

ENROLLED HOUSE
BILL NO. 2444

By: Roan of the House

and

Wilkerson of the Senate

An Act relating to law enforcement; amending 4 O.S. 2001, Section 85.5, which relates to duties of peace officer; providing housing for animals under certain circumstances; providing for the establishment of certain facilities for housing; authorizing the promulgation of rules; amending 21 O.S. 2001, Sections 1767.1, as amended by Section 1, Chapter 168, O.S.L. 2003 and 1767.3, as amended by Section 2, Chapter 168, O.S.L. 2003 (21 O.S. Supp. 2003, Sections 1767.1 and 1767.3), which relate to bombs and explosives; expanding scope of prohibited acts; modifying definition of explosive; amending Section 3, Chapter 168, O.S.L. 2003 (21 O.S. Supp. 2003, Section 1767.5), which relates to possession, manufacture, storage, or use of explosives without permit; expanding scope of exemptions; amending 22 O.S. 2001, Section 751, which relates to the admission of findings at certain hearings; including certain report from the Department of Public Safety; amending 47 O.S. 2001, Sections 2-108 and 2-110, as amended by Section 2, Chapter 86, O.S.L. 2002 (47 O.S. Supp. 2003, Section 2-110), which relate to the Department of Public Safety; providing for the appointment of a personal representative by the Commissioner; allowing the adoption of certain signature; allowing certain employees to affix signature to certain documents; clarifying which videotape recordings may be copied; defining term; prohibiting the possession, use or interference with a traffic signal preemption device; providing for exceptions; prohibiting distribution of traffic signal preemption devices; providing an exception; amending 47 O.S. 2001, Section 11-705, as amended by Section 11, Chapter 411, O.S.L. 2003 (47 O.S. Supp. 2003, Section 11-705), which relates to meeting or overtaking stopped school bus; providing penalty; amending 74 O.S. 2001, Section 150.21b, which relates to Oklahoma State Bureau of Investigation reports concerning deadly force; modifying scope of investigations involving deadly force; amending 74 O.S. 2001, Section 500.2, which relates to the State Travel Reimbursement Act; allowing certain contracts and agreements; designating payment of expenses for certain employees; providing for the use of certain funds; specifying rate for certain expense; amending 74 O.S. 2001, Section 840-5.5, as last amended by Section 1, Chapter 382, O.S.L. 2003 (74 O.S. Supp. 2003, Section 840-5.5), which relates to unclassified

service; modifying unclassified service position within the Department of Public Safety; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 4 O.S. 2001, Section 85.5, is amended to read as follows:

Section 85.5 A. 1. Upon receiving notice of the taking up of any strayed animal, it shall be the duty of any peace officer, unless the owner thereof is identified and known by the peace officer to be the owner, to make or cause to be made an examination of the brand records and reports of lost, strayed and stolen livestock.

2. If from these records the name of the owner or probable owner can be determined, the owner shall be notified forthwith of the taking up of the strayed animal.

3. If the name of the owner or probable owner cannot be determined, the officer shall arrange for the housing of the animal as provided by subsection B of this section.

B. The Department of Public Safety and any municipality, county, or other political subdivision of this state may establish a list of facilities, including, but not limited to, livestock sales facilities or veterinary clinics, for an official rotation log for the keeping of strayed animals pursuant to the request of or at the direction of any officer of the Department or a municipality, county, or other political subdivision. The Department of Public Safety may promulgate rules for the implementation and administration of this section.

C. Upon the owner's proving to the satisfaction of the peace officer that the animal is lawfully the owner's, the peace officer shall allow the animal to be taken by the owner, upon payment of the actual cost for keeping it together with the amount of any damages suffered by the taker-up as a result of the strayed animal being upon the premises of the taker-up.

~~C.~~ D. If the owner fails to pay the charges, the animal shall be sold according to provisions of Section 85.6 of this title.

~~D.~~ E. After all costs and expenses incurred for the care, transportation, and sale of such animal have been deducted from the gross sale proceeds, the net amount shall be paid to the owner.

SECTION 2. AMENDATORY 21 O.S. 2001, Section 1767.1, as amended by Section 1, Chapter 168, O.S.L. 2003 (21 O.S. Supp. 2003, Section 1767.1), is amended to read as follows:

Section 1767.1 A. Any person who shall willfully or maliciously commit any of the following acts shall be deemed guilty of a felony:

1. Place in, upon, under, against or near to any building, car, truck, aircraft, motor or other vehicle, vessel, railroad, railway car, or locomotive or structure, any explosive or incendiary device with unlawful intent to destroy, throw down, or injure, in whole or in part, such property, or conspire, aid, counsel or procure the destruction of any building, public or private, or any car, truck, aircraft, motor or other vehicle, vessel, railroad, railway car, or locomotive or structure; or

2. Place in, upon, under, against or near to any building, car, truck, aircraft, motor or other vehicle, vessel, railroad, railway car, or locomotive or structure, any explosive or incendiary device with intent to destroy, throw down, or injure in whole or in part, under circumstances that, if such intent were accomplished, human life or safety would be endangered thereby; or

3. By the explosion of any explosive or the igniting of any incendiary device destroy, throw down, or injure any property of another person, or cause injury to another person; or

4. Manufacture, sell, transport, or possess any explosive or, the component parts of an explosive, an incendiary device, or simulated bomb with knowledge or intent that it or they will be used to unlawfully kill, injure or intimidate any person, or unlawfully damage any real or personal property; or

5. Place in, upon, under, against or near to any building, car, truck, aircraft, motor or other vehicle, vessel, railroad, railway car, or locomotive or structure, any foul, poisonous, offensive or injurious substance or compound or, explosive, incendiary device, or simulated bomb with intent to wrongfully injure, molest or coerce another person or to injure or damage the property of another person; or

6. Injure, damage or attempt to damage by an explosive or incendiary device any person, persons, or property, whether real or personal; or

7. Use the telephone or other communication device to make any threat or convey information known to be false, concerning an attempt or alleged attempt to kill, injure or intimidate any person or unlawfully damage any real or personal property by means of an explosive, incendiary device, or simulated bomb; or

8. Manufacture, sell, deliver, mail or send an explosive, incendiary device, or simulated bomb to another person; or

9. While committing or attempting to commit any felony, possess, display, or threaten to use any explosive, incendiary device, or simulated bomb.

B. Nothing contained herein shall be construed to apply to, or repeal any laws pertaining to, the acts of mischief of juveniles involving noninjurious firecrackers or devices commonly called "stink bombs".

SECTION 3. AMENDATORY 21 O.S. 2001, Section 1767.3, as amended by Section 2, Chapter 168, O.S.L. 2003 (21 O.S. Supp. 2003, Section 1767.3), is amended to read as follows:

Section 1767.3 As used in Section 1767.1 of this title:

1. "Explosive" or "explosives" means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion or which, although not its primary or common purpose, has been modified, manipulated, altered, enhanced, or otherwise caused to function by explosion (~~i.e.~~ that is, with substantial instantaneous release of gas, heat, debris, or concussive pressure or force, or any combination of such actions), unless such compound, mixture or device is otherwise specifically classified by the United States Department of Transportation. The term "explosive" or "explosives" shall include but not be limited to gunpowder, dynamite, any bomb, ~~any simulated device~~, all materials as defined in paragraphs 1 and 2 of Section 121.1 of Title 63 of the Oklahoma Statutes, and all material which is classified as explosives by the United States Department of Transportation;

2. "Person" means any individual or individuals, firm, copartnership, corporation, company, association, joint stock association, and includes any trustee, receiver, assignee or personal representative thereof;

3. "Incendiary device" means any chemical compound, mixture or device, the primary purpose of which is to ignite on impact or as a result of chemical reaction such as a "Molotov cocktail" or "firebomb" which is ignited on impact, causing a mechanical reaction of the container's breaking and permitting the inflammable matter to spread or splatter and is ignited from the burning wick or hypergolic reaction of chemicals;

4. "Component parts" means separate parts which if assembled would form an explosive device. Component parts of an "incendiary device" shall consist of an inflammable material, a breakable container and a source of ignition; and

5. "Simulated bomb" means any device or object that by its design, construction, content, or characteristics appears to be, or to contain, an incendiary device, explosive, or explosives, as defined in this section, but is, in fact, an inoperative facsimile or imitation of such a device or explosive.

SECTION 4. AMENDATORY Section 3, Chapter 168, O.S.L. 2003 (21 O.S. Supp. 2003, Section 1767.5), is amended to read as follows:

Section 1767.5 A. Any person who shall possess, manufacture, store, or use any explosive, as defined in Section 121.1 of Title 63 of the Oklahoma Statutes, without having in the possession of the person a permit, or a copy thereof, issued pursuant to the Oklahoma Explosives and Blasting Regulation Act, shall be deemed guilty of a misdemeanor.

B. This section shall not be construed to:

1. Apply to any person or activity expressly exempted from the Oklahoma Explosives and Blasting Regulation Act;

2. Apply to, or repeal any laws pertaining to, the acts of mischief of juveniles involving noninjurious firecrackers or devices commonly called "stink bombs";

3. Apply to explosives while in transit in, into, or through this state, if the operator of the vehicle transporting the explosives carries in the vehicle the shipping papers required by 49 C.F.R., Section 172.200 et seq., and displays such papers to any law enforcement officer upon request; ~~or~~

4. Apply to any person who may possess, store or use gunpowder in a quantity reasonably calculated to be necessary for hunting or shooting purposes; or

5. Apply to any certified bomb technician employed by a federally accredited bomb squad of an agency of the federal government, this state, or any political subdivision of this state.

SECTION 5. AMENDATORY 22 O.S. 2001, Section 751, is amended to read as follows:

Section 751. A. At any hearing prior to trial or at a forfeiture hearing, ~~a~~:

1. A report of the findings of the laboratory of the Oklahoma State Bureau of Investigation, ~~the medical examiners;~~

2. The report of investigation or autopsy report, ~~or a~~ of the medical examiner;

3. A laboratory report from a forensic laboratory operated by the State of Oklahoma or any political subdivision thereof, ~~or a;~~

4. A report from the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control as to the existence or status of any license or permit to sell, transfer, or possess precursor substances; or

5. A report from the Department of Public Safety as to the handling and storage of evidence,

which has been made available to the accused by the office of the district attorney at least five (5) days prior to the hearing, with reference to all or any part of the evidence submitted, when certified as correct by the persons making the report shall be received as evidence of the facts and findings stated, if relevant and otherwise admissible in evidence. If a report is deemed relevant by the state or the accused, the court shall admit the report without the testimony of the person making the report, unless the court, pursuant to subsection C of this section, orders the person making the report to appear. If the accused is not served with a report, by the district attorney, within five (5) days prior to a hearing, the accused may be allowed a continuance of the portion of the hearing to which the report is relevant, to allow at least five (5) days preparation subsequent to the district attorney's furnishing of the report.

B. When any alleged controlled dangerous substance has been submitted to the laboratory of the Bureau for analysis, and such analysis shows that the submitted material is a controlled dangerous substance, the distribution of which constitutes a felony under the laws of this state, no portion of such substance shall be released to any other person or laboratory without an order of a district court. The defendant shall additionally be required to submit to

the court a procedure for transfer and analysis of the subject material to ensure the integrity of the sample and to prevent the material from being used in any illegal manner.

C. For purposes of the medical examiner's report of investigation or autopsy report, or a laboratory report from a forensic laboratory operated by the State of Oklahoma or any political subdivision thereof or a report from the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control as to the existence or status of any license or permit to sell, transfer, or possess precursor substances:

1. The court, upon motion of the state or the accused, shall order the attendance of any person preparing a report submitted as evidence in any hearing prior to trial or forfeiture hearing, when it appears there is a substantial likelihood that material evidence not contained in such report may be produced by the testimony of the person having prepared the report-;

2. The motion shall be filed and notice of the hearing on the motion to order the attendance of the Chief Medical Examiner, a medical examiner, consultant pathologist, or anyone under their supervision or control shall be given to the medical examiner's office. The hearing shall be held and, if sustained, an order issued not less than five (5) days prior to the time when the testimony shall be required-; and

3. If within five (5) days prior to the hearing or during a hearing a motion is made pursuant to this subsection requiring a person having prepared a report to testify, the court may hear a report or other evidence but shall continue the hearing until such time notice of the motion and hearing is given to the medical examiner's office, the motion is heard, and, if sustained, testimony ordered can be given.

SECTION 6. AMENDATORY 47 O.S. 2001, Section 2-108, is amended to read as follows:

Section 2-108. ~~(a)~~ A. The Commissioner is hereby vested with the power and is charged with the duty of observing, administering, and enforcing the provisions of this ~~act~~ title and of all laws regulating the operation of vehicles or the use of the highways, the enforcement and administration of which are now or hereafter vested in the Department. The Commissioner may appoint any employee of the Department to serve as the personal representative of the Commissioner for the purpose of fulfilling any such duty or combination of duties.

~~(b)~~ B. The Commissioner is hereby authorized to adopt and enforce such rules and regulations as may be necessary to carry out the provisions of this act and any other laws the enforcement and administration of which are vested in the Department.

~~(c)~~ C. The Commissioner may adopt an official seal for the use of the Department.

~~(d)~~ D. The Commissioner may ~~in his discretion~~ adopt an authorized facsimile signature of the Commissioner, and may appoint any employee of the Department to serve as his the personal representative to affix his of the Commissioner for the purpose of

affixing the authorized facsimile signature of the Commissioner to administrative letters, notices, and orders to enforce the provisions of the law, and authorize such employee to affix the facsimile signature of the Commissioner adopted by him as a facsimile signature. Provided, however, it shall be unlawful and shall constitute the crime of forgery to affix or endorse the facsimile signature of the Commissioner, as herein provided, to any instrument, voucher, check, claim, or draft for the payment of money due and owing to the State of Oklahoma. In lieu of the signature of the Commissioner or the authorized facsimile signature of the Commissioner, the Commissioner may direct and authorize any employee of the Department to affix the signature of the employee to administrative letters, notices, and orders to enforce the provisions of the law.

SECTION 7. AMENDATORY 47 O.S. 2001, Section 2-110, as amended by Section 2, Chapter 86, O.S.L. 2002 (47 O.S. Supp. 2003, Section 2-110), is amended to read as follows:

Section 2-110. A. Officers and employees of the Department of Public Safety designated by the Commissioner, for the purpose of administering the motor vehicle laws, are authorized to administer oaths and acknowledge signatures and shall do so without fee.

B. The Commissioner and such officers of the Department as the Commissioner may designate are hereby authorized to prepare under the seal of the Department and deliver upon request a certified copy of any record of the Department, charging a fee of Three Dollars (\$3.00) for each record so certified, and every such certified copy shall be admissible in any proceeding in any court in like manner as the original thereof. A certification fee shall be charged:

1. Only if the person requesting the record specifically requests that the record be certified; and

2. In addition to the copying and reproduction fees provided by the Oklahoma Open Records Act or any other applicable law.

C. The Commissioner and any other officers of the Department as the Commissioner may designate are hereby authorized to provide a copy of any record required to be maintained by the Department at no charge to any of the following government agencies when requested in the performance of official governmental duties:

1. The driver license agency of any other state;

2. Any court, district attorney or municipal prosecutor in this state or any other state;

3. Any law enforcement agency in this state or any other state or any federal agency empowered by law to make arrests for public offenses;

4. Any public school district in this state for purposes of verifying the driving record of a currently employed school bus driver or person making application for employment as a school bus driver; or

5. Any state agency in this state.

D. Any record required to be maintained by the Department may be released to any other entity free of charge when the release of the record would be for the benefit of the public, as determined by the Commissioner or a designee of the Commissioner.

E. The Commissioner and any other officers of the Department as the Commissioner may designate are hereby authorized to prepare copies of videotape recordings which are not exempt law enforcement records, as prescribed in Section 24A.8 of Title 51 of the Oklahoma Statutes, when held as records of the Department, and deliver upon request to any person a copy of a videotape recording, for a fee of Twenty-five Dollars (\$25.00) for each copy. Any monies collected by the Department pursuant to this subsection shall be deposited to the credit of the Department of Public Safety Revolving Fund.

F. The provisions of subsections B and D of this section and the Open Records Act shall not apply to the release of personal information on the driving record of any person or application for an original, renewal, or replacement driver license or identification card. Such personal information shall be confidential except as provided for in this subsection or in the provisions of the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725. Upon written request to the Commissioner of Public Safety by a law enforcement agency or another state's or country's driver licensing agency for personal information on a specific individual, as named or otherwise identified in the written request, to be used in the official capacity of the agency, the Commissioner may release such personal information to the agency pursuant to the provisions of the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725. For the purposes of this subsection, "personal information" means information which identifies a person, including but not limited to a photograph or image in computerized format of the person, fingerprint image in computerized format, signature or signature in computerized format, social security number, residence address, mailing address, and medical or disability information.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-208 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. As used in this section, the term "traffic signal preemption device" shall mean a device designed for use by authorized emergency vehicles to improve traffic movement by temporarily controlling signalized intersections.

B. It shall be unlawful for a person to possess, use, or interfere with a traffic signal preemption device unless:

1. The person is the operator of an authorized emergency vehicle upon which the device is installed; and

2. The person is responding to an existing or potential emergency and there is a threat of immediate danger to life or property which reasonably requires the use of the device in order to protect the life, safety, health, or property of another person.

C. It shall be unlawful to advertise, offer for sale, sell, or otherwise distribute any traffic signal preemption device to any individual person in this state. Advertising, offering for sale,

selling, and distribution of these devices shall be limited to trade publications and companies whose target market is law enforcement agencies, fire departments, and ambulance service providers of this state or its political subdivisions.

SECTION 9. AMENDATORY 47 O.S. 2001, Section 11-705, as amended by Section 11, Chapter 411, O.S.L. 2003 (47 O.S. Supp. 2003, Section 11-705), is amended to read as follows:

Section 11-705. A. The driver of a vehicle meeting or overtaking a school bus that is stopped to take on or discharge school children, and on which the red loading signals are in operation, is to stop the vehicle before it reaches the school bus and not proceed until the loading signals are deactivated and then proceed past such school bus at a speed which is reasonable and with due caution for the safety of such school children and other occupants. Any person convicted of violating the provisions of this subsection shall be punished by a fine of not less than One Hundred Dollars (\$100.00).

B. Visual signals, meeting the requirements of Section 12-228 of this title, shall be actuated by the driver of said school bus whenever, but only whenever, such vehicle is stopped on the highway for the purpose of receiving or discharging school children.

C. The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

D. If the driver of a school bus witnesses a violation of the provisions of subsection A of this section, within twenty-four (24) hours of the alleged offense, the driver shall report the violation, the vehicle color, license tag number, and the time and place such violation occurred to the law enforcement authority of the municipality where the violation occurred. The law enforcement authority of a municipality shall issue a letter of warning on the alleged violation to the person in whose name the vehicle is registered. The Office of the Attorney General shall provide a form letter to each municipal law enforcement agency in this state for the issuance of the warning provided for in this subsection. Such form letter shall be used by each such law enforcement agency in the exact form provided for by the Office of the Attorney General. A warning letter issued pursuant to this subsection shall not be recorded on the driving record of the person to whom such letter was issued. Issuance of a warning letter pursuant to this section shall not preclude the imposition of other penalties as provided by law.

SECTION 10. AMENDATORY 74 O.S. 2001, Section 150.21b, is amended to read as follows:

Section 150.21b Notwithstanding any other provisions of law, when the Commissioner of Public Safety has requested the Oklahoma State Bureau of Investigation to conduct a criminal investigation of any incident involving the use of deadly force ~~by firearm~~ by a commissioned officer of the Department of Public Safety while in the official performance of such officer's duties, ~~and the OSBI has completed its investigation and delivered its report to the~~

~~Commissioner,~~ the Commissioner may ~~then~~ use the report and the investigative information and materials in the furtherance of administrative matters within the Department, including, but not limited to, taking personnel actions and conducting internal investigations. Under no circumstances shall an OSBI report of its investigation of any incident involving the use of deadly force ~~by firearm~~ by a commissioned officer of any law enforcement agency other than the Department of Public Safety be provided to the employing agency for the purpose of or be used by that agency for the purpose of administrative matters or any purpose other than criminal prosecution.

SECTION 11. AMENDATORY 74 O.S. 2001, Section 500.2, is amended to read as follows:

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

B. The chief administrative officer of the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma Military Department, the Department of Corrections, the Department of Central Services, the Alcoholic Beverage Laws Enforcement Commission, the State Department of Agriculture, the Department of Civil Emergency Management, and the State Fire Marshal may arrange for and charge meals and lodging for a contingent of state personnel moved into an area for the purpose of preserving the public health, safety, or welfare or for the protection of life or property. The cost for meals or lodging so charged shall not exceed the amount authorized in the State Travel Reimbursement Act. The chief administrative officer of each agency involved in such an operation shall require the vendor furnishing meals, lodging, or both meals and lodging to submit an itemized statement for payment. When a claim for lodging is made for a contingent of state personnel, individual members of the contingent may not submit a claim for lodging. When a claim for meals is made for a contingent of state personnel, individual members of the contingent may not submit a claim for meals.

C. The Oklahoma Department of Commerce, the Oklahoma Center for the Advancement of Science and Technology, and the State Department

of Agriculture are hereby authorized to enter into contracts and agreements for the payment of food, lodging, meeting facility and beverage expenses as may be necessary for sponsoring seminars and receptions relating to economic development and science and technology issues. Such expenses may be paid directly to the contracting agency or business establishment. The Director of the Oklahoma Department of Commerce, the President of the Oklahoma Center for the Advancement of Science and Technology, and the Commissioner of Agriculture shall each provide a quarterly report of such expenditures to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

D. The Native American Cultural and Educational Authority is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and meeting facility as may be necessary to pursue the promotion of fund-raising, marketing, and development of Native American educational programs and cultural projects, or to sponsor luncheons, seminars, and receptions relating to Native American educational, cultural, museum, and economic development issues. Such expenses may be paid directly to the contracting agency or business establishment. The Executive Director shall provide a monthly report of expenditures to the Board.

E. For purposes of this section:

1. "State agency" means any constitutionally or statutorily created state board, commission, or department, including the Legislature and the Courts;

2. State agencies are authorized to enter into contracts and agreements for the payment of food and lodging expenses as may be necessary for employees or other persons who are performing substantial and necessary services to the state attending official conferences, meetings, seminars, workshops, or training sessions or in the performance of their duties. Such expenses may be paid directly to the contracting agency or business establishment, provided the meeting qualifies for overnight travel for the employees and the cost for food and lodging for each employee shall not exceed the total daily rate as provided in the State Travel Reimbursement Act, Section 500.1 et seq. of this title; and

3. State agencies are authorized to enter into contracts and agreements for the payment of conference registration expenses as may be necessary for employees or other persons who are performing substantial and necessary services to the state attending official conferences, meetings, seminars, workshops, or training sessions. Such expenses may be paid directly to the contracting agency or business establishment.

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

G. 1. The Administrator of the Office of Personnel Management is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and other authorized expenses as may be necessary to host, conduct, sponsor, or participate in conferences, meetings, or training sessions. The Administrator may establish accounts as necessary for the collection and distribution of funds, including funds of sponsors and registration fees, related to such conferences, meetings, and training sessions. Expenses incurred may be paid directly to the contracting agency or business establishment.

2. The cost of food for persons attending any conferences, meetings, and training sessions that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

H. 1. The Commissioner of the Department of Mental Health and Substance Abuse Services is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and other authorized expenses as may be necessary to host, conduct, sponsor, or participate in conferences, meetings, or training sessions. The Commissioner may establish accounts as necessary for the collection and distribution of funds, including funds of sponsors and registration fees, related to such conferences, meetings, and training sessions. Any expenses incurred may be paid directly to the contracting agency or business establishment.

2. The cost of food for persons attending any conferences, meetings, and training sessions that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

I. The Oklahoma Indigent Defense System is hereby authorized to enter into contracts and agreements for the payment of lodging as necessary for employees to carry out their duties in representing any client whom the System has been properly appointed to represent. Such expenses may be paid directly to the contracting agency or business establishment. The cost for lodging for each employee shall not exceed the daily rate as provided in the State Travel Reimbursement Act.

J. The Oklahoma Tourism and Recreation Department is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and meeting facility and beverage expenses as may be necessary for seminars and receptions relating to familiarization tours and tourism development. The expenses may be paid directly to the contracting agency or business establishment. The Executive Director of Oklahoma Tourism and Recreation Department shall provide a monthly report of any such expenditures to the Oklahoma Tourism and Recreation Commission.

K. The Oklahoma Tourism and Recreation Department is hereby authorized to enter into contracts and agreements for the payment of exhibitor fees and display space charges at expositions to promote the Department's recreational facilities and the tourism and recreation industry. The expenses may be paid directly to the contracting agency or business establishment; provided that no payment shall be made prior to the event unless it conveys a property right to the state for future availability and use.

L. 1. The Oklahoma Highway Safety Office of the Department of Public Safety is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and other authorized expenses as may be necessary, to host, conduct, sponsor, or participate in highway-safety-related conferences, workshops, seminars, meetings, or training sessions. The payments shall be for all persons in attendance, including, but not limited to, employees of political subdivisions or employees of the state or federal government. For purposes specified in this paragraph, only federal highway safety funds may be used in accordance with federal guidelines and regulations, and no appropriated state funds shall be used.

2. The cost of food for persons attending any highway safety conferences, workshops, seminars, meetings, and training sessions that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

SECTION 12. AMENDATORY 74 O.S. 2001, Section 840-5.5, as last amended by Section 1, Chapter 382, O.S.L. 2003 (74 O.S. Supp. 2003, Section 840-5.5), is amended to read as follows:

Section 840-5.5 A. The following offices, positions, and personnel shall be in the unclassified service and shall not be placed under the classified service:

1. Persons chosen by popular vote or appointment to fill an elective office, and their employees, except the employees of the Corporation Commission, the State Department of Education and the Department of Labor;

2. Members of boards and commissions, and heads of agencies; also one principal assistant or deputy and one executive secretary for each state agency;

3. All judges, elected or appointed, and their employees;

4. Persons employed with one-time, limited duration, federal or other grant funding that is not continuing or indefinitely renewable. The length of the unclassified employment shall not exceed the period of time for which that specific federal funding is provided;

5. All officers and employees of The Oklahoma State System of Higher Education, State Board of Education and Oklahoma Department of Career and Technology Education;

6. Persons employed in a professional or scientific capacity to make or conduct a temporary and special inquiry, investigation, or examination on behalf of the Legislature or a committee thereof or by authority of the Governor. These appointments and authorizations shall terminate on the first day of the regular legislative session immediately following the appointment, if not terminated earlier. However, nothing in this paragraph shall prevent the reauthorization and reappointment of any such person. Any such appointment shall be funded from the budget of the appointing authority;

7. Election officials and employees;

8. Temporary employees employed to work less than one thousand (1,000) hours in any twelve-month period and seasonal employees employed pursuant to Section 1806.1 of this title who work less than one thousand two hundred (1,200) hours in any twelve-month period. This category of employees may include persons employed on an intermittent, provisional, seasonal, temporary or emergency basis;

9. Department of Public Safety employees occupying the following offices or positions:

- a. two administrative aides to the Commissioner,
- b. executive secretaries to the Commissioner,
- c. the Governor's representative of the Oklahoma Highway Safety Office who shall be appointed by the Governor,
- d. Highway Patrol Colonel,
- e. Highway Patrol Lieutenant Colonel,
- f. Highway Patrol Major,
- g. Director of Finance,
- h. noncommissioned pilots,
- i. Information Systems Administrator,
- j. Law Enforcement Telecommunications System Specialist,
- k. Law Enforcement Programs Administrator,
- l. Civil Rights Administrator,
- m. Budget Analyst,
- n. Comptroller,
- o. ~~Law Enforcement Highway Patrol Administrator~~ chaplain,
and
- p. helicopter mechanic, and
- q. a maximum of seven positions for the purpose of administering the Oklahoma Police Corps Program, within full-time employee limitations of the Department, employed with federal funding that is continuing or indefinitely renewable. The authorization for such positions shall be terminated if the federal funding for positions is discontinued;

10. Professional trainees only during the prescribed length of their course of training or extension study;

11. Students who are employed on a part-time basis, which shall be seventy-five percent (75%) of a normal forty-hour work week or thirty (30) hours per week, or less, or on a full-time basis if the employment is pursuant to a cooperative education program such as that provided for under Title I IV-D of the Higher Education Act of

1965 (20 U.S.C. 1087a-1087c), as amended, and who are regularly enrolled in:

- a. an institution of higher learning within The Oklahoma State System of Higher Education,
- b. an institution of higher learning qualified to become coordinated with The Oklahoma State System of Higher Education. For purposes of this section, a student shall be considered a regularly enrolled student if the student is enrolled in a minimum of five (5) hours of accredited graduate courses or a minimum of ten (10) hours of accredited undergraduate courses, provided, however, the student shall only be required to be enrolled in a minimum of six (6) hours of accredited undergraduate courses during the summer, or
- c. high school students regularly enrolled in a high school in Oklahoma and regularly attending classes during such time of enrollment;

12. The spouses of personnel who are employed on a part-time basis to assist or work as a relief for their spouses in the Oklahoma Tourism and Recreation Department;

13. Service substitute attendants who are needed to replace museum and site attendants who are unavoidably absent. Service substitutes may work as part-time or full-time relief for absentees for a period of not more than four (4) weeks per year in the Oklahoma Historical Society sites and museums; such substitutes will not count towards the agency's full-time-equivalent (FTE) employee limit;

14. Employees of the House of Representatives, the State Senate, or the Legislative Service Bureau;

15. Corporation Commission personnel occupying the following offices and positions:

- a. Administrative aides, and executive secretaries to the Commissioners,
- b. Directors of all the divisions, personnel managers and comptrollers,
- c. General Counsel,
- d. Public Utility Division Chief Engineer,
- e. Public Utility Division Chief Accountant,
- f. Public Utility Division Chief Economist,
- g. Public Utility Division Deputy Director,
- h. Secretary of the Commission,
- i. Deputy Conservation Director,
- j. Manager of Pollution Abatement,

- k. Manager of Field Operations,
- l. Manager of Technical Services,
- m. Public Utility Division Chief of Telecommunications,
and
- n. Director of Information Services;

16. At the option of the employing agency, the Supervisor, Director, or Educational Coordinator in any other state agency having a primary responsibility to coordinate educational programs operated for children in state institutions;

17. Bill Willis Community Mental Health and Substance Abuse Center personnel occupying the following offices and positions:

- a. Director of Facility,
- b. Deputy Director for Administration,
- c. Clinical Services Director,
- d. Executive Secretary to Director, and
- e. Directors or Heads of Departments or Services;

18. Office of State Finance personnel occupying the following offices and positions:

- a. State Comptroller,
- b. Information Services Division Manager,
- c. Network Manager,
- d. Network Technician,
- e. Employees of the Budget Division, and
- f. Employees of the Research Division;

19. Employees of the Oklahoma Development Finance Authority;

20. Those positions so specified in the annual business plan of the Oklahoma Department of Commerce;

21. Those positions so specified in the annual business plan of the Oklahoma Center for the Advancement of Science and Technology;

22. The following positions and employees of the Oklahoma School of Science and Mathematics:

- a. positions for which the annual salary is Twenty-four Thousand One Hundred Ninety-three Dollars (\$24,193.00) or more, as determined by the Office of Personnel Management, provided no position shall become unclassified because of any change in salary or grade while it is occupied by a classified employee,

- b. positions requiring certification by the State Department of Education, and
- c. positions and employees authorized to be in the unclassified service of the state elsewhere in this section or in subsection B of this section;

23. Office of Personnel Management employees occupying the following positions:

- a. the Carl Albert Internship Program Coordinator, and
- b. one Administrative Assistant;

24. Department of Labor personnel occupying the following offices and positions:

- a. two Deputy Commissioners,
- b. Executive Secretary to the Commissioner,
- c. Chief of Staff, and
- d. two Administrative Assistants;

25. The State Bond Advisor and his or her employees;

26. The Oklahoma Employment Security Commission employees occupying the following positions:

- a. Associate Director,
- b. Secretary to the Associate Director, and
- c. Assistant to the Executive Director;

27. Oklahoma Human Rights Commission personnel occupying the position of Administrative Assistant;

28. The officers and employees of the State Banking Department;

29. Officers and employees of the University Hospitals Authority except personnel in the state classified service pursuant to Section 3211 of Title 63 of the Oklahoma Statutes and members of the University Hospitals Authority Model Personnel System created pursuant to subsection E of Section 3211 of Title 63 of the Oklahoma Statutes or as otherwise provided for in Section 3213.2 of Title 63 of the Oklahoma Statutes;

30. Alcoholic Beverage Laws Enforcement Commission employees occupying the following positions:

- a. three Administrative Service Assistant positions, however, employees in such positions who are in the unclassified service on the effective date of this act may make an election to be in the classified service without a loss in salary by September 1, 2003, and

- b. the Deputy Director position in addition to the one authorized by paragraph 2 of this subsection;

31. The Oklahoma State Bureau of Investigation employees occupying the following positions:

- a. five assistant directors,
- b. two special investigators,
- c. one information representative,
- d. one federally funded physical evidence technician,
- e. four federally funded laboratory analysts,
- f. one Data Base Administrator,
- g. two Data Processing Branch Managers,
- h. four Senior Data Processing Applications Specialists,
- i. a total of three positions from the following classes: Senior Data Processing Systems Specialists, Data Processing Applications Specialists, or Data Processing Systems Specialists,
- j. one Senior Computer Services Technician, or Computer Services Technician,
- k. one Senior Computer Services Coordinator, or Computer Services Coordinator, and
- l. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection;

32. The Department of Transportation, the following positions:

- a. Director of the Oklahoma Aeronautics Commission,
- b. five Department of Transportation Assistant Director positions,
- c. eight field division engineer positions, and
- d. one pilot position;

33. Commissioners of the Land Office employees occupying the following positions:

- a. Director of the Investments Division,
- b. Assistant Director of the Investments Division, and
- c. one Administrative Assistant;

34. Within the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission, the following positions:

- a. six Narcotics Agent positions and three Typist Clerk/Spanish transcriptionists, including a Typist Clerk Supervisor/Spanish transcriptionist, provided, authorization for such positions shall be terminated if the federal funding for the positions is discontinued,
- b. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection,
- c. one fiscal officer,
- d. one full-time Programmer, and
- e. one full-time Network Engineer;

35. The Military Department of the State of Oklahoma is authorized such unclassified employees within full-time employee limitations to work in any of the Department of Defense directed youth programs, the State of Oklahoma Juvenile Justice youth programs, those persons reimbursed from Armory Board or Billeting Fund accounts, and skilled trade positions;

36. Within the Oklahoma Commission on Children and Youth the following unclassified positions:

- a. one Oversight Specialist and one Community Development Planner,
- b. one State Plan Grant Coordinator, provided authorization for the position shall be terminated when federal support for the position by the United States Department of Education Early Intervention Program is discontinued, and
- c. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection;

37. The following positions and employees of the Department of Central Services:

- a. one Executive Secretary in addition to the Executive Secretary authorized by paragraph 2 of this subsection,
- b. the Director of Central Purchasing,
- c. one Alternate Fuels Administrator,
- d. one Director of Special Projects,
- e. three postauditors,
- f. four high-technology contracting officers,
- g. one Executive Assistant to the Purchasing Director,
- h. one Contracts Manager,
- i. one Associate Director,

- j. one specialized HiTech/Food Contracting Officer, and
- k. one State Use Contracting Officer;

38. Four Water Quality Specialists, and four Water Resources Division Chiefs within the Oklahoma Water Resources Board;

39. J.D. McCarty Center for Children with Developmental Disabilities personnel occupying the following offices and positions:

- a. Physical Therapists,
- b. Physical Therapist Assistants,
- c. Occupational Therapists,
- d. Certified Occupational Therapist Aides, and
- e. Speech Pathologists;

40. The Development Officer and the Director of the State Museum of History within the Oklahoma Historical Society;

41. Oklahoma Department of Agriculture, Food, and Forestry personnel occupying the following positions:

- a. one Executive Secretary in addition to the Executive Secretary authorized by paragraph 2 of this subsection and one Executive Assistant,
- b. eighteen Agricultural Marketing Coordinator III positions,
- c. temporary fire suppression personnel, regardless of the number of hours worked, who are employed by the Oklahoma Department of Agriculture, Food, and Forestry during the period of October 1 through May 31 in any fiscal year; provided, however, notwithstanding the provisions of any other section of law, the hours worked by such employees shall not entitle such employees to any benefits received by full-time employees,
- d. one Administrator for Human Resources,
- e. one Director of Administrative Services,
- f. one Water Quality Consumer Complaint Coordinator,
- g. one hydrologist position,
- h. Public Information Office Director,
- i. Market Development Services Director,
- j. Legal Services Director,
- k. Animal Industry Services Director,

- l. Water Quality Services Director,
- m. Forestry Services Director,
- n. Plant Industry and Consumer Services Director,
- o. one Grants Administrator position,
- p. Director of Laboratory Services,
- q. Chief of Communications,
- r. Public Information Manager,
- s. Inventory/Supply Officer,
- t. five Agriculture Field Inspector positions assigned the responsibility for conducting inspections and audits of agricultural grain storage warehouses. All other Agriculture Field Inspector positions and employees of the Oklahoma Department of Agriculture, Food, and Forestry shall be classified and subject to the provisions of the Merit System of Personnel Administration. On November 1, 2002, all other unclassified Agriculture Field Inspectors shall be given status in the classified service as provided in Section 840-4.2 of this title,
- u. Rural Fire Coordinator,
- v. Poultry Coordinator,
- w. Food Safety Division Director, and
- x. one Mammal Control Officer;

42. The Contracts Administrator within the Oklahoma State Employees Benefits Council;

43. The Development Officer within the Oklahoma Department of Libraries;

44. Oklahoma Real Estate Commission personnel occupying the following offices and positions:

- a. Educational Program Director, and
- b. Data Processing Manager;

45. A Chief Consumer Credit Examiner for the Department of Consumer Credit;

46. All officers and employees of the Oklahoma Capitol Complex and Centennial Commemoration Commission;

47. All officers and employees of the Oklahoma Motor Vehicle Commission;

48. One Museum Archivist of The Will Rogers Memorial Commission;

49. One Fire Protection Engineer of the Office of the State Fire Marshal; and

50. Acting incumbents employed pursuant to Section 209 of Title 44 or Section 48 of Title 72 of the Oklahoma Statutes who shall not be included in any limitation on full-time equivalency imposed by law on an agency.

B. If an agency has the authority to employ personnel in the following offices and positions, the appointing authority shall have the discretion to appoint personnel to the unclassified service:

1. Licensed medical doctors, osteopathic physicians, dentists, and psychologists;
2. Certified public accountants;
3. Licensed attorneys;
4. Licensed veterinarians; and
5. Licensed pharmacists.

C. Effective July 1, 1996, authorization for unclassified offices, positions, or personnel contained in a bill or joint resolution shall terminate June 30 of the ensuing fiscal year after the authorization unless the authorization is codified in the Oklahoma Statutes or the termination is otherwise provided in the legislation.

D. The appointing authority of agencies participating in the statewide information systems project may establish unclassified positions and appoint unclassified employees to the project as needed. Additional unclassified positions may be established, if required, to appoint an unclassified employee to perform the duties of a permanent classified employee who is temporarily absent from a classified position as a result of assignment to this project. All unclassified appointments under this authority shall expire no later than December 31, 2005, and all unclassified positions established to support the project shall be abolished. Both the positions and appointments resulting from this authority shall be exempt from any agency FTE limitations and any limits imposed on the number of unclassified positions authorized. Permanent classified employees may request a leave of absence from classified status and accept an unclassified appointment and compensation with the same agency under the provisions of this subsection; provided, the leave shall expire no later than December 31, 2005. Employees accepting the appointment and compensation shall be entitled to participate without interruption in any benefit programs available to classified employees, including retirement and insurance programs. Immediately upon termination of an unclassified appointment pursuant to this subsection, an employee on assignment from the classified service shall have a right to be restored to the classified service and reinstated to the former job family level and compensation plus any adjustments and increases in salary or benefits which the employee would have received but for the leave of absence.

SECTION 13. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 2nd day of March, 2004.

Presiding Officer of the House of
Representatives

Passed the Senate the 13th day of April, 2004.

Presiding Officer of the Senate