Fund as created by this act;

~~(21)~~ (20) "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)~~ (21) "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)~~ (22) "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)~~ (23) "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 initially 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); such a normal retirement date will also apply to any person who became a member of the sending system as defined in this act, prior to July 1, 1992, regardless of whether there were breaks in service after July 1, 1992;
- (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)~~ (24) "Participating employer" means an eligible employer who has agreed to make contributions to the System on behalf of its employees;

~~(26)~~ (25) "Participating service" means the period of employment after the entry date for which credit is granted a member;

~~(27)~~ (26) "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)~~ (27) "Retirant" means a member who has retired under the System;

~~(29)~~ (28) "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;

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

(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 36. AMENDATORY 74 O.S. 1991, Section 913.4, as amended by Section 9, Chapter 383, O.S.L. 1994 (74 O.S. Supp. 1994, Section 913.4), is amended to read as follows:

Section 913.4 A. An elected official may elect to participate in the System and if he elects to do so shall have the option of contributing at any one of the below listed percentage factors and will receive retirement benefits in accordance with the percentage factor chosen. Contributions and benefits will be based upon his annual compensation as defined in Section 902 of this title. Employer and employee contributions shall be remitted monthly, or as the Board may otherwise provide, to the Executive Director for deposit in the Oklahoma Public Employees Retirement Fund. Effective July 1, 1994, and thereafter, the participating employer shall contribute as provided in Section 920 of this title.

Effective July 1, 1994, and thereafter, the member contributions and the computation factor selected shall be based on the entire compensation as an elected official subject to the definition and maximum compensation levels as set forth in subsection ~~(10)~~ (9) of Section 902 of this title and shall be as follows:

Percent of Contribution	Computation Factor	Alternate Formula
4 1/2%	.019	\$12.50
6%	.025	\$20.00
7 1/2%	.030	\$25.00
8 1/2%	.034	\$27.50
9%	.036	\$30.00
10%	.040	\$40.00

B. The normal retirement date for an elected official shall be the first day of the month coinciding with or following the official's sixtieth birthday or the first day of the month coinciding with or following the date at which the sum of the elected official's age and number of years of credited service total

eighty (80). Provided further, that any elective official who has a minimum of ten (10) years' participating service may retire under the early retirement provisions of this act, including those electing a vested benefit and shall receive an adjustment of annual benefits in accordance with the following percentage schedule:

Age	Percentage of Normal Retirement Benefits
60	100%
59	94%
58	88%
57	82%
56	76%
55	70%

C. Any elected official shall receive annual benefits computed as follows:

1. The computation factor selected multiplied by the member's highest annual compensation received as an elected official prior to July 1, 1994, as determined pursuant to subsection ~~(10)~~ (9) of Section 902 of this title, multiplied by the number of years of credited service rendered or attributed to time prior to July 1, 1994, that has been credited to the member in accordance with the provisions of this section;

2. The computation factor selected multiplied by the member's highest annual compensation received as an elected official after July 1, 1994, as determined pursuant to subsection ~~(10)~~ (9) of Section 902 of this title, multiplied by the number of years of credited service rendered or attributed to time after July 1, 1994, that has been credited to the member in accordance with the provisions of this section;

3. Provided, however, for purposes of determining the official's number of years of credited service, for every twelve (12) months of participating service as an elected official rendered



after July 1, 1994, twelve (12) months of participating service as an elected official rendered prior to July 1, 1994, shall be subtracted from the calculation of benefits in paragraph 1 of subsection C of this section and shall be utilized in the calculation of benefits in paragraph 2 of subsection C of this section. Members who failed to elect to increase the maximum compensation level pursuant to subsection ~~(10)~~ (9) of Section 902 of this title shall not be eligible for the service credit adjustment provided for in this paragraph.

The retirement benefit may be computed pursuant to the provisions of Section 915 of this title if the benefit would be higher. Elected officials who have a vested benefit prior to July 1, 1980, may elect to receive annual benefits based on the alternate formula provided above. Such annual benefits shall be paid in equal monthly installments.

D. Any elected official making one of the above elections and later selecting a higher rate shall contribute to the System a sum equal to the amount which he would have contributed if he had made such election at the time he first became eligible, plus interest as determined by the Board, in order to receive the additional benefits for all service as an elected official; otherwise, the additional benefits shall be applicable only to service for which the elected official pays the appropriate percent of contributions to the System.

E. An elected official who has a vested benefit on July 1, 1982, may elect to receive benefits based upon a higher contribution rate than the official previously contributed by paying to the System the contributions, plus interest as determined by the Board, due at the higher rate as if that rate had been in effect at the time the official accepted a vested benefit.

F. The surviving spouse of a deceased elected official having at least six (6) years of ~~credited~~ participating service shall be

entitled to receive survivor benefits in the amount herein prescribed, if married to the decedent continuously for a period of at least three (3) years immediately preceding the elected official's death. ~~Survivor~~ Provided the elected official had met the service requirements, survivor benefits shall be payable when ~~the spouse or~~ the deceased member would have met the requirements for normal or early retirement. The amount of the benefits the surviving spouse may receive shall be fifty percent (50%) of the amount of benefits the deceased elected official was receiving or will be eligible to receive. Remarriage of a surviving spouse shall disqualify the spouse for the receipt of survivor benefits. Elected officials may elect a retirement option as provided in Section 918 of this title in lieu of the survivors benefit provided above.

~~Provided, however, elected officials who have a minimum of six (6) years of participating service shall be entitled to elect a vested benefit and shall be entitled to the retirement options as provided in Section 918 of this title in lieu of the survivors benefit provided above.~~

G. Any elected official who served in the Armed Forces of the United States, as defined in paragraph ~~(23)~~ (22) of Section 902 of this title, prior to membership in the Oklahoma Public Employees Retirement System shall be granted credited service of not to exceed five (5) years for those periods of active military service during which the elected official was a war veteran.

H. Any one appointed or elected to an elected position after July 1, 1990, shall not be eligible to receive benefits as provided in this section until such person has participated as an elected official for six (6) years.

I. Elected officials who terminate participation in the System and who have a minimum of six (6) years of participating service shall be entitled to elect a vested benefit and shall be entitled to

the retirement options as provided in Section 918 of this title in lieu of the survivors benefit provided above.

SECTION 37. AMENDATORY 74 O.S. 1991, Section 920, as amended by Section 12, Chapter 383, O.S.L. 1994 (74 O.S. Supp. 1994, Section 920), is amended to read as follows:

Section 920. (1) Effective July 1, 1994, every state agency which is a participating employer shall contribute to the System an amount equal to eleven and one-half percent (11 1/2%) of the monthly compensation of each member, but not in excess of Forty Thousand Dollars (\$40,000.00).

(2) Effective July 1, 1995, every state agency which is a participating employer shall contribute to the System an amount equal to eleven and one-half percent (11 1/2%) of the monthly compensation of each member, not to exceed the allowable annual compensation as defined in subsection ~~(10)~~ (9) of Section 902 of this title.

(3) Effective July 1, 1996, every state agency which is a participating employer shall contribute to the System an amount equal to twelve percent (12%) of the monthly compensation of each member, not to exceed the allowable annual compensation defined in subsection ~~(10)~~ (9) of Section 902 of this title.

(4) Effective July 1, 1997, and thereafter, every state agency which is a participating employer shall contribute to the System an amount equal to twelve and one-half percent (12 1/2%) of the monthly compensation of each member, not to exceed the allowable annual compensation defined in subsection ~~(10)~~ (9) of Section 902 of this title.

(5) The Board shall certify, on or before July 15 of each year, to the Office of State Finance in the case of the state and to the ~~agent~~ retirement coordinator for each participating employer an actuarially determined estimate of the rate of contribution which will be required, together with all accumulated contributions and

other assets of the System, to be paid by each such participating employer to pay all liabilities which shall exist or accrue under the System, including amortization of the past service cost over a period of not to exceed forty (40) years from June 30, 1987, and the cost of administration of the System, as determined by the Board, upon recommendation of the actuary.

(6) The Office of State Finance and the Governor shall include in the budget and in the budget request for appropriations the sum required to satisfy the state's obligation under this section as certified by the Board and shall present the same to the Legislature for allowance and appropriation.

(7) Each other participating employer shall appropriate and pay to the System a sum sufficient to satisfy the obligation under this section as certified by the Board.

(8) Each participating employer is hereby authorized to pay the employer's contribution from the same fund that the compensation for which said contribution is paid from or from any other funds available to it for such purpose.

SECTION 38. AMENDATORY 75 O.S. 1991, Section 303, as amended by Section 7, Chapter 384, O.S.L. 1994 (75 O.S. Supp. 1994, Section 303), is amended to read as follows:

Section 303. A. Prior to the adoption of any rule or amendment or repeal of a rule, the agency shall:

1. Cause notice of any intended action to be published in The Oklahoma Register pursuant to subsection B of this section;

2. For at least twenty (20) days after publication of the notice of the intended rulemaking action, afford a comment period for all interested persons to submit data, views or arguments, orally or in writing. The agency shall consider fully all written and oral submissions respecting the proposed rule;

3. Hold a hearing, if required, as provided by subsection C of this section;

4. Consider the effect its intended action may have on the various types of business and governmental entities. If an agency finds that its actions may adversely affect any such entity, the agency may modify its actions to exclude that type of entity, or may "tier" its actions to allow rules, penalties, fines or reporting procedures and forms to vary according to the size of a business or governmental entity or its ability to comply or both; and

5. Consider the effect its intended action may have on the various types of consumer groups. If an agency finds that its actions may adversely affect such groups, the agency may modify its actions to exclude that type of activity.

B. The notice required by paragraph 1 of subsection A of this section shall include but not be limited to:

1. In simple language, a brief summary of the rule;
2. The proposed action being taken;
3. The circumstances which created the need for the rule;
4. The specific legal authority authorizing the proposed rule;
5. The intended effect of the rule;

6. The time when, the place where, and the manner in which interested persons may present their views thereon pursuant to paragraph 3 of subsection A of this section;

7. Whether or not the agency intends to issue a rule impact statement according to subsection D of this section and where copies of such impact statement may be obtained for review by the public;

8. The time when, the place where, and the manner in which persons may demand a hearing on the proposed rule if the notice does not already provide for a hearing. If the notice provides for a hearing, the time and place of the hearing shall be specified in the notice; and

9. Where copies of the proposed rules may be obtained for review by the public. An agency may charge persons for the actual cost of mailing a copy of the proposed rules to such persons.

The number of copies of such notice as specified by the Secretary shall be submitted to the Secretary who shall publish the notice in The Oklahoma Register pursuant to the provisions of Section 255 of this title.

Prior to or within three (3) days after publication of the notice in The Oklahoma Register, the agency shall cause a copy of the notice of the proposed rule adoption to be mailed to all persons who have made a timely request of the agency for advance notice of its rulemaking proceedings. Each agency shall maintain a listing of persons or entities requesting such notice.

C. 1. If the published notice does not already provide for a hearing, an agency shall schedule a hearing on a proposed rule if, within twenty (20) days after the published notice of the proposed rule adoption, a written request for a hearing is submitted by:

- a. at least twenty-five persons,
- b. a political subdivision,
- c. an agency, or
- d. an association having not less than twenty-five members.

At that hearing persons may present oral argument, data, and views on the proposed rule.

2. A hearing on a proposed rule may not be held earlier than twenty (20) days after notice of the hearing is published pursuant to subsection B of this section.

3. The provisions of this subsection shall not be construed to prevent an agency from holding a hearing or hearings on the proposed rule although not required by the provisions of this subsection; provided that notice of such hearing shall be published in The Oklahoma Register at least twenty (20) days prior to such hearing.

D. 1. Except as otherwise provided in this subsection, an agency shall issue a rule impact statement of a proposed rule prior to or within fifteen (15) days after the date of publication of the

notice of proposed rule adoption. The rule impact statement may be modified after any hearing or comment period afforded pursuant to the provisions of this section.

2. Except as otherwise provided in this subsection, the rule impact statement shall include but not be limited to:

- a. a brief description of the purpose of the proposed rule,
- b. a description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the costs of the proposed rule,
- c. a description of the classes of persons who will benefit from the proposed rule,
- d. a description of the probable economic impact of the proposed rule upon affected classes of persons, or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change,
- e. the probable costs to the agency and to any other agency of the implementation and enforcement of the state proposed rule and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency,
- f. a determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule,
- g. a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule, and
- ~~g.~~ h. the date the rule impact statement was prepared and if modified, the date modified.

3. To the extent an agency for good cause finds the preparation of a rule impact statement or the specified contents thereof are unnecessary, impracticable or contrary to the public interest in the process of adopting a particular rule, the agency may request the Governor to waive such requirement. If the Governor fails to waive such requirement prior to publication of the notice of the intended rulemaking action, the rule impact statement shall be completed. The determination to waive the rule impact statement shall not be subject to judicial review.

4. The rule shall not be invalidated on the ground that the contents of the rule impact statement are insufficient or inaccurate.

E. Upon completing the requirements of this section, an agency may adopt a proposed rule. No rule is valid unless adopted in substantial compliance with the provisions of this section.

SECTION 39. AMENDATORY 75 O.S. 1991, Section 308, as last amended by Section 9, Chapter 384, O.S.L. 1994 (75 O.S. Supp. 1994, Section 308), is amended to read as follows:

Section 308. A. Within ten (10) days after adoption of a permanent rule, two copies of all such new rules or amendments, revisions or revocations to an existing rule proposed by an agency, and two copies of an agency rule report as required by subsection D E of this section shall be filed by the agency each with the Speaker of the House of Representatives and the President Pro Tempore of the State Senate.

B. If the agency determines in the rule impact statement prepared as part of the agency rule report that the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing a proposed permanent rule, a copy of the proposed rule and rule report shall be filed within ten (10) days after adoption of the permanent rule with the Oklahoma Committee on Intergovernmental Cooperation for its



review. Said Committee may communicate any recommendations that it may deem necessary to the Governor, the Speaker of the House of Representatives and President Pro Tempore of the Senate during the period that the permanent rules are being reviewed.

C. When the rules have been submitted to the Speaker of the House of Representatives and the President Pro Tempore of the Senate, the agency shall also submit to the Office for publication in The Oklahoma Register, a statement that the adopted rules have been submitted to the Legislature. ~~Such statement of submission required by this section shall not be required for emergency rules.~~

~~C.~~ D. The text of the adopted rules shall be submitted to the Speaker of the House of Representatives and the President Pro Tempore of the Senate in the same format as required by the Secretary pursuant to Section 251 of this title.

~~D.~~ E. The report required by subsection A of this section shall include:

1. The date the notice of the intended rulemaking action was published in The Oklahoma Register pursuant to Section 255 of this title;
2. The name and address of the agency;
3. The title and number of the rule;
4. A citation to the statutory authority for the rule;
5. A brief summary of the content of the adopted rule;
6. A statement explaining the need for the adopted rule;
7. The date and location of the meeting, if held, at which such rules were adopted or the date and location when the rules were adopted if the rulemaking agency is not required to hold a meeting to adopt rules;
8. A summary of the comments and explanation of changes or lack of any change made in the adopted rules as a result of testimony received at all hearings or meetings held or sponsored by an agency for the purpose of providing the public an opportunity to comment on

the rules or of any written comments received prior to the adoption of the rule;

9. A list of persons or organizations who appeared or registered for or against the adopted rule at any public hearing held by the agency or those who have commented in writing before or after the hearing;

10. A rule impact statement if required pursuant to Section 303 of this title;

11. An incorporation by reference statement if the rule incorporates a set of rules from a body outside the state, such as a national code;

12. The members of the governing board of the agency adopting the rules and the recorded vote of each member; and

13. Any other information requested by the Speaker of the House of Representatives, the President Pro Tempore of the Senate or either rule review committee.

~~E.~~ F. Upon receipt of any adopted rules submitted pursuant to this section, the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall assign such rules to the appropriate committees of each such house of the Legislature for review. Except as otherwise provided by this section, upon receipt of such rules, the Legislature shall have thirty (30) legislative days to review such rules.

~~F.~~ G. 1. By the adoption of a joint resolution, the Legislature may disapprove any rule, waive the thirty-legislative-day review period and approve any rule which has been transmitted as required by this section, or otherwise approve any rule submitted pursuant to this section.

2. a. (1) The Legislature may by concurrent resolution disapprove a proposed rule or a proposed amendment to a rule submitted to the Legislature pursuant to this section or an emergency rule

prior to such rule having the force and effect of law.

(2) Any such proposed rule or proposed amendment to a permanent rule shall be disapproved by both houses of the Legislature prior to the termination of the legislative review period specified by this section.

(3) Any such concurrent resolution shall not require the approval of the Governor, and any such rule so disapproved shall be invalid and of no effect regardless of the approval of the Governor of such rule.

b. By adoption of a concurrent resolution, the Legislature may waive the thirty-legislative-day review period for any rule which has been transmitted as required by this section.

~~C. Whenever~~ H. Unless otherwise authorized by the Legislature by concurrent resolution, or by law, whenever a rule is disapproved as provided in subsection ~~F~~ G of this section, the agency adopting such rules shall not have authority to resubmit an identical rule, except during the first sixty (60) calendar days of the next regular legislative session. Rules may be disapproved in part or in whole by the Legislature. Any resolution enacted disapproving a rule shall be filed with the Secretary for publication in The Oklahoma Register.

~~H.~~ I. Unless otherwise provided by specific vote of the Legislature, resolutions introduced for purposes of disapproving or approving a rule shall not be subject to regular legislative cutoff dates, shall be limited to such provisions as may be necessary for disapproval or approval of a rule, and any such other direction or mandate regarding the rule deemed necessary by the Legislature. The resolution shall contain no other provisions.

~~I.~~ J. 1. Transmission of a rule for legislative review pursuant to the provisions of this section on or before April 1 of each year shall result in the approval of such rule by the Legislature if:

- a. the Legislature is in regular session and has failed to disapprove such rule within thirty (30) legislative days after such rule has been so transmitted pursuant to subsection A of this section, or
- b. the Legislature has adjourned before the expiration of said thirty (30) legislative days of submission of such rules, and has failed to disapprove such rule.

2. After April 1 of each year, transmission of a rule for legislative review pursuant to the provisions of this section shall result in the approval of such rule by the Legislature only if the Legislature is in regular session and has failed to disapprove such rule within thirty (30) legislative days after such rule has been so transmitted. In the event the Legislature adjourns before the expiration of such thirty (30) legislative days, such rule shall carry over for consideration by the Legislature during the next regular session and shall be considered to have been originally transmitted to the Legislature on the first day of said next regular session for review pursuant to this section. As an alternative, an agency may request direct legislative approval of such rules or waiver of the thirty-legislative-day review provided by subsection ~~F~~ G of this section. An agency may also adopt emergency rules under the provisions of Section 253 of this title.

~~J.~~ K. Prior to final adoption of a rule, an agency may withdraw from legislative review a rule submitted pursuant to the provisions of this section. Notice of such withdrawal shall be given to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and to the Secretary for publication in The Oklahoma Register.

~~K.~~ L. Except as otherwise provided by Sections 253, 250.4 and 250.6 of this title or as otherwise specifically provided by the Legislature, no agency shall promulgate any rule unless reviewed by the Legislature pursuant to this section. An agency may promulgate an emergency rule only pursuant to Section 253 of this title.

~~L.~~ M. Any rights, privileges, or interests gained by any person by operation of an emergency rule, shall not be affected by reason of any subsequent disapproval or rejection of such rule by either house of the Legislature.

SECTION 40. REPEALER 12A O.S. 1991, Section 9-302, as amended by Section 8, Chapter 46, O.S.L. 1994 (12A O.S. Supp. 1994, Section 9-302), 17 O.S. 1991, Sections 352 and 353, as last amended by Sections 1 and 2, Chapter 341, O.S.L. 1994 (17 O.S. Supp. 1994, Sections 352 and 353), 19 O.S. 1991, Sections 339 and 1505, as last amended by Sections 3 and 6, Chapter 6, O.S.L. 1994 (19 O.S. Supp. 1994, Sections 339 and 1505), Section 3, Chapter 282, O.S.L. 1993, as amended by Section 14, Chapter 293, O.S.L. 1994 (25 O.S. Supp. 1994, Section 307.1), 63 O.S. 1991, Sections 1-2008.1 and 1-2014.2, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Sections 21 and 22, Chapter 353, O.S.L. 1994 (27A O.S. Supp. 1994, Sections 2-7-117 and 2-7-118), 29 O.S. 1991, Sections 4-110 and 4-112, as last amended by Sections 7 and 8, Chapter 318, O.S.L. 1994 (29 O.S. Supp. 1994, Sections 4-110 and 4-112), 36 O.S. 1991, Sections 901, as amended by Section 1, Chapter 331, O.S.L. 1994, and 1425, as last amended by Section 4, Chapter 272, O.S.L. 1994 and by Section 2, Chapter 294, O.S.L. 1994 (36 O.S. Supp. 1994, Sections 901 and 1425), 37 O.S. 1991, Section 577, as amended by Section 5, Chapter 258, O.S.L. 1994 (37 O.S. Supp. 1994, Section 577), 43 O.S. 1991, Section 118, as last amended by Section 1, Chapter 185, O.S.L. 1994 (43 O.S. Supp. 1994, Section 118), 43A O.S. 1991, Section 5-101, as amended by Section 2, Chapter 180, O.S.L. 1994 (43A O.S. Supp. 1994, Section 5-101), 47 O.S. 1991, Sections 2-

300, as last amended by Section 13, Chapter 2, O.S.L. 1994, 6-205, as last amended by Section 3, Chapter 243, O.S.L. 1994, 11-902, as last amended by Section 3, Chapter 308, O.S.L. 1994 and by Section 2, Chapter 314, O.S.L. 1994, and 761, as last amended by Section 4, Chapter 308, O.S.L. 1994 (47 O.S. Supp. 1994, Sections 2-300, 6-205, 11-902 and 761), 57 O.S. 1991, Section 57, as amended by Section 1, Chapter 368, O.S.L. 1994 (57 O.S. Supp. 1994, Section 57), 59 O.S. 1991, Section 1309, as last amended by Section 1, Chapter 186, O.S.L. 1994 (59 O.S. Supp. 1994, Section 1309), Section 6, Chapter 332, O.S.L. 1993, as amended by Section 3, Chapter 282, O.S.L. 1994, and Section 7, Chapter 332, O.S.L. 1993, as amended by Section 1, Chapter 103, O.S.L. 1994 (63 O.S. Supp. 1994, Sections 5008 and 5009), 68 O.S. 1991, Sections 205, as last amended by Section 5, Chapter 278, O.S.L. 1994, 304, as amended by Section 6, Chapter 258, O.S.L. 1994, and Section 3, Chapter 275, O.S.L. 1993, as last amended by Section 34, Chapter 278, O.S.L. 1994 (68 O.S. Supp. 1994, Sections 205, 304 and 3603), 70 O.S. 1991, Sections 3-104, as last amended by Section 1, Chapter 344, O.S.L. 1994, 17-105, as last amended by Section 1, Chapter 145, O.S.L. 1994 and by Section 1, Chapter 370, O.S.L. 1994, 17-116.2, as last amended by Section 2, Chapter 370, O.S.L. 1994 and by Section 4, Chapter 380, O.S.L. 1994, and 509.2, as last amended by Section 1, Chapter 190, O.S.L. 1994 (70 O.S. Supp. 1994, Sections 3-104, 17-105, 17-116.2 and 509.2), 74 O.S. 1991, Sections 18c, as amended by Section 47, Chapter 242, O.S.L. 1994, 18 l, as last amended by Section 7, Chapter 280, O.S.L. 1994, 85.7, as last amended by Section 1, Chapter 223, O.S.L. 1994, 192, as amended by Section 2, Chapter 368, O.S.L. 1994, 213, as last amended by Section 2, Chapter 92, O.S.L. 1994, 500.18, as last amended by Section 2, Chapter 281, O.S.L. 1994, 902, as last amended by Section 3, Chapter 370, O.S.L. 1994 and by Section 1, Chapter 381, O.S.L. 1994, 913.4, as amended by Section 4, Chapter 381, O.S.L. 1994, 920, as amended by Section 6, Chapter 381, O.S.L. 1994,

and 3601, as last amended by Section 16, Chapter 283, O.S.L. 1994 (74 O.S. Supp. 1994, Sections 18c, 18 l, 85.7, 192, 213, 500.18, 902, 913.4, 920 and 3601) and 75 O.S. 1991, Sections 303, as amended by Section 3, Chapter 182, O.S.L. 1994, and 308, as last amended by Section 4, Chapter 182, O.S.L. 1994 (75 O.S. Supp. 1994, Sections 303 and 308), are hereby repealed.

SECTION 41. 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.

45-1-5053

MCD