

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

2ND CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL 220

By: Easley, Brown and Douglass  
of the Senate

and

Glover, Perry, Pope (Clay),  
Jones and Phillips of the  
House

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to electric industry restructuring; creating the Oklahoma Electric Restructuring Implementation Act; providing short title; defining terms; stating effective date for implementation of electric industry restructuring; providing for regulation of certain electric services by certain oversight and supervision authorities; providing for electric generation and certain electric services to be unregulated competitive services; requiring retail electric providers to be licensed; stating entities subject to the provisions of the act; providing for certain entities to voluntarily participate in the act; limiting electric services of entities not participating in the act; stating entities subject to enforcement by the Corporation Commission; providing for electric cooperatives to be subject to enforcement by their board of trustees; providing for joint oversight and supervision authorities; requiring the Grand River Dam Authority to conduct certain study determining effects of electric restructuring; stating requirements of study; requiring certain entities to conduct study; providing for costs; stating date for completion; providing for distribution of study recommendations; authorizing Authority to provide service to certain customers upon effective date; authorizing certain new customers; prohibiting Authority from offering service to certain customers; providing for certain sales to be subject to applicable taxes or fees; stating requirements of oversight and supervision authorities; providing process for joint oversight and supervision authorities to be established; stating procedure for electric cooperatives to select the Corporation Commission as their oversight and supervision authority; requiring certain resolution or ordinances be filed with the Corporation Commission; providing date for oversight and supervision authorities to authorize retail electric service providers to implement a plan for functional or structural separation of generation, transmission and distribution facilities; requiring plan to be filed with authority by certain date; providing

principles for allocating costs; stating requirements for plan; providing for separation of assets at book value; authorizing entities to create divisions, departments, affiliate companies, nonaffiliate companies to accomplish separation requirement; requiring certain accounting principles be used to separate facilities; requiring entities to analyze accounts, books and records to determine cost causation; stating methodology for determining certain costs; providing separation plans subject to audit within certain time period; providing for authority to approve separation plan; requiring certain plan to be filed with the Corporation Commission; declaring conflicting and inconsistent provisions of the Oklahoma Constitution to be amended as authorized; providing for oversight and supervision authorities to determine rates for electric distribution, retail transmission and related services following approval of the separation plan; requiring distributor to file application with oversight and supervision authority by certain date; stating requirements for application; requiring oversight and supervision authorities to issue order establishing rates, charges and conditions; stating effective date for new rates; providing for oversight and supervision authorities to conduct audit of certain cost of service study, ensure rates are fair, just and reasonable and complete review within certain time period prior to issuance of new rate order; prohibiting electric distributors from applying for revision of rates, charges or conditions of service for certain time period; declaring conflicting and inconsistent provisions of the Oklahoma Constitution to be amended as authorized; stating obligation of electric distributors or their affiliates to offer generation, transmission and distribution and related services on a bundled basis to all eligible consumers in their service area; requiring a competitive bidding process to partially fulfill obligation to serve; stating exception; authorizing electric distribution company affiliates to competitively bid; providing for establishment of certain rates after certain date; authorizing electric consumers to choose retail electric energy suppliers; stating notice requirements; stating certain consumers are ineligible to purchase electricity under continuity service provisions; requiring Corporation Commission to promulgate rules to ensure reasonable cost; providing for Corporation Commission to direct certain entities to file market power and competitive market analyses consistent with certain guidelines; authorizing Commission to issue certain order by certain date; authorizing Commission to implement measures necessary to mitigate market power by certain date; stating measure that may be included in order; stating exceptions; providing for the Corporation Commission to license electric generators, transmitters, distributors, retail electric energy suppliers and other persons engaged in retail sale or delivery of electricity in this state; providing for suspension and revocation of license; stating requirements for application; stating time period for licensing; providing for

provisional license; authorizing Commission to assess license fees; stating requirements for license information to be given to the Commission; requiring generators, transmitters and distributors demonstrate membership in or compliance with entities responsible for reliability; stating requirements for retail electric energy supplier licensing; providing for Commission to issue certificates of registration for aggregators; stating services performed by aggregators; stating exception; providing certification process; stating information required of aggregators; providing for surety bonds as necessary; providing for provisional certificate of registration; authorizing Commission to assess fees for certificates of registration for aggregators; requiring Commission to protect certain competitively sensitive information; authorizing affiliate transactions; stating requirements for affiliates and prohibiting certain actions; requiring open access to electric distribution facilities on nondiscriminatory basis; stating requirements for distributors and transmitters to furnish services on nondiscriminatory basis; prohibiting requirement for distributors and transmitters to install certain nonstandard facilities for certain purpose; requiring distributors and transmitters to install certain new or modified facilities under certain conditions; requiring transmitters and distributors to provide adequately trained and experienced personnel throughout service area; requiring establishment of standardized electronic information exchange systems; stating requirements of electric distributors; requiring certain customer services; requiring electric distributors to be responsible for billing retail consumers for all electric services; requiring other entities to furnish distributors information for retail consumer billing in a timely manner; requiring the Joint Electric Utility Task Force to conduct a study to determine the feasibility of restructuring electric metering and billing services by certain date; stating procedures for establishing electric distribution service territories in certain intermingled areas; stating procedure for consumers to select alternate electric distributor; providing for Commission to issue certain order determining principal electric distributor; providing that Commission shall prepare certain maps; requiring certain fee for switching service; prohibiting distributors from paying transfer fee; prohibiting distributors from offering inducement for construction of facilities in intermingled areas; stating procedures in determining electric distribution service in municipal service areas; providing for annexation and de-annexation; requiring all electricity purchased for retail consumption to be delivered by the principle or certified electric distributor; prohibiting bypass of electric distribution system; requiring access to transmission through principal or certified electric distributor; providing for appeal to the Commission to designate new principal electric distributor for certain area; authorizing Commission to perform certain acts; providing for certain disputes to be adjudicated in

District Court; providing for awarding of court costs and attorney fees; providing for certain appeals to Supreme Court; stating public policy encouraging generation of renewable energy; stating legislative intent for certain amount of energy to come from renewable energy technologies; providing time period for requirements to use renewable energy technology generation; requiring certain entities to purchase renewable energy from zero emission technologies if available; requiring the Department of Central Services to purchase certain amount of electricity generated from zero emission technologies if available; providing exemption from competitive bidding procedures; authorizing state income tax credit for generators of electricity utilizing zero emission technologies; providing for transfer of tax credits; requiring the Corporation Commission and the Oklahoma Tax Commission to promulgate rules; providing exemption from certain state, county or local taxes for zero emission technology facilities; requiring the Department of Environmental Quality to implement certain permitting program; requiring the Department of Environmental Quality to require certain natural gas fired steam electric generating facilities to utilize certain control technology; stating exception; providing for facilities to utilize alternative technologies if areas of the state are designated nonattainment by the Environmental Protection Agency; authorizing DEQ to implement certain emission reduction actions by rule; providing tax credit for zero emission electric generation facilities; defining terms; stating amount of tax credit; providing for transfer of tax credits; authorizing the Oklahoma Tax Commission to promulgate rules to implement tax credit; providing for establishment of a complaint investigation and response process by each generator, transmitter, distributor, retail electric energy supplier, aggregator and oversight and supervision authority; providing for appeal of final order or determinations; stating minimum requirements for complaint investigation process; stating rights of retail electric consumers; providing for certain consumer information; providing for certain notice of change in service; stating construction; prohibiting telephone contact to retail electric consumers for marketing or offering electric services or related services; requiring express or verified authorization of consumers prior to changes in electric services; providing time period for residential and small commercial consumers to rescind selections of electric services; prohibiting unauthorized charges on retail consumer bills; stating fine for violation; creating advisory panel to assist Legislative Service Bureau in providing consumer education program; stating membership of advisory panel; stating qualifications; providing for vacancies; requiring advisory panel to develop plan to oversee any entity selected to perform the consumer education process; requiring competitive bidding; providing funds for education process from the Electric Consumer Education, Complaint and Assistance Revolving Fund; providing for staffing; providing for initial

meeting; prohibiting salaries for members; providing for travel reimbursement; creating the Electric Consumer Information and Complaint Division of the Corporation Commission; stating duties; providing for complaint process within the Commission; amending 18 O.S. 1991, Sections 437, 437.1, 437.2, 437.7, 437.9, 437.23, 437.25 and 437.28, which relate to rural electric cooperatives; deleting certain classification; prohibiting certain right of eminent domain for certain purpose; modifying certain membership conditions; providing for amendments to bylaws; requiring cooperatives to collect and remit certain taxes; modifying definitions; amending 17 O.S. 1991, Section 151, which relates to public utilities; modifying definition; deleting obsolete language; amending 17 O.S. 1991, Section 152, as last amended by Section 6, Chapter 315, O.S.L. 1994 (17 O.S. Supp. 1999, Section 152), which relates to Corporation Commission supervision of public utilities; removing statutory reference; amending 17 O.S. 158.25, which relates to electric supply and distribution; providing for the Grand River Dam Authority to supply distribution service within certain territory; updating statutory references; deleting certain provision for certain large consuming facilities; amending 17 O.S. 1991, Section 158.27, as amended by Section 1, Chapter 231, O.S.L. 1993 (17 O.S. Supp. 1991, Section 158.27), which relates to general supervision powers of the Corporation Commission; modifying certain jurisdictions of the Commission; amending 17 O.S. 1991, Section 160.1, as last amended by Section 4, Chapter 328, O.S.L. 1995 (17 O.S. Supp. 1999, Section 160.1), which relates to the Commission's ratemaking authority; modifying general supervision authority of the Commission relating to electricity; amending 17 O.S. 1991, Section 180.1, which relates to advertising expenses; removing references to electric cooperatives; modifying certain definition; amending 17 O.S. 1991, Section 180.2, which relates to promotional payments; modifying definition; amending Section 43, Chapter 278, O.S.L. 1993, as last amended by Section 1, Chapter 126, O.S.L. 1998 (17 O.S. Supp. 1999, Section 180.11), which relates to public utility assessments; authorizing the Commission to assess fees on certain entities to fund various electric related activities; creating revolving fund; providing for assessments to be recoverable; providing for Legislature to establish budgetary limits for fund; authorizing various agencies to utilize monies from the fund; updating statutory reference; requiring Commission to levy certain assessments; stating portion of funds to be distributed to certain entities; amending 17 O.S. 1991, Section 250, which relates to fuel adjustments; modifying definitions; amending 17 O.S. Section 251, as amended by Section 16, Chapter 315, O.S.L. 1994 (17 O.S. Supp. 1999, Section 251), which relates to fuel adjustments; providing for certain fuel adjustments; amending 17 O.S. 1991, Section 252, which relates to fuel adjustment clauses; authorizing fuel adjustments for certain entities; amending 17 O.S. 1991, Section 253, as amended by Section 9,

Chapter 364, O.S.L. 1998 (17 O.S. Supp. 1999, Section 253), which relates to fuel adjustments; requiring Commission to promulgate rules relating to fuel adjustments; modifying Commission procedures; amending 17 O.S. 1991, Section 254, which relates to fuel adjustments; requiring certain billing procedures for certain entities; amending 17 O.S. 1991, Section 255, which relates to fuel adjustments; providing for certain entities to utilize fuel adjustments in effect; amending 11 O.S. 1991, Section 24-102, which relates to municipal electric systems; clarifying references to certain utility systems; amending 11 O.S. 1991, Section 24-105, which relates to the Oklahoma Municipal Power Authority; modifying definitions; amending 11 O.S. 1991, Section 24-107, which relates to the Oklahoma Municipal Power Authority; prohibiting certain sales by Authority; amending 11 O.S. 1991, Section 21-121, as last amended by Section 1, Chapter 391, O.S.L. 1998 (11 O.S. Supp. 1999, Section 21-121), which relates to clarifying electric distribution service areas for certain entities; prohibiting certain electric transmission and distribution systems from regulation by oversight and supervision authorities; exempting the Grand River Dam Authority from the Oklahoma Open Records Act and the Oklahoma Open Meetings Act for certain purposes; creating the Oklahoma Electric Consumer Assistance Program; providing for administration by the Oklahoma Department of Commerce; providing for contracts with certain entity; providing for funding; stating purpose; authorizing Department of Commerce to promulgate rules governing program; creating the Oklahoma Electric Energy Tax Code; providing short title; stating legislative findings and intent; defining terms; stating purpose; levying electric energy tax on generation, transmission and retail distribution of electric energy; specifying rates thereof; providing that certain facilities remain subject to ad valorem taxes; assessing certain minimum equivalent tax; providing that certain tax not be imposed on zero-emission electric power; providing for apportionment of certain revenues; providing for prorated amount to be allocated if revenues are insufficient or in excess of certain amounts; requiring State Department of Education to develop and administer certain programs; creating Education Debt Service and Bond Enhancement Revolving Fund, Green Power Plus Revolving Fund and Technology Center Deregulation Revolving Fund; providing for deposits thereto and expenditures therefrom; providing penalty for certain failure or refusal to comply with certain provisions; providing for payment of taxes levied; specifying due dates and manner of payments; specifying certain duties of Oklahoma Tax Commission; providing for interest to be charged at certain rate for reports not timely filed; requiring retention of certain records and documents for certain time period; requiring tax remitters to obtain permit from Tax Commission; allowing Tax Commission to require bond of certain persons and specifying terms thereof; providing for collection of delinquent taxes, penalties and interest and providing that such taxes,

penalties and interest constitute lien upon certain property; prohibiting political subdivisions from levying electric energy taxes; providing that certain generation, transmission and distribution of electricity not be subject to taxes; providing for taxation of electricity generated, transmitted or distributed by, through or from rural electric cooperatives; exempting electricity generated by certain manufacturing facilities from certain tax; providing for reimbursement of amount of exemption; creating the Oklahoma Electric Energy Consumption Excise Tax Code; providing short title; declaring legislative intent; levying consumption excise tax on certain sales of electric energy by certain governmental entities and political subdivisions; specifying rate thereof; making certain provisions inapplicable to certain persons or entities; providing for levy, collection and apportionment of such taxes; amending 62 O.S. 1991, Section 193, as last amended by Section 3, Chapter 390, O.S.L. 1999 (62 O.S. Supp. 1999, Section 193), which relates to the Ad Valorem Reimbursement Fund; modifying allowable expenditures of such fund; amending 68 O.S. 1991, Sections 1214, 1357, as last amended by Section 15 of Enrolled House Bill No. 2711 of the 2nd Session of the 47th Oklahoma Legislature, 2601, 2602, 2805, 2808, as last amended by Section 1, Chapter 337, O.S.L. 1997 and Section 7, Chapter 275, O.S.L. 1993 (68 O.S. Supp. 1999, Section 3607), as last amended by Section 16 of Enrolled House Bill No. 2711 of the 2nd Session of the 47th Oklahoma Legislature (68 O.S. Supp. 1999, Section 2808), which relate to franchise, sales and ad valorem taxes; providing exception; modifying certain sales tax exemption; exempting certain sales from sales taxes; authorizing municipalities to levy and assess certain fee and franchise tax; specifying certain limitations and application thereof; providing that certain taxes be in lieu of ad valorem taxes; modifying definition; providing that certain terms not be construed to include certain entities; modifying list of tax credits or exemptions that certain establishments may receive in conjunction with incentive payments under the Oklahoma Quality Jobs Program Act; amending Section 4, Chapter 215, O.S.L. 1996, as last amended by Section 9, Chapter 274, O.S.L. 1998 (70 O.S. Supp. 1999, Section 18-200.1), which relates to state aid to school districts; modifying computation of foundation program income; modifying computation of per pupil revenue for certain school years; modifying information required to be reported to Oklahoma State Department of Education by Oklahoma Tax Commission; amending 19 O.S. 1991, Sections 180.58, as last amended by Section 1, Chapter 119, O.S.L. 1997, 180.62, as last amended by Section 1 of Enrolled Senate Bill No. 1228 of the 2nd Session of the 47th Oklahoma Legislature, 180.63, as amended by Section 9, Chapter 239, O.S.L. 1993, 180.64A, as last amended by Section 2, Chapter 195, O.S.L. 1998, 180.68, as amended by Section 1, Chapter 6, O.S.L. 1994, Section 3, Chapter 334, O.S.L. 1993, as amended by Section 2, Chapter 119, O.S.L. 1997 and Section 15, Chapter 334, O.S.L. 1993, as amended by Section 2, Chapter 6,

O.S.L. 1994 (19 O.S. Supp. 1999, Sections 180.58, 180.63, 180.64A, 180.68, 180.71 and 180.83), which relate to county officers' salaries; modifying factors and formulas used to compute salaries of certain county officers; repealing 19 O.S. 1991, Section 180.59, which relates to computations of county officers' salaries; repealing 17 O.S. 1991, Sections 156, 157, 158.29, 158.30, 158.50, 158.51, 158.52, 158.53, 158.54, 158.55, 158.56, 158.57, 158.58, 158.59, as last amended by Section 64, Chapter 5, 1st Extraordinary Session, O.S.L. 1999, 158.60, 158.61, 161.1, 181, 182, 183, 184, 185, 186, 187, 189, Sections 3, 4 and 5, Chapter 162, O.S.L. 1997, as last amended by Sections 3, 4, and 5, Chapter 39, O.S.L. 1998, 191.1, 191.2, 191.3, 191.4, 191.5, 191.6, 191.7, 191.8, 191.9, 191.10, 191.11, as last amended by Section 65, Chapter 5, 1st Extraordinary Session, O.S.L. 1999, 191.12, 191.13, 257, as amended by Section 10, Chapter 364, O.S.L. 1998, 258, 259, 260, 261 (17 O.S. Supp. 1999, Sections 158.59, 190.3, 190.4, 190.5, 191.11 and 257), which relate to Corporation Commission authority and supervision over public utilities and rural electric cooperatives; general powers of the Commission; electric industry restructuring studies; mergers of public utilities; electric generation cooperatives; fuel adjustments and purchased power adjustments; repealing 68 O.S. 1991, Sections 1802 and 1803, which relate to taxes on cooperatives; providing effective dates; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 701 of Title 17, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Electric Restructuring Implementation Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 702 of Title 17, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Electric Restructuring Implementation Act:

1. "Affiliate", "affiliate company" or "affiliated," means a subsidiary, person, or any company owned or controlled by an electric generator, electric transmitter, electric distributor, or holding company thereof but shall not mean a municipal trust;



2. "Aggregator" means any person or entity that in exchange for monetary remuneration combines two or more retail consumers or acts as an agent or intermediary for, or on behalf of, two or more retail consumers, to arrange for the purchase of, but does not take title to, electric energy;

3. "Board of Directors" means the Board of Directors of the Grand River Dam Authority created pursuant to the provisions of Section 861 et seq. of Title 82 of the Oklahoma Statutes;

4. "Board of trustees" means the board of trustees of an electric cooperative created pursuant to the provisions of Section 437 et seq. of Title 18 of the Oklahoma Statutes, that is authorized, in addition to its other powers, to act as the oversight and supervision authority to implement and enforce the provisions of this act;

5. "Combined heat and power system" means any generating system that maintains an average efficiency level of sixty percent (60%) or greater (based on overall fuel use and all energy produced and captured) by utilizing all the available heat of energy production to generate steam, hot water, chilled water, electricity or other forms of energy;

6. "Corporation Commission" or "Commission" means the Corporation Commission, that is authorized, in addition to its other powers, to act as an oversight and supervision authority to implement and enforce the provisions of this act;

7. "Consumer" or "retail electric consumer" means a person or entity purchasing or seeking to purchase retail electric energy for use other than resale;

8. "Distribution assets", "distribution system" or "distribution facility" means the poles, wires, transformers, and any other equipment, including fiber optic cable which is part of such poles, wires, transformers, and any other equipment, including

retail transmission, designed and constructed and utilized to deliver electricity to retail electric consumers;

9. "Electric Cooperative" means a not-for-profit electric entity that is or has been financed in whole or in part under the "Rural Electrification Act of 1936", 49 Stat. 1363, 7 U.S.C. 901, and created pursuant to the provisions of Sections 437 et seq. of Title 18 of the Oklahoma Statutes, and owns or operates facilities in this state to generate, transmit, or distribute electricity, or is a not-for-profit successor of such entity;

10. "Electric distributor" means a person who may sell electricity to retail electric consumers pursuant to the provisions of this act and owns, controls or operates retail electric distribution assets, including retail transmission assets, used to provide electricity directly to any retail electric consumer;

11. "Electric Generator" means a person owning, controlling, or operating generation assets that produce electric energy for sale to wholesale or retail electric consumers;

12. "Electric transmitter" means a person owning, controlling or operating transmission assets subject to federal or state regulation to provide transportation services of electric energy from a generator to an electric distributor or directly to a retail consumer;

13. "Generation assets" or "generation facility" means generation plants and generation-related assets, as classified by the Federal Energy Regulatory Commission's Uniform System of Accounts, the Rural Utility Services approved accounting system, using generally accepted accounting principles or accounting systems used by municipalities or beneficial trusts thereof, that classifies generation plant and generation-related assets or a succeeding accounting system;

14. "Grand River Dam Authority" means the conservation and reclamation district created pursuant to Sections 861 et seq. of Title 82 of the Oklahoma Statutes;

15. "Intermingled areas" means those areas included within the municipal boundaries of a city or town by annexation where there are two or more distributors lawfully authorized to provide electric distribution services;

16. "Investor-owned utility" means those utilities organized and financed by the sale of securities in the free market;

17. "Municipal electric system" means an electric system owned or operated by a municipality, or beneficial trust thereof, that may generate, transmit, and distribute electricity for retail sale to retail electric consumers;

18. "Renewable energy technology" means electric generating facilities installed in this state on or after the date of enactment of this act that utilize solar photovoltaic energy, solar thermal energy, wind power, hydro power, geothermal energy, landfill and mine-based methane gas, or energy from waste and sustainable biomass energy as the energy source for the manufacturing of electricity;

19. "Oversight and supervision authority" or "joint oversight and supervision authority" means the:

- a. Corporation Commission,
- b. board of trustees,
- c. governing body of municipality or beneficial trust thereof participating in electric restructuring, or
- d. a joint entity created by two or more boards of trustees or participating municipalities,

exercising oversight and supervision to implement and enforce the provisions of this act;

20. "Participating municipality" and "municipal governing body or governing body of beneficial trust thereof that is participating in electric restructuring" means a city or town and its governing

body that has authorized participation in electric restructuring and that is authorized, in addition to its other powers, to act as the oversight and supervision authority to implement and enforce the provisions of this act;

21. "Retail electric energy" means electric energy sold for consumption by a retail electric consumer;

22. "Retail electric energy supplier" means any entity licensed by this state to sell electricity and related electric services to a retail electric consumer;

23. "Retail transmission" means transmission facilities that are not subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission; and

24. "Transmission assets", "transmission line" or "transmission facility" means the poles, wires and other facilities, including any fiber optic cable which is a part of such poles, wires and other facilities, designed and constructed to transport bulk electricity.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 703 of Title 17, unless there is created a duplication in numbering, reads as follows:

On July 1, 2002, restructuring of the electric industry in this state shall be implemented. Electric distribution, retail transmission, and other related delivery services, including metering and billing are to remain regulated services and shall remain subject to regulation of rates, charges and conditions of service and supervision by the appropriate oversight and supervision authority. Electric generation, services of retail electric energy suppliers, except when providing generation, transmission, distribution and related services on a bundled basis pursuant to the provisions of Section 8 of this act, and services of aggregators will not be subject to regulation of rates, charges and conditions of service and shall be deemed to be competitive retail electric services that retail electric consumers may obtain subject to the

provisions of this act. All providers of competitive retail electric services shall remain subject to all federal, state and local laws and regulations. All providers of retail electric services shall secure a license as provided in this act prior to offering any services in this state.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 704 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. All entities, their successors or assigns, providing electric generation, transmission or distribution services to retail electric consumers prior to the implementation of electric restructuring are required to participate in electric restructuring pursuant to the provisions of this act, including:

1. Entities subject to regulation by the Corporation Commission; and

2. All electric cooperatives whose members have, prior to electric restructuring, approved a proposition to deregulate, pursuant to the provisions of Section 158.27 of Title 17 of the Oklahoma Statutes, as amended.

Provided, however, an entity providing electric generation, transmission or distribution services to retail electric consumers in this state and in a contiguous service area in an adjacent state of which the majority of said retail electric consumers reside, where such adjacent state has not adopted a date for the implementation of electric restructuring, may delay implementation in this state until July 1, 2004, or until such time as the entity is required by applicable law of the adjacent state to implement electric restructuring, whichever occurs first.

B. A municipality owning its own electric generation, transmission or distribution assets may become subject to the provisions of this act if a majority of the governing body of the municipality has authorized such participation. After such

authorization, the municipal governing body of the municipality participating in electric restructuring shall exercise oversight and supervision to implement and enforce the provisions of this act.

C. A municipality that is not participating in electric restructuring shall not be subject to the provisions of this act and shall be prohibited from extending any retail electric distribution service beyond its corporate limits; provided, however, it may continue to offer retail electric distribution service from lines it owned outside the corporate limits of such municipality on April 25, 1997.

D. The Corporation Commission shall exercise oversight and supervision to implement and enforce the provisions of this act for all investor-owned utilities, electric cooperatives whose members have not adopted a proposition for deregulation pursuant to the provisions of Section 158.27 of Title 17 of the Oklahoma Statutes, as amended, and for any other entity that voluntarily submits to its oversight and supervision.

E. The board of trustees of each electric cooperative whose members have adopted a proposition for deregulation pursuant to the provisions of Section 158.27 of Title 17 of the Oklahoma Statutes, as amended, shall exercise oversight and supervision to implement and enforce the provisions of this act for its cooperative; provided, however, the board of trustees of any such electric cooperative may vote to create a joint oversight and supervision authority or voluntarily submit to oversight and supervision by the Corporation Commission to implement and enforce the provisions of this act.

F. 1. In order to determine the effect of electric restructuring on the Grand River Dam Authority, the Authority is directed to conduct a study which shall include, but is not limited to, the following:

- a. the impact of nondiscriminatory access to its retail transmission and distribution system on the outstanding bonds of the Authority,
- b. the investigation and quantification of public benefits currently provided by the Authority to citizens of this state,
- c. the investigation of the Authority's current and future viability to provide retail electric services to the citizens of this state with specific attention to:
  - (1) the Authority's current and future competitive retail activities in this state,
  - (2) the Authority's current and future status as a provider of retail electricity as compared to other similarly situated public providers, including but not limited to its generating facilities, operations and administrative functions,
  - (3) an analysis of the Authority's strategic plan for operations in a restructured electric market, including appropriate recommendations for each element of such strategic plan for operations in a restructured electricity market, and
  - (4) an analysis of the Authority's wholesale obligations and opportunities in a restructured electricity market,
- d. develop recommendations for use by the Authority, the Oklahoma Legislature and citizens of this state to optimize the Authority's participation in a restructured electricity market.

2. The study required by this section shall be performed by the Grand Gateway Economic Development Association in conjunction with

the Municipal Electric Systems of Oklahoma and the cost shall be born by the Authority. Such study shall be completed no later than March 30, 2001. Copies of the completed study shall be provided to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives and the members of the Joint Electric Utility Task Force.

3. The Grand River Dam Authority may continue to provide service to its firm service native load retail consumers and its firm service contract wholesale consumers that were receiving wholesale or retail electricity on the effective date of this act. The Authority may provide service to new wholesale or retail consumers but is prohibited from extending service to any wholesale or retail consumer served by an investor-owned utility, an electric cooperative or a municipal electric system on the effective date of this act. Any sales made to new wholesale or retail consumers after the effective date of this act shall be subject to all applicable fees or taxes levied by this state or any political subdivision thereof.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 705 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. Each oversight and supervision authority shall:

1. Be responsible for fully implementing and enforcing the laws, requirements, policies and rules established pursuant to the provisions of this act;

2. Facilitate cooperation across jurisdictional lines with other entities to resolve wholesale and retail electric problems and complaints; and

3. Possess the authority and responsibility to engage in information and education dissemination activities that enhance the understanding of all retail electric consumers in this state.



B. A joint oversight and supervision authority may be created by two or more boards of trustees or by two or more municipalities:

1. If two or more electric cooperatives whose members have adopted a proposition for deregulation pursuant to the provisions of Section 158.27 of Title 17 of the Oklahoma Statutes, as amended, desire to create a joint oversight and supervision authority, each board of trustees of such cooperatives must adopt a resolution to participate in such joint authority. The joint oversight and supervision authority created by the actions of two or more boards of trustees shall have all the powers, authority, and responsibilities of any individual oversight and supervision authority created pursuant to the provisions of this act; and

2. If two or more municipalities participating in electric restructuring desire to create a joint oversight and supervision authority, each municipality must adopt an ordinance to participate in such joint authority. The joint oversight and supervision authority created by the actions of two or more municipalities participating in electric restructuring shall have all the powers, obligations, authority and responsibilities of any individual oversight and supervision authority created pursuant to the provisions of this act.

C. When an electric cooperative whose members have adopted a proposition for deregulation pursuant to the provisions of Section 158.27 of Title 17 of the Oklahoma Statutes, as amended, desires to submit to the oversight and supervision of the Corporation Commission to implement and enforce the provisions of this act, a resolution to select the Commission for oversight and supervision to implement and enforce the provisions of this act shall be adopted by its board of trustees. The Commission shall exercise all the powers, obligations, authority and responsibilities to implement and enforce the provisions of this act for such electric cooperative

until such time as the board of trustees adopts a resolution to revoke such submission.

D. Copies of any resolutions or ordinances adopted pursuant to this section shall be filed with the Electric Consumer Information and Complaint Division of the Corporation Commission.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 706 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. Not later than September 30, 2001, the appropriate oversight and supervision authority shall authorize all entities providing retail electric service in this state on the date of enactment of this act, including, but not limited to, all investor-owned utilities, all electric cooperatives, and all municipalities participating in electric restructuring pursuant to the provisions of this act to implement a plan causing either the functional or structural separation of:

1. Generation facilities, operations and services;
2. Transmission facilities, operations and services; and
3. Distribution facilities, including retail transmission facilities, operations and services, which shall include any such facilities, operations or services related to customer service.

B. A plan for the separation of such facilities, operations and services, developed solely at the discretion of the entity to accomplish either such functional or structural separation shall be filed with the appropriate oversight and supervision authority on or before March 30, 2001, and shall provide for an orderly division of the entity's facilities, operations and services, utilizing cost-based allocation principles, that will:

1. Ensure and maintain the reliability of the electric system;
2. Continue compliance with all federal and state environmental laws and regulations; and

3. Encourage the sale and delivery of electricity in this state that does not unduly burden retail consumers, electric utility investors, or any political subdivision.

C. Such plan must be designed to ensure that:

1. Cost shifting or cross subsidization shall not be permitted between separated divisions, departments, or affiliate companies;

2. Anticompetitive behavior or unlawful self-dealing shall not occur between such separated divisions, departments, or affiliate companies; and

3. Unlawful discriminatory behavior toward nonaffiliated companies shall not occur.

D. Any facilities, operation, or service assigned or otherwise transferred for purposes of accomplishing separation of generation, transmission and distribution assets and services shall be valued for all purposes at the amounts assigned to that facility, operation or service in the books and records of the entity submitting the plan for separation, in accordance with generally accepted accounting principles.

E. An entity, at its sole discretion, shall elect to accomplish either the functional or structural separation required by subsection A of this section through the creation of divisions, departments, affiliate companies, nonaffiliate companies, companies or affiliates owned by a holding company or through the sale of assets to a third party; provided, however, nothing in this section shall require an entity to divest itself of any generation, transmission, or distribution assets.

F. 1. In the development of the appropriate separation of facilities, operations and services, the accounting systems utilized by each entity filing a separation plan, whether prescribed by the Federal Energy Regulatory Commission (FERC), the U.S. Department of Agriculture, Rural Utilities Service (RUS), generally accepted

accounting principles, or any other generally accepted system of accounts or accounting standards, shall be relied upon.

2. All accounts, books, and records of each entity filing a separation plan shall be analyzed to determine cost causation and those costs shall be directly assigned to the appropriate function where the information can be readily determined. Allocation of all remaining common costs that cannot be directly assigned to the appropriate function should be assigned by the use of a methodology developed to accurately reflect cost.

3. In the determination of the appropriate function for facilities allocated to local distribution properties, including transmission assets that are not subject to federal regulation, the methodology shall, at a minimum, include the following principles to identify facilities used to provide electricity directly to retail electric consumers:

- a. that such facilities will normally be located in close proximity to retail consumers,
- b. that such facilities will normally be primarily radial in character,
- c. that such facilities will normally accept power that flows into the system and rarely, if ever, flows out,
- d. that such facilities will normally accept power that is not re-consigned or transported on to some other market,
- e. that such facilities will normally accept power that is consumed in a comparatively restricted geographic area,
- f. that such facilities will normally have meters based at the transmission/local distribution interface to measure flows into the local distribution system, and
- g. that such facilities will normally be of reduced voltage.

G. A plan for separation shall be subject to an audit that must be completed within sixty (60) days following the filing of such plan. The oversight and supervision authority shall, after completion of the audit of such plan and the publication of proper notice and hearing, if a request for hearing has been made, but no later than September 30, 2001, issue, using the functional or structural option selected by the entity filing such plan, an order for the separation of the assets of the entity providing electric service to retail electric consumers. The order approving such plan for separation shall be filed with the Electric Consumer Information and Complaint Division of the Corporation Commission and shall also be available for public review at the offices of each entity receiving an approved separation plan.

H. If this section is deemed to be in conflict or inconsistent with any of the provisions of Sections 18 through 34, inclusive, of Article IX of the Constitution of the State of Oklahoma, then, to the extent of any such conflicts or inconsistencies, it is hereby expressly declared this entire section are amendments to and an alteration of the sections of the Constitution, as authorized by Section 35 of Article IX of the Constitution.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 707 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. Each electric distributor's rates, charges and conditions of service for providing electric distribution, retail transmission and other related services to retail electric consumers shall be determined by the oversight and supervision authority following the approval of a plan for the separation of facilities, operations and services pursuant to the provisions of this act. An application to determine such rates, charges and conditions for providing such services shall be filed with the oversight and supervision authority no later than November 30, 2001. Such application shall:

1. Include a new cost-of-service study based on the assets and costs of distribution and retail transmission facilities, operations and related services established by the separation plan approved by the oversight and supervision authority pursuant to the provisions of this act;

2. Not include directly or indirectly any gains or losses associated with the operation of generation facilities, retail electric energy suppliers, or any other affiliate of the electric distributor;

3. Include any apportionment of costs associated with taxes levied and collected pursuant to the provisions of this act which reflect the costs associated with providing such services to customers or customer classes utilizing such assets or facilities;

4. Include all payment obligations of the electric distributor during the remaining life of any federally mandated cogeneration contract through the use of a rider to the rates for distribution service to recover the total actual costs of such contract; provided, however, the oversight and supervision authority shall annually adjust the amount of such recovery to reflect the actual costs paid by the electric distributor pursuant to such contract;

5. Prohibit the recovery of stranded costs; and

6. Include any other costs authorized by the provisions of this act.

B. On or before April 1, 2002, each oversight and supervision authority shall, after notice and hearing, if a request for hearing has been made, issue an order consistent in all respects with the requirements of paragraphs 2 through 6 of subsection A of this section, establishing the initial rates, charges and conditions for providing electric distribution, retail transmission, and any other related services to retail electric consumers, provided that rates established by such order shall become effective on July 1, 2002.

Prior to issuance of any order, each oversight and supervision authority shall:

1. Conduct an audit of the cost of service study submitted by the electric distributor;

2. Ensure that rates, charges and conditions of providing such services are fair, just and reasonable and are based on the costs incurred by the electric distributor associated with provision of such services; and

3. Complete the review of an application for establishment of rates, charges and conditions of providing such services within one hundred twenty (120) days from the date such application was filed; provided, however, if such order has not been issued within one hundred twenty (120) days, the electric distributor may implement such rates, charges, and conditions of service as provisional rates, charges, and conditions of service. If provisional rates, charges and conditions of service are implemented, the oversight and supervision authority may require the posting of an appropriate surety bond until such time as a final order on such application has been issued.

C. Following implementation of electric restructuring on July 1, 2002, an electric distributor may file, no earlier than July 1, 2003, an application with its oversight and supervision authority to add, revise, or amend its rates, charges and conditions of service for such services based on the principles established by this section, but in no case may an application be filed earlier than July 1, 2003.

D. If this section is deemed to be in conflict or inconsistent with any of the provisions of Sections 18 through 34, inclusive, of Article IX of the Constitution of the State of Oklahoma, then, to the extent of any such conflicts or inconsistencies, it is hereby expressly declared this entire section are amendments to and an

alteration of such sections of the Constitution, as authorized by Section 35 of Article IX of the Constitution.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 708 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. On and after July 1, 2002, every electric distributor or its affiliate shall have the continuing obligation to offer generation, transmission and distribution and related services on a bundled basis to all eligible retail electric consumers who are being served by the electric distributor in the electric distributor's service area; provided, however:

1. The electric distributor or its affiliate shall, from July 1, 2002, until March 1, 2005, continue to offer such bundled services to eligible residential and commercial retail electric consumers with peak maximum demands of two hundred (200) kilowatts or less at the tariffed rates in effect for such bundled services on the effective date of this act, including fuel adjustment and purchased power riders or mandatory requirement of any federal agency relating to cooperative financing or cooperative mortgage holder, provided, the Commission shall prior to July 1, 2002, promulgate rules to ensure acquisition of fuel and purchased power at the lowest reasonable cost. For customers with peak maximum demands greater than two hundred (200) kilowatts, such services shall be provided from July 1, 2002, until January 1, 2004, at the rate in effect on the effective date of this act, including fuel adjustment and purchase power riders or mandatory requirement of any federal agency relating to cooperative financing or cooperative mortgage holder.

2. After January 1, 2004, every electric distributor, or its affiliate, shall use a competitive bidding process established pursuant to rules promulgated by the oversight and supervision authority, to procure a majority of the electricity to fulfill its



obligation to any remaining retail electric consumers with peak maximum demands greater than two hundred (200) kilowatts, provided, however, that the provisions of this subsection shall not operate to abrogate any existing power supply contract of any electric distributor, or its affiliate. An affiliate of an electric distributor shall not be prohibited from participation in the competitive bidding process.

3. After March 1, 2005, every electric distributor, or its affiliate, shall use a competitive bidding process established pursuant to rules promulgated by the oversight and supervision authority, to procure a majority of the electricity to fulfill its obligation to any remaining retail electric consumers with peak maximum demands less than two hundred (200) kilowatts; provided, however, that the provisions of this subsection shall not operate to abrogate any existing power supply contract of any electric distributor or its affiliate. An affiliate of an electric distributor shall not be prohibited from participation in the competitive bidding process.

4. After January 1, 2004, for retail electric consumers with peak maximum demands greater than two hundred (200) kilowatts, and after March 1, 2005, for eligible residential and commercial retail electric consumers, electric distribution, retail transmission, and related services provided pursuant to this section shall continue to be provided at the rates, charges and conditions of service established for such services by the oversight and supervision authority.

B. 1. After July 1, 2002, every retail electric consumer shall have the option to elect to purchase electricity from a retail electric energy supplier. Such retail electric consumer may, at the termination of any contract period, change to another retail electric energy supplier upon notice to the current retail electric energy supplier, the new retail electric energy supplier and the

electric distributor to ensure proper metering and billing. Such notice shall be given at least thirty (30) days prior to the change. Upon proper notice, the change shall occur on the first billing day of the next full billing period following such notice.

2. Any eligible retail electric consumer that has elected to purchase electricity from a retail electric energy supplier other than the affiliate of the electric distributor furnishing generation, transmission and distribution and related services on a bundled basis, may, at the termination of any contract period, withdraw from such election and purchase electricity from the electric distributor or its affiliate after having given notice to both the retail electric energy supplier and the electric distributor or its affiliate. Such notice shall be given at least thirty (30) days prior to the change. Upon proper notice, the change shall occur on the first billing day of the next full billing period following such notice. Following such change, a period of twelve (12) months must elapse before any subsequent change can be made.

C. Any retail electric consumer, including the combined retail electric consumers of an aggregator, whose demand is equal to or in excess of two hundred (200) kilowatts and who has elected to purchase electricity from a retail electric energy supplier shall not be eligible to purchase electricity as otherwise provided in paragraph 3 of subsection A of this section.

D. An electric distributor shall not be required to create a separate retail electric energy supplier for the purpose of carrying out the provisions of this section.

E. On or before January 1, 2005, the Corporation Commission shall evaluate and review the competitive market place for the sale of electricity. This evaluation shall include all participants in the competitive market place and is not limited to the methodology issued or used by the Federal Energy Regulatory Commission:

1. In order to facilitate the Corporation Commission review, no later than January 1, 2004, and at such later times as the Corporation commission may direct, each investor-owned utility and its affiliates shall file with the commission market power and competitive market analyses applicable to the sale of electricity to eligible residential and commercial retail electric consumers within this State. The market power analysis shall be consistent with the guidelines, standards, and methods issued or used by the Federal Energy Regulatory Commission, including, but not limited to methods for defining the relevant market, measuring market concentration, identifying entry barriers, and assessing the existence of market power and such other factors established pursuant to rules promulgated by the Commission.

2. Upon filing of the analyses required by this subsection, and after notice and hearing, if requested, the Commission may issue an order finding that an investor-owned utility or its affiliate has market power. For the purposes of this section, the term "market power" means the ability to impose on retail electric consumers a price increase on a product or service in a market above the price level which would prevail in a competitive market or exclude or limit competition.

Within sixty (60) days of the issuance of an order, unless the commission grants an extension of time, the investor-owned utility or its affiliate shall file with the commission, consistent with the rules promulgated by or order issued by the commission, a market power mitigation plan designed to mitigate the market power found by the Commission. The market power mitigation plan may include, but is not limited to, price caps, bundled services, or the auction of generation to be sold under term contracts. After notice and hearing, if requested, considering the plan submitted by the investor-owned utility or its affiliate, the commission shall order the investor-owned utility or its affiliate to implement those

measures determined by the Commission to be necessary to mitigate the market power, including but limited to the measures proposed by the mitigation plan; provided, however, no order shall require any investor-owned utility or its affiliate to divest itself of any assets. The order of the Commission to mitigate market power shall be implemented by January 1, 2005, or such later date as may be authorized by the commission.

The measures ordered by the commission may include, but are not limited to, price caps, bundled services, the auction of generation to be sold under term contracts, or any other measure deemed to be in the public interest, provided; however, no investor-owned utility or its affiliate shall be required to divest itself of any assets. Nothing in this section shall in any way limit the obligations or liability, under state or federal antitrust or consumer protection laws, or regulations, of an electric utility or retail electric energy supplier for conduct arising after implementation of the provisions of this act. In addition, a proceeding pursuant to this section shall not be a condition precedent to an action pursuant to state or federal antitrust or consumer protection laws or regulations.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 709 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. The Corporation Commission shall grant or deny licenses to electric generators, electric transmitters, Commission regulated electric distributors, retail electric energy suppliers, and any other person engaged in the retail sale or delivery of electricity in this state. Upon application and after notice and hearing, if a request for public hearing has been received, the Commission shall grant or deny to every electric generator, electric transmitter, electric distributor, retail electric energy supplier, or any other person engaged in the retail sale or delivery of electricity, a

license to conduct business in this state, provided the Commission shall, for those entities subject to its oversight and supervision, after issuance of an order approving a plan for separation pursuant to the provisions of this act, issue a license for each electric generator, electric transmitter, or electric distributor created by such separation plan.

B. Each applicant shall submit to the Commission a verified application that includes, but is not limited to, the following:

1. A description of the services or activities to be provided to retail electric consumers, the area where such services or activities are to be provided, and the facilities to be used to provide such services or activities;

2. Demonstration that the applicant possesses:

- a. the technical competence to perform the services or activities to be offered,
- b. the financial capability to provide safe, continuous and reliable services activities,
- c. the managerial ability to supply services activities in accordance with consumer contracts,
- d. the ability to acquire the resources including, but not limited to, access to generation and generation reserves, necessary to satisfy the requirements of this act, and
- e. an office located within this state for the purpose of providing consumer services, accepting service of process, and making available in that office information sufficient to establish compliance with the requirements of this act;

3. Evidence demonstrating that the applicant is in compliance with all applicable federal and state laws required to provide the services or activities to be offered to retail electric consumers

and that the applicant will fully comply with all standards and rules required to provide such services or activities in this state;

4. Identification of all affiliate relationships with any other entities generating, transmitting, distributing, selling, marketing, aggregating, or providing any other service related to the wholesale or retail sale of electricity in this state; and

5. Provide any other reasonable and relevant information reasonably required by the Commission to carry out its duties pursuant to this act.

C. An application for a license required by this section shall be filed with the Commission at least ninety (90) days prior to offering any services or activities in this state. The Commission may reject the application if, after notice and opportunity for hearing, it finds that the application is deficient or that the applicant is not in compliance with the provisions of this act.

D. The Commission shall review an application for license within sixty (60) days of submission and grant or deny such license. Should the Commission determine that the application contains deficiencies, the applicant should be afforded the opportunity to provide additional information to satisfy such deficiencies. The Commission shall, at the end of the review period, subject to the posting of an appropriation surety bond, if necessary, grant or deny the application for license to conduct business in this state.

E. If the Commission fails to grant or deny the application within the time provided in this section, the license shall be issued as a provisional license, subject to the posting of an appropriate surety bond, if necessary, until such time as the Commission has taken final action on the application.

F. The Corporation Commission may, after proper notice and hearing, suspend, revoke, or amend any license granted pursuant to this section if the licensee has significantly violated the

provisions of this act or is substantially out of compliance with federal or state laws, rules and regulations.

G. The payment of a license fee for any license issued pursuant to this section shall be remitted upon the issuance of the license. Renewal of the license shall be granted upon payment of such fee on or before January 1 of each year thereafter, until canceled, suspended or revoked. The Commission shall consider payment of the fee to be delinquent if payment has not been received within thirty (30) days of the date such payment is due. Unpaid fees shall be subject to the accrual of interest at the thirty-year Treasury Bill rate on the unpaid balance but in no case may the amount of interest assessed exceed the amount of the fee. All fees collected pursuant to this section shall be deposited in the Electric Consumer Education, Complaint and Assistance Revolving Fund created pursuant to this act.

H. A license issued by the Commission pursuant to the provisions of this section is not assignable or transferable.

I. Each oversight and supervision authority may require that any recipient of a license issued pursuant to this section register with the authority; provided, however, no fee for such registration may be levied by such authority.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 710 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. In addition to the general requirements to be submitted to the Corporation Commission for licensing required by this act, an electric generator, an electric transmitter or an electric distributor applying for a license to generate, transmit or deliver electricity in this state shall provide the Commission the following:

1. A listing of any relevant information filed with the Federal Energy Regulatory Commission for the prior five year period;

2. A listing of all applicable federal and state environmental filings and permits that relate to the generation, transmission or distribution of electricity for the prior five year period; and

3. Any other relevant information reasonably required by the Commission to carry out its duties pursuant to this act.

B. An electric generator, an electric transmitter or an electric distributor shall demonstrate membership in or compliance with all reliability requirements established by an independent system operator, regional transmission organization, or entity organized to ensure the reliability of the regional electric network and approved by the Federal Energy Regulatory Commission. In addition, each electric generator, electric transmitter or electric distributor shall comply with all reliability requirements in effect at the date of implementation of this act.

C. In addition to the general requirements to be submitted to the Corporation Commission for licensing, a retail electric energy supplier or any other person applying for a license to engage in the retail sale of electricity in this state shall provide the Corporation Commission the following:

1. A listing of all relevant licenses, franchises, or any other agreements which have been issued pursuant to any federal or state law, county or local ordinance, rule, regulation or requirement; and

2. Any other relevant information required by the Commission.

D. The information provided pursuant to this section shall be protected by the Corporation Commission to ensure the confidentiality of competitively sensitive information.

E. An electric generator, electric transmitter, or electric distributor, and a retail electric energy supplier, to the extent not prohibited by federal law, shall remain subject to all applicable federal, state, and local laws, rules and regulations.



SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 711 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. The Corporation Commission shall issue certificates of registration to aggregators providing services to retail electric consumers in this state. Aggregation services shall consist of the joining of two or more retail electric consumers into a single purchasing unit to negotiate the purchase of electricity from retail electric energy suppliers or electric distributors. Aggregation services shall not include sale or ownership of the electricity to be provided to the purchasing unit. An aggregator shall not take title to electricity included in any aggregation transaction. Aggregation services do not include the joining of an entity's own location or facilities.

B. An application for a certificate of registration required by this section shall be filed with the Commission at least ninety (90) days prior to offering any services or activities in this state. An aggregator shall provide the Corporation Commission the following:

1. The location within this state of an office for the purpose of providing consumer services, accepting service of process and used to perform aggregation or aggregation services for retail consumers who want to form a single purchasing unit to negotiate the purchase of electricity from retail electric energy suppliers, or any other person providing any other services related to the retail sale of electricity in this state;

2. A listing of all affiliate relationships with any other licensed entities generating, transmitting, distributing, selling, or marketing electricity to retail electric consumers in this state;

3. A listing of any relevant information filed with and any licenses, permits, franchises, or other authorizations issued by any federal, state, county, or local unit of government in this state related to aggregation of retail electric consumers; and

4. Any other relevant information required by the Commission. The Commission may reject the application if, after notice and opportunity for hearing, it finds that the application is deficient or that the applicant is not in compliance with the provisions of this act. The Commission shall have up to sixty (60) days to process applications for certificates of registration filed by aggregators.

C. The Commission shall review an application for a certificate of registration within sixty (60) days of submission and grant or deny such certificate of registration. Should the Commission determine that the application contains deficiencies, the applicant should be afforded the opportunity to provide additional information to satisfy such deficiencies. The Commission shall, at the end of the review period, subject to the posting of an appropriate surety bond, if necessary, grant or deny the application for a certificate of registration to conduct business in this state.

D. Should the Commission fail to grant or deny the application within the time provided in this section, the certificate of registration shall be issued as a provisional certificate of registration, subject to the posting of an appropriate surety bond, if necessary, until such time as the Commission has taken final action on the application.

E. The Commission may, after proper notice and hearing, revoke or suspend a certificate of registration issued pursuant to this section.

F. The payment of a fee, the amount to be determined by the Commission, for a certificate of registration issued pursuant to this section shall be remitted upon the issuance of the certificate. Annual renewal of the certificate shall be granted upon payment of such fee on or before January 1 of each year, and thereafter, until canceled, suspended or revoked.

G. A certificate of registration issued by the Commission pursuant to this section is not assignable or transferable.

H. Each oversight and supervision authority may require that recipients of certificates of registration issued pursuant to this section also register with the oversight and supervision authority; provided, however, no fee for such registration may be levied by such authority.

I. The information provided pursuant to this section shall be protected by the Corporation Commission to ensure the confidentiality of competitively sensitive information.

J. An aggregator, to the extent not prohibited by federal law, shall remain subject to all federal, state and local laws, rules and regulations regarding the provisions of its services to all retail electric consumers.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 712 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. Nothing in this act shall prohibit any electric generator, electric transmitter, electric distributor, retail electric energy supplier, aggregator, or any other person engaged in the retail sale or distribution of electricity or electric services from owning, leasing, operating, affiliating, maintaining or acting in any other manner with another electric generator, electric transmitter, electric distributor, retail electric energy supplier, aggregator, or any other person engaged in the retail sale or distribution of electricity or electric services.

B. Any entity providing regulated services as defined in Section 3 of this act that owns, leases, operates, connects, joins, maintains or acts in any other manner with any nonregulated affiliate providing services not subject to regulation as defined by Section 3 of this act shall provide for the establishment,

management and operation of separate divisions, departments, or affiliate companies that:

1. Require employees to function independently of each other in any matter involving activities related to any provision of this act;

2. Prohibit activities that allow cross subsidization to occur in any matter involving activities related to any provision of this act;

3. Prohibit preferential disclosure of any information in any matter involving activities related to any provision of this act;

4. Prohibit the preferential use or transfer of transmission or distribution assets in any matter involving activities related to any provision of this act;

5. Prohibit tying arrangements or subsidization of prices charged to a retail electric consumer in any matter involving activities related to any provision of this act;

6. Require that competitively sensitive market information shall not be disclosed in any matter involving activities related to any provision of this act unless such information is provided to all other licensed and registered entities that provide similar services;

7. Require all books and records of all entities where an affiliate relationship exists that involves any matter or activity related to any provision of this act to be available for review and inspection by an oversight and supervision authority but that no information acquired from any examination of those books and records can be used for competitive purposes; and

8. Require complaint procedures to be established to provide timely response to allegations of violations of any requirements related to this section in any matter involving activities related to any provision of this act.

C. Any generator, retail electric energy supplier or affiliate thereof, or any other entity selling electricity to retail electric consumers in this state seeking to use electric distribution facilities of any electric distributor for the purpose of transmitting or distributing retail electric energy shall be required to provide access to its electric distribution facilities or the electric distribution facilities of any entity where an affiliate relationship exists on a nondiscriminatory basis.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 713 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. Electric distributors and electric transmitters providing retail transmission, shall furnish electric delivery service, instrumentalities, any associated services and facilities that are reliable, adequate, and efficient, utilizing terms of access, operations and conditions of providing such facilities and services that are nondiscriminatory. Such nondiscriminatory activities shall include, but not be limited to:

1. Establishment of mechanisms to ensure nondiscriminatory access to electric transmission and electric distribution systems to all buyers and sellers; and

2. Maintenance of existing reliability standards of all electric transmission and electric distribution systems and the creation of an ongoing review process to review and implement all appropriate reliability and safety options.

B. No electric transmitter or electric distributor shall be required to install new nonstandard facilities or substantially alter or modify existing facilities, either as to type or location, for the purpose of receiving electric energy from an electric generator or retail electric energy supplier unless the electric generator, retail electric energy supplier or retail electric consumer pays the full cost of such new, substantially altered, or

modified facilities including equipment and installation; provided, however, the electric transmitter or electric distributor must provide to any other electric generator, retail electric energy supplier, or retail electric consumer any new, substantially altered or modified facilities installed for its own electric generator, retail electric energy supplier, or retail electric consumer requirements at comparable costs of such changes or facilities including equipment and installation.

C. All electric transmitters and electric distributors must provide adequately trained and experienced personnel throughout their service area so that the electric transmitter or electric distributor is able to fully and adequately comply with all appropriate service quality and reliability standards.

D. Standardized electronic information exchange systems for electric generators, electric transmitters, electric distributors, retail electric energy suppliers, and aggregators shall be established.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 714 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. Each electric distributor shall, in addition to providing delivery of electricity, provide customer service functions, including but not limited to:

1. Retail electric meter reading;
2. Retail electric consumer billing;
3. Retail electric consumer education and information dissemination;
4. Retail electric consumer complaint resolution; and
5. Collection of retail electric consumer accounts billed pursuant to the provisions of this act.

B. Customer services shall, at a minimum, be maintained to:

1. Ensure an electric distributor does not change a retail electric consumer's electricity supplier without evidence of the retail electric consumer's consent to a change of such supplier;

2. Require each electric transmitter, electric distributor, retail electric energy supplier, and aggregator to provide adequate and accurate consumer education and consumer information that will enable all retail electric consumers to make informed choices regarding the purchase of all electricity services; provided that such consumer education and consumer information shall be provided retail electric consumers in an understandable format that enables such consumers to compare prices and services on a uniform basis; and

3. Define the electric distributor's obligation to connect, disconnect, deliver and acquire electricity pursuant to this act.

C. Each electric distributor shall be responsible for billing retail electric consumers for all electric services, including but not limited to electric generation, electric transmission and electric distribution services or associated activities regardless of the identity of the provider of those services. A retail electric consumer's bill shall provide a description of the charges made during the billing period in a format that is sufficient to determine the basis for those charges.

If services to be included in the bill are provided by an entity other than the electric distributor, the entity that provides those services shall furnish the electric distributor billing information for the billing period that is sufficient to describe services provided and the charges to be billed for those services. Such billing information should be supplied to the electric distributor in a timely manner that will enable the electric distributor to properly prepare the monthly bill to be sent to the retail electric consumer.

D. Notwithstanding the provisions of subsection A of this section, the Joint Electric Utility Task Force shall commence no later than July 1, 2002, a study to determine the feasibility of restructuring electric metering and billing services. The study and the findings, results and recommendations shall be concluded no later than December 31, 2002, and be distributed to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 715 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. Except as provided herein, the Corporation Commission shall establish distribution service territories in intermingled areas of this state. Where there are two or more electric distributors authorized to provide electric distribution services, one electric distributor shall be established as the principal electric distributor as provided in this section; provided that an electric distributor operating within a municipality shall continue as the principal electric distributor for as long as it has legal authority to use the public ways of the municipality.

B. Except as otherwise provided in this act, no electric distributor shall furnish electric distribution services except in areas where it has been designated as the principal electric distributor under the provisions of this act, provided that:

1. The provisions of this section shall not preclude any electric distributor from serving or extending electric distribution service to its own property and facilities in an intermingled area; or

2. Prohibit any electric distributor from extending its distribution facilities through an intermingled area of an electric distributor, if such extension is necessary for such electric



distributor to connect any of its facilities, those of an affiliate, or to lawfully serve other electric consuming facilities.

C. Except as provided herein, subsequent to such determination of the principal electric distributor, all new electric consuming facilities in the intermingled areas shall be provided electric distribution services by the principal electric distributor; provided, however, that all electric distributors lawfully providing electric distribution services in an intermingled area may continue to provide electric distribution services to those electric consuming facilities which it serves on the effective date of this act.

D. Electric distributors authorized to operate in an intermingled area may mutually agree by written contract with other electric distributors for the purpose of establishing or modifying previously established agreements establishing the principal electric distributor in any or all intermingled areas where such providers jointly operate, and such contract shall be filed with the Corporation Commission. All nonmunicipal electric distributors shall petition the Commission to approve any contract arising from the provisions of this section. The Commission shall:

1. Consider a petition filed by the nonmunicipal electric distributors authorized to operate in an intermingled area;

2. Approve such petition if it finds that the proposed agreement avoids wasting resources, duplication of facilities, or unreasonable costs, or is otherwise in the public interest, provided that, if a municipal governing body or beneficial trust thereof is a party to the proposed agreement, the agreement shall be deemed in the public interest;

3. Retain jurisdiction over nonmunicipal electric distributors to modify or void the agreement if the principal electric distributor designated by the agreement would not otherwise be so designated pursuant to subsection E of this section; and

4. Issue an order approving or rejecting such petition within sixty (60) days of filing. In the event the Commission issues an order not approving such petition the nonmunicipal electric distributor shall have no liability to the municipal electric distributor.

E. 1. In the event mutual consent among the lawful suppliers of electric distribution service is not reached as set forth in subsection D of this section within ninety (90) days of the effective date of this act, nonmunicipal electric distributors shall give notice of disagreement to the Commission by filing an application setting forth the following:

- a. the reason for disagreement,
- b. a legal description of the area in dispute divided into forty-acre tracts,
- c. a proposed map, and
- d. the number of electric consuming facilities claimed by each electric distributor to be served.

2. For purposes of the application, a forty-acre tract shall be defined as a quarter, quarter section of one of the thirty-six one-square-mile sections of a township according to the United States Government Survey System.

3. a. For each intermingled area in which a principal electric distributor is not established by mutual agreement, as provided in subsection D of this section, such areas, for nonmunicipal electric distributors, the principal electric distributor shall be determined by the Commission by counting the number of electric consuming facilities connected to each electric distributor's facilities in such forty-acre tract on the effective date of this act; and the electric distributor providing electric distribution services to the most electric consuming facilities in

such forty-acre tract shall be declared by the Commission to be the principal electric distributor in that area, provided that:

- (1) all facilities served through one meter shall be counted as one electric consuming facility, and
- (2) an electric distributor which had installed the only electric distribution service facilities within a subdivision as of the effective date of this act, shall be declared by the Commission to be the principal electric distributor for such subdivision.

b. In the event the number of electric consuming facilities of each electric distributor in a given forty-acre tract is the same, the total number of electric consuming facilities served by each in the quarter section shall be used to determine the principal electric distributor in the tied forty-acre tract.

c. In the event the total number of electric consuming facilities of each electric distributor in the quarter section is equal, the electric distributor having the nearest distribution facilities located along the section lines shall be declared the principal electric distributor; provided, however, if both electric distributors have electric consuming facilities along opposite sides of a section line road, the facilities will be considered equally close to the tied area and the Commission shall decide which is the principal electric distribution company.

4. In the event of a disagreement in establishing the principal electric distributor between a nonmunicipal and a municipal electric distributor, the parties shall utilize the process described in

paragraphs 2 and 3 of this subsection to determine the principal electric distributor for such area, provided that this section shall not be construed as requiring a municipal electric distributor to seek approval of such determination nor grant to the Corporation Commission jurisdiction over such municipal electric distributor. Provided further, that in the event a tie remains as described in paragraph 3 of this subsection, the Commission shall not have jurisdiction over such municipal electric distributor to decide this matter.

5. The Commission shall issue an order directed to such non-municipal electric distributors determining the principal electric distributor within sixty (60) days of the filing of the application.

F. Upon a determination of the principal electric distributor pursuant to subsection E of this section, each nonmunicipal electric distributor shall file with the Commission the information regarding the identification and location of each intermingled area, all forty acre tracts therein and the identification of each principal electric distributor in each such forty-acre tract, provided that:

1. The Commission shall approve such determinations of the principal electric distributor if it finds that the purposes of this act will be promoted; and

2. The Commission shall prepare or cause to be prepared within ninety (90) days thereafter a map or maps of uniform scale to show accurately and clearly the areas designated to each such principal electric distributor and a copy of such map or maps shall be deposited by the staff of the Commission in the Electric Consumer Information and Complaint Division.

G. 1. In all intermingled areas where there are two or more lawful electric distributors authorized to provide electric distribution services, the retail consumer of electricity at a new or existing electric consuming facility shall have the right to

select an electric distributor other than the principal electric distributor in such area, provided that:

- a. in the event the retail consumer selects an electric distributor other than the principal electric distributor, such retail consumer shall pay to the principal electric distributor a transfer fee equal to ten times the annual gross distribution revenues of electricity to be derived by the principal electric distributor from such retail consumer at the electric consuming facility, provided that, if historical data is not available to determine the annual gross revenues, an estimate shall be made by the principal electric distributor based upon the size and characteristics of the electric consuming facility in question, and
- b. in the event an existing retail electric consumer receiving distribution service from a non-principal electric distributor selects any other electric distributor, such retail electric consumer shall pay to the existing non-principal electric distributor a transfer fee equal to ten times the annual gross distribution revenues of electricity to be derived by the existing non-principal electric distributor from such retail electric consumer at the electric consuming facility, provided that, if historical data is not available to determine the annual gross revenues, an estimate shall be made by the existing non-principal electric distributor based upon the size and characteristics of the electric consuming facility in question.

2. The electric distributor to which a retail consumer desires to switch shall not directly or indirectly pay the transfer fee.

3. No electric distributor shall pay, directly or indirectly, to any retail consumer, builder, developer or any other person, firm, corporation, or other entity any inducement for the construction of distribution facilities in any intermingled area of the state.

H. 1. In unincorporated areas of the state, where municipal electric distributors have distribution lines and were serving retail electric consumers from such lines prior to April 25, 1997, such municipal electric distributors participating in electric restructuring pursuant to the provisions of this act may negotiate with the supplier certified in such area pursuant to the Retail Electric Supplier Certified Territory Act, Sections 158.21 through 158.32 of Title 17 of the Oklahoma Statutes, as amended, to determine a principal electric distributor for such areas, pursuant to the procedures specified in subsections D and E of this section. Such determinations shall be submitted by the non-municipal electric distributors to the Corporation Commission.

2. The Commission shall, within sixty (60) days, issue an order directed to the nonmunicipal electric distributor approving such determination if it finds that such determination complies with the provisions of this act.

3. When an area or areas annexed by a municipal corporation after the effective date of this act encompasses territory in which a principal electric distributor has previously been determined pursuant to this section, such principal electric distributor shall remain the principal electric distributor in such annexed area or areas.

4. Except as provided in paragraph 3, above, when an area or areas are annexed by a municipal corporation after the effective date of this act that encompasses territory previously certified to an electric distributor pursuant to the Retail Electric Supplier

Certified Territory Act, such certified supplier shall become the principal electric distributor in such annexed area or areas.

5. When an intermingled area is de-annexed from a municipal corporation after the effective date of this act, the principal electric distributor shall remain the service territory of the electric distributor in such de-annexed area or areas.

I. Except as otherwise provided, all electricity purchased for ultimate retail consumption within this state shall be delivered to the retail consumer by the principal or certified electric distributor of the intermingled area or certified territory in which the electric consuming facility is located.

J. Access to the transmission system shall be a nonbypassable electric distribution service which shall be provided by the principal or certified electric distributor.

K. Access to the predominant transmission system of the principal electric distributor shall be a nonbypassable distribution service which shall be provided by the principal or certified electric distributor.

L. If the Commission, after hearing, shall determine that a nonmunicipal principal electric distributor is not furnishing or proposing to furnish adequate electric distribution service, including but not limited to providing nondiscriminatory service, and the electric distribution service is not likely to be made adequate, the Commission may designate a new principal electric distributor for the forty-acre tract.

M. 1. The Commission shall have power to perform any and all acts, and to prescribe, issue, make, amend and rescind such orders or rules necessary to carry out the provisions of this section.

2. The district court shall be vested with jurisdiction to adjudicate any controversy arising under this section that pertains to municipal electric distributors and may award to the prevailing party in any such action its court costs and attorney fees.

3. Any party adversely affected by any action of the Commission under the provisions of this section may appeal to the Supreme Court in the manner now provided in Sections 20 and 21 of Article IX of the Constitution of the State of Oklahoma.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 720 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. In order to ensure an adequate supply of electricity for Oklahoma residents and to encourage the use of renewable and indigenous resources, it is the policy of this state to encourage the generation of energy from renewable resources and to diversify electricity production on which residents of this state rely. It is the intent of the Oklahoma Legislature that by January 1, 2008, nine percent (9%) of the state's electricity consumed by retail electric consumers, measured in megawatt hours, will come from renewable energy technologies, four percent (4%) of such requirement from existing renewable energy technologies and five percent (5%) from new zero emissions facilities installed on or after the date of enactment of this act.

Five percent (5%) of the state's electricity consumed by retail electric consumers, measured in megawatt hours, will come from new zero emission technologies, installed in this state on or after the date of enactment of this act. The cumulative renewable electricity sales from such new zero-emission technologies, if available, shall total one percent (1%) of all the electricity consumed by retail electric consumers, measured in megawatt hours, by January 1, 2002, one and three-quarters percent (1.75%) of all the electricity consumed by retail electric consumers, measured in megawatt hours, by January 1, 2003, two and one-half percent (2.5%) of all the electricity consumed by retail electric consumers, measured in megawatt hours, by January 1, 2004, three and one-quarter percent (3.25%) of all the electricity consumed by retail electric



consumers, measured in megawatt hours, by January 1, 2005, four percent (4%) of all the electricity consumed by retail electric consumers, measured in megawatt hours, by January 1, 2007, and five percent (5%) of all the electricity consumed by retail electric consumers measured in megawatt hours, by January 1, 2008.

B. Every licensed retail electric energy supplier or licensed electric distributor shall be required to purchase, if available, sufficient renewable energy from new zero-emission technologies installed in this state on or after the date of enactment or renewable energy credits established pursuant to the provisions of this section to satisfy the requirement of subsection A of this section.

C. In order to assist in carrying out the requirements of this section, after January 1, 2002, the Department of Central Services shall be directed to purchase, if available, at least ten percent (10%) of the total electricity consumed in all buildings and facilities under its management or control which are owned, used, or occupied by or on behalf of the state, including buildings owned by the Oklahoma Capitol Improvement Authority where such services are carried out by contract with the Authority, from licensed retail electric energy suppliers or licensed electric distributors, electricity generated by new zero-emission technology facilities installed in this state. In order to further support and develop new zero emission technologies in this state, the Department of Central Services shall be exempt from the competitive bidding procedures of the Oklahoma Central Purchasing Act when complying with the provisions of this section.

D. Any electric generator, licensed to do business in this state, may apply for and receive a credit from state income taxes equal to two and one-half cents (\$0.025) per kWh of electricity produced from new zero emission technologies installed in this state after the date of enactment of this act. This tax credit shall be

available for a period, not to exceed fifteen (15) years, from the date of initial production of electricity sold to retail electric consumers in this state from such facilities. Such tax credits received by a generator are transferable to any other entity that may utilize such for the offset of Oklahoma income taxes due. Such tax credits may be carried forward for a period of ten (10) years from the year in which such credits originally accrued to the electric generator as a result of such production of electricity from its renewable energy technologies located in this state.

E. No later than January 1, 2001, the Corporation Commission shall adopt rules necessary to administer and enforce this section. Such rules shall include, but are not limited to:

1. Establishment of the minimum annual requirement for every licensed retail electric energy supplier and licensed electric distributor in this state calculated to produce, on a statewide basis, compliance with the requirement of sales of electricity from new zero-emission technologies established in this section; and

2. Establishment of an appropriate method of tracking new zero-emission technologies generation and sales of electricity to retail electric consumers in this state.

F. No later than January 1, 2001, the Oklahoma Tax Commission shall promulgate rules to administer the tax related provisions of this section. Such rules shall include, but are not limited to, minimum requirements for the tax credit established by section D of this section and the methodology for transfer of such tax credit; provided, however, that such transfer shall be considered as a private transaction and as such the only documentation required for filing of an Oklahoma State tax return is an assignment of such tax credit from a party owning such credit to a party which accepts such credit.

G. Any new zero emission technology facility installed in this state on or after the date of enactment of this act that is capable

of producing electricity with a total installed capacity of at least seventy-five (75) Megawatts or higher, shall be exempt from any state, county, or local taxes for a period of ten (10) years from the issuance of a valid operating permit by the Department of Environmental Quality after the effective date of this act. The qualifying project shall also qualify for the tax exemption found in the Quality Jobs Act. In order to qualify, the Department of Environmental Quality shall verify that the project will produce no measurable emissions that impact the national ambient air quality standard for ozone established by the United States Environmental Protection Agency.

The Department of Environmental Quality shall have the authority and responsibility, in accordance with rules of the Environmental Quality Board, to implement a permitting program for the construction and operation of renewable energy technology facilities located in this state.

H. Except for those facilities constructed west of the 99th parallel, the Department of Environmental Quality (DEQ) shall require all natural gas fired steam electric generating facilities having the potential to emit one hundred (100) tons or more per year of oxides of nitrogen (NOx) which commence initial construction after the date of this act to utilize control technology capable of limiting NOx emissions to no more than nine (9) ppm by volume on a yearly average. If the Department determines that a natural gas-fired electric generating facility located west of the 99th parallel has a significant impact on ozone values within the state, such that a violation of the National Ambient Air Quality Standards for ozone may occur, the requirements of this paragraph shall apply. If a source subject to this paragraph demonstrates to the satisfaction of the Department that due to technological limitations it cannot meet the nine (9) ppm by volume on a yearly average limitation, Best Available Control Technology shall apply.

I. In the event any area of the state shall be designated nonattainment by the United States Environmental Protection Agency (EPA) for a final and enforceable national ambient air quality standard for ozone.

If it is determined that control of oxides of nitrogen (NOx) emissions from existing major stationary sources, including electric generating facilities, would be necessary to achieve attainment in the designated nonattainment area, then the DEQ shall have the authority and responsibility to implement by rule the following measures:

1. Require, in the aggregate, a reduction in the emissions of NOx from those major stationary sources affecting the nonattainment area;

2. Create an offset program requiring new major stationary sources of NOx which affect the nonattainment area to offset their emissions by effecting a greater than 1:1 reduction of NOx emissions from existing sources; and

3. Create an emissions trading program whereby credit may be given to those stationary sources affected by paragraph 1 or 2 of this subsection for emissions reductions in excess of those otherwise required by law and wherein such credits may be bought and sold on the open market. The credits may be limited to a reasonable duration.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.34 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For tax years beginning on or after December 31, 2000, there shall be allowed a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes to an electric generator granted a permit to construct, operate, and produce electricity from zero-emission facilities. As used in this section:

1. "Electricity from zero-emission facilities" means electricity that is exclusively produced from new renewable resources and such production results in no pollution or emissions that are or may be harmful to the environment, as certified by the Department of Environmental Quality; and

2. "New renewable resources" means resources that are naturally regenerated and include, but are not limited to:

- a. sun,
- b. wind,
- c. moving water,
- d. geothermal energy,
- e. landfill and mine-based methane gas, and
- f. waste and sustainable bio-mass.

B. The amount of the credit shall be two and one-half cents (\$0.025) for each kilowatt hour of electricity produced by such corporation from a new zero-emission facility located in this state during the fifteen-year period beginning on the date the facility was originally placed in service and consumed by Oklahoma retail electric consumers.

C. If the credit allowed pursuant to this section exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of the credit allowed but not used in any taxable year may be carried forward as a credit against subsequent income tax liability for a period not exceeding ten (10) years.

D. The amount of the credit allowed but not used shall be freely transferable at any time during the ten (10) years following the year of qualification. Any person to whom or to which a tax credit is transferred shall have only such rights to claim and use the credit under the terms that would have applied to the entity by whom or by which the tax credit was transferred. The provisions of this subsection shall not limit the ability of a tax credit

transferee to reduce the tax liability of the transferee regardless of the actual tax liability of the tax credit transferor for the relevant taxable period. The transferor originally allowed the credit and the subsequent transferee shall jointly file a copy of the written credit transfer agreement with the Oklahoma Tax Commission within thirty (30) days of the transfer. The written agreement shall contain the name, address and taxpayer identification number of the parties to the transfer, the amount of the credit being transferred, the year the credit was originally allowed to the transferor and the tax year or years for which the credit may be claimed. The Tax Commission may promulgate rules to permit verification of the validity and timeliness of a tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules that unduly restrict or hinder the transfers of such tax credit.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 721 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. A complaint investigation and response process to facilitate the appropriate investigation, mitigation and resolution of all questions and complaints related to implementation and enforcement of the provisions of this act shall be established by every electric generator, electric transmitter, electric distributor, retail electric energy supplier, aggregator and oversight and supervision authority. Such complaint investigation and response process shall ensure the timely handling of all questions and complaints. Any final order determining questions and complaints issued by the Corporation Commission shall be appealable to the Supreme Court. Any person adversely affected by a final determination or findings by a board of trustees, and municipalities participating in electric restructuring related to questions and complaints shall have

standing to seek appropriate relief in the district courts of this state and appeal therefrom.

B. Every complaint investigation and response process shall, at a minimum:

1. Establish and maintain a toll-free telephone number for information, complaint investigation and response to assist the public; and

2. Provide the complainant a written response and findings that includes all other procedural alternatives available to the complainant including the method to appeal its findings; provided, a copy of the written response and findings shall be filed with the Electric Consumer Information and Complaint Division.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 722 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. All retail electric consumers shall have the right to choose which retail electric energy supplier or electric distributor shall provide their electric energy. In the implementation and enforcement of this act, consumers should at a minimum be provided:

1. Protection of the right of every retail electric consumer to be connected to the distribution system subject to the applicable rates, charges and conditions of service of the electric distributor; and

2. Clear and understandable procedures related to the methods available to choose a retail electric energy supplier or electric distributor to provide electricity or generation, transmission and distribution on a bundled basis pursuant to Section 8 of this act, provided that such choice shall occur only after express authorization has been given by the retail electric consumer.

B. All retail electric consumers shall have the right to access a safe and reliable electric supply and electric system. In the

implementation and enforcement of this act, retail electric consumers should at a minimum be provided:

1. Connection, interconnection, disconnection and service termination policies, provisions and procedures that are nondiscriminatory; and

2. Nondiscriminatory access to retail transmission and distribution systems for all electricity generated by traditional energy sources, renewable energy technologies and sources utilizing technologies such as combined heat and power systems.

C. All retail electric consumers shall have the right to an efficient system to understand services and billing and to resolve service complaints and billing disputes. In the implementation and enforcement of this act, consumers should have available for their review, consumer information in written, electronic and oral formats. Consumer information available for review shall include, but is not limited to:

1. Clear and understandable bills that provide:

- a. itemized billing information,
- b. identification of all entities providing electric services selected by the retail electric consumer,
- c. historical usage information,
- d. payment information including, meter read date, methods of payment, due date, late payment charge criteria, customer inquiry toll-free telephone number and internet access information available for customer inquiry, and
- e. address of local offices;

2. Confidentiality of billing, usage, and payment records unless the retail electric consumer consents to their release in writing; provided, however, that consumer billing information may be provided in the aggregate by customer class or geographic location;



3. Information on low income and disadvantaged consumer assistance programs;

4. Information on the availability of renewable energy technology alternatives and alternatives such as combined heat and power systems; and

5. Minimum service requirements, service deposit requirements, and credit review criteria utilized to provide electricity or related services to the retail electric consumer.

D. Written notification to each retail electric consumer at least sixty (60) days before any rate, charge, or condition of service applicable to a retail electric consumer will be changed.

E. All retail electric consumers shall have the right to protection from unfair, deceptive, fraudulent, and anticompetitive practices. In the implementation and enforcement of this act, consumers should at a minimum be provided:

1. Protection from preferential treatment based on any affiliation or owner relationship;

2. Protection against retail electric consumer service disconnection in extreme weather or medical emergency; and

3. Protection against retail electric consumer service disconnection for nonpayment of unrelated services or failure to pay an obligation to a retail electric energy supplier.

F. All retail electric consumers shall have the right to unbiased and accurate information that will allow them to make informed choices and ensure protection from unauthorized access to or use of personal retail consumer information. In the implementation and enforcement of this act, consumers should at a minimum be provided:

1. Retail electric consumer contract information that discloses:

- a. the total price per kilowatt hour that includes:
- (1) electricity price,

- (2) transmission rate, and
- (3) distribution rate,
- b. duration or term of the contract,
- c. explicit language to identify the method of cancellation,
- d. retail electric consumer authorization requirements, including but not limited to, oral, electronic or written authorization procedures to consummate a contract,
- e. identification of consumer services, consumer complaint, disconnection and service termination procedures, and
- f. identification of the toll free telephone numbers, electronic and mailing addresses for questions, complaints and other inquiries or information.

G. Nothing in this section shall be construed to limit the application of any other consumer protection or deceptive practices provisions of federal or state law.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 723 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. At no time shall any person, firm, corporation, retail electric energy supplier, aggregator, marketer or any other entity engaged in the retail sale or delivery of electricity contact any residential electric consumer by telephone for the purpose of marketing or offering any electric service or other related services. Marketing or offering any electric service or related services by telephone may be allowed if the telephone conversation is initiated by the retail electric consumer; provided, however, any change in electric service or related services initiated by a contact of the retail electric consumer by telephone shall only be

completed with the express or verified authorization of the consumer.

B. No change in residential or small commercial electric service initiated by a contact of the retail electric consumer by telephone shall be completed unless the express authorization of the consumer has been obtained. Residential and small commercial consumers of electricity shall have three (3) business days to rescind any authorization given for such change of electric service.

C. No person, firm, corporation, cooperative association, municipality, or beneficial trust thereof participating in electric restructuring may place unauthorized charges on the bill of a retail residential or small commercial consumer of electricity for services or products that were not expressly authorized, received, verified or ordered by such retail consumer, or sold through or obtained by deceptive market practices.

D. Any person who intentionally violates any of the provisions of this section shall be subject to a fine of not to exceed Ten Thousand Dollars (\$10,000.00) per violation.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 724 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. An advisory panel for electric energy consumer education, to assist the Legislative Service Bureau in providing consumer education related to restructuring of the electric industry, understanding benefits and opportunities resulting from restructuring, consumer rights and protections and the availability of electricity from renewable energy technologies, is hereby created. The Electric Energy Consumer Education Advisory Panel shall be composed of eight (8) members. The chair of the Joint Electric Utility Task Force shall serve as chair of the advisory panel and the vice-chair of the Joint Electric Utility Task Force shall serve as vice-chair of the advisory panel. Two members shall

be appointed by the Governor, two members shall be appointed by the President Pro Tempore of the Senate and two members shall be appointed by the Speaker of the House of Representatives. The members who are not members of the Joint Electric Utility Task Force shall represent the interests of retail electric consumers in this state, agencies or groups, governmental or nonprofit, organized to provide services to low income, elderly, disabled or disadvantaged retail electric consumers in this state, and entities that are engaged in the retail sale or delivery of electricity in this state; provided, however, no more than two persons shall be appointed to represent any one group.

B. The members of the Electric Energy Consumer Education Advisory Panel who are not members of the Joint Electric Utility Task Force shall:

1. Be at least twenty-five (25) years of age;
2. Be a resident of this state;
3. Be a qualified elector of this state; and
4. Be knowledgeable of electricity and consumer issues.

C. Vacancies occurring on the Electric Energy Consumer Education Advisory Panel of members who are not members of the Joint Electric Utility Task Force shall be filled in the same manner as the original appointment.

D. It shall be the duty of the advisory panel to develop a plan to implement the requirements of this section and oversee the entity selected to perform the consumer education process, including any public information and advertising activities. Such plan shall include a competitive bidding process as required by state law.

E. Monies dedicated to the consumer education process required by this section shall be derived from the portion of funds within the Electric Consumer Education, Complaint and Assistance Revolving Fund allocated to consumer education pursuant to the provisions of this act. Staffing assistance for the advisory panel shall be

provided by the staff of the State Senate and the House of Representatives. The Legislative Service Bureau shall be authorized to employ additional staff or consultants necessary to manage and implement the consumer education requirements of this act with the approval of the President Pro Tempore of the Senate and the Speaker of the House of Representatives prior to the finalization of any employment contract. Funds necessary for staff and consultant assistance shall be made available from the Electric Consumer Education, Complaint and Assistance Revolving Fund.

F. The initial meeting of the advisory panel shall be no later than March 1, 2001. The panel may determine a regular meeting schedule; provided, however, the chair is authorized to call a special meeting of the advisory panel at any time.

G. No member of the Electric Energy Consumer Education Advisory Panel shall receive a salary for duties performed as a member of the advisory panel; however, members are eligible to receive reimbursement for expenses and travel reimbursement pursuant to the State Travel Reimbursement Act. Legislative members of the task force shall receive reimbursement for necessary travel expenses pursuant to Section 456 of Title 74 of the Oklahoma Statutes.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 725 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Electric Consumer Information and Complaint Division of the Corporation Commission that shall:

1. Establish and maintain a statewide retail electric consumer complaint, inquiry and referral system designed to assist all retail electric consumers in the prompt referral of complaints and inquiries to the appropriate entity and assist in the timely resolution of all complaints and inquiries;

2. Provide a single point of contact for all retail electric consumers to initiate complaints or inquiries relating to or

concerning electric issues governed by the provisions of this act by providing a toll-free telephone information and complaint service, an internet information and complaint service and mechanisms for the dissemination of printed materials to all retail electric consumers;

3. Maintain a referral procedure for questions, inquiries, complaints and other communications that promptly refers such questions, inquiries, complaints or other communications to licensees, registrants and oversight and supervision authorities that results in the timely resolution of such referrals by the licensee, registrant or oversight and supervision authority in this state;

4. Establish and maintain an information repository and reference system designed to assist retail electric consumers in understanding the rules and other information related to complying with and benefiting from the restructuring of the electric industry in this state;

5. Maintain a central repository for copies of all current provisions of the Oklahoma Electric Restructuring Implementation Act, the Oklahoma Electric Code, and all permanent rules to implement the provisions of this act; and

6. Periodically provide copies of all current provisions of the Oklahoma Electric Restructuring Implementation Act, the Oklahoma Electric Code, and all permanent rules that have been adopted to implement the provisions of this act to the county clerk of each county in this state.

B. Notwithstanding the provisions of subsection A of this section, the Corporation Commission shall continue to utilize its existing customer complaint process for the purposes of resolution of complaints of any entity subject to its oversight and supervision. Questions, inquiries, complaints or other communications received by the Electric Consumer Information and Complaint Division relating to any entity subject to its oversight

and supervision shall be promptly referred to the appropriate area within the Commission for resolution.

SECTION 23. AMENDATORY 18 O.S. 1991, Section 437, is amended to read as follows:

Section 437. This act may be cited as the "~~Rural~~ Electric Cooperative Act".

SECTION 24. AMENDATORY 18 O.S. 1991, Section 437.1, is amended to read as follows:

Section 437.1 Cooperative, nonprofit, membership corporations may be organized under this act for the purpose of generating, transmitting, distributing, supplying ~~electric energy and,~~ promoting and extending the use ~~thereof in rural areas~~ of electricity. Corporations organized under this act and corporations which become subject to this act in the manner hereinafter provided are hereinafter referred to as "cooperatives".

SECTION 25. AMENDATORY 18 O.S. 1991, Section 437.2, is amended to read as follows:

Section 437.2 A cooperative shall have power:

~~(a)~~ 1. To sue and be sued in its corporate name;

~~(b)~~ 2. To have a perpetual existence unless a limited period of duration is stated in its charter;

~~(c)~~ 3. To adopt a corporate seal and alter the same at pleasure;

~~(d)~~ 4. To generate, manufacture, purchase, acquire, accumulate ~~and or~~ transmit electric energy, and to distribute, sell, supply ~~and or~~ dispose of electric energy ~~in rural areas~~ to its members, to governmental agencies and political subdivisions, and to other persons ~~not in excess of ten percent (10%) of the number of its members;~~

~~(e)~~ 5. To make loans to persons to whom electric energy ~~is~~ or distribution services are or will be supplied by the cooperative for the purpose of, and otherwise to assist such persons in wiring their

premises and installing therein electric and plumbing fixtures, appliances, apparatus and equipment of any and all kinds of character, and to accept and otherwise acquire, and to sell, assign, transfer, endorse, pledge, hypothecate and otherwise dispose of notes, bonds, and other evidences of indebtedness and any and all types of security therefor;

~~(f)~~ 6. To make loans to persons to whom electric energy ~~is~~ or distribution services are or will be supplied by the cooperative for the purpose of, and otherwise to assist such persons in constructing, maintaining and operating electric refrigeration plants;

~~(g)~~ 7. To become a member in one or more other cooperatives or corporations or to own stock therein;

~~(h)~~ 8. To construct, purchase, take, receive, lease as lessee, or otherwise acquire, and to own, hold, use, equip, maintain, and operate and to sell, assign, transfer, convey, exchange, lease as lessor, mortgage, pledge, or otherwise dispose of or encumber, electric transmission and distribution lines or systems, electric generating plants, electric refrigeration plants, lands, buildings, structures, dams, plants, and equipment, and any and all kinds of classes of real or personal property whatsoever, which shall be deemed necessary, convenient or appropriate to accomplish the purpose for which the cooperative is organized; provided, that any and all such electric construction and maintenance shall conform to the requirements and regulations of the National Electric Safety Code;

~~(i)~~ 9. To purchase or otherwise acquire, and to own, hold, use and exercise and to sell, assign, transfer, convey, mortgage, pledge, hypothecate, or otherwise dispose of or encumber, franchises, rights, privileges, licenses, rights-of-way and easements;



~~(j)~~ 10. To borrow money and otherwise contract indebtedness therefor and to secure the payment thereof by mortgage, pledge, deed or trust, or any other encumbrance upon any or all of its then owned or after acquired real or personal property, assets, franchises, revenues or income;

~~(k)~~ 11. To construct, maintain and operate electric transmission and distribution lines along, upon, under and across all public thoroughfares, including without limitation, all roads, highways, streets, alleys and bridges, and upon, under and across all publicly owned lands, subject, however, to the requirements in respect of the use of such thoroughfares and lands that are imposed by the respective authorities having jurisdiction thereof upon Corporations, constructing or operating electric transmission and distribution lines or systems; provided that in case an area has been or shall be included, as a result of incorporation, annexation, population growth, or otherwise, within the boundaries of a city, town or village, a cooperative which was furnishing electric energy, or was constructing or operating electric facilities, in such area, prior to such inclusion, shall be entitled to construct, maintain and operate electric transmission and distribution lines and related facilities along, upon, under and across all existing and future public thoroughfares, and to continue and extend the furnishing of electric energy or the construction and operation of electric facilities in such area without obtaining the consent, franchise, license, permit or other authority of such city, town or village, subject, however, to compliance with the lawful safety requirements of such city, town or village as to the manner of constructing and maintaining facilities on such thoroughfares, and subject to payment of taxes of such city, town or village that may be levied and assessed as provided in Section 1201 of Title 68 of the Oklahoma Statutes; ~~and provided further that if such city, town or village in which an area has been or shall be included, as aforesaid, owns~~

~~and operates a system for the furnishing of electric energy to its inhabitants, the cooperative furnishing electric energy in such area shall transfer to such city, town or village, upon its request, the cooperative's electric distribution facilities used in furnishing electric energy in said area, other than facilities used in furnishing electric energy for resale or to premises of the cooperative, subject, however, to the following requirement: The city, town or village shall pay to the cooperative an amount to compensate the cooperative for the fair value of the cooperative facilities to be acquired by the city, town or village. If such cooperative and city, town or village cannot agree upon the amount to be paid to the cooperative, the city, town or village is authorized to file a proceeding in the District Court of the county in which such city, town or village, or any part thereof, is located, for the acquisition of the cooperative electric distribution facilities used in furnishing electric energy in said area, other than facilities used in furnishing electric energy for resale or to premises of the cooperative, and the procedure followed and the method of ascertaining just compensation to be paid the cooperative will be provided in Article 2, Section 24, of the Oklahoma Constitution and Sections 53 to 58, inclusive, of Title 66 of the Oklahoma Statutes. The provisions of Section 22-104 of Title 11 of the Oklahoma Statutes notwithstanding, no municipal corporation or beneficial trust thereof shall have the authority to exercise the right of eminent domain so as to condemn the facilities of any electric cooperative for the purpose of utilizing such facilities for the delivery of electricity;~~

~~(l)~~ 12. To conduct its business and exercise any or all of its powers within this state;

~~(m)~~ 13. To adopt, amend and repeal bylaws; and

~~(n)~~ 14. To do and perform any and other acts and things, and to have and exercise any and all other powers which may be necessary,

convenient or appropriate to accomplish the purpose for which the cooperative is organized; and

~~(e)~~ 15. To have and exercise the right of eminent domain in the same manner and by like proceedings as provided for railroad corporations under the laws of this state. No funds shall be lent by any privately owned electric utility or person connected, either directly or indirectly, to such a cooperative. Any such loan when made shall be void and uncollectable in any court of the State of Oklahoma.

SECTION 26. AMENDATORY 18 O.S. 1991, Section 437.7, is amended to read as follows:

Section 437.7 ~~(a)~~ 1. No person who is not an incorporator shall become a member of a cooperative unless such person shall agree to use electric energy or distribution services as may be furnished by the cooperative when such electric energy or distribution services shall be available through its facilities, except any person not connected to a cooperative electric distribution facility may become a member by acquiring electricity or other related electric services from the cooperative. The bylaws of a cooperative may provide that any person, including a corporation, shall cease to be a member thereof if ~~he shall fail or refuse~~ such person fails or refuses to use electric energy or distribution services or such other services as may be made available by the cooperative or if electric energy ~~shall or~~ distribution services are not ~~be~~ made available to such person by the cooperative within a specified time after such person shall have become a member thereof. Membership in the cooperative shall not be transferable, except as provided in the bylaws. The bylaws may prescribe additional qualifications, classes of members, including voting rights for such classes of members, and limitations in respect to membership.

~~(b)~~ 2. An annual meeting of the members shall be held at such time as shall be provided in the bylaws.

~~(e)~~ 3. Special meetings of the members may be called by the board of trustees, by any three trustees, by not less than ten percent (10%) of the members, or by the president.

~~(d)~~ 4. Meetings of members shall be held at such place as may be provided in the bylaws. In the absence of any such provision, all meetings shall be held in the city or town in which the principal office of the cooperative is located.

~~(e)~~ 5. Except as hereinafter otherwise provided, written or printed notice stating the time and place of each meeting of members and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given to each member, either personally or by mail, not less than ten (10) nor more than twenty-five (25) days before the date of the meeting.

~~(f)~~ 6. Five percent (5%) of all members, present in person, shall constitute a quorum for the transaction of business at all meetings of the members, unless the bylaws prescribe the presence of a greater percentage of the members for a quorum. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice.

~~(g)~~ 7. ~~Each~~ Except as otherwise may be provided by the bylaws, each member shall be entitled to one vote on each matter submitted to a vote at a meeting. Voting shall be in person, but, if the bylaws so provide, may also be by proxy or by mail, or both. If the bylaws provide for voting by proxy or by mail, they shall also prescribe the conditions under which proxy or mail voting shall be exercised. In any event, no person shall vote a proxy for more than three members at any meeting of the members.

SECTION 27. AMENDATORY 18 O.S. 1991, Section 437.9, is amended to read as follows:

Section 437.9 Notwithstanding any other provision of this act, the bylaws may provide that the territory in which a cooperative supplies electric energy or distribution services or other related

services to its members shall be divided into two or more voting districts and that, in respect of each such voting district, (1) a designated number of trustees shall be elected by the members residing therein, or (2) a designated number of delegates shall be elected by such members, or (3) both such trustees and delegates shall be elected by such members. In any such case the bylaws shall prescribe the manner in which such voting districts and the members thereof, and the delegates and trustees, if any, elected therefrom shall function and the powers of the delegates, which may include the power to elect trustees. No members at any voting district meeting and no delegate at any meeting shall vote by proxy or by mail.

SECTION 28. AMENDATORY 18 O.S. 1991, Section 437.23, is amended to read as follows:

Section 437.23 Any corporation organized on a nonprofit or a cooperative basis for the purpose of supplying electric energy ~~in rural areas~~ or distribution services and owning and operating electric transmission or distribution lines in a state adjacent to this state may file in the office of the Secretary of State a certified copy of its charter or articles of incorporation, which shall be recorded in a book to be kept by the Secretary of State for that purpose, and thereupon, upon payment of the fees required of a cooperative for the filing of articles of incorporation, and the appointment of a service agent as provided by law, such foreign corporation shall be authorized to transact business in this state and shall have all the rights, powers and privileges conferred upon a cooperative under this act.

SECTION 29. AMENDATORY 18 O.S. 1991, Section 437.25, is amended to read as follows:

Section 437.25 Each cooperative and each foreign corporation transacting business in this state pursuant to this act shall pay annually, on or before ~~the thirty-first day of August~~ 31, to the Oklahoma Tax Commission, a fee of One Dollar (\$1.00) for each one

hundred persons or fraction thereof to whom electricity is supplied within the state by it, as of June ~~thirtieth~~ 30 preceding, but shall be exempt from all other excise and income taxes ~~whatsoever~~, except the appropriate taxes under the provisions of the Oklahoma Electric Energy Tax Code, and the collection and remittance from its consumers of the appropriate taxes under the provisions of the Oklahoma Sales Tax Code.

SECTION 30. AMENDATORY 18 O.S. 1991, Section 437.28, is amended to read as follows:

Section 437.28 In this act, unless the context otherwise requires~~;~~:

~~(a) "Rural area" means any area not included within the boundaries of any incorporated or unincorporated city, town or village, having a population in excess of one thousand five hundred (1,500) persons, and any area included within the boundaries of any such city, town or village as a result of incorporation, annexation, population growth, or otherwise, in which area a cooperative commenced or commences the construction or operation of electric facilities or the furnishing of electric energy prior to such incorporation, annexation or population growth.~~

~~(b) 1.~~ "Person" includes any natural person, firm, association, corporation, business trust, partnership, federal agency, state or political subdivision or agency thereof, or any body politic; and

~~(c) 2.~~ "Member" means each incorporator of a cooperative and each person admitted to and retaining membership therein, and shall include a husband and wife admitted to joint membership.

SECTION 31. AMENDATORY 17 O.S. 1991, Section 151, is amended to read as follows:

Section 151. The term "public utility" as used in ~~Sections~~ Section 151 through 155 et seq. of this title, shall ~~be taken to~~ mean ~~and include~~ every corporation, association, company, individuals, their trustees, lessees, or receivers, successors or

assigns, except as hereinafter provided, and except cities, towns, or other bodies politic, that now or hereafter may own, operate, or manage any plant or equipment, or any part thereof, directly or indirectly, for public use, or may supply any commodity to be furnished to the public.

~~(a)~~ 1. For the conveyance of gas by pipeline.

~~(b)~~ 2. For the production, transmission, delivery or furnishing of heat or light with gas.

~~(c)~~ 3. For the ~~production,~~ transmission, delivery or furnishing of electric current for light, heat or power; provided, however, that no electric generating facility shall be included within the meaning of this term.

~~(d)~~ 4. For the transportation, delivery or furnishing of water for domestic purposes or for power. Provided further that a corporation organized and existing not for profit pursuant to Section 863 of Title 18 of the Oklahoma Statutes, Sections 851-863, but for the purpose of developing and providing rural water supply and sewage disposal facilities to serve rural residents shall not be declared a public utility under this act, and shall be exempt in any and all respects from the jurisdiction and control of the Corporation Commission of this state.

The term "Commission" shall ~~be taken to~~ mean the Corporation Commission ~~of Oklahoma.~~

~~Provided, that, in Washington County, where any corporation, association, company, individuals, their trustees, lessees, or receivers, successors or assigns, is engaged in the private business of manufacturing any products other than those hereinbefore defined, and in the manufacture of such products operate and maintain private electric or water plants for its own power and electric energy or water used in its manufacturing plant, without the right of eminent domain and without the use of streets, highways or public property, it may contract upon terms and prices approved by Corporation~~

~~Commission the sale of a bona fide surplus of electrical energy or water developed in such private plants to any public utility engaged in manufacturing and distributing electrical energy in Washington County, Oklahoma, without becoming a public utility. Provided further any~~ Any city or town within a county having a population of over five hundred thousand (500,000) or any county having a population of over five hundred thousand (500,000), according to the 1970 Federal Census, which is a beneficiary of a public trust that has multiple beneficiaries and that includes within any or all of its boundaries a water supply ~~and/or~~ distribution system, or any portion thereof, shall have the authority to condemn all or any portion of any water supply ~~and/or~~ distribution system owned ~~and/or~~ operated ~~and/or~~ leased by a public trust within the limits of the condemning city or town or within the unincorporated areas of the condemning county; provided the power granted hereunder shall not be exercised until the condemning city, town or county shall have made provision to pay off all outstanding bonded indebtedness incurred by the public trust, including interest on the bonds to maturity of the bonds, or first call date, and premium, if any, to which the property to be condemned or the revenues therefrom has been pledged for security.

SECTION 32. AMENDATORY 17 O.S. 1991, Section 152, as last amended by Section 6, Chapter 315, O.S.L. 1994 (17 O.S. Supp. 1999, Section 152), is amended to read as follows:

Section 152. A. The Corporation Commission shall have general supervision over all public utilities, with power to fix and establish rates and to prescribe and promulgate rules, requirements and regulations, affecting their services, operation, and the management and conduct of their business; shall inquire into the management of the business thereof, and the method in which same is conducted.



B. 1. When any public utility subject to general supervision pursuant to this section ~~or to Section 158.27 of this title~~ shall file with the Commission a request for review of its rates and charges, such request shall be given immediate attention.

2. In the exercise of this responsibility, the Commission shall complete any examination of such request for a review of its rates and charges within one hundred twenty (120) days from the date such application for review of its rates and charges is filed.

3. Public hearings on such matter must commence within forty-five (45) days of the end of such examination to be conducted by the Commission and in no event shall the conclusion of such examination of the rates and charges and the hearing conducted by the Commission exceed one hundred eighty (180) days from the date the request was filed.

4. If such request for review of the applicant's rates and charges has not been completed and an order issued within one hundred eighty (180) days from the date of filing of such application, some or all of the request for changes in the rates, charges, and regulations made in such application shall be immediately placed into effect and collected through new tariffs on an interim basis at the discretion of the applicant.

5. Should the Commission determine upon the completion of its examination and public hearings that a refund regarding the amount of interim relief is appropriate and necessary, the Commission shall order such refund including reasonable interest at the one-year U.S. Treasury bill rate accruing on that portion of the rate increase to be refunded for a period not to exceed ninety (90) days from the effective date of the rate increase which is being refunded.

C. The Commission shall have full visitorial and inquisitorial power to examine such public utilities, and keep informed as to their general conditions, their capitalization, rates, plants, equipment, apparatus, and other property owned, leased, controlled

or operated, the value of same, the management, conduct, operation, practices and services; not only with respect to the adequacy, security and accommodation afforded by their service, but also with respect to their compliance with the provisions of this act, and with the Constitution and laws of this state, and with the orders of the Commission.

SECTION 33. AMENDATORY 17 O.S. 1991, Section 158.25, is amended to read as follows:

Section 158.25 A. Except as otherwise provided herein, each retail electric supplier shall have the exclusive right to furnish retail electric distribution service to all electric-consuming facilities located within its certified territory, and shall not furnish, make available, render or extend its retail electric distribution service to a consumer for use in electric-consuming facilities located within the certified territory of another retail electric supplier; provided that any retail electric supplier may extend its facilities through the certified territory of another retail electric supplier, if such extension is necessary for such supplier to connect any of its facilities or to serve its consumers within its own certified territory. The Grand River Dam Authority shall exclusively provide distribution service within its distribution territory shown on a map or maps to be filed with the Corporation Commission within 90 days after the enactment of the Oklahoma Electric Restructuring Implementation Act. Such territory shall be composed of the Mid-America Industrial Park, and limited areas adjacent to that facility, located in Mayes County.

B. Except as provided in ~~Section 5~~ subsection C and ~~Section 5~~ subsection E of this section, any new electric-consuming facility located in an unincorporated area which has not as yet been included in a map issued by the Commission, pursuant to subsection C of Section 4C(1) 158.24 of this title, or certified, pursuant to ~~Section 4~~ subsection D of Section 158.24 of this title, shall be

furnished retail electric distribution service by the retail electric supplier which has an existing distribution line in closer proximity to such electric-consuming facility than is the nearest existing distribution line of any other retail electric supplier. Any disputes under this ~~Section 5-B~~ subsection shall be resolved by the Commission.

C. If the Commission, after hearing, shall determine that the retail electric distribution service being furnished or proposed to be furnished by a retail electric supplier to an electric-consuming facility is inadequate and is not likely to be made adequate, the Commission may authorize another retail electric supplier to furnish retail electric distribution service to such facility.

D. Except as provided in ~~Section 5~~ subsection C of this section, no retail electric supplier shall furnish, make available, render or extend retail electric distribution service to any electric-consuming facility to which such service is being lawfully furnished by another retail electric supplier on the effective date of this act, or to which retail electric distribution service is lawfully commenced thereafter in accordance with this section by another ~~retail electric supplier~~ distribution company.

E. The provisions of this act shall not preclude any retail electric supplier from extending its service after the effective date of this act ~~(1) to its own property and facilities, in an unincorporated area, and (2) subject to Section 5 D, to an electric-consuming facility requiring electric service, in an unincorporated area, if the connected load for initial full operation of such electric-consuming facility is to be 1,000 kw or larger.~~

SECTION 34. AMENDATORY 17 O.S. 1991, Section 158.27, as last amended by Section 1, Chapter 231, O.S.L. 1993 (17 O.S. Supp. 1999, Section 158.27), is amended to read as follows:

Section 158.27 A. The Commission shall have general supervision over all associations or cooperative corporations as defined herein with power to fix and establish rates and to prescribe rules affecting their services, operation, and the management and conduct of their business. It shall have full visitorial and inquisitorial power to examine such associations or cooperative corporations and keep informed as to their general conditions, their capitalization, rates, plants, equipments, apparatus, and other property owned, leased, controlled or operated, the value of same, the management, conduct, operation, practices and services; not only with respect to the adequacy, security and accommodation afforded by their service, but also with respect to their compliance with the provisions of the Retail Electric Supplier Certified Territory Act, and with the Constitution and laws of this state, and with the orders of the Commission. The provisions of this section shall not be applicable to generation and transmission associations or cooperative corporations, or transmission associations or cooperative corporations.

B. 1. An association or cooperative corporation shall be subject to rate investigations by the Commission pursuant to subsection A of this section unless a proposed increase in rates and charges does not exceed three percent (3%) based on the previous twelve (12) months revenue generated by the existing rates; provided however, that such association or cooperative corporation shall be subject to subsection A of this section if:

- a. the association or cooperative corporation elects, by action of its board of trustees, to be subject to rate investigation by the Commission,
- b. the percentage of members, that according to bylaws constitute a quorum not to exceed five percent (5%) of the membership for that particular association or cooperative have signed a petition requesting rate

investigation pursuant to ~~paragraphs~~ paragraph 3 or 4 of this subsection, or

- c. the Commission declares that the association or cooperative corporation shall be subject to rate investigations by the Commission pursuant to paragraph 6 of this subsection.

2. Each such association or cooperative corporation not subject to rate investigation, at least ninety (90) days before the effective date of any proposed rate increase, shall notify the Commission and each of its member-consumers of the proposed rate increase. Notice to the Commission shall include a verified statement showing the then total number of member-consumers of the association or cooperative corporation.

Notice by the association or cooperative corporation to its member-consumers shall:

- a. be in a form prescribed by this section,
- b. be by regular mail and may be included in regular member-consumer billings, and
- c. include a schedule of the proposed rate schedules, the effective date of the proposed rate increase and the procedure necessary for the member-consumers to petition the Commission to examine and determine the reasonableness of the proposed rate increase.

3. The member-consumers of an association or a cooperative corporation may petition the Commission to examine and determine the reasonableness of the rates and charges proposed by the association or cooperative corporation pursuant to subparagraph b of paragraph 1 of this subsection. The form of such a petition shall be substantially in compliance with subsection C of this section. A petition substantially in compliance with such form shall not be deemed invalid due to minor errors in its form.

4. If, by the effective date of this proposed increase in rates and charges, the Commission has received petitions from less than the number of member-consumers as set out in subparagraph b of paragraph 1 of this subsection, requesting that the Commission examine the proposed increase in rates and charges, the Commission shall immediately certify such fact to the association or cooperative corporation. If, on or before the effective date of the proposed increase in rates and charges, the Commission has received petitions from the number of member-consumers as set out in subparagraph b of paragraph 1 of this subsection or more, the Commission shall notify the association or cooperative corporation that it will examine and determine the reasonableness of the proposed increase in rates and charges. Rates and charges established by the Commission or by an association or a cooperative corporation pursuant to this section shall be in force for not less than one (1) year and no further increases in rates and charges shall be permitted during said one-year period.

5. No cooperative corporation or association shall have the right to receive more than one rate increase per year for any reason or under any procedures.

6. In addition to the procedure for petition prior to any proposed increase in rates and charges pursuant to paragraphs 1 through 4 of this subsection, the member-consumers of an association or cooperative corporation may at any time petition the Commission to declare the association or cooperative corporation be subject to full scale rate investigation. If the Commission determines that a majority of the member-consumers of an association or a cooperative corporation have properly petitioned that the association or cooperative corporation be subject to full scale rate regulations, the Commission shall certify such fact to the association or cooperative corporation and thereafter the association or cooperative corporation shall be subject to full scale rate

investigation by the Commission until at least a majority of the member-consumers of the association or cooperative corporation properly petition that the association or cooperative corporation shall no longer be subject to such full scale rate investigations by the Commission. The form of such a petition shall substantially comply with subsection C of this section.

A petition substantially in compliance with the form pursuant to subsection C of this section shall not be deemed invalid due to minor errors in its form.

7. Paragraphs 1 through 6 of this subsection apply only to the rates and charges and shall have no effect on the Commission's jurisdiction over the associations or cooperative corporations or the rules and regulations governing the operations of electric utilities.

8. Each association or cooperative corporation, when determining how rates and charges, established under paragraph 2 of this subsection, are to be allocated to the different rate classes, shall apportion such rates and charges in a manner which reflects, as closely as practicable, the costs of providing service to that class.

9. In no event, and under no circumstances, shall the procedures herein provided be utilized for the purpose of establishing special competitive rates in any area in which a cooperative corporation is in direct competition with another regulated retail electric supplier.

C. 1. A petition requesting the Commission to examine and determine the reasonableness of a proposed increase in rates and charges shall be in substantially the following form:

a. Form:

The petition shall be headed by a caption, which shall contain (1) the heading, "Before the Corporation Commission of the State of Oklahoma"; (2) the name of

the association or cooperative corporation seeking an increase in rates and charges; (3) the relief sought.

b. Body:

The body of the petition shall consist of four numbered paragraphs, if applicable, as follows:

(1) Allegations of Facts: The allegations of facts stated in the form of ultimate facts, without unnecessary detail, upon which the right to relief is based. The allegations will be stated in numbered subparagraphs as necessary for clarity,

(2) Legal Authority: Retail Electric Supplier Certified Territory Act,

(3) Relief Sought: A brief statement of the amount of the increase in rates and charges that is objected to or other relief sought, and

(4) Petitioners: The name, address, telephone number and signature of each member-consumer.

2. A petition requesting rate regulation of an association or cooperative corporation shall be in substantially the following form:

a. Form:

The petition shall be headed by a caption, which shall contain (1) the heading, "Before the Corporation Commission of the State of Oklahoma"; (2) the name of the association or cooperative corporation seeking an increase in rates and charges; (3) the relief sought.

b. Body:

The body of the petition shall consist of four numbered paragraphs, if applicable, as follows:

(1) Allegations of Facts: The allegations of facts stated in the form of ultimate facts, without unnecessary detail, upon which the right to relief is



based. The allegations will be stated in numbered subparagraphs as necessary for clarity,

(2) Legal Authority: Retail Electric Supplier Certified Territory Act, Sections 158.21 through 158.32 of ~~Title 17 of the Oklahoma Statutes~~ this title,

(3) Relief Sought: A brief statement of the reason the petitioners seek the Commission to regulate the rates and charges of the association or cooperative corporation or other relief sought, and

(4) Petitioners: The name, address, telephone number and signature of each member-consumer.

3. Petitions may only be signed by the member-consumer of the association or cooperative corporation.

D. Upon proceedings brought by an interested person or by action of the Commission, the Commission shall have the jurisdiction to enforce compliance with the Retail Electric Supplier Certified Territory Act, and shall have jurisdiction to prohibit furnishing retail electric distribution service by any retail electric ~~supplier~~ distribution company except in its certified territory or territories, or where lawfully serving, and in connection with such enforcement and prohibition to exercise all powers herein or otherwise granted to the Commission.

E. 1. ~~Rural electric~~ Electric cooperatives, which are owned by the member-consumers they serve, are regulated by the member-consumers themselves acting through an elected governing board. It is declared that the regulation by the Commission under this section may be duplicative of the self-regulation by the rural electric cooperative and may be neither necessary nor cost-effective. It is therefore the purpose of this subsection to determine the necessity of regulation ~~of rates and charges~~ by the Commission by allowing the member-consumers of ~~a rural~~ an electric cooperative to exempt

themselves from regulation by the Commission except as provided herein.

2. Except as otherwise provided in paragraphs 4, 5, 6 and 7 of this subsection, ~~the provisions of this section~~ regulation by the Commission shall not apply to rural electric cooperatives ~~with less than seventeen thousand (17,000) meters~~ which comply with paragraph 3 of this subsection.

3. To be exempt, under paragraph 2 of this subsection, from all Commission regulation, except as provided for in this section, a cooperative shall poll its members as follows:

- a. an election under this subsection may be called by the Board of Trustees or shall be called not less than one hundred eighty (180) days after receipt of a valid petition signed by not less than five percent (5%) of the members of the cooperative,
- b. the proposition for deregulation shall be presented to a meeting of the members, the notice of which shall set forth the proposition for deregulation and the time and place of the meeting. Notice to the members shall be written and delivered not less than twenty-one (21) nor more than forty-five (45) days before the date of the meeting,
- c. if the cooperative mails information to its members regarding the proposition for deregulation other than notice of the election and the ballot, the cooperative shall also include in such mailing any information in opposition to the proposition that is submitted by petition signed by not less than one percent (1%) of the cooperative's members,
- d. if the proposition for deregulation is approved by the affirmative vote of not less than a majority of the members voting on the proposition, the cooperative

shall notify the state Corporation Commission in writing of the results within ten (10) days after the date of the election, and

- e. voting on the proposition for deregulation shall be by mail ballot, provided, members attending the meeting provided for in subparagraph b of this paragraph ~~3~~ of ~~this subsection~~ may execute and deliver their ballot to the cooperative during or at the conclusion of said meeting.

4. In the event the member-consumers have voted, pursuant to paragraph 3 of this subsection, to exempt themselves from regulation by the Commission, any such cooperative may vote no more than once every twelve (12) months to place said cooperative under the regulation of the Commission, as provided in this section. Said question shall be submitted to the member-consumers of the ~~rural~~ electric cooperative if at least five percent (5%) of the members of the cooperative sign a petition requesting such an election. Such petition shall be submitted to the membership in the same manner as provided for in paragraph 3 of this subsection.

5. Each ~~rural~~ electric cooperative which has voted to exempt itself from Commission regulation ~~under this section~~, when determining how rates and charges established after such exemption are to be allocated to the different rate classes, shall apportion such rates and charges in a manner which reflects, as closely as practicable, the costs of providing service to that class. Each cooperative which has exempted itself from Commission regulation ~~under this section~~ shall file and maintain a copy of all current rates and charges with the ~~Oklahoma~~ Corporation Commission.

6. In no event, and under no circumstances, shall rates and charges established hereunder be utilized for the purpose of establishing special competitive rates in any area in which a

cooperative is in direct competition with another regulated retail utility supplier.

7. Notwithstanding the provisions of this section, the Commission shall retain jurisdiction over all cooperatives who have voted to exempt themselves from Commission regulation ~~under this section:~~

- a. for all purposes relating to certified territories established under the Retail Electric Supplier Certified Territory Act, ~~and~~
- b. for proceedings brought by a regulated utility relating to alleged discriminatory or anti-competitive rates established by an exempt cooperative, or relating to actions to acquire existing ~~customers~~ consumers of a regulated utility using such rates, and
- c. for all purposes related to this section, the provisions of this act.

SECTION 35. AMENDATORY 17 O.S. 1991, Section 160.1, as last amended by Section 4, Chapter 328, O.S.L. 1995 (17 O.S. Supp. 1999, Section 160.1), is amended to read as follows:

Section 160.1 A. The Corporation Commission shall have ratemaking authority and general jurisdiction over all supply systems of natural gas, steam heat and steam, except for steam used in the generation of electricity, serving the general public notwithstanding operation thereof by a trust, authority, cooperative and subsidiary created for the benefit or furtherance of a public function pursuant to a trust or public trust, unless the ~~said~~ body operating ~~said~~ the system has financing or is in the process of financing the acquisition, improvement or extension of the ~~said~~ system with a loan from the United States of America and is a nonprofit trust.

B. The Corporation Commission shall also have general supervision over any person or entity to whom the function of

operating a natural gas, steam heat or steam supply system, except steam used in the generation of electricity, has been delegated by such a trust, authority, cooperative or subsidiary. Provided, nothing herein shall be construed to apply to a public trust whose ~~Board of Trustees~~ board of trustees is composed of elected officials or is elected by the customers or a majority of which is composed of members selected by the governing bodies of municipalities in which the public trust operates, or members which it serves, and which ~~Board of Trustees~~ board of trustees has the authority to establish and regulate its own rates.

C. The Corporation Commission shall have ratemaking authority and general jurisdiction over all supply systems of steam, except steam used in the generation of electricity, and chilled water serving any portion of any municipality if such system serves more than fifty ~~(50)~~ off-site commercial customers within such municipality.

D. The Corporation Commission shall have the power to fix and establish rates and to prescribe rules, requirements and regulations affecting their services, operation and the management and conduct of the business of persons and entities subject to this act, Section 160.1 et seq. of this title, and shall inquire into the management of the business thereof, and the method in which same is conducted. It shall have full visitorial and inquisitorial power to examine such operations, and keep informed as to their general conditions, their capitalization, rates, plants, equipment, apparatus and other property owned, leased, controlled or operated, the value of same, the management, conduct, operation, practices and services, not only with respect to the adequacy, security and accommodation afforded by their service, but also with respect to their compliance with the Constitution and laws of this state, and with the orders of the Commission.

E. The ratemaking authority and general jurisdiction of the Corporation Commission, created under this act, shall be subject to the following exceptions:

~~1.~~ The Corporation Commission shall not have ratemaking authority or general jurisdiction over:

~~a. steam~~ 1. Steam supply systems operated by public trusts which supply steam to customers presently served by or located within the mid-America industrial district, ~~or~~

~~b. an~~ 2. An institution of higher education, or related entities, now operating such steam and chilled water facilities not for profit; ~~and~~

~~2. The Commission shall not have authority to:~~

~~a. compel an electric public utility to make inspections of consumer-owned facilities, or~~

~~b. compel an electric public utility to provide electric utility service wherein the electric public utility believes such service is likely to endanger the public health and safety or the health and safety of employees of the electric public utility.~~

SECTION 36. AMENDATORY 17 O.S. 1991, Section 180.1, is amended to read as follows:

Section 180.1 A. Advertising expenses shall not be included by a public utility in its operating expenses for ratemaking purposes.

B. For purposes of subsection A of this section:

1. "Advertising" means:

a. the commercial use by a public utility of any media including, but not limited to, newspaper, magazine, radio and television to transmit a message to the public or to such public utility's customers, or

b. the commercial use by a public utility of any printed material to transmit a message to a substantial number

of members of the public or to a substantial number of the public utility's customers;

2. "Advertising" shall not mean:

- a. periodic publications or reports required by the bylaws of any public utility ~~or electric cooperative,~~
- b. any communication with customers and the public which is strictly limited to energy conservation and education,
- c. any communication with customers and the public which provides telephone customers with instruction in the use of new, changed or improved features of their telephone service, or information about time periods or other conditions under which long distance calls may be made at reduced rates, or information which promotes the efficient use of the telephone network; provided that if the cost of providing such information is to be treated as an operating expense by the public utility, it shall be clearly marked or identified to indicate the identity of the public utility and the fact that the cost is paid for by the ratepayers of the public utility,
- d. any communication with customers and the public for giving of information or notice required by law or otherwise necessary to warn of dangerous or hazardous conditions,
- e. routine classified telephone listings for the convenience of customers,
- f. informational inserts in customers' bills,
- g. any communication with customers and the public which informs existing and potential customers of the availability and conservation features of energy-efficient appliances and equipment,

- h. any communication with customers and the public which relates to industrial development, and
- i. any communication with customers and the public which is in furtherance of conservation or load management programs approved by the Corporation Commission;

3. "Public utility" means any individual, firm, association, partnership, corporation or any combination thereof, other than a municipal corporation or their lessees, trustees and receivers, owning or operating for compensation in this state equipment or facilities for:

- a. ~~producing, generating, transmitting, distributing, selling or furnishing electricity,~~
- ~~b.~~ the conveyance, transmission, reception or communications over a telephone system; provided that no authority not otherwise a public utility within the meaning of this section shall be deemed such solely because of the furnishing or furnishing and maintenance of a private system, or
- ~~e.~~ b. transmitting directly or indirectly or distributing combustible hydrocarbon natural or synthetic natural gas for sale to the public; and

4. "Appliances" and "equipment" mean those individual appliances and space-conditioning equipment introduced by manufacturers after November 9, 1978, which operate at a level of efficiency at least twenty percent (20%) greater than appliances and space-conditioning equipment of the same energy type manufactured prior to that date.

SECTION 37. AMENDATORY 17 O.S. 1991, Section 180.2, is amended to read as follows:

Section 180.2 A. No public utility which has for one of its purposes the sale or distribution of energy may include promotional payments in its operating expenses for ratemaking purposes.



B. For purposes of subsection A of this section:

1. "Promotional payment" means any payment, gift or other remuneration made directly or indirectly by a public utility to or for the account of any builder or other person to encourage or induce such builder or other person to install appliances including, but not limited to, space heaters, heat pumps, clothes dryers, water heaters and stoves and equipment which will consume any energy sold or marketed by such public utility;

2. "Promotional payment" shall not mean payments, gifts or other remuneration made for conservation or load management programs or energy-efficient appliances and equipment introduction programs approved by the Corporation Commission;

3. "Public utility" means any individual, firm, association, partnership, corporation, or any combination thereof, other than a municipal corporation, or their lessees, trustees and receivers, owning or operating for compensation in this state equipment or facilities for:

~~a. producing, generating, transmitting, distributing, selling or furnishing electricity, or~~

~~b. transmitting directly or indirectly or distributing combustible hydrocarbon natural or synthetic natural gas for sale to the public; and~~

4. "Appliances" and "equipment" mean those individual appliances and space-conditioning equipment introduced by manufacturers after November 9, 1978, which operate at a level of efficiency at least twenty percent (20%) greater than appliances and space-conditioning equipment of the same energy type manufactured prior to that date.

SECTION 38. AMENDATORY Section 43, Chapter 278, O.S.L. 1993, as last amended by Section 1, Chapter 126, O.S.L. 1998 (17 O.S. Supp. 1999, Section 180.11), is amended to read as follows:

Section 180.11 A. The Corporation Commission is hereby authorized to assess a fee upon each public utility to provide adequate funding to the Public Utility Division of the ~~Oklahoma~~ Corporation Commission for the regulation of public utilities in this state and for providing for timely and expeditious reviews and completion of rate cases, and increased responsiveness to the needs of retail consumers and the regulated community.

B. 1. The assessments authorized by this section may, after excluding the amount allocated to interexchange telecommunications companies, resellers, pay phone service providers and operator service providers in paragraph 2 of this subsection, and the amounts assessed to electric distributors pursuant to the provisions of this section, be borne by the affected public utilities as follows:

- a. one-half shall be allocated based on that proportion which the total regulated Oklahoma jurisdictional gross operating revenues of each public utility bear to the total regulated Oklahoma jurisdictional gross operating revenues of all public utilities, and
- b. one-half shall be allocated based on that proportion which the total number of regulated Oklahoma jurisdictional customers of each public utility bears to the total number of regulated Oklahoma jurisdictional customers of all public utilities.

2. For interexchange telecommunications companies, resellers, pay phone service providers and operator service providers, the allocation may be based on the total regulated Oklahoma jurisdictional gross operating revenues that each interexchange telecommunications company, reseller or operator service provider bears in proportion to the total regulated Oklahoma jurisdictional gross operating revenue of all public utilities as applied to the total amount of the assessment to be collected from all public utilities for each year.

C. The Corporation Commission is hereby authorized to assess fees on all entities licensed pursuant to the provisions of the Oklahoma Electric Restructuring Implementation Act to provide adequate funding for the activities of the Corporation Commission, the Department of Commerce, the Oklahoma Climatological Survey and the Legislative Service Bureau required by the provisions of the Oklahoma Electric Restructuring Implementation Act; provided, however, the total amount collected from such assessment fees shall be deposited in the Electric Consumer Education, Complaint and Assistance Revolving Fund created by subsection I of this section.

~~C.~~ D. Any assessment levied pursuant to this section shall be recoverable as an operating expense to the public utility or licensed electric distributor, except for any amounts up to Five Million Dollars (\$5,000,000.00) expended from the Electric Consumer Education, Complaint, and Assistance Revolving Fund to provide electric energy education programs, climatological programs and consumer assistance pursuant to the provisions of this section, and shall be included in a utility's or licensed electric distributor's base rates or basic monthly service charge. The Corporation Commission shall take such action necessary to ensure recovery of the assessment by a public utility or licensed entity during the period for which it is levied.

~~D.~~ E. The Corporation Commission may provide that each public utility or licensed electric distributor shall pay any assessment levied pursuant to this section on a quarterly basis. Notice of the annual assessment shall be sent by certified mail, return receipt requested, to each public utility. Each public utility or licensed electric distributor shall pay the amount assessed to the Commission for deposit to the Public Utility Regulation Revolving Fund created in subsection ~~E~~ F of this section or the Electric Consumer Education, Complaint and Assistance Revolving Fund. A public

utility may, at its discretion, pay its annual assessment prior to the due date of the quarterly payments.

~~E.~~ F. Any assessment collected by the Commission pursuant to this section from a public utility shall be deposited in the Public Utility Regulation Revolving Fund hereby created. The fund shall be a continuing fund not subject to fiscal year limitations and shall consist of the monies received by the Commission from any assessment levied pursuant to the provisions of this section. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Commission to pay the costs, both direct and indirect, of the Public Utilities Division incurred to regulate public utilities. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

~~F.~~ G. The Legislature shall establish budgetary limits for the Public Utility Division and the Electric Consumer Information and Complaint Division of the Corporation Commission, the Oklahoma Department of Human Services for the retail electric consumer assistance program created pursuant to the provisions of this act, the Oklahoma Climatological Survey for the purpose of providing scientific weather forecasting data to allow electric service providers to utilize advanced weather data to assist in load forecasting and hazard management, and the Legislative Service Bureau for implementation and management of the electric energy education program pursuant to the provisions of the Oklahoma Electric Restructuring Implementation Act. Any assessment levied pursuant to this section shall not exceed the amount of the budgetary limits and indirect costs for related support functions established by the Legislature for any fiscal year.

~~G.~~ H. For purposes of this section, "public utility" means:

1. A public utility as defined by Section 151 of ~~Title 17 of the Oklahoma Statutes~~ this title, excluding those companies encompassed by paragraph ~~(d) 4~~ 4 of Section 151 of ~~Title 17 of the Oklahoma Statutes~~ this title; and

2. Any telephone or telecommunications company subject to Section 131 et seq. of ~~Title 17 of the Oklahoma Statutes~~ this title, including interexchange telecommunications companies or such other telecommunications companies as defined by OCC Rule OAC 165:55-1-4, resellers as defined by OCC Rule OAC 165:56-1-4 and operator service providers as defined by OCC Rule OAC 165:57-1-4; ~~and~~

~~3. Any association or cooperative corporation doing business under the Rural Electric Cooperative Act except for generation and transmission associations or cooperative corporations, or transmission associations or cooperative corporations.~~

~~H. I. It is the intention of the Legislature that this entire section is an amendment to and alteration of Sections 18 through 34, inclusive, of Article IX of the Constitution of the State of Oklahoma, as authorized by Section 35 of Article IX of said Constitution~~ 1. The license and assessment fee authorized to be assessed by the Corporation Commission pursuant to the provisions of the Oklahoma Electric Restructuring Implementation Act shall be levied as follows:

- a. each electric generator, electric transmitter, Commission regulated electric distributor, retail electric energy supplier or aggregator shall be assessed an annual license fee that shall not exceed Ten Thousand Dollars (\$10,000.00) per year, and
- b. each electric distributor shall be assessed a fee that shall be based on:
  - (1) one-half (1/2) shall be allocated based on that portion which the total kilowatt hours delivered to retail electric consumers of each electric

distributor bear to the total kilowatt hours delivered by all electric distributors licensed in this state, and

(2) one-half (1/2) shall be allocated based on that portion which the total number of retail electric consumers of each electric distributor bears to the total number of retail electric consumers of all electric distributors licensed in this state.

2. Any license and assessment fee collected by the Commission pursuant to the Oklahoma Electric Restructuring Implementation Act and the provisions of this section shall be deposited in the Electric Consumer Education, Complaint and Assistance Revolving Fund hereby created. The fund shall be a continuing fund not subject to fiscal year limitations and shall consist of the monies received by the Commission from license and assessment fees levied pursuant to the provisions of the Oklahoma Electric Restructuring Implementation Act and the provisions of this section. All moneys accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Commission to pay the costs, both direct and indirect, of the Public Utilities Division incurred to oversee and supervise entities subject to its jurisdiction pursuant to the provisions of the Oklahoma Electric Restructuring Implementation Act and for the establishment, management and operation of the Electric Consumer Information and Complaint Division, the Department of Human Services, for the purpose of providing additional monies to the Low Income Home Energy Assistance Programs to benefit low income, disadvantaged and elderly retail electric consumers to pay the costs, both direct and indirect, of a retail electric consumer assistance program, the Oklahoma Climatological Survey for the purpose of providing scientific weather forecasting data to allow electric service providers to utilize advanced weather data to assist in load forecasting and hazard management thereby benefiting

the citizens of this state by enhancing the safety and reliability of the electric distribution system and the Legislative Service Bureau to pay the costs, both direct and indirect, of the electric energy education program pursuant to the provisions of the Oklahoma Electric Restructuring Implementation Act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

3. No more than Four Million Dollars (\$4,000,000.00) of all proceeds of the Electric Consumer Education, Complaint and Assistance Revolving Fund are hereby allocated to provide electric energy education programs to be implemented and managed by the Legislative Service Bureau, Two Hundred Fifty Thousand Dollars (\$250,000.00) of all proceeds of the Fund are allocated to provide electric consumer assistance programs to be provided by the Oklahoma Department of Human Services, Seven Hundred Fifty Thousand Dollars (\$750,000.00) of the proceeds of the Fund are allocated to provide scientific weather forecasting data to assist in load forecasting and hazard management to be provided by the Oklahoma Climatological Survey and One Million Seven Hundred Thousand Dollars (\$1,700,000.00) of the proceeds of the Fund are allocated to provide for the operations of the electricity related activities of the Public Utility Division and the Electric Consumer Information and Complaint Division of the Commission; provided, however, that electric cooperatives whose members have voted for self-regulation pursuant to the provisions of Section 158.27 of this title shall not be required to remit that portion of the assessment related to Commission activities.

SECTION 39. AMENDATORY 17 O.S. 1991, Section 250, is amended to read as follows:

Section 250. As used in this act:

1. "Affiliated person, subsidiary, firm or corporation" means any person, subsidiary, firm or corporation which:

- a. controls or is controlled by a public utility,
- b. is controlled by an entity that also controls the utility, or
- c. the utility or an entity controlling the utility has directly or indirectly the power to control;

2. "Commission" means ~~any~~ the state regulatory body which has jurisdiction to regulate public utilities ~~or electric cooperatives~~;

3. "Emergency sales of gas" ~~mean~~ means sales of natural gas made by a public utility or subsidiary thereof to one or more interstate pipelines or other out-of-state customer pursuant to federal law which exempts such transactions from the jurisdiction of the Federal ~~Power~~ Energy Regulatory Commission;

4. "Fair field price" means the value attributed to gas produced from wells owned by a public utility, or a subsidiary or affiliate of a public utility, which shall be the going price paid by the utility, subsidiary or affiliate to others in the field where such production is located. If the utility, subsidiary or affiliate is not purchasing gas in such field, then such value shall be the price paid by the utility, subsidiary or affiliate in the nearest field where conditions are similar. The value to be attributed to residue gas owned by a public utility, or a subsidiary or affiliate of a public utility, from gas processing plants shall be the going price paid by the utility, subsidiary or affiliate to others from the same plant. If the utility, subsidiary or affiliate is not purchasing gas from said plant, then the value shall be the price paid by the utility, subsidiary or affiliate at the nearest plant where conditions are similar. However, the Commission may require an adjustment of the fair field price when it deems it proper to do so based on information before it;



5. "Fuel adjustment clause" means any mechanism which allows a public utility ~~or electric generating cooperative~~ or an electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act to automatically adjust its charges above or below the base amount included in its rates, based upon changes in costs of fuel for generation of electricity, purchased power or purchased gas;

6. "Heat rate" means a measure of the efficiency of an electric generating station, computed by dividing the total British Thermal Unit content of the fuel burned by the resulting net kilowatt-hours generated;

7. "Line loss" means the kilowatt-hours of electricity lost in the operation of an electric transmission or distribution system;

8. "Public utility" or "utility" means any individual, firm, association, partnership, corporation, or any combination thereof, other than a municipal corporation or their lessees, trustees and receivers, owning or operating for compensation in this state equipment or facilities for:

~~a. producing, generating, transmitting, distributing, selling or furnishing electricity, or~~

~~b. transmitting, directly or indirectly, or distributing combustible hydrocarbon natural or synthetic natural gas for sale to the public or for wholesale, unless its wholesale rates are regulated by a federal agency;~~  
and

9. "Purchased power adjustment clause" means any mechanism which allows an electric ~~public utility or electric distribution cooperative~~ distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act to adjust its charges above or below the base

amount included in its rates based upon changes in costs of wholesale power purchased from others.

SECTION 40. AMENDATORY 17 O.S. 1991, Section 251, as amended by Section 16, Chapter 315, O.S.L. 1994 (17 O.S. Supp. 1999, Section 251), is amended to read as follows:

Section 251. A. No fuel adjustment clause of any kind shall hereafter be authorized by the Commission if such clause operates automatically to permit charges, assessments or amendments to existing rate schedules to be made which have not been first approved as provided by Sections 251 through 255 of this title, ~~except as otherwise provided for purchased power adjustments by electric distribution cooperatives in Sections 258 through 262 of this title.~~ Nothing provided in Sections 251 through 255 of this title shall be construed to give the Commission jurisdiction over municipal electric systems.

B. If the Commission finds that the changes in the price of fuels required for the generation of electricity by any electric ~~public utility,~~ distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act that the changes in the price of purchased electricity required for distribution by any ~~public utility~~ electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act or changes in the price of purchased gas required for distribution by any gas utility, ~~portends a likely and substantial threat to the ability of the utility~~ or electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act to earn a reasonable rate of return, or are likely to cause the utility or electric

distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act to have an excessive rate of return, or are likely to substantially impair the ability of the utility electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act to acquire adequate supplies of fuel or gas, the Commission may, after investigation and public hearing, approve suitable fuel adjustment clauses to be superimposed upon the existing rate schedules of the public utility or electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act. The Commission shall design the fuel adjustment clause to allow the electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act or gas public utility to increase or decrease charges to the consumer according to changes in the cost of fuel, purchased power or purchased gas as compared to the price of such fuels or power as reflected in the base rates.

C. In the Commission's design of fuel adjustment clauses, the following rules shall apply:

1. For the purpose of determining fuel or gas costs, the price paid for the fuel or gas shall be computed at the actual cost of fuel or gas purchased from nonaffiliated persons, firms and corporations; and the actual cost of the production of fuel owned by the ~~public utility~~ electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric

Restructuring Implementation Act or received from affiliated persons, firms and corporations, and in the case of gas, the fair field price for gas owned by the public utility or electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act or received from affiliated persons, firms or corporations;

2. The cost of fuel or gas shall be the price paid at the point of delivery into the utility or electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act system. In the event the transportation is performed by an affiliated person, firm or corporation as defined in this act which is not subject to the regulatory jurisdiction of the Commission, a regulatory agency of another state having jurisdiction, or the Federal Energy Regulatory Commission or successor agency, the charges made for transportation shall be, if allowed at all, only such as the Commission finds fair, just and reasonable, for purposes of this section. Transportation charges approved by this Commission, a regulatory agency of another state having jurisdiction, or by the Federal Energy Regulatory Commission, or successor agency shall be included for purposes of this section, if allowed by this Commission. The proposed adjustment charge shall not include the cost of transportation beyond its point of delivery into that portion of the utility or electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act system regulated by the Corporation Commission unless there is presented to the Commission and it is persuaded by reliable evidence which clearly points to the conclusion that failure to do so will substantially threaten the ability of the

utility or electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act to earn a reasonable rate of return;

3. The amount of electric energy produced by hydroelectric generating plants and purchased by the ~~public utility~~ electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act proposing the adjustment charge shall be deducted from the amount of electric energy to which any fuel cost applies;

4. The actual efficiency or heat rate of electric ~~public utilities~~ distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act shall be utilized and line losses shall be considered only if reliable evidence clearly points to the conclusion that failure to do so will substantially threaten the ability of the utility electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act to earn a reasonable rate of return;

5. Fuel or gas removed from storage or stockpiles shall be taken into consideration on the basis of the last-in first-out method of inventory accounting; and

6. No estimated fuel adjustment shall be allowed.

SECTION 41. AMENDATORY 17 O.S. 1991, Section 252, is amended to read as follows:

Section 252. Whenever the Commission approves a fuel adjustment clause pursuant to this act, the clause shall apply to all similar

public utilities and any electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act affected by such increased costs. In addition, the Commission shall continually monitor and oversee the application of the fuel adjustment clauses. The Commission shall hold a public hearing thereon whenever it deems it necessary, but no less frequently than once every twelve (12) months. If the Commission finds that the charges or credits are not based upon the actual prices paid for fuel, or purchased gas or purchased power, or are not properly computed in accordance with the applicable adjustment clause, it shall recompute the charges or credits and shall direct the public utility or electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act to take such action as may be required to insure that the charges or credits properly reflect the actual prices paid for fuel, purchased gas or purchased power and are properly computed in accordance with the applicable adjustment clause for the applicable period. The fuel adjustment clause may be amended upon a finding of changed circumstances by the Commission but shall not be wholly discontinued or suspended except by order of the Commission after notice and hearings for the utilities or an electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act affected have been rendered.

SECTION 42. AMENDATORY 17 O.S. 1991, Section 253, as amended by Section 9, Chapter 364, O.S.L. 1998 (17 O.S. Supp. 1999, Section 253), is amended to read as follows:

Section 253. A. No proposed monthly fuel adjustment, purchased power adjustment or purchased gas adjustment shall become effective until after the Corporation Commission has had an opportunity to determine that the adjustment is calculated in accordance with the terms and conditions of the applicable fuel adjustment clause.

B. The Commission shall promulgate rules requiring each company or electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act as a necessary part of the monthly filing with the Commission and condition to consideration of any adjustment application to submit the following information:

1. A statement by each company or electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act subject to a fuel adjustment clause of the items and costs making up the average cost of fuel per million BTU and associated costs in dollars and cents or fraction thereof;

2. A summary of its fuel and gas purchase invoices and its computations of the proposed monthly fuel adjustment or purchased gas adjustment charges;

3. A summary of inventory records of fuel and gas going into and taken out of stockpile or storage;

4. A report containing the average unit price, the change in the average unit price, the volume purchased and a brief explanation of such unit cost increase; and

5. Any other records deemed necessary by the Commission including, but not limited to, the heat rate efficiency and delivery efficiency for affected electric ~~public utilities~~ distributors or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the

Oklahoma Electric Restructuring Implementation Act and the actual capacity factor for each generating facility utilized to produce electric power. The records and computations filed shall be open to public inspection at the office of the Commission.

C. The Commission shall have five (5) business days after the records and computations prescribed in subsection B of this section have been filed to determine the necessity of an administrative proceeding thereon. If the Commission does not determine that a hearing is required, the proposed adjustment charge shall become effective as filed. In the event the Commission decides to hold a hearing on the information filed, it shall notify the public utility or electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act within such five-day period, set the matter for a public hearing to commence within thirty (30) business days thereafter, and give notice thereof at least three (3) days prior to the commencement of such hearing by publication in a newspaper of general circulation in the area served by such company or electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act. The issue to be determined at such hearing shall be either or both of the following determinations:

1. Whether charges or credits made under the fuel adjustment clauses are based upon the actual prices paid for fuel, ~~or~~ or purchased gas or purchased power and are properly computed in accordance with the applicable adjustment clause; or

2. Whether the fuel adjustment clauses should be discontinued, amended or suspended. In the event that the Commission determines that it is necessary to set any proposed adjustment charge for hearing, the proposed charge shall nevertheless become effective at



the option of the utility or electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act following the expiration of the five-day period after its records and computations have been filed, pending the Commission's finding with respect to such charges. However, in the discretion of the Commission, the effectiveness of the proposed charge may be conditioned upon the filing by the utility or electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act with the Commission of an assurance satisfactory to the Commission, which may include a bond with surety, of the utility's or electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act ability and willingness to refund to its customers any such amounts as the utility or electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act may collect from them in excess of the charge approved by the Commission in its finding. If the Commission has not approved, in whole or in part, or denied the proposed charge within a seven-day period subsequent to the commencement of such hearing, the Commission shall promptly submit a written explanation of the Commission's failure to do so to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the ~~office of the~~ Governor.

SECTION 43. AMENDATORY 17 O.S. 1991, Section 254, is amended to read as follows:

Section 254. Each public utility or electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act subject to a fuel adjustment clause shall separately disclose in its customer bills the per unit cost of its fuel, purchased power or purchased gas adjustment. Upon request by any individual consumer, such utility or electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act shall also disclose for the month for which the request is received:

1. The actual amount of the adjustment in dollars and cents;  
and

2. The per unit rate and amount thereof in dollars and cents of fuel, purchased power or purchased gas included in its basic rate.

SECTION 44. AMENDATORY 17 O.S. 1991, Section 255, is amended to read as follows:

Section 255. Any fuel adjustment clause approved and in effect for any public utility or electric distributor or its affiliate offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act immediately prior to the effective date of this act shall remain in effect in its present form and method of operation until procedures conforming to the requirements of this act have been approved, established and placed into effect by the Commission. The Commission shall approve, establish and place into effect such procedures after notice and opportunity for a public hearing no later than November 1, 1977, but the operation of such preexisting clauses, unless suspended by order of the Commission after due notice and hearing shall continue in the case of each company or electric distributor or its affiliate

offering generation, transmission and distribution and related services on a bundled basis pursuant to Section 8 of the Oklahoma Electric Restructuring Implementation Act until a final decision, no longer subject to judicial review, has been rendered by the Commission with respect to such clauses.

SECTION 45. AMENDATORY 11 O.S. 1991, Section 24-102, is amended to read as follows:

Section 24-102. Legislative Findings and Declaration of Necessity. It is declared that the provision of adequate, reliable and economic sources of electrical energy is in the public interest; that there is a need to establish a means by which municipalities and public trusts operating municipal ~~electric~~ utility systems may jointly plan, finance, own and operate facilities relating to electrical energy and acquire fuel and other supplies for the generation of electrical energy through the creation of a power authority in order to achieve economies and efficiencies not possible for municipalities and public trusts acting alone; that the joint planning, financing, ownership and operation of facilities relating to electrical energy, the acquisition of fuel and other supplies for the generation of electrical energy and the issuance of revenue bonds as provided herein is for a public use and serves a valid public purpose; and that the Legislature finds it necessary and proper to provide a method for municipalities and public trusts operating municipal ~~electric~~ utility systems to jointly plan, finance, develop, own or operate, either by themselves or with other public agencies, utilities or persons, facilities appropriate to the present and projected needs of such municipalities and public trusts for electrical energy. It is further declared that the intent of this act is to consider all methods for the generation of electrical energy and to provide such energy in the most economical manner available.

SECTION 46. AMENDATORY 11 O.S. 1991, Section 24-105, is amended to read as follows:

Section 24-105. Definitions. As used in this act the following words shall have the following meanings unless the context clearly indicates otherwise:

~~(a)~~ 1. "Authority" shall mean the Oklahoma Municipal Power Authority hereby created and any successor or successors thereto. Any change in name or composition of the Authority shall in no way affect the vested rights of any person under the provisions of this act or impair the obligations of any contracts existing under this act-;

~~(b)~~ 2. "Board of Directors" shall mean the Board of Directors elected by the election committee as set forth in Section 4 of this act which shall exercise all the powers and manage and control all the affairs and property of the Authority unless otherwise specifically provided herein or in the bylaws of the Authority as in effect from time to time-;

~~(c)~~ 3. "Bonds" shall mean any revenue bonds, notes or other evidences of obligations of the Authority issued by the Authority under the provisions of this act, including, without limitation, bond anticipation notes and refunding bonds-;

~~(d)~~ 4. "Eligible public agency" shall mean any municipality, authority or other public body ~~which owns, maintains or operates an electrical energy generation, transmission or distribution system within the State of Oklahoma on the date on which this act becomes~~ law-;

~~(e)~~ 5. "Person" shall mean (i) any natural person; (ii) any eligible public agency as defined herein; (iii) any public trust as defined herein; (iv) the United States, any state, any municipality, political subdivision, municipal corporation, unit of local government, governmental unit or public corporation created by or pursuant to the laws of the United States or any state, or any

board, corporation or other entity or body declared by the laws of the United States or any state to be a department, agency or instrumentality thereof; (v) any corporation, not for profit corporation, firm, partnership, cooperative association, electric cooperative or business trust of any nature whatsoever organized and existing under the laws of the United States or any state; or (vi) any foreign country, any political subdivision or governmental unit of any foreign country or any corporation, not for profit corporation, firm, partnership, cooperative association, electric cooperative or business trust of any nature whatsoever organized and existing under the laws of any foreign country or of any political subdivision or governmental entity thereof-;

~~(f)~~ 6. "Project" shall mean any plant, works, system, facilities and real and personal property of any nature whatsoever, together with all parts thereof and appurtenances thereto, located within or without the State of Oklahoma, used or useful in the generation, production, transmission, purchase, sale, exchange or interchange of electrical energy and in the acquisition, extraction, processing, transportation or storage or of fuel of any kind for any such purposes or any interest in, or right to the use, services, output or capacity, of any such plant, works, system or facilities; provided, however, a project shall not include ~~(i) any interest in any plant for the generation of electrical energy which is to be owned jointly with any investor-owned utility if such plant is not existing on May 10, 1981, or (ii) any interest in any nuclear powered generating plant. For purposes of this definition, a plant shall be considered to be existing if construction shall have been commenced at the plant site, if orders have been placed for major components of equipment or if the plant is to consist of an additional unit at the site of an already existing unit which will use in common any of the existing facilities at such site.~~;

~~(g) 7.~~ "Public trust" shall mean any public trust created and existing under the provisions of the Trusts for Furtherance of Public Functions Law, as provided by Sections 176 et seq. of Title 60 of the Oklahoma Statutes, and the Oklahoma Trust Act, as provided by Sections 175 et seq. of Title 60 of the Oklahoma Statutes, which has as its beneficiary a municipality ~~and which owns, maintains or operates an electrical energy generation, transmission or distribution system serving the residents and consumers of such municipality and existing on the date on which this act becomes law or created hereafter with an eligible public agency as the beneficiary.~~

SECTION 47. AMENDATORY 11 O.S. 1991, Section 24-107, is amended to read as follows:

Section 24-107. (a) The Oklahoma Municipal Power Authority shall have and is hereby authorized to exercise all powers, rights and privileges enumerated in this section. Such powers, rights and privileges shall be exercised by its Board of Directors unless otherwise specifically provided herein or by the bylaws of the Authority as in effect from time to time.

(b) The Authority may plan, finance, acquire, construct, reconstruct, own, lease, operate, maintain, repair, improve, extend or otherwise participate, individually or jointly with other persons, in one or more projects, proposed, existing or under construction, and may act as agent, or designate one or more persons, whether or not participating in a project, to act as its agent, in connection with the planning, financing, acquisition, construction, reconstruction, ownership, lease, operation, maintenance, repair, extension or improvement of the project.

(c) The Authority may investigate the desirability of and necessity for additional sources and supplies of electrical energy and fuel and other supplies of any kind for such purpose, and make

studies, surveys and estimates as may be necessary to determine the feasibility and cost thereof.

(d) The Authority may cooperate with other persons in the development of sources and supplies of electrical energy and fuel and other supplies of any kind for such purposes, and give assistance with personnel and equipment in any project.

(e) The Authority may apply to any person for consents, authorizations or approvals required for any project within its powers and take all actions necessary to comply with the conditions thereof.

(f) The Authority may perform any act authorized by this act through, or by means of, its officers, agents or employees or by contract with any person, including, without limitation, the employment of engineers, architects, attorneys, appraisers, financial advisors and such other consultants and employees as may be required in the judgment of the Board of Directors, and fix and pay their compensation from funds available to the Authority therefor.

(g) The Authority may acquire, hold, use and dispose of income, revenues, funds and money.

(h) The Authority may, individually or jointly with other persons, acquire, own, hire, use, operate and dispose of personal property and any interest therein.

(i) The Authority may, individually or jointly with other persons, acquire, own, use, lease as lessor or lessee, operate and dispose of real property and interests in real property, including projects existing, proposed or under construction, and make improvements thereon.

(j) The Authority may grant the use by franchise, lease or otherwise and make charges for the use of any property or facility owned or controlled by it.

(k) The Authority may borrow money and issue negotiable bonds, secured or unsecured, in accordance with this act.

(l) The Authority may invest money of the Authority not required for immediate use, including proceeds from the sale of any bonds.

(m) The Authority may exercise the power of eminent domain in accordance with the provisions of Section ~~10~~ 24-110 of this title.

(n) The Authority may determine the location and character of, and all other matters in connection with, any and all projects it is authorized to acquire, hold, establish, effectuate, operate or control.

(o) The Authority may contract with any person for the planning, development, construction, operation, sale or lease as lessor or lessee of any project or for any interest therein, on such terms and for such period of time as its Board of Directors shall determine.

(p) The Authority may contract with any eligible public agency, any public trust, or any other person for the sale of power and energy, transmission services, power supply development services or other services within or without the State of Oklahoma on such terms and conditions as the Board of Directors shall approve. Any such contract may be for the sale of output and services of a particular project or may be for output and services generally without regard to a specific project and may be for the supply of a specific quantity of output or a percentage of the output of a specific project or other specific facility or may be based on the requirements of the purchaser or may be on such other terms and conditions as the Board of Directors deems appropriate.

(q) The Authority may enter into any contract or agreement necessary, appropriate or incidental to the effectuation of its lawful purposes and the exercise of the powers granted by this act, including, without limitation, contracts or agreements for the



purchase, sale, exchange, interchange, wheeling, pooling, transmission or storage of electric power and energy, and fuel and other supplies of any kind for any such purposes, within and without the State of Oklahoma, in such amounts as it shall determine to be necessary and appropriate to make the most effective use of its powers and to meet its responsibilities, on such terms and for such period of time as the Board of Directors determines.

(r) In any case in which the Authority participates in a project as a joint owner with one or more persons, the Authority may enter into an agreement or agreements with respect to such project with the other person or persons participating therein, and any such agreement may contain such terms, conditions and provisions consistent with the provisions of the act as the parties thereto shall deem to be in their best interest. Any such agreement may include, but need not be limited to, provisions defining what constitutes a default thereunder and providing for the rights and remedies of the parties thereto upon the occurrence of such a default deemed appropriate by the Board of Directors including, to the extent deemed appropriate, the acquisition by nondefaulting parties of all or any part of the defaulting party's interest; provisions setting forth such restraints on alienation of the interests of the parties in the project as the Board of Directors deems appropriate; provisions for the construction, operation and maintenance of such electric generation or transmission facility by any one or more of the parties to such agreement which party or parties shall be designated in or pursuant to such agreement as agent or parties thereto or by such other means as may be determined by the parties thereto; and provisions for a method or methods of determining and allocating, among or between the parties, costs of construction, operation, maintenance, renewals, replacements, improvements and disposals with respect to such project. In exercising its power to participate in a project as a joint owner

with one or more persons, the Authority may not loan its credit to any person which is a joint owner of such project; provided, however, the appropriate allocations of the costs of construction, operation, maintenance, renewals, replacements, improvements and disposals with respect to such project between the Authority and such persons shall not be a loan of credit by the Authority to such persons. In carrying out its functions and activities as such agent with respect to construction, operation and maintenance of a project, such agent shall be governed by the laws and regulations applicable to such agent as a separate legal entity and not by any laws or regulations which may be applicable to any of the other participating parties. Notwithstanding anything contained in any other law to the contrary, pursuant to the terms of any such agreement, the Authority may delegate its powers and duties with respect to the construction, operation and maintenance of such project to the person acting as agent; and all actions taken by such agent in accordance with the provisions of such agreement may be made binding upon the Authority without further action or approval by the Authority.

(s) The Authority may procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as it deems desirable, or may self-insure against such losses.

(t) The Authority may contract for and accept any gifts, grants or loans of funds or property or financial or other aid in any form from any person, and may comply, subject to the provisions of this act, with the terms and conditions thereof.

(u) The Authority may adopt a corporate seal and may sue or be sued.

(v) The Authority may exercise all other powers not inconsistent with the Constitution of the State of Oklahoma or the United States Constitution, which powers may be reasonably necessary

or appropriate for or incidental to effectuate its authorized purposes or to the exercise of any of the powers enumerated in this act.

(w) Notwithstanding any other provision herein seemingly to the contrary, the Authority may not sell output ~~(i) at retail to the ultimate consumers thereof, (ii) to any municipality which does not qualify as an eligible public agency under the definition set forth in Section 5(d) of this act, or (iii) to any trust created and existing under the provisions of the Local Industrial Development Act, as provided by Sections 651 et seq. of Title 62 of the Oklahoma Statutes, or the Trusts for Furtherance of Public Functions Law, as provided by Sections 176 et seq. of Title 60 of the Oklahoma Statutes, which does not qualify as a public trust under the definition set forth in Section 5(g) of this act.~~

SECTION 48. AMENDATORY 11 O.S. 1991, Section 21-121, as last amended by Section 1, Chapter 391, O.S.L. 1998 (11 O.S. Supp. 1999, Section 21-121), is amended to read as follows:

Section 21-121. Except as provided in this ~~section~~ act, municipal corporations or public trusts thereof, the Grand River Dam Authority, rural electric cooperatives or investor-owned electric utilities shall not furnish ~~retail~~ electric distribution service to an electric consuming facility which is currently being served, or which was being served and the electric facilities are in place to render such a service, by a municipal corporation or public trust thereof, the Grand River Dam Authority, a rural electric cooperative or an investor-owned electric utility unless the entities involved have agreed by mutual consent, in writing, to such transaction. For purposes of this section, the term "electric consuming facility" means everything that utilizes ~~electric energy from a central station source~~ electricity and is connected to distributed generation or the electric distribution system of an electric distributor.

SECTION 49. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 726 of Title 17, unless there is created a duplication in numbering, reads as follows:

No oversight and supervision authority shall exercise control of any activity, or the revenues derived therefrom, utilizing that portion of an electric transmission system or electric distribution system that is not necessary to provide electric distribution services or to transport bulk electricity; provided, however:

1. Such unrelated use does not impair the reliability of the electric transmission system or electric distribution system; and
2. The cost of providing such unrelated services shall not be borne by the retail electric consumers of any entity providing electric transmission or distribution services regulated pursuant to the provisions of this act by an oversight and supervision authority.

SECTION 50. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 862.1 of Title 82, unless there is created a duplication in numbering, reads as follows:

In addition to the powers, rights and privileges enumerated in Section 862 of Title 82 of the Oklahoma Statutes, the Grand River Dam Authority shall be exempt from the provisions of the:

1. Oklahoma Open Records Act, exclusively limited to:
  - a. electrical services contracts between the Authority and its customers, unless the customer consents to disclosure,
  - b. internal business plans and marketing plans that relate to competitive issues, and
  - c. customer proprietary information the Authority is contractually obligated to keep confidential; and
2. Oklahoma Open Meeting Act, exclusively limited to authorizing the Grand River Dam Authority Board of Directors to confer on matters pertaining to:

- a. electrical services contracts,
- b. coal or gas supply contracts, and
- c. rail or truck transportation contracts.

SECTION 51. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5033.1 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Department of Human Services is hereby authorized to promulgate rules necessary, or utilize rules promulgated for the Low Income Home Energy Assistance Programs, to administer funds specified pursuant to Section 38 of this act for the purpose of providing assistance to residential retail electric consumers who are elderly, low-income, mentally or physically handicapped or otherwise in need of assistance. Such funds shall be used only for the assistance of electric related services and not for any other utility assistance.

SECTION 52. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1450 of Title 68, unless there is created a duplication in numbering, reads as follows:

Sections 52 through 67 of this act shall be known as and may be cited as the "Oklahoma Electric Energy Tax Code".

SECTION 53. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1451 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The Legislature finds that the restructuring of the electric utility industry in this state, mandated and implemented by the Oklahoma Electric Restructuring Implementation Act, enacted pursuant to this act, renders the system of ad valorem tax and gross receipts tax currently imposed on the electric utility industry impracticable and infeasible in the restructured environment. The Legislature further finds that the restructuring of the electric utility industry necessitates changes to the existing system of taxation in order to preserve revenue neutrality in tax collections, to avoid

placing any supplier engaged in the business of generating, distributing, supplying, furnishing, selling, transmitting or delivering electricity at a competitive disadvantage, to minimize additional administrative costs and burdens of property valuation and tax collection, and to avoid the imposition of increased tax burdens on individual retail consumers of electricity. The Legislature, therefore, finds that there is a compelling public need to modify the system of ad valorem and gross receipts taxation as it currently applies to the electric industry by replacing those taxes with an electric energy tax and an electric energy consumption excise tax on certain government operated electric systems.

B. It is the intent of the Legislature that this article shall be construed as amending, revising and renumbering present statutes relating to the taxation of electric generating companies, electric transmission companies, and electric distribution companies and the sale of electricity in respect to matters herein. It is the further intent of the Legislature that the electric energy tax levies enacted herein shall be construed as imposing an occupational tax upon the generation, transmission and distribution of electricity and shall be a replacement tax for all ad valorem taxes and gross receipts taxes currently imposed on electric generating companies, electric transmission companies, electric distribution companies and electric cooperatives operating in the State of Oklahoma. This electric energy tax, however, shall not be construed to replace or repeal the provisions of the Oklahoma Sales Tax Code levying a sales tax upon the sale of electricity in the State of Oklahoma. It is the further intent of the Legislature that the revenues derived from this article are intended be in lieu of the existing tax revenues currently derived from those certain ad valorem and gross receipts taxes as amended or replaced herein.

SECTION 54. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1452 of Title 68, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Electric Energy Tax Code:

1. "Electric cooperative" means a cooperative nonprofit membership corporation organized under the provisions of Section 437 et seq. of Title 18 of the Oklahoma Statutes, or any foreign corporation transacting business in this state pursuant to Section 437 et seq. of Title 18 of the Oklahoma Statutes;

2. "Electric distribution company" means any person, or any combination of persons, or lessees, trustees and receivers of such person, on or after January 1, 2002, owning or operating for compensation in this state equipment or facilities for distribution of electricity to or for the public at retail in this state including an investor owned utility or electric cooperative corporation; provided, however, that the term does not include:

- a. a retail electric energy supplier which is not otherwise an electric distributor,
- b. any person not otherwise an electric distribution company that:
  - (1) furnishes electricity only to itself, its employees, or its tenants as an incident of such employee service or tenancy, when such electricity is not resold to or used by others,
  - (2) owns or operates in this state equipment or facilities used primarily for the production and generation of electric energy, a portion of which may be consumed by that person and any remainder of which is sold at wholesale,
  - (3) owns or operates in this state equipment or facilities used solely for the production, generation or transmission of electric energy, or

c. a municipal corporation or trust thereof, the Oklahoma Municipal Power Authority or the Grand River Dam Authority owning an electric distribution company;

3. "Electric generation company" means any person, or any combination of persons, or lessees, trustees, or receivers of such person, on or after January 1, 2002, owning or operating for compensation in this state equipment or facilities used directly in the production of electricity; provided, however, electric generating company does not include a self-generator, distributed generation facility or a natural gas gathering system;

4. "Electric transmission company" means any person, or any combination of persons, or lessees, trustee, or receivers of such person, on or after January 1, 2002, owning or operating for compensation in this state equipment or facilities designed and constructed to transport bulk electricity;

5. "Kilowatt hour (kWh)" means a unit of energy, equivalent to the energy transferred or expended in one hour by one kilowatt of power;

6. "Person" means any individual, company, partnership, joint venture, joint agreement, association, mutual or otherwise, limited liability company, corporation, estate, trust, business trust, receiver or trustee appointed by any state or federal court, or otherwise, syndicate, this state, any city, municipality, any other political subdivision of the state, or any group or combination acting as a unit, in the plural or singular number; and

7. "Self-generator" means a person, other than an electric generation company, rural electric cooperative, or municipal or other governmental utility, who generates, by means of an on-site facility wholly owned by or leased in its entirety to such person, electricity solely for its own consumption, except for inadvertent unscheduled deliveries to the electric utility furnishing electric service to that self-generator. A person who generates electricity which is consumed



by any other person, including any owner, shareholder, member, beneficiary, partner, or associate of the person who generates electricity, is not a self-generator. For purposes of this paragraph, "on-site facility" means an electric power generating plant that is wholly owned by or leased in its entirety to a person and used to generate electricity solely for consumption by such person on the same parcel of land on which such plant is located or on a contiguous parcel of land. For purposes of this paragraph, "parcel of land" includes each separate parcel of land shown on the ad valorem tax rolls.

SECTION 55. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1453 of Title 68, unless there is created a duplication in numbering, reads as follows:

It is hereby declared to be the purpose of the Oklahoma Electric Energy Tax Code to provide revenues for the support of the functions of the state government of Oklahoma and its political subdivisions.

SECTION 56. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1454 of Title 68, unless there is created a duplication in numbering, reads as follows:

Except as otherwise provided in Section 65 of this act, there is hereby levied upon the generation, transmission and retail distribution of all electric energy in the State of Oklahoma, regardless of the domicile of the taxpayer, electric energy taxes as follows:

1. Electric Generation companies. An electric energy tax of twenty-five one-hundredths (0.25) mill per kilowatt hour of electricity generated within this state and delivered into a transmission system is imposed on every person owning or leasing electric generating facilities, except electricity generated by on-site facilities wholly owned by or leased in their entirety to a self generator or by distributed generation facilities. Self generating facilities and distributed generation facilities shall remain subject

to ad valorem tax pursuant to Section 2800 et seq. of Title 68 of the Oklahoma Statutes; provided, each taxpayer subject to the provisions of this paragraph shall be assessed a minimum equivalent tax of Five Thousand Dollars (\$5,000.00) per month. The tax levied pursuant to this paragraph shall not be imposed on electricity from zero-emission facilities as defined in Section 18 of this act;

2. Electric Transmission companies. An electric energy tax of twenty-five one-hundredths (0.25) mill per kilowatt hour of electricity transmitted over facilities within this state is imposed on every person owning or leasing electric transmission lines within this state; provided, however, any electric energy transmitted in this state by any person to a person consuming electric energy directly from an electric transmission company facility shall be subject to an electric energy tax of one and seventy-five one hundredths (1.75) mills per kilowatt hour of electricity consumed; and

3. Electric Distribution companies. An electric energy tax of one and one-half (1.5) mills per kilowatt hour of electricity distributed within this state to a retail consumer is imposed on every person owning or leasing a distribution system distributing electricity.

SECTION 57. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1455 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Revenue from the taxes levied pursuant to the provisions of Section 56 of this act, and penalties and interest thereon, collected by the Oklahoma Tax Commission shall be apportioned and distributed monthly as provided in subsection B of this section; provided:

1. Notwithstanding the provisions of paragraphs 2 and 3 of this subsection, the amount of all such revenue collected pursuant to generation, transmission and distribution of electric energy during

the months of January, February, March and April of 2002 shall be apportioned as follows:

- a. seventeen percent (17%) shall be apportioned to school districts which received revenue pursuant to the provisions of Section 1806 of Title 68 of the Oklahoma Statutes in 2001 in proportion to the amount each such district received in the corresponding month in 2001,
- b. fifty-eight and one-half percent (58.5%) shall be apportioned to the Education Debt Service and Bond Enhancement Revolving Fund created pursuant to the provisions of Section 58 of this act,
- c. eight percent (8%) shall be apportioned to the Technology Center Deregulation Revolving Fund created in Section 60 of this act to be allocated for the purposes set forth in subparagraph e of paragraph 4 of subsection B of this section,
- d. eight percent (8%) shall be apportioned to counties as provided in paragraph 5 of subsection B of this section,
- e. three and one-half percent (3.5%) shall be apportioned to municipalities as provided in paragraph 6 of subsection B of this section,
- f. one and one-half percent (1.5%) shall be apportioned to counties for libraries as provided in paragraph 7 of subsection B of this section,
- g. one percent (1%) shall be apportioned to two-year colleges as provided in paragraph 8 of subsection B of this section,
- h. one and one-half percent (1.5%) shall be apportioned to counties for health departments as provided in paragraph 9 of subsection B of this section, and

i. one percent (1%) shall be apportioned to ambulance service districts as provided in paragraph 10 of subsection B of this section;

2. From the revenue derived from the tax levied pursuant to the provisions of paragraph 1 of Section 56 of this act:

a. forty percent (40%) of the amount remitted by an electric generating facility shall be apportioned to the building fund of the school district in which the electric generating facility is physically located in proportion to the number of kilowatt hours of electricity generated by each facility,

b. five and fifty-two one-hundredths percent (5.52%) of the amount remitted by an electric generating facility shall be apportioned to the general fund of the county in which the electric generating facility is physically located, and

c. five and twenty-four one-hundredths percent (5.24%) of the amount remitted by an electric generating facility shall be apportioned to the Technology Center Deregulation Revolving Fund created in Section 60 of Enrolled Senate Bill No. 220 of the 2nd Session of the 47th Oklahoma Legislature, to be allocated to the building fund of the area vocational-technical school district in which the electric generating facility is physically located in proportion to the number of kilowatt hours of electricity generated by each facility; and

3. From the revenue derived from the tax levied pursuant to the provisions of paragraph 3 of Section 56 of this act, three and thirty-three one-hundredths percent (3.33%) shall be apportioned to the Green Power Plus Revolving Fund created pursuant to the provisions of Section 59 of this act.

B. The amount of all such revenue collected pursuant to the tax levied in Section 56 of this act on generation, transmission and distribution of electric energy in May 2002 and thereafter, and such other revenues as may be directed to be apportioned pursuant to the provisions of this subsection, shall be apportioned as follows, after the apportionments provided in paragraphs 2 and 3 of subsection A of this section are made:

1. Fifty-five and three-tenths percent (55.3%) shall be apportioned to school districts on the basis of each district's average daily attendance for deposit to each school district's general fund;

2. a. until June 30, 2003, five percent (5%) shall be apportioned to the building funds of school districts which experience a decrease in the amount of ad valorem tax revenue directly attributable to the provisions of this act. Each school district receiving funds pursuant to this subparagraph shall receive monthly an amount equal to one-twelfth (1/12) of five (5) mills, or the adjusted millage rate determined pursuant to the provisions of subsection (b) of Section 8A of Article X of the Oklahoma Constitution, if applicable, multiplied by the assessed valuation for tax year 2001 of all generation, transmission and distribution property which is removed from the ad valorem tax rolls pursuant to the provisions of this act,

b. from July 1, 2003, until June 30, 2004, three and seventy-five one-hundredths percent (3.75%) shall be apportioned to the building funds of school districts which experience a decrease in the amount of ad valorem tax revenue directly attributable to the provisions of this act. Each school district

receiving funds pursuant to this subparagraph shall receive monthly an amount equal to three-fourths (3/4) of the amount it received pursuant to the provisions of subparagraph a of this paragraph,

c. from July 1, 2004, until June 30, 2005, two and one-half percent (2.5%) shall be apportioned to the building funds of school districts which experience a decrease in the amount of ad valorem tax revenue directly attributable to the provisions of this act. Each school district receiving funds pursuant to this subparagraph shall receive monthly an amount equal to one-half (1/2) of the amount it received pursuant to the provisions of subparagraph a of this paragraph, and

d. from July 1, 2005, until June 30, 2006, one and twenty-five one-hundredths percent (1.25%) shall be apportioned to the building funds of school districts which experience a decrease in the amount of ad valorem tax revenue directly attributable to the provisions of this act. Each school district receiving funds pursuant to this subparagraph shall receive monthly an amount equal to one-fourth (1/4) of the amount it received pursuant to the provisions of subparagraph a of this paragraph.

Provided, if there is a shortfall in any month in the revenue needed to make the allocations provided for in this paragraph, each school district receiving such funds shall share in such shortfall on a pro rata basis. Each district shall likewise share on a pro rata basis any funds apportioned by this paragraph in excess of the amount of payments required to be made;

3. a. until June 30, 2003, ten percent (10%) shall be apportioned to the Education Debt Service and Bond

Enhancement Revolving Fund created pursuant to the provisions of Section 58 of this act,

- b. from July 1, 2003, until June 30, 2004, eleven and twenty-five one-hundredths percent (11.25%) shall be apportioned to the Education Debt Service and Bond Enhancement Revolving Fund created pursuant to the provisions of Section 58 of this act,
- c. from July 1, 2004, until June 30, 2005, twelve and one-half percent (12.5%) shall be apportioned to the Education Debt Service and Bond Enhancement Revolving Fund created pursuant to the provisions of Section 58 of this act,
- d. from July 1, 2005, until June 30, 2006, thirteen and seventy-five one-hundredths percent (13.75%) shall be apportioned to the Education Debt Service and Bond Enhancement Revolving Fund created pursuant to the provisions of Section 58 of this act, and
- e. on and after July 1, 2006, fifteen percent (15%) shall be apportioned to the Education Debt Service and Bond Enhancement Revolving Fund created pursuant to the provisions of Section 58 of this act;

4. Nine and two-tenths percent (9.2%) shall be apportioned to the Technology Center Deregulation Revolving Fund created in Section 60 of this act to be allocated to area vocational-technical school districts pursuant to a formula developed by the Oklahoma Department of Career and Technology Education subject to the following provisions:

- a. each area vocational-technical school district which experiences a decrease in the amount of ad valorem tax revenue directly attributable to the provisions of this act which would otherwise accrue to the district's sinking fund shall receive an allocation in

the amount which would have been received from property taxes levied on generation, transmission and distribution property based on the assessed valuation of such property for the 2001 tax year but for the provisions of this act due to:

(1) any indebtedness authorized by the voters of the district prior to July 1, 2000, pursuant to the provisions of subsection C of Section 9B of Article X of the Oklahoma Constitution, regardless of the date such indebtedness is actually incurred, and

(2) any indebtedness actually incurred prior to July 1, 2001, pursuant to the provisions of subsection C of Section 9B of Article X of the Oklahoma Constitution,

b. each area vocational-technical school district which experiences a decrease in the amount of ad valorem tax revenue in its building fund directly attributable to the provisions of this act shall receive an allocation pursuant to rules established by the Department which will provide for a four-year phase-out of such allocation,

c. each area vocational-technical school district which experiences a decrease in the amount of ad valorem tax revenue directly attributable to the provisions of this act which would otherwise accrue to the district's general fund for the fiscal year 2003 shall receive an allocation in the amount of such decrease, and

d. any funds not allocated pursuant to the provisions of subparagraphs a, b and c of this paragraph shall be used for the purpose of developing a building fund grant program to equalize building fund and bonding



capabilities between area vocational-technical school districts;

5. Nine and seven-tenths percent (9.7%) shall be allocated to counties, to be apportioned in proportion to the amount of decrease in the amount of ad valorem tax revenue received by each county directly attributable to the provisions of this act which would otherwise accrue to the general, building and sinking funds of the county for fiscal year 2003; provided, the allocation to a county in the amount of decrease in the amount of ad valorem tax revenue which would otherwise accrue to the building and sinking funds of the county shall be decreased as the obligations for which the ad valorem taxes were originally levied are retired, and the amount of such decrease shall be deposited to the County Debt Service and Bond Enhancement Revolving Fund created in Section 60 of this act;

6. Four and two-tenths percent (4.2%) shall be allocated to municipalities, to be apportioned to the county treasurer for deposit to the sinking fund of each municipality which experiences a decrease in the amount of ad valorem tax revenue directly attributable to the provisions of this act which would otherwise accrue to such fund for fiscal year 2003; provided, the allocation to a municipality in the amount of decrease in the amount of ad valorem tax revenue which would otherwise accrue to the sinking fund of the municipality shall be decreased as the obligations for which the ad valorem taxes were originally levied are retired, and the amount of such decrease shall be deposited to the Municipal Debt Service and Bond Enhancement Revolving Fund created in Section 60 of this act;

7. One and nine-tenths percent (1.9%) shall be allocated to counties for libraries, to be apportioned to the county treasurer for deposit to the appropriate fund of each county in which ad valorem taxes are levied for libraries, which experiences a decrease in the amount of ad valorem tax revenue directly attributable to the

provisions of this act which would otherwise accrue to such fund for fiscal year 2003;

8. One and two-tenths percent (1.2%) shall be allocated to two-year colleges, to be apportioned to the general, building or sinking fund of each two-year college which experiences a decrease in the amount of ad valorem tax revenue directly attributable to the provisions of this act which would otherwise accrue to such fund for fiscal year 2003;

9. Two percent (2%) shall be allocated to counties for health departments, to be apportioned to the county treasurer for deposit to the appropriate fund of each county in which ad valorem taxes are levied for the health department, which experiences a decrease in the amount of ad valorem tax revenue directly attributable to the provisions of this act which would otherwise accrue to such fund for fiscal year 2003; and

10. One and one-half percent (1.5%) shall be shall be allocated to ambulance service districts, to be apportioned to the county treasurer for deposit to the general, building or sinking fund of each ambulance service district which experiences a decrease in the amount of ad valorem tax revenue directly attributable to the provisions of this act which would otherwise accrue to such fund for fiscal year 2003.

C. If revenues are insufficient to make any allocation specified in this section or specified in a formula developed pursuant to the provisions of this section, or if revenues are in excess of the amount necessary to make any such allocation, a prorated amount shall be allocated.

SECTION 58. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1456 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The State Department of Education shall develop and administer a program to provide assistance to school districts which

suffer a loss of ad valorem tax revenue to sinking funds pursuant to the provisions of this act and which have authorized or incurred indebtedness as follows:

1. Any indebtedness authorized by the voters of the district prior to July 1, 2000, pursuant to the provisions of Section 26 of Article X of the Oklahoma Constitution, regardless of the date such indebtedness is actually incurred; and

2. Any indebtedness actually incurred by the district prior to July 1, 2001, pursuant to the provisions of Section 26 of Article X of the Oklahoma Constitution.

The program shall be designed to provide funding as necessary for such school districts to retire such indebtedness without being harmed by the loss of ad valorem tax revenue resulting from the provisions of this act. Payments for such program shall be made from the Education Debt Service and Bond Enhancement Revolving Fund created in subsection C of this section.

B. The State Department of Education shall develop and administer a grant program to provide assistance to school districts for capital needs. Such program shall be designed to equalize bonding capabilities of school districts based on assessed valuation per capita and local effort. Payments for such program shall be made from the Education Debt Service and Bond Enhancement Revolving Fund created in subsection C of this section.

C. There is hereby created in the State Treasury a revolving fund for the State Department of Education to be designated the "Education Debt Service and Bond Enhancement Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department pursuant to the provisions of Section 57 of this act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department for the purpose of the programs created in subsections A and B of this

section. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 59. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1457 of Title 68, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Corporation Commission to be designated the "Green Power Plus Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Commission pursuant to the provisions of Section 57 of this act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Commission for the purpose of providing assistance to agencies of this state and local governments in purchases of zero-emission electric power. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 60. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1458 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Department of Career and Technology Education to be designated the "Technology Center Deregulation Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department pursuant to the provisions of paragraph 4 of subsection B of Section 57 of this act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department as provided in paragraph 4 of subsection B of Section 57 of this act. Expenditures from said fund shall be made

upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

B. The State Treasurer shall develop and administer a program to provide assistance to counties and municipalities which suffer a loss of ad valorem tax revenue to building or sinking funds pursuant to the provisions of this act and which have authorized or incurred indebtedness as follows:

1. Any indebtedness authorized by the voters of the county or municipality prior to July 1, 2000, pursuant to the provisions of Section 26 of Article X of the Oklahoma Constitution, regardless of the date such indebtedness is actually incurred; and

2. Any indebtedness actually incurred by the county or municipality prior to July 1, 2001, pursuant to the provisions of Section 26 of Article X of the Oklahoma Constitution.

The program shall be designed to provide funding as necessary for such counties and municipalities to retire such indebtedness without being harmed by the loss of ad valorem tax revenue resulting from the provisions of this act. Payments for such program shall be made from the County Debt Service and Bond Enhancement Revolving Fund and the Municipal Debt Service and Bond Enhancement Revolving Fund created in this section.

C. There is hereby created in the State Treasury a revolving fund for the State Treasurer to be designated the "County Debt Service and Bond Enhancement Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Treasurer pursuant to the provisions of paragraph 5 of subsection B of Section 57 of this act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State Treasurer as provided in subsection B of this section. Expenditures from said fund shall be made upon warrants issued by the State Treasurer

against claims filed as prescribed by law with the Director of State Finance for approval and payment.

D. There is hereby created in the State Treasury a revolving fund for the State Treasurer to be designated the "Municipal Debt Service and Bond Enhancement Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Treasurer pursuant to the provisions of paragraph 6 of subsection B of Section 57 of this act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State Treasurer as provided in subsection B of this section. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 61. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1459 of Title 68, unless there is created a duplication in numbering, reads as follows:

Any person who willfully or intentionally fails, neglects or refuses to remit the full amount of the tax levied by this article, or willfully or intentionally fails, neglects or refuses to comply with the provisions of this article shall be, upon conviction, guilty of a misdemeanor and shall be fined not more than Five Hundred Dollars (\$500.00) and upon conviction of a second or subsequent offense shall be fined not more than One Thousand Dollars (\$1,000.00) or incarcerated for not more than sixty (60) days, or both.

SECTION 62. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1460 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The tax levied hereunder on the generation of electricity shall be due and payable to the Oklahoma Tax Commission on the first day of each month by any person liable to remit or pay any tax due hereunder. Payment shall be made by electronic funds transfer. For

the purpose of ascertaining the amount of tax payable, it shall be the duty of all persons subject to the electric energy tax on generation, on or before the twenty-fifth day of each month, to deliver to the Tax Commission upon forms prescribed and furnished by the Tax Commission, electric energy tax reports signed, under oath, showing the kilowatt hours of electricity delivered into a transmission system by each electric generation facility during the preceding calendar month. Such reports shall show any further information that the Tax Commission may require to enable it to compute correctly and collect the tax herein levied. In addition to the information required on the reports, the Tax Commission may request, and the taxpayer must furnish, any information deemed necessary for correct computation of the tax levied herein. Such person shall compute and remit to the Tax Commission the required tax due for the preceding calendar month along with the reports herein required. If the report is not filed or the new tax is not timely remitted on or before the twenty-fifth day of each month, the tax shall be delinquent from such date. Reports timely mailed shall be considered timely filed. If a report is not timely filed or the tax is not timely remitted, interest at the rate of one and one-half percent (1.5%) each month shall be charged from the date the report should have been filed or the tax should have been remitted until the report is actually filed.

B. The tax levied hereunder on the transmission of electricity shall be due and payable to the Tax Commission on the first day of each month by any person liable to remit or pay any tax due hereunder. Payment shall be made by electronic funds transfer. For the purpose of ascertaining the amount of tax payable, it shall be the duty of all persons subject to the electric energy tax on transmission, on or before the twenty-fifth day of each month, to deliver to the Tax Commission upon forms prescribed and furnished by the Tax Commission, electric energy tax reports signed, under oath, showing the kilowatt hours of electricity transmitted on transmission facilities owned,

leased or operated by each person during the preceding calendar month. Such reports shall show any further information that the Tax Commission may require to enable it to compute correctly, collect and apportion the tax herein levied. In addition to the information required on the reports, the Tax Commission may request, and the person must furnish, any information deemed necessary for correct computation of the tax levied herein. Such person shall compute and remit to the Tax Commission the required tax due for the preceding calendar month along with the reports herein required. If the report is not filed or the tax is not timely remitted on or before the twenty-fifth day of each month, the tax shall be delinquent from such date. Reports timely mailed shall be considered timely filed. If a report is not timely filed or the tax is not timely remitted, interest at the rate of one and one-half percent (1.5%) each month shall be charged from the date the report should have been filed or the tax should have been remitted until the report is actually filed.

C. The tax levied hereunder on the distribution of electricity shall be due and payable to the Tax Commission on the first day of each month, except as herein provided, by any person liable to remit or pay any tax due under this article. Payment shall be made by electronic funds transfer. For the purpose of ascertaining the amount of the tax payable it shall be the duty of all taxpayers, on or before the twenty-fifth day of each month, to deliver to the Tax Commission upon forms prescribed and furnished by the Tax Commission, electric energy tax reports signed, under oath, showing the kilowatt hours distributed within this state to a retail consumer during the preceding calendar month. Such reports shall show any further information that the Tax Commission may require to enable it to compute correctly and collect the tax herein levied. In addition to the information required on the reports, the Tax Commission may request, and the taxpayer must furnish, any information deemed necessary for correct computation of the tax levied herein. Such



taxpayer shall compute and remit to the Tax Commission the required tax due for the preceding calendar month along with the remittance of the tax to accompany the reports herein required. If the report is not filed or the tax is not timely remitted on or before the twenty-fifth day of such month, the tax shall be delinquent from such date. Reports timely mailed shall be considered timely filed. If a report is not timely filed or the tax is not timely remitted, interest at the rate of one and one-half percent (1.5%) each month shall be charged from the date the report should have been filed or the tax should have been remitted until the report is actually filed.

D. It shall be the duty of every person required to make an electric energy tax report under this article to keep and preserve suitable records of the sales of electric energy inside and outside of this state and other pertinent records and documents which may be necessary to determine the amount of tax due hereunder and such other records as will substantiate and prove the accuracy of such returns. All such records shall remain in this state and be preserved for a period of three (3) years unless the Tax Commission, in writing, has authorized their destruction, or disposal, or maintenance at a different location outside this state, and shall be open to examination at any time by the Tax Commission or by any of its duly authorized agents.

SECTION 63. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1461 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Every person required to remit taxes pursuant to the provisions of the Oklahoma Electric Energy Tax Code shall obtain a permit from the Oklahoma Tax Commission.

B. The Tax Commission may require every person required to remit taxes pursuant to the provisions of the Oklahoma Electric Energy Tax Code and who is delinquent or becomes delinquent in the reporting of or paying of any taxes levied under this article or penalties or

interest thereon to furnish to the Commission a cash bond, from a surety company chartered or authorized to do business in this state, certificates of deposits, certificates of savings of U.S. Treasury bonds, an assignment of negotiable stocks or bonds or such other security as the Tax Commission may deem necessary to secure payment of taxes under this article. Any surety bond furnished under this section shall be a continuing instrument and shall constitute a new and separate obligation in the sum stated therein for each calendar year or a portion thereof while such bond is in force. Such bond shall remain in effect until the surety or sureties are released and discharged by the Tax Commission. The Tax Commission shall fix the amount of such bond or other security required in each case after considering the tax liability expected to accrue, not to exceed three times the amount of the average quarterly tax liability. Any bond or other security furnished shall be such as will protect this state against failure of the taxpayer to pay the tax levied by this article.

SECTION 64. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1462 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. All taxes levied in this article which are delinquent together with any penalty and interest thereon may be collected in the same manner as any other taxes imposed by law in addition to any remedies or penalties set out in this article.

B. All delinquent taxes or penalties or interest thereon shall at all times constitute a lien upon the property of any person liable for the payment thereof, which shall be prior, superior and paramount as against the claims of unsecured creditors.

SECTION 65. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1463 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. No county of this state, no municipality of this state nor any other political subdivision of this state may levy an electric energy tax.

B. Generation of electricity by, through or from municipally-owned electric systems in this state, the Oklahoma Municipal Power Authority or the Grand River Dam Authority shall not be subject to the tax levied in paragraph 1 of Section 56 of this act. Transmission of electricity by, through or from municipally-owned electric systems in this state, the Oklahoma Municipal Power Authority or the Grand River Dam Authority shall not be subject to the tax levied in the paragraph 2 of Section 56 of this act. Distribution of electricity by, through or from municipally-owned electric systems in this state, the Oklahoma Municipal Power Authority or the Grand River Dam Authority shall not be subject to the tax levied in paragraph 3 of Section 56 of this act.

SECTION 66. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1464 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Generation, transmission and distribution of electricity distributed through or from a rural electric cooperative as defined in this act shall be subject to the tax levied by Section 56 of this act.

B. Notwithstanding the provisions of Section 437.25 of Title 18 of the Oklahoma Statutes and Section 1214 of Title 68 of the Oklahoma Statutes, sales at retail of all electricity generated, transmitted or distributed by a rural electric cooperative as defined in this act shall be subject to all appropriate state, county and municipal sales taxes as provided in Section 1350 et seq. of Title 68 of the Oklahoma Statutes and Section 2701 of Title 68 of the Oklahoma Statutes.

SECTION 67. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1465 of Title 68, unless there is created a duplication in numbering, reads as follows:

The generation of electricity from any manufacturing facility primarily engaged in the generation of electricity which is

receiving a five-year exemption from ad valorem taxation pursuant to the provisions of Section 2902 of Title 68 of the Oklahoma Statutes on the effective date of this section shall be exempt from the tax levied pursuant to the provisions of paragraph 1 of Section 56 of this act for a period of time equal to the remainder of the five-year period for which the facility was eligible for the exemption from ad valorem taxation. The generation of electricity from a facility which meets the requirements of Section 2902 of Title 68 of the Oklahoma Statutes as a "manufacturing facility" placed in service after the effective date of this section but prior to December 31, 2003, shall be exempt from the tax levied pursuant to the provisions of paragraph 1 of Section 56 of this act for a period of five (5) years from the date the facility is placed in service. The amount of an exemption allowed pursuant to the provisions of this section shall be reimbursed to the entities specified in subsection B of Section 57 of this act from the Ad Valorem Reimbursement Fund in the proportions specified in subsection B of Section 57 of this act.

SECTION 68. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1466 of Title 68, unless there is created a duplication in numbering, reads as follows:

Sections 68 through 71 of this act shall be known and may be cited as the "Oklahoma Electric Energy Consumption Excise Tax Code".

SECTION 69. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1467 of Title 68, unless there is created a duplication in numbering, reads as follows:

It is hereby declared the intent of the Legislature that this article shall be construed as levying a consumption excise tax upon the retail sale of electric energy in those municipalities owning or operating their electric energy systems who are participating in electric restructuring and the Oklahoma Municipal Power Authority and the Grand River Dam Authority, to the extents specified in this act.

This electric energy consumption excise tax, however, shall not be construed to repeal or replace the provisions of the Oklahoma Sales Tax Code levying a sales tax upon the sale of electricity in the State of Oklahoma.

SECTION 70. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1468 of Title 68, unless there is created a duplication in numbering, reads as follows:

There is hereby levied upon retail sales of electric energy by a municipally-owned electric system participating in electric restructuring, the Oklahoma Municipal Power Authority, or the Grand River Dam Authority, their successors and assigns, a consumption excise tax of two (2) mills per kilowatt hour of electric energy consumed in this state, as provided in this section. This consumption excise tax shall be in addition to any other taxes or fees authorized to be levied by the state or any political subdivision thereof. Any such governmental electric system entity opting in under the provisions of the Electric Energy Deregulation Act will collect the electric energy consumption excise tax from its retail customers and shall deposit the tax in the entity's general revenue fund as directed by the entity's governing body; provided:

1. For any new connections to such a municipal system in an area that was not included within the municipal boundaries on the effective date of this section, seventy-five percent (75%) of the revenue derived pursuant to the provisions of this section shall be apportioned pursuant to the provisions of subsection B of Section 57 of this act and the remainder shall be deposited in the entity's general revenue fund as directed by the entity's governing body; and

2. For any retail sales of electric energy by the Grand River Dam Authority other than to a firm service native load customer of the Grand River Dam Authority on January 1, 2002, the tax levied by this section shall be levied and collected as provided in this act. The

revenue collected pursuant to the provisions of this paragraph shall be apportioned as follows:

- a. twenty-five (25%) shall be apportioned pursuant to the provisions of subsection B of Section 57 of this act, and
- b. seventy-five (75%) shall be apportioned to the building fund of the school districts in which electric generating facilities of the Grand River Dam Authority are located in proportion to the number of kilowatt hours of electricity generated in each such school district.

SECTION 71. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1469 of Title 68, unless there is created a duplication in numbering, reads as follows:

Sections 68 through 71 of this act shall not apply to any persons or entities required to remit electric energy taxes under the provisions of Sections 53 through 67 of this act.

SECTION 72. AMENDATORY 62 O.S. 1991, Section 193, as last amended by Section 3, Chapter 390, O.S.L. 1999 (62 O.S. Supp. 1999, Section 193), is amended to read as follows:

Section 193. A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Tax Commission to be designated the "Ad Valorem Reimbursement Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. Monies apportioned to this fund shall be expended:

1. To reimburse counties of this state for loss of revenue due to exemptions of ad valorem taxes for new or expanded manufacturing or research and development facilities; ~~and~~

2. To reimburse counties of this state for loss of revenue for school district and county purposes due to exemptions granted pursuant to the provisions of Section 2890 of Title 68 of the Oklahoma Statutes; and

3. To reimburse recipients of electric energy tax revenues for loss of revenue due to exemptions of electric energy taxes granted pursuant to the provisions of Section 67 of this act.

Provided that it shall be the duty of the Tax Commission to assess the valuation of all property for new or expanded manufacturing or research and development facilities which are exempt from ad valorem taxes.

Monies apportioned to this fund also may be transferred to other state funds or otherwise expended as directed by the Legislature by law.

B. The county commissioners of each county seeking reimbursement for lost revenue from the Ad Valorem Reimbursement Fund shall make claims for reimbursement on forms prescribed by the Tax Commission prior to April 30 of each year. Claims for reimbursement for loss of revenue due to exemptions of ad valorem taxes for new or expanded manufacturing or research and development facilities shall be made separately from claims for reimbursement for loss of revenue for school district and county purposes due to exemptions granted pursuant to the provisions of Section 2890 of Title 68 of the Oklahoma Statutes. Provided, the assessed valuation of a school district as stated in the claim for reimbursement shall be the same as reported to the State Department of Education on the Estimate of Need and shall include the total valuation of property exempt from taxation pursuant to Section 2902 of Title 68 of the Oklahoma Statutes. The claims shall be either approved or disapproved in whole or in part by the Tax Commission by June 15 of each year. A claim for reimbursement for loss of revenue due to an exemption of ad valorem taxes for a new or expanded manufacturing or research and development facility shall be disapproved if a county or school district has received any payment in lieu of ad valorem taxes from such facility, to the extent of the amount of such reimbursement. If the Tax Commission determines that an exemption

has been erroneously or unlawfully granted, it shall notify the appropriate county assessor who shall immediately value and assess the property and place it on the rolls for ad valorem taxation. Disbursements from the fund shall be made on warrants issued by the State Treasurer against claims filed by the Tax Commission with the Office of State Finance for payment. Such disbursements shall be exempt from all agency expenditure ceilings. The county treasurer shall apportion or disburse such funds for expenditures in the same manner as other ad valorem tax collections.

C. In the event monies apportioned to the Ad Valorem Reimbursement Fund are insufficient to pay all claims for reimbursement made pursuant to subsection B of this section, claims for reimbursement for loss of revenue due to exemptions of ad valorem taxes for new or expanded manufacturing or research and development facilities shall be paid first, and any remaining funds shall be distributed proportionally among the counties making claims for reimbursement for loss of revenue for school district and county purposes due to exemptions granted pursuant to the provisions of Section 2890 of Title 68 of the Oklahoma Statutes, according to the amount of the claim made by each county.

SECTION 73. AMENDATORY 68 O.S. 1991, Section 1214, is amended to read as follows:

Section 1214. Each cooperative and each foreign corporation transacting business in this state pursuant to the Rural Electric Cooperative Act (~~18 O.S. 1961 Sections 437 - 437.30~~) shall pay annually, on or before ~~the thirty-first day of~~ August 31, to the Oklahoma Tax Commission, a fee of One Dollar (\$1.00) for each one hundred persons or fraction thereof to whom electricity is supplied within the state by it, as of June 30th preceding, but shall be exempt from all other excise and income taxes whatsoever, except the appropriate taxes under the provisions of the Oklahoma Electric Energy Tax Code established pursuant to the provisions of this act



and the collection and remittance from its consumers of the appropriate taxes under the provisions of the Oklahoma Sales Tax Code as amended by the provisions of this act.

SECTION 74. AMENDATORY 68 O.S. 1991, Section 1357, as last amended by Section 15 of Enrolled House Bill No. 2711 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 1357. There are hereby specifically exempted from the tax levied by Section 1350 et seq. of this title:

1. Transportation of school pupils to and from elementary schools or high schools in motor or other vehicles;
2. Transportation of persons where the fare of each person does not exceed One Dollar (\$1.00), or local transportation of persons within the corporate limits of a municipality except by taxicabs;
3. Sales for resale to persons engaged in the business of reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made to persons to whom sales tax permits have been issued as provided in Section 1350 et seq. of this title. This exemption shall not apply to the sales of articles made to persons holding permits when such persons purchase items for their use and which they are not regularly engaged in the business of reselling; neither shall this exemption apply to sales of tangible personal property to peddlers, solicitors and other salespersons who do not have an established place of business and a sales tax permit. The exemption provided by this paragraph shall apply to sales of motor fuel or diesel fuel to a Group Five vendor, but the use of such motor fuel or diesel fuel by the Group Five vendor shall not be exempt from the tax levied by Section 1350 et seq. of this title. The purchase of motor fuel or diesel fuel is exempt from sales tax when the motor fuel is for shipment outside this state and consumed by a common carrier by rail in the conduct of its business. The sales tax shall apply to the

purchase of motor fuel or diesel fuel in Oklahoma by a common carrier by rail when such motor fuel is purchased for fueling, within this state, of any locomotive or other motorized flanged wheel equipment;

4. Sales of advertising space in newspapers and periodicals and billboard advertising service, and any advertising through the electronic media, including radio, television and cable television, and the servicing of any advertising devices;

5. Eggs, feed, supplies, machinery and equipment purchased by persons regularly engaged in the business of raising worms, fish, any insect or any other form of terrestrial or aquatic animal life and used for the purpose of raising same for marketing. This exemption shall only be granted and extended to the purchaser when the items are to be used and in fact are used in the raising of animal life as set out above. Each purchaser shall certify, in writing, on the invoice or sales ticket retained by the vendor that the purchaser is regularly engaged in the business of raising such animal life and that the items purchased will be used only in such business. The vendor shall certify to the Oklahoma Tax Commission that the price of the items has been reduced to grant the full benefit of the exemption. Violation hereof by the purchaser or vendor shall be a misdemeanor;

6. Sale of natural or artificial gas and electricity, and associated delivery or transmission services, when sold exclusively for residential use after December 31, 1980. Provided, nothing herein shall be construed as limiting or prohibiting cities and towns, and counties levying a tax pursuant to the provisions of Section 1370.2 of this title, from levying and collecting taxes on the sale of natural or artificial gas and electricity and associated delivery or transmission services. Provided further, any sales tax levied by a city or town, or a county levying a tax pursuant to the provisions of Section 1370.2 of this title, on natural or artificial

gas and electricity shall be in effect regardless of ordinance or contractual provisions referring to previously imposed state sales tax on such items;

7. In addition to the exemptions authorized by Section 1357.6 of this title, sales of medicines or drugs prescribed for the treatment of human beings by a person licensed to prescribe the medicines or drugs. Provided, this exemption shall not apply to proprietary or patent medicines as defined by Section 353.1 of Title 59 of the Oklahoma Statutes;

8. Transfers of title or possession of empty, partially filled, or filled returnable oil and chemical drums to any person who is not regularly engaged in the business of selling, reselling or otherwise transferring empty, partially filled, or filled returnable oil drums;

9. Sales of one-way utensils, paper napkins, paper cups, disposable hot containers and other one-way carry out materials to a vendor of meals or beverages;

10. Sales of food or food products for home consumption which are purchased in whole or in part with coupons issued pursuant to the federal food stamp program as authorized by Sections 2011 through 2029 of Title 7 of the United States Code, as to that portion purchased with such coupons. The exemption provided for such sales shall be inapplicable to such sales upon the effective date of any federal law that removes the requirement of the exemption as a condition for participation by the state in the federal food stamp program;

11. Sales of food or food products, or any equipment or supplies used in the preparation of the food or food products to or by an organization which:

- a. is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and which provides and

delivers prepared meals for home consumption to elderly or homebound persons as part of a program commonly known as "Meals on Wheels" or "Mobile Meals", or

- b. is exempt from taxation pursuant to the provisions of Section 501(c) (3) of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3), and which receives federal funding pursuant to the Older Americans Act of 1965, as amended, for the purpose of providing nutrition programs for the care and benefit of elderly persons;

12. Sales of tangible personal property or services to or by organizations which are exempt from taxation pursuant to the provisions of Section 501(c) (3) of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3), and which are primarily involved in the collection and distribution of food and other household products to other organizations which are exempt from taxation pursuant to the provisions of Section 501(c) (3) of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3), which facilitate the distribution of such products to the needy, except sales made in the course of business for profit or savings, competing with other persons engaged in the same or similar business;

13. Sales of food, food products, or clothing to children's homes which are located on church-owned property and are operated by organizations exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3);

14. Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment for use in a qualified aircraft maintenance or manufacturing facility. For purposes of this paragraph, "qualified aircraft maintenance or manufacturing facility" means a new or expanding facility primarily engaged in aircraft repair, building or rebuilding whether or not on a factory basis, whose total cost of

construction exceeds the sum of Five Million Dollars (\$5,000,000.00) and which employs at least two hundred fifty (250) new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, upon completion of the facility. In order to qualify for the exemption provided for by this paragraph, the cost of the items purchased by the qualified aircraft maintenance or manufacturing facility shall equal or exceed the sum of Two Million Dollars (\$2,000,000.00);

15. Sales of tangible personal property consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility as defined in paragraph 14 of this section. For purposes of this paragraph, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a qualified aircraft maintenance or manufacturing facility for construction or expansion of such a facility shall be considered sales made to a qualified aircraft maintenance or manufacturing facility;

16. Sales of any interstate telecommunications services which:

- a. entitle the subscriber to inward or outward calling respectively between a station associated with an access line in the local telephone system area or a station directly connected to any interexchange carrier's facilities and telephone or radiotelephone stations in diverse geographical locations specified by the subscriber, or
- b. entitle the subscriber to private communications services which allow exclusive or priority use of a communications channel or group of channels between exchanges;

17. Sales of railroad track spikes manufactured and sold for use in this state in the construction or repair of railroad tracks, switches, sidings and turnouts;

18. Sales of aircraft and aircraft parts provided such sales occur at a qualified aircraft maintenance facility. As used in this paragraph, "qualified aircraft maintenance facility" means a facility operated by an air common carrier at which there were employed at least two thousand (2,000) full-time-equivalent employees in the preceding year as certified by the Oklahoma Employment Security Commission and which is primarily related to the fabrication, repair, alteration, modification, refurbishing, maintenance, building or rebuilding of commercial aircraft or aircraft parts used in air common carriage. For purposes of this paragraph, "air common carrier" shall also include members of an affiliated group as defined by Section 1504 of the Internal Revenue Code, 26 U.S.C., Section 1504;

19. Sales of machinery and equipment purchased and used by persons and establishments primarily engaged in computer services and data processing:

- a. as defined under Industrial Group Numbers 7372 and 7373 of the Standard Industrial Classification (SIC) Manual, latest version, which derive at least fifty percent (50%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer, and
- b. as defined under Industrial Group Number 7374 of the SIC Manual, latest version, which derive at least eighty percent (80%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer.

Eligibility for the exemption set out in this paragraph shall be established, subject to review by the Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and such information as required by the Tax Commission. For purposes of determining whether annual gross

revenues are derived from sales to out-of-state buyers or consumers, all sales to the federal government shall be considered to be to an out-of-state buyer or consumer;

20. Sales of prosthetic devices to an individual for use by such individual. For purposes of this paragraph, "prosthetic device" means a device which replaces a missing part of the human body and shall include any supplies physically connected to the device;

21. Sales of tangible personal property or services to a motion picture or television production company to be used or consumed in connection with an eligible production. For purposes of this paragraph, "eligible production" means a documentary, special, music video, or a television program that will serve as a pilot for or be a segment of an ongoing dramatic or situation comedy series filmed or taped for network or national or regional syndication or a feature-length motion picture intended for theatrical release or for network or national or regional syndication or broadcast. The provisions of this paragraph shall apply to sales occurring on or after July 1, 1996;

22. Sales of diesel fuel sold for consumption by commercial vessels, barges and other commercial watercraft;

23. Sales of tangible personal property or services to tax-exempt independent nonprofit biomedical research foundations that provide educational programs for Oklahoma science students and teachers and to tax-exempt independent nonprofit community blood banks headquartered in this state;

24. Effective May 6, 1992, sales of wireless telecommunications equipment to a vendor who subsequently transfers the equipment at no charge or for a discounted charge to a consumer as part of a promotional package or as an inducement to commence or continue a contract for wireless telecommunications services;

25. Effective January 1, 1991, leases of rail transportation cars to haul coal to coal-fired plants located in this state which generate electric power; ~~and~~

26. Beginning July 1, 2000, sales of aircraft engine repairs, modification, and replacement parts, sales of aircraft frame repairs and modification, aircraft interior modification, and paint, and sales of services employed in the repair, modification and replacement of parts of aircraft engines, aircraft frame and interior repair and modification, and paint. The exemption provided by this paragraph shall be limited to aircraft repairs, modification, and replacement parts for aircraft weighing more than twelve thousand five hundred (12,500) pounds and less than one hundred thousand (100,000) pounds and which aircraft are brought into this state exclusively for such repairs or modification. The exemption provided by this paragraph shall be limited to repairs or modifications made by a new or expanded aircraft repair facility. As used in this paragraph, the term "aircraft" shall have the same meaning as such term is defined in Section 6001 of this title. The term "new or expanded aircraft repair facility" shall mean any new or expanded facility which repairs, modifies or replaces aircraft parts in which more than Four Million Dollars (\$4,000,000.00) was invested to establish the new facility or expand an existing facility and which construction was commenced or was in progress on or after January 1, 1999; and

27. Sale, assignment or other transfer of title, use or possession of any facility, operation or service, pursuant to Section 4 of this act.

SECTION 75. AMENDATORY 68 O.S. 1991, Section 2601, is amended to read as follows:

Section 2601. A. The power is hereby vested in the governing body of any city or town in the State of Oklahoma to ~~levy and~~ assess, by ordinance, an annual ~~tax~~ fee upon the gross receipts from



~~residential and commercial~~ sales of ~~power, light, heat, gas,~~ electricity or water in said city or town in an amount not exceeding two percent (2%) of the gross receipts from ~~residential and commercial~~ such sales, which ~~tax~~ fee shall be in lieu of any other franchise, license, occupation or excise tax, ~~levied~~ assessed by such city or town.

B. The power is hereby vested in the governing body of any city or town in the State of Oklahoma which owns or operates a municipal electric system and does not opt into the provisions of the Oklahoma Electric Restructuring Implementation Act to assess, by ordinance, an annual fee upon the gross receipts from sales of electricity and distribution of electricity in such city or town in an amount not exceeding two percent (2%) of the gross receipts from such sales, which fee shall be in lieu of any other franchise, license, occupation or excise tax assessed by such city or town. The fee may be assessed upon a retail electric energy supplier upon sales of electricity to retail electric consumers located within the municipal limits.

C. The power is hereby vested in the governing body of any city or town in the State of Oklahoma not included in subsection B of this section to assess, by ordinance, an annual fee upon sales of electricity and distribution of electricity in such city which shall be in lieu of any franchise fee, license, or occupation tax levied by such city or town. The fee may be assessed upon a retail electric energy supplier upon sales of electricity to retail electric consumers located within the municipal limits; provided, that:

1. In cities or towns where a franchise exists, the fee shall not exceed the highest franchise fee established for such like service being provided by a franchisee of the city or town; provided that, upon the expiration of a franchise which existed on or before

the effective date of this section, the fee shall not exceed the amount established by the expired franchise; and

2. In cities or towns which own or operate a municipal electric system and where no franchise has been granted on the effective date of this section, the fee may be fixed by the governing body of such city or town, in an amount not to exceed the highest franchise fee being collected for like services by any city or town in the State of Oklahoma having a population in excess of ten thousand (10,000) persons.

D. The deregulation of electric power is a matter of statewide concern. Except as may be provided in Section 2601 of Title 68 of the Oklahoma Statutes, no city or town may assess or require a fee of any kind upon a retail electric energy supplier, aggregator or generator of electricity for its use of the electric distribution services of an electric distribution company, as defined in this act, in order to sell electricity to consumers located within the city or town pursuant to this act, if such electric distribution company pays a fee to the municipality in consideration for the use of the streets, alleys or public ways.

E. Along with any such payment to the city or town, the electric distribution company shall provide the municipality a report listing the name and address of any supplier, aggregator or generator using its services within the municipality.

F. Any franchise fee, or voluntary payment made in addition thereto, permit, occupation tax, or excise tax paid by an electric utility or electric distribution company to a city or town as consideration for the use of the streets, alleys or public ways, or a franchise shall be recovered as an operating expense from the consumers served by the electric utility or electric distribution company.

G. Provided, in addition to the Oklahoma Electric Energy Tax which is to be collected by any municipally-owned electric system or

the Oklahoma Municipal Power Authority, where either opts to be subject to the Oklahoma Electric Restructuring Implementation Act, any such entity so opting shall not assess the fee provided for in this section upon any electric distribution company unless it assesses a fee in the same amount and percentage upon the municipal electric utility or its customers.

SECTION 76. AMENDATORY 68 O.S. 1991, Section 2602, is amended to read as follows:

Section 2602. The ~~tax~~ fee authorized to be levied under Section ~~47, 2601~~ of this ~~act~~, title shall, when levied, apply to all persons, firms, associations, municipalities or public trusts thereof or the Oklahoma Municipal Power Authority or corporations engaged in the business of furnishing power, light, heat, gas, electricity or water in any city or town, except it shall not apply to any person, firm, association or corporation operating under a valid franchise from ~~said~~ the city or town.

SECTION 77. AMENDATORY 68 O.S. 1991, Section 2805, is amended to read as follows:

Section 2805. The following fees or taxes levied by the provisions of the Oklahoma Statutes shall be in lieu of ad valorem tax, whether in lieu of real property tax, personal property tax, or both as provided by law;

1. The registration fees and taxes imposed upon aircraft by Section 251 et seq. of Title 3 of the Oklahoma Statutes;
2. Registration fees for motor vehicles as provided in Section 1103 of Title 47 of the Oklahoma Statutes, except as otherwise specifically provided;
3. The fee imposed upon transfers of used vehicles in lieu of the ad valorem tax upon inventories of used motor vehicles by Section 1137.1 of Title 47 of the Oklahoma Statutes;

4. The registration and license fees imposed upon vessels and motors pursuant to the Oklahoma Vessel and Motor Registration Act, Section 4001 et seq. of Title 63 of the Oklahoma Statutes;

5. The taxes levied upon the gross production of substances pursuant to Section 1001 of this title;

6. The taxes levied upon the gross production of substances pursuant to Section 1020 of this title;

7. The ~~tax~~ taxes imposed upon ~~gross receipts pursuant to Section 1803 of this title~~ the generation, transmission and distribution of electric energy pursuant to Section 56 of this act;

8. The tax imposed upon certain textile products pursuant to Section 2001 of this title;

9. The tax imposed upon certain freight cars pursuant to Section 2202 of this title;

10. The tax imposed on certain parts of the inventories, both new and used items, owned and/or possessed for sale by retailers of farm tractors and other equipment pursuant to ~~Section 1~~ Sections 5401 through 4 5404 of this ~~act~~ title;

11. The tax imposed upon inventories of new vehicles and certain vessels pursuant to Section 5301 of this title; and

12. Such other fees or taxes as may be expressly provided by law to be in lieu of ad valorem taxation.

SECTION 78. AMENDATORY 68 O.S. 1991, Section 2808, as last amended by Section 1, Chapter 337, O.S.L. 1997 (68 O.S. Supp. 1999, Section 2808), is amended to read as follows:

Section 2808. A. As used in the Ad Valorem Tax Code:

1. "Public service corporation" means all transportation companies, transmission companies, all gas, ~~electric, light, heat and power companies~~ and all waterworks and water power companies, and all other persons authorized to exercise the right of eminent domain or to use or occupy any right-of-way, street, alley, or

public highway, along, over or under the same in a manner not permitted to the general public;

2. "Transportation company" means any company, corporation, trustee, receiver, or any other person owning, leasing or operating for hire, a street railway, canal, steamboat line, and also any sleeping car company, parlor car company and express company, and any other company, trustee, or person in any way engaged in such business as a common carrier. As used in the Ad Valorem Tax Code, the term "transportation company" shall not include any railroad or any air carrier. However, all railroad and air carrier property shall continue to be valued and assessed by the State Board of Equalization for purposes of ad valorem taxation;

3. "Transmission company" means any company, corporation, trustee, receiver, or other person owning, leasing or operating for hire any telegraph or telephone line or radio broadcasting system; and

4. "Person" means individuals, partnerships, associations, and corporations in the singular as well as plural number.

B. As used in the Ad Valorem Tax Code, the terms "public service corporation", "transportation company" and "transmission company" shall not be construed to include electric generating companies, electric distribution companies, electric transmission companies or Electric Cooperatives and any other real or personal property owned by such entities used directly or indirectly in the production, generation, transmission or distribution of electric energy.

C. As used in the Ad Valorem Tax Code, the terms "transmission company" and "public service corporation" shall not be construed to include cable television companies.

~~C.~~ D. Any real or personal property used by any company, corporation, trustee, receiver, or other person owning, leasing, or operating for hire any pipeline or oil or gas gathering system which

was assessed by the State Board of Equalization through ad valorem tax year 1998.

SECTION 79. AMENDATORY Section 7, Chapter 275, O.S.L. 1993 (68 O.S. Supp. 1999, Section 3607), as last amended by Section 16 of Enrolled House Bill No. 2711 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 3607. Notwithstanding any other provision of law, if a qualified establishment receives an incentive payment pursuant to the provisions of Section 3601 et seq. of this title, neither the qualified establishment nor its contractors or subcontractors shall be eligible to receive the credits or exemptions provided for in the following provisions of law in connection with the activity for which the incentive payment was received:

1. Paragraphs 14 and 15 of Section 1357 of this title;
2. Paragraph 7 of Section 1359 of this title;
3. Section 2357.4 of this title;
4. Section 2357.7 of this title;
5. Section 2-11-303 of Title 27A of the Oklahoma Statutes;
6. Section 2357.22 of this title;
7. Section 2357.31 of this title;
8. Section 54003 of this title;
9. Section 54006 of this title;
10. Section 625.1 of Title 36 of the Oklahoma Statutes;
11. Subsections C and D of Section 2357.59 of this title; ~~or~~
12. Section 2357.13 of this title; or
13. Section 67 of this act.

SECTION 80. AMENDATORY Section 4, Chapter 215, O.S.L. 1996, as last amended by Section 9, Chapter 274, O.S.L. 1998 (70 O.S. Supp. 1999, Section 18-200.1), is amended to read as follows:

Section 18-200.1 A. Beginning with the 1997-98 school year, and each school year thereafter, each school district shall have its initial allocation of State Aid calculated based on the state

dedicated revenues actually collected during the preceding fiscal year, the adjusted assessed valuation of the preceding year and the highest weighted average daily membership for the school district of the two (2) preceding school years. The State Department of Education shall notify each school district by July 15 of the district's initial allocation level. Each school district shall submit the following data based on the first nine (9) weeks, to be used in the calculation of the average daily membership of the school district:

1. Student enrollment by grade level;
2. Pupil category counts; and
3. Transportation supplement data.

On or before December 30, the State Department of Education shall determine each school district's current year allocation pursuant to subsection D of this section. The State Department of Education shall complete an audit, using procedures established by the Department, of the student enrollment by grade level data, pupil category counts and transportation supplement data to be used in the State Aid Formula pursuant to subsection D of this section by December 1 and by January 15 shall notify each school district of the district's final State Aid allocation for the current school year. The January payment of State Aid and each subsequent payment for the remainder of the school year shall be based on the final State Aid allocation as calculated in subsection D of this section. Except for reductions made due to the assessment of penalties by the State Department of Education according to law, the January payment of State Aid and each subsequent payment for the remainder of the school year shall not decrease by an amount more than the amount that the current chargeable revenue increases for that district.

B. The State Department of Education shall retain not less than one and one-half percent (1 1/2%) of the total funds appropriated for financial support of schools, to be used to make midyear

adjustments in State Aid and which shall be reflected in the final allocations. If the amount of appropriated funds, including the one and one-half percent (1 1/2%) retained, remaining after January 1 of each year is not sufficient to fully fund the final allocations, each school district shall receive a proportionate reduction in funding.

C. On and after July 1, 1997, the amount of State Aid each district shall receive shall be the sum of the Foundation Aid, the Salary Incentive Aid and the Transportation Supplement, as adjusted pursuant to the provisions of subsection G of this section and Section 18-112.2 of this title; provided, no district having per pupil revenue in excess of three hundred percent (300%) of the average per pupil revenue of all districts shall receive any State Aid or Supplement in State Aid.

The July calculation of per pupil revenue shall be determined by dividing the district's second preceding year's total weighted average daily membership (ADM) into the district's second preceding year's total revenues excluding federal revenue, insurance loss payments, reimbursements, recovery of overpayments and refunds, unused reserves, prior expenditures recovered, prior year surpluses, and less the amount of any transfer fees paid in that year.

The December calculation of per pupil revenue shall be determined by dividing the district's preceding year's total weighted average daily membership (ADM) into the district's preceding year's total revenues excluding federal revenue, insurance loss payments, reimbursements, recovery of overpayments and refunds, unused reserves, prior expenditures recovered, prior year surpluses, and less the amount of any transfer fees paid in that year.

D. For the 1997-98 school year, and each school year thereafter, Foundation Aid, the Transportation Supplement and Salary Incentive Aid shall be calculated as follows:



1. Foundation Aid shall be determined by subtracting the amount of the Foundation Program Income from the cost of the Foundation Program and adding to this difference the Transportation Supplement.

a. The Foundation Program shall be a district's highest weighted average daily membership based on the first nine (9) weeks of the current school year, the preceding school year or the second preceding school year of a school district, as determined by the provisions of subsection A of Section 18-201.1 of this title and paragraphs 1, 2, 3 and 4 of subsection B of Section 18-201.1 of this title, multiplied by the Base Foundation Support Level.

b. The Foundation Program Income shall be the sum of the following:

- (1) The adjusted assessed valuation of the current school year of the school district, minus the previous year protested ad valorem tax revenues held as prescribed in Section 2884 of Title 68 of the Oklahoma Statutes, multiplied by the mills levied pursuant to subsection (c) of Section 9 of Article X of the Oklahoma Constitution, if applicable, as adjusted in subsection (c) of Section 8A of Article X of the Oklahoma Constitution. For purposes of this subsection, the "adjusted assessed valuation of the current school year" shall be the adjusted assessed valuation on which tax revenues are collected during the current school year, and
- (2) Seventy-five percent (75%) of the amount received by the school district from the proceeds of the county levy during the preceding fiscal year, as

levied pursuant to subsection (b) of Section 9 of Article X of the Oklahoma Constitution, and

- (3) Motor Vehicle Collections, and
- (4) Gross Production Tax, and
- (5) State Apportionment, and
- (6) R.E.A. Tax, and
- (7) Electric Energy Taxes.

The items listed in divisions (3), (4), (5), ~~and~~ (6) and (7) of this subparagraph shall consist of the amounts actually collected from such sources during the preceding fiscal year calculated on a per capita basis on the unit provided for by law for the distribution of each such revenue.

2. The Transportation Supplement shall be equal to the average daily haul times the per capita allowance times the appropriate transportation factor.

- a. The average daily haul shall be the number of children in a district who are legally transported and who live one and one-half (1 1/2) miles or more from school.
- b. The per capita allowance shall be determined using the following chart:

	PER CAPITA		PER CAPITA
DENSITY FIGURE	ALLOWANCE	DENSITY FIGURE	ALLOWANCE
.3000 - .3083	\$167.00	.9334 - .9599	\$99.00
.3084 - .3249	\$165.00	.9600 - .9866	\$97.00
.3250 - .3416	\$163.00	.9867 - 1.1071	\$95.00
.3417 - .3583	\$161.00	1.1072 - 1.3214	\$92.00
.3584 - .3749	\$158.00	1.3215 - 1.5357	\$90.00
.3750 - .3916	\$156.00	1.5358 - 1.7499	\$88.00
.3917 - .4083	\$154.00	1.7500 - 1.9642	\$86.00
.4084 - .4249	\$152.00	1.9643 - 2.1785	\$84.00
.4250 - .4416	\$150.00	2.1786 - 2.3928	\$81.00

.4417 - .4583	\$147.00	2.3929 - 2.6249	\$79.00
.4584 - .4749	\$145.00	2.6250 - 2.8749	\$77.00
.4750 - .4916	\$143.00	2.8750 - 3.1249	\$75.00
.4917 - .5083	\$141.00	3.1250 - 3.3749	\$73.00
.5084 - .5249	\$139.00	3.3750 - 3.6666	\$70.00
.5250 - .5416	\$136.00	3.6667 - 3.9999	\$68.00
.5417 - .5583	\$134.00	4.0000 - 4.3333	\$66.00
.5584 - .5749	\$132.00	4.3334 - 4.6666	\$64.00
.5750 - .5916	\$130.00	4.6667 - 4.9999	\$62.00
.5917 - .6133	\$128.00	5.0000 - 5.5000	\$59.00
.6134 - .6399	\$125.00	5.5001 - 6.0000	\$57.00
.6400 - .6666	\$123.00	6.0001 - 6.5000	\$55.00
.6667 - .6933	\$121.00	6.5001 - 7.0000	\$53.00
.6934 - .7199	\$119.00	7.0001 - 7.3333	\$51.00
.7200 - .7466	\$117.00	7.3334 - 7.6667	\$48.00
.7467 - .7733	\$114.00	7.6668 - 8.0000	\$46.00
.7734 - .7999	\$112.00	8.0001 - 8.3333	\$44.00
.8000 - .8266	\$110.00	8.3334 - 8.6667	\$42.00
.8267 - .8533	\$108.00	8.6668 - 9.0000	\$40.00
.8534 - .8799	\$106.00	9.0001 - 9.3333	\$37.00
.8800 - .9066	\$103.00	9.3334 - 9.6667	\$35.00
.9067 - .9333	\$101.00	9.6668 or more	\$33.00

c. The formula transportation factor shall be 1.39.

3. Salary Incentive Aid shall be determined as follows:

a. Multiply the Incentive Aid guarantee by the district's highest weighted average daily membership based on the first nine (9) weeks of the current school year, the preceding school year or the second preceding school year of a school district, as determined by the provisions of subsection A of Section 18-201.1 of this title and paragraphs 1, 2, 3 and 4 of subsection B of Section 18-201.1 of this title.

- b. Divide the district's adjusted assessed valuation of the current school year minus the previous year's protested ad valorem tax revenues held as prescribed in Section 2884 of Title 68 of the Oklahoma Statutes, by one thousand (1,000) and subtract the quotient from the product of subparagraph a of this paragraph. The remainder shall not be less than zero (0).
- c. Multiply the number of mills levied for general fund purposes above the fifteen (15) mills required to support Foundation Aid pursuant to division (1) of subparagraph b of paragraph 1 of this subsection, not including the county four-mill levy, by the remainder of subparagraph b of this paragraph. The product shall be the Salary Incentive Aid of the district.

E. By June 30, 1998, the State Department of Education shall develop and the Department and all school districts shall have implemented a student identification system which is consistent with the provisions of subsections C and D of Section 3111 of Title 74 of the Oklahoma Statutes. The student identification system shall be used specifically for the purpose of reporting enrollment data by school sites and by school districts, the administration of the Oklahoma School Testing Program Act, the collection of appropriate and necessary data pursuant to the Oklahoma Educational Indicators Program, determining student enrollment, establishing a student mobility rate, allocation of the State Aid Formula and mid-year adjustments in funding for student growth. This enrollment data shall be submitted to the State Department of Education in accordance with rules promulgated by the State Board of Education. Funding for the development, implementation, personnel training and maintenance of the student identification system shall be set out in a separate line item in the allocation section of the appropriation bill for the State Board of Education for each year.

F. 1. In the event that ad valorem taxes of a school district are determined to be uncollectible because of bankruptcy, clerical error, or a successful tax protest, and the amount of such taxes deemed uncollectible exceeds Fifty Thousand Dollars (\$50,000.00) or an amount greater than twenty-five percent (25%) of ad valorem taxes per tax year, or the valuation of a district is lowered by order of the State Board of Equalization, the school district's State Aid, for the school year that such ad valorem taxes are calculated in the State Aid Formula, shall be determined by subtracting the net assessed valuation of the property upon which taxes were deemed uncollectible from the assessed valuation of the school district and the state. Upon request of the local board of education, it shall be the duty of the county assessor to certify to the Director of Finance of the State Department of Education the net assessed valuation of the property upon which taxes were determined uncollectible.

~~For the 1997-98 school year, school districts who had over One Hundred Fifty Thousand Dollars (\$150,000.00) held in protest by a commercial entity as part of the 1995 assessed valuation shall have the protested amount subtracted from the current year assessed valuation as used for the purposes of calculating State Aid.~~

2. a. For the July calculation for the 2002-2003 and the 2003-2004 school years, the amount of ad valorem taxes paid on generation, transmission and distribution property which is removed from the ad valorem tax rolls pursuant to the provisions of this act and the amount of taxes previously levied on rural electric cooperatives pursuant to the provisions of Section 1803 of Title 68 of the Oklahoma Statutes no longer collected pursuant to the provisions of this act, shall be excluded from the district's preceding year's total collections. Provided further, for the 2002-

2003 and 2003-2004 school years, an estimate of the amount of electric energy taxes to be received by the district in such school years shall be added to the preceding year's total collections, and

- b. For the December calculation for the 2002-2003 school year, the amount of ad valorem taxes paid on generation, transmission and distribution property which is removed from the ad valorem tax rolls pursuant to the provisions of this act and the amount of taxes previously levied on rural electric cooperatives pursuant to the provisions of Section 1803 of Title 68 of the Oklahoma Statutes no longer collected pursuant to the provisions of this act, shall be excluded from the district's preceding year's total collections. Provided further, for the 2002-2003 school year, an estimate of the amount of electric energy taxes to be received by the district in such school year shall be added to the preceding year's total collections.

3. In the event that the amount of funds a school district receives for reimbursement from the Ad Valorem Reimbursement Fund is less than the amount of funds claimed for reimbursement by the school district due to insufficiency of funds as provided in Section 193 of Title 62 of the Oklahoma Statutes, then the school district's assessed valuation for the school year that such ad valorem reimbursement is calculated in the State Aid Formula shall be adjusted accordingly.

G. Notwithstanding the provisions of Section 18-112.2 of this title, a school district shall have its State Aid reduced by an amount equal to the amount of carryover in the general fund of the district as of June 30 of the preceding fiscal year, that is in excess of the following standards:

Total Amount of General Fund Collections, Excluding Previous Year Cash Surplus as of June 30	Amount of General Fund Balance Allowable
Less than \$1,000,000	40%
\$1,000,000 - \$2,999,999	35%
\$3,000,000 - \$3,999,999	30%
\$4,000,000 - \$4,999,999	25%
\$5,000,000 - \$5,999,999	20%
\$6,000,000 - \$7,999,999	16%
\$8,000,000 - \$10,000,000	12%
More than \$10,000,000	8%

By February 1 the State Department of Education shall send by certified mail, with return receipt requested, to each School District Superintendent, Auditor and Regional Accreditation Officer a notice of and calculation sheet reflecting the general fund balance penalty to be assessed against that school district. Within thirty (30) days of receipt of this written notice the school district shall submit to the Department a written reply either accepting or protesting the penalty to be assessed against the district. If protesting, the school district shall submit with its reply the reasons for rejecting the calculations and documentation supporting those reasons. The Department shall review all school district penalty protest documentation and notify each district by March 15 of its finding and the final penalty to be assessed to each district. General fund balance penalties shall be assessed to all school districts by April 1. Any school district which receives proceeds from a tax settlement during the last two (2) months of the preceding fiscal year shall be exempt from the penalties assessed in this subsection, if the penalty would occur solely as a result of receiving funds from the tax settlement.

H. In order to provide startup funds for the implementation of early childhood programs, State Aid may be advanced to school districts that initially start early childhood instruction at a school site. School districts that desire such advanced funding shall make application to the State Department of Education no later than September 15 of each year and advanced funding shall be awarded to the approved districts no later than October 30. The advanced funding shall not exceed the per pupil amount of State Aid as calculated in subsection D of this section per anticipated Head Start eligible student. The total amount of advanced funding shall be proportionately reduced from the monthly payments of the district's State Aid payments during the last six (6) months of the same fiscal year.

I. 1. Beginning July 1, 1996, the Oklahoma Tax Commission, notwithstanding any provision of law to the contrary, shall report monthly to the Oklahoma State Department of Education the monthly apportionment of the following information:

- ~~a. the assessed valuation of property,~~
- ~~b. motor vehicle collections,~~
- ~~c. R.E.A. tax collected, and~~
- ~~d. gross productions tax collected, and~~
- d. beginning January 1, 2002, electric energy taxes collected.

2. Beginning July 1, 1997, the ~~State Auditor and Inspector's Office~~ county treasurer's offices, notwithstanding any provision of law to the contrary, shall report monthly to the Oklahoma State Department of Education the monthly apportionment of the proceeds of the county levy.

3. Beginning July 1, 1996, the Commissioners of the Land Office, notwithstanding any provision of law to the contrary, shall report monthly to the State Department of Education the monthly apportionment of state apportionment.



4. Beginning July 1, 1997, the ~~county treasurers' offices~~ State Auditor and Inspector's Office, notwithstanding any provision of law to the contrary, shall report monthly to the Oklahoma State Department of Education the ad valorem tax protest amounts for each county.

5. The information reported by the Tax Commission, the State Auditor and Inspector's Office, the county treasurers' offices and the Commissioners of the Land Office, pursuant to this subsection shall be reported by school district on forms developed by the State Department of Education.

SECTION 81. AMENDATORY 19 O.S. 1991, Section 180.58, as last amended by Section 1, Chapter 119, O.S.L. 1997 (19 O.S. Supp. 1999, Section 180.58), is amended to read as follows:

Section 180.58 A. Sections 180.58 through 180.68 of this title shall apply to all counties which do not approve an exemption of household goods of the heads of families and livestock employed in support of the family from ad valorem taxation pursuant to the provisions of Section 6 of Article X of the Oklahoma Constitution.

B. The purpose of Sections 180.58 through 180.68 of this title is to codify and revise the laws of the state relating to the salaries and wages of county officers and their deputies and employees, and to establish said salaries and wages by general law applicable throughout the state under a uniform schedule fixing such salaries and wages and future increases and reductions thereof upon the following bases:

1. The available revenues of the several counties out of which such salaries and wages may be paid;
2. The amount of services required to be performed;
3. The monetary value of such services in relation to that of nongovernmental services of similar nature in the areas wherein such services are performed; and

4. The relative amounts of services required of the various county officers, their deputies and employees upon investigation and full consideration of the applicable facts.

C. The Legislature has determined that the foregoing bases of such schedule gradations generally are cognate to the combination of the following factors:

1. ~~The net valuation of all tangible taxable property of the county (total taxable valuation less homestead exemption allowances except those additional homestead exemptions authorized and allowed pursuant to Section 2890 of Title 68 of the Oklahoma Statutes)~~ total amount of revenue authorized to be collected within the county, including such revenue which would have otherwise been authorized to be collected if the provisions of Section 2890 of Title 68 of the Oklahoma Statutes had not been enacted, which is apportioned for county purposes pursuant to subsection (a) of Section 9 of Article X of the Oklahoma Constitution, to which shall be added the total amount of revenue apportioned to the county pursuant to the provisions of paragraph 5 of subsection B of Section 57 of this act, hereinafter referred to as "service-ability"; and

2. The population of the county, hereinafter referred to as the "service-load".

The application of said factors properly establishes a rational and relevant formula for uniformity of salaries and wages and of future increases and decreases thereof.

SECTION 82. AMENDATORY 19 O.S. 1991, Section 180.62, as last amended by Section 1 of Enrolled Senate Bill No. 1228 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 180.62 A. The basic salaries of county officers upon which all salaries and future increases or decreases thereof shall be computed, shall be as follows:

1. In every county having a ~~net valuation of all tangible taxable property~~ service-ability factor, as defined in ~~Sections Section 180.58 and 180.59~~ of this title, of ~~Forty Million Dollars (\$40,000,000.00)~~ Four Hundred Thousand Dollars (\$400,000.00) or less, the basic salary of each of the county officers named in paragraph 1 of Section 180.61 of this title shall not be less than Nineteen Thousand Dollars (\$19,000.00) per annum nor shall it exceed Thirty-nine Thousand Dollars (\$39,000.00) per annum;

2. In every county having a ~~net valuation of all tangible taxable property~~ service-ability factor, as defined in ~~Sections Section 180.58 and 180.59~~ of this title, of more than ~~Forty Million Dollars (\$40,000,000.00)~~ Four Hundred Thousand Dollars (\$400,000.00) but not more than ~~Eighty Million Dollars (\$80,000,000.00)~~ Eight Hundred Thousand Dollars (\$800,000.00), the basic salary of each of the county officers named in paragraph 1 of Section 180.61 of this title shall not be less than Twenty-two Thousand Five Hundred Dollars (\$22,500.00) per annum nor shall it exceed Forty-two Thousand Five Hundred Dollars (\$42,500.00) per annum;

3. In every county having a ~~net valuation of all tangible taxable property~~ service-ability factor, as defined in ~~Sections Section 180.58 and 180.59~~ of this title, of more than ~~Eighty Million Dollars (\$80,000,000.00)~~ Eight Hundred Thousand Dollars (\$800,000.00) but not more than ~~Three Hundred Million Dollars (\$300,000,000.00)~~ Three Million Dollars (\$3,000,000.00), the basic salary of each of the county officers named in paragraph 1 of Section 180.61 of this title shall not be less than Twenty-four Thousand Five Hundred Dollars (\$24,500.00) per annum nor shall it exceed Forty-four Thousand Five Hundred Dollars (\$44,500.00) per annum;

4. In every county having a ~~net valuation of all tangible taxable property~~ service-ability factor, as defined in ~~Sections Section 180.58 and 180.59~~ of this title, of more than ~~Three Hundred~~

~~Million Dollars (\$300,000,000.00)~~ Three Million Dollars  
(\$3,000,000.00) but not more than ~~Six Hundred Million Dollars~~  
~~(\$600,000,000.00)~~ Ten Million Dollars (\$10,000,000.00), the basic  
salary of each of the county officers named in paragraph 1 of  
Section 180.61 of this title shall not be less than Twenty-two  
Thousand Five Hundred Dollars (\$22,500.00) per annum nor shall it  
exceed Forty-two Thousand Five Hundred Dollars (\$42,500.00) per  
annum; and

5. In every county having a ~~net valuation of all tangible  
taxable property~~ service-ability factor, as defined in ~~Sections~~  
Section 180.58 and 180.59 of this title, of more than ~~Six Hundred~~  
~~Million Dollars (\$600,000,000.00)~~ Ten Million Dollars  
(\$10,000,000.00), the basic salary of each of the county officers  
named in paragraph 1 of Section 180.61 of this title shall not be  
less than Nineteen Thousand Dollars (\$19,000.00) per annum nor shall  
it exceed Thirty-nine Thousand Dollars (\$39,000.00) per annum.

B. The board of county commissioners shall set the salaries for  
all elected county officials within the limits allowed by law.

C. The annual salaries fixed by this act shall be paid either  
monthly or twice a month, by order of the board of county  
commissioners, for each month or fraction thereof the incumbent  
lawfully occupies and holds title to such office.

SECTION 83. AMENDATORY 19 O.S. 1991, Section 180.63, as  
amended by Section 9, Chapter 239, O.S.L. 1993 (19 O.S. Supp. 1999,  
Section 180.63), is amended to read as follows:

Section 180.63. ~~In every county in this state, the~~ The salary  
of all county officers named in paragraph 1 of Section 180.61 of  
this title may be increased from the applicable basic salary named  
in Section 180.62 of this title, for ~~net valuation or serviceability~~  
the factor of service-ability, as defined in Section 180.58 of this  
title, according to the following scale:

A. To the basic salary:

1. Add the product of One Hundred Dollars (\$100.00) times each ~~One Million Dollars (\$1,000,000.00) net valuation, or major fraction thereof until a net valuation of Seventy-five Million Dollars (\$75,000,000.00) is reached~~ Ten Thousand Dollars (\$10,000.00) of revenue authorized to be collected for county purposes or apportioned to the county pursuant to the provisions of paragraph 5 of subsection B of Section 57 of this act, or major fraction thereof, until the amount of such revenue equals Seven Hundred Fifty Thousand Dollars (\$750,000.00);

2. Thereafter add the product of One Hundred Dollars (\$100.00) times each additional ~~Five Million Dollars (\$5,000,000.00) net valuation, or major fraction thereof until a net valuation of Five Hundred Million Dollars (\$500,000,000.00) is reached~~ Fifty Thousand Dollars (\$50,000.00) of revenue authorized to be collected for county purposes or apportioned to the county pursuant to the provisions of paragraph 5 of subsection B of Section 57 of this act, or major fraction thereof, until the amount of such revenue equals Five Million Dollars (\$5,000,000.00);

3. Thereafter add the product of One Hundred Twenty-five Dollars (\$125.00) times each additional ~~Seven Million Dollars (\$7,000,000.00) net valuation, or major fraction thereof until a net valuation of Two Billion Dollars (\$2,000,000,000.00) is reached~~ Seventy Thousand Dollars (\$70,000.00) of revenue authorized to be collected for county purposes or apportioned to the county pursuant to the provisions of paragraph 5 of subsection B of Section 57 of this act, or major fraction thereof, until the amount of such revenue equals Twenty Million Dollars (\$20,000,000.00); and

4. Thereafter as to all additional ~~net valuation~~ revenue authorized to be collected for county purposes or apportioned to the county pursuant to the provisions of paragraph 5 of subsection B of Section 57 of this act, add the product of One Hundred Twenty-five Dollars (\$125.00) times each additional ~~Twenty Million Dollars~~

~~(\$20,000,000.00) net valuation~~ Two Hundred Thousand Dollars  
(\$200,000.00) of such revenue, or major fraction thereof.

B. ~~And also the~~ The salary of each county officer shall be additionally increased from the basic salary named in Section 180.62 of this title, and the additions thereto heretofore provided in this section, for population or service load according to the following scale:

1. The product of Twelve Dollars and fifty cents (\$12.50) times each one thousand (1,000) population, or major fraction thereof until a population of seventy-five thousand (75,000) is reached; thereafter

2. The product of Twelve Dollars and fifty cents (\$12.50) times each additional five thousand (5,000) population, or major fraction thereof until a population of one hundred fifty thousand (150,000) is reached; thereafter add

3. The product of Twelve Dollars and fifty cents (\$12.50) times each additional ten thousand (10,000) population, or major fraction thereof.

C. This section shall not reduce the present salary of any county officer in Oklahoma during their present term of office.

SECTION 84. AMENDATORY 19 O.S. 1991, Section 180.64A, as last amended by Section 2, Chapter 195, O.S.L. 1998 (19 O.S. Supp. 1999, Section 180.64A), is amended to read as follows:

Section 180.64A A. In every county having a ~~net valuation of all tangible taxable property~~ service-ability factor as defined in ~~Sections~~ Section 180.58 ~~and 180.59~~ of this title, of ~~Ten Million Dollars (\$10,000,000.00)~~ One Hundred Thousand Dollars (\$100,000.00) or less, the minimum salary of the sheriff and for all other officers named in paragraph 1 of Section 180.61 of this title shall be the basic salary set forth in Section 180.62 of this title.

B. In every county having a ~~net valuation of all tangible taxable property~~ service-ability factor as defined in ~~Sections~~

Section 180.58 and 180.59 of this title, of more than ~~Ten Million Dollars (\$10,000,000.00)~~ One Hundred Thousand Dollars (\$100,000.00), the minimum salary for the sheriff and the minimum salary for all other officers named in paragraph 1 of Section 180.61 of this title shall be the basic salary set forth in Section 180.62 of this title.

SECTION 85. AMENDATORY 19 O.S. 1991, Section 180.68, as amended by Section 1, Chapter 6, O.S.L. 1994 (19 O.S. Supp. 1999, Section 180.68), is amended to read as follows:

Section 180.68 The date on which changes in the salaries and rates of pay for county officers and their deputies, aides and assistants under ~~this act~~ Sections 180.58 through 180.68 of this title due to changes in population or valuation revenue authorized to be collected for county purposes or apportioned to the county pursuant to the provisions of paragraph 5 of subsection B of Section 57 of this act in any county shall take effect, ~~shall be as of,~~ on ~~and after~~ the first day of July of each fiscal year based upon the population as shown by the latest Federal Decennial Census for the State of Oklahoma, and the total ~~net assessed valuations of tangible properties~~ amount of revenue authorized to be collected for county purposes or apportioned to the county pursuant to the provisions of paragraph 5 of subsection B of Section 57 of this act for such year as shown by the official certificate which the county assessor files with the county excise board for the purpose of computing appropriations and levies for such year.

SECTION 86. AMENDATORY Section 3, Chapter 334, O.S.L. 1993, as amended by Section 2, Chapter 119, O.S.L. 1997 (19 O.S. Supp. 1999, Section 180.71), is amended to read as follows:

Section 180.71 A. Sections 180.71 through 180.83 of this title shall apply to all counties which approve an exemption of household goods of the heads of families and livestock employed in support of the family from ad valorem taxation pursuant to the provisions of Section 6 of Article X of the Oklahoma Constitution.

B. The purpose of Sections 180.71 through 180.83 of this title is to codify and revise the laws of the state relating to the salaries and wages of county officers and their deputies and employees, and to establish said salaries and wages by general law applicable throughout the state under a uniform schedule fixing such salaries and wages and future increases and reductions thereof upon the following bases:

1. The available revenues of the several counties out of which such salaries and wages may be paid;

2. The amount of services required to be performed;

3. The monetary value of such services in relation to that of nongovernmental services of similar nature in the areas wherein such services are performed; and

4. The relative amounts of services required of the various county officers, their deputies and employees upon investigation and full consideration of the applicable facts.

C. The Legislature has determined that the foregoing bases of such schedule gradations generally are cognate to the combination of the following factors:

1. The total amount of revenue authorized to be collected ~~from the millage rate levied against the taxable valuation of property~~ within the county, including such revenue which would have otherwise been authorized to be collected if the provisions of Section 2890 of Title 68 of the Oklahoma Statutes had not been enacted, which is apportioned for county purposes pursuant to subsection (a) of Section 9 of Article X of the Oklahoma Constitution, to which shall be added the total amount of revenue apportioned to the county pursuant to the provisions of paragraph 5 of subsection B of Section 57 of this act, hereinafter referred to as "service-ability"; and

2. The population of the county, hereinafter referred to as the "service-load".



The application of said factors properly establishes a rational and relevant formula for uniformity of salaries and wages and of future increases and decreases thereof.

SECTION 87. AMENDATORY Section 15, Chapter 334, O.S.L. 1993, as amended by Section 2, Chapter 6, O.S.L. 1994 (19 O.S. Supp. 1999, Section 180.83), is amended to read as follows:

Section 180.83 The date on which changes in the salaries and rates of pay for county officers and their deputies, aides and assistants under this act due to changes in population or the amount of revenue authorized to be collected for county purposes in any county shall take effect, ~~shall be as of,~~ on and after the first day of July of each fiscal year based upon the population as shown by the latest Federal Decennial Census for the State of Oklahoma, and the total amount of revenue authorized to be collected ~~from the millage rate levied against the taxable valuation of property~~ within the county which is apportioned for county purposes pursuant to subsection (a) of Section 9 of Article X of the Oklahoma Constitution for such year or apportioned to the county pursuant to the provisions of paragraph 5 of subsection B of Section 57 of this act.

SECTION 88. REPEALER 19 O.S. 1991, Section 180.59, is hereby repealed.

SECTION 89. REPEALER 17 O.S. 1991, Sections 156, 157, 158.29, 158.30, 158.50, 158.51, 158.52,, 158.53, 158.54, 158.55, 158.56, 158.57, 158.58, 158.59, as last amended by Section 64, Chapter 5, 1st Extraordinary Session, O.S.L. 1999, 158.60, 158.61, 161.1, 181, 182, 183, 184, 185, 186, 187, 189, Sections 3, 4 and 5, Chapter 162, O.S.L. 1997, as last amended by Sections 3, 4, and 5, Chapter 39, O.S.L. 1998, 191.1, 191.2, 191.3, 191.4, 191.5, 191.6, 191.7, 191.8, 191.9, 191.10, 1 191.11, as last amended by Section 65, Chapter 5, 1st Extraordinary Session, O.S.L. 1999, 191.12, 191.13,

257, as amended by Section 10, Chapter 364, O.S.L. 1998, 258, 259, 260, 261, are hereby repealed.

SECTION 90. REPEALER 68 O.S. 1991, Sections 1802 and 1803, are hereby repealed.

SECTION 91. Sections 52 through 73 and 75 through 88 of this act shall become effective January 1, 2002.

SECTION 92. Sections 8, 12, 13, 14, 19, 31, 32, 35, 36, 37, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 89, and 90 of this act shall become effective July 1, 2002.

SECTION 93. Sections 18 and 22 of this act shall become effective January 1, 2002.

SECTION 94. 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.

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