

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

HOUSE BILL HB2540:

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AS INTRODUCED

An Act relating to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; abolishing the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; providing for interpretation of certain statutory references; transferring the duties of enforcement and administration of the Uniform Controlled Dangerous Substances Act to the Oklahoma State Bureau of Investigation; transferring certain personnel, funds, records, encumbrances, equipment, and other items to the Oklahoma State Bureau of Investigation; providing requirements pertaining to transfer of employees; providing for transition coordinators and a transition team; providing duties of the transition team; amending 63 O.S. 2001, Sections 2-101, as amended by Section 2, Chapter 338, O.S.L. 2003, 2-103, as amended by Section 13, Chapter 199, O.S.L. 2003, 2-103.1, 2-105, 2-106, 2-106.1, 2-107, 2-109, 2-110, 2-201, 2-301, as amended by Section 3, Chapter 338, O.S.L. 2003, 2-302 and 2-303, as amended by Sections 1 and 2, Chapter 226, O.S.L. 2003, 2-309B, 2-309C, 2-322, 2-323, 2-324, 2-326, 2-330 and 2-331, Sections 1 and 2, Chapter 288, O.S.L. 2002, as amended by Sections 3 and 4, Chapter 133, O.S.L. 2003, 63 O.S. 2001, Sections 2-503, 2-505, 2-506, as amended by Section 36, Chapter 460, O.S.L. 2002, 2-508, as amended by Section 1, Chapter 111, O.S.L. 2002 and 2-509 (63 O.S. Supp. 2003, Sections 2-101, 2-103, 2-301, 2-302, 2-303, 2-332, 2-333, 2-506 and 2-508), which relate to the Uniform Controlled Dangerous Substances Act; modifying the Uniform Controlled Dangerous Substances Act to reflect the transfer of administration and enforcement from the Oklahoma Bureau of Narcotics and Dangerous Drugs Control to the Oklahoma State Bureau of Investigation; providing for continuation of promulgated rules, regulations and forms; amending 74 O.S. 2001, Section 18c, as amended by Section 4, Chapter 438, O.S.L. 2002 (74 O.S. Supp. 2003, Section 18c), which relates to employment of attorneys by state agencies; authorizing the Oklahoma State Bureau of Investigation to employ attorneys for enforcement of the provisions of the Uniform Controlled Dangerous Substances Act; 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 the unclassified service; eliminating references to personnel for the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; placing the positions in the unclassified service for the Oklahoma State Bureau of Investigation; repealing 63 O.S. 2001, Section 2-102

and 2-104.1, as last amended by Section 4, Chapter 229, O.S.L. 2003 (63 O.S. Supp 2003, Section 2-104.1) which relate to the director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission; providing for codification; providing for noncodification; 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 2-102b of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control is hereby abolished. Any reference in the Oklahoma Statutes to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall be deemed to be a reference to the Oklahoma State Bureau of Investigation. Any reference in the Oklahoma Statutes to the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall be deemed to be a reference to the Director of the Oklahoma State Bureau of Investigation.

B. All assets, funds, liabilities, allotments, purchase orders, outstanding financial obligations, encumbrances, records, aircraft, vehicles, equipment, and other property of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control is hereby transferred to the Oklahoma State Bureau of Investigation.

C. Personnel employed by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control on July 1, 2005, shall be transferred to the Oklahoma State Bureau of Investigation pursuant to a transition plan implemented by the Director of the Oklahoma State Bureau of Investigation as required by Section 2 of this act.

D. The classified and unclassified employees who are transferred pursuant to this section shall be subject to the following provisions:

1. Classified employees shall remain subject to the provisions of the Merit System of Personnel Administration, as provided in the Oklahoma Personnel Act;

2. Unclassified employees shall remain in the unclassified service and shall serve at the pleasure of the Director of the Oklahoma State Bureau of Investigation;

3. All employees who are transferred to the Oklahoma State Bureau of Investigation shall retain leave, sick and annual time earned and any retirement and longevity benefits which have accrued during their employment with the state. The salaries of employees who are transferred shall not be reduced as a direct and immediate result of the transfer;

4. If the Oklahoma State Bureau of Investigation should implement a reduction in force, all employees transferred from the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall be credited for the time they were employed by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; and

5. The transfer of personnel shall be coordinated with the Office of Personnel Management.

SECTION 2. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

A. Effective July 1, 2004, the Director of the Oklahoma State Bureau of Investigation and the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall serve as transition coordinators and shall establish a transition team to coordinate the orderly transfer of duties, personnel, property, funds, and encumbrances from the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to the Oklahoma State Bureau of Investigation. Each Director may assign personnel to the transition team from the respective agency of the Director as deemed necessary.

B. The transition team shall:

1. In conjunction with the Department of Central Services, the Office of State Finance and the Office of Personnel Management, oversee and administer the orderly transfer of responsibilities, liabilities, property, records, personnel and any outstanding financial obligations or encumbrances to the Oklahoma State Bureau of Investigation from the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

2. Review functions currently assigned to or managed by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

3. Devise a proposal for an organizational framework within the Oklahoma State Bureau of Investigation for drug law enforcement;

4. Establish a plan for the transfer of employees from the Oklahoma Bureau of Narcotics and Dangerous Drugs Control to the Oklahoma State Bureau of Investigation. The plan shall include a list of positions to be transferred. The plan also shall include a reduction-in-force plan and a severance benefits plan that conform with the requirements of the State Government Reduction-in-Force and Severance Benefits Act; and

5. Take such other action as may be reasonably necessary and appropriate to effectuate the orderly transition of functions as provided by this act.

SECTION 3. AMENDATORY 63 O.S. 2001, Section 2-101, as amended by Section 2, Chapter 338, O.S.L. 2003 (63 O.S. Supp. 2003, Section 2-101), is amended to read as follows:

Section 2-101. As used in the Uniform Controlled Dangerous Substances Act, ~~Section 2-101 et seq. of this title:~~

1. "Administer" means the direct application of a controlled dangerous substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient, animal or research subject by:

- a. a practitioner (or, in the presence of the practitioner, by the authorized agent of the practitioner), or
- b. the patient or research subject at the direction and in the presence of the practitioner;

2. "Agent" means a peace officer appointed by and who acts in behalf of the Director of the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation or an authorized person who acts on behalf of or at the direction of a person who manufactures, distributes, dispenses, prescribes, administers or uses for scientific purposes controlled dangerous substances but does not include a common or contract carrier, public warehouse or employee thereof, or a person required to register under the Uniform Controlled Dangerous Substances Act;

3. ~~"Board" means the Advisory Board to the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;~~

4. "Bureau" means the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation;

~~5.~~ 4. "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine or ecgonine;

~~6.~~ 5. "Commissioner" or "Director" means the Director of the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation;

~~7.~~ 6. "Control" means to add, remove or change the placement of a drug, substance or immediate precursor under the Uniform Controlled Dangerous Substances Act;

~~8.~~ 7. "Controlled dangerous substance" means a drug, substance or immediate precursor in Schedules I through V of the Uniform Controlled Dangerous Substances Act, ~~Section 2-101 et seq. of this title;~~

~~9.~~ 8. "Counterfeit substance" means a controlled substance which, or the container or labeling of which without authorization, bears the trademark, trade name or other identifying marks, imprint, number or device or any likeness thereof of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance;

~~10.~~ 9. "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of a controlled dangerous substance, whether or not there is an agency relationship;

~~11.~~ 10. "Dispense" means to deliver a controlled dangerous substance to an ultimate user or human research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for such distribution.

"Dispenser" is a practitioner who delivers a controlled dangerous substance to an ultimate user or human research subject;

~~12.~~ 11. "Distribute" means to deliver other than by administering or dispensing a controlled dangerous substance;

~~13.~~ 12. "Distributor" means a commercial entity engaged in the distribution or reverse distribution of narcotics and dangerous drugs and who complies with all regulations promulgated by the federal Drug Enforcement Administration and the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation;

~~14.~~ 13. "Drug" means articles:

- a. recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them,
- b. intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals,

- c. other than food, intended to affect the structure or any function of the body of man or other animals, and
- d. intended for use as a component of any article specified in this paragraph;

provided, however, the term "drug" does not include devices or their components, parts or accessories;

~~15.~~ 14. "Drug-dependent person" means a person who is using a controlled dangerous substance and who is in a state of psychic or physical dependence, or both, arising from administration of that controlled dangerous substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence;

~~16.~~ 15. "Home care agency" means any sole proprietorship, partnership, association, corporation, or other organization which administers, offers, or provides home care services, for a fee or pursuant to a contract for such services, to clients in their place of residence;

~~17.~~ 16. "Home care services" means skilled or personal care services provided to clients in their place of residence for a fee;

~~18.~~ 17. "Hospice" means a centrally administered, nonprofit or profit, medically directed, nurse-coordinated program which provides a continuum of home and inpatient care for the terminally ill patient and the patient's family. Such term shall also include a centrally administered, nonprofit or profit, medically directed, nurse-coordinated program if such program is licensed pursuant to the provisions of this act. A hospice program offers palliative and supportive care to meet the special needs arising out of the physical, emotional and spiritual stresses which are experienced during the final stages of illness and during dying and bereavement. This care is available twenty-four (24) hours a day, seven (7) days

a week, and is provided on the basis of need, regardless of ability to pay. "Class A" Hospice refers to Medicare certified hospices.

"Class B" refers to all other providers of hospice services;

~~19.~~ 18. "Imitation controlled substance" means a substance that is not a controlled dangerous substance, which by dosage unit appearance, color, shape, size, markings or by representations made, would lead a reasonable person to believe that the substance is a controlled dangerous substance. In the event the appearance of the dosage unit is not reasonably sufficient to establish that the substance is an "imitation controlled substance", the court or authority concerned should consider, in addition to all other factors, the following factors as related to "representations made" in determining whether the substance is an "imitation controlled substance":

- a. statements made by an owner or by any other person in control of the substance concerning the nature of the substance, or its use or effect,
- b. statements made to the recipient that the substance may be resold for inordinate profit,
- c. whether the substance is packaged in a manner normally used for illicit controlled substances,
- d. evasive tactics or actions utilized by the owner or person in control of the substance to avoid detection by law enforcement authorities,
- e. prior convictions, if any, of an owner, or any other person in control of the object, under state or federal law related to controlled substances or fraud, and
- f. the proximity of the substances to controlled dangerous substances;

~~20.~~ 19. "Immediate precursor" means a substance which the Director has found to be and by regulation designates as being the

principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used, or likely to be used, in the manufacture of a controlled dangerous substance, the control of which is necessary to prevent, curtail or limit such manufacture;

~~21.~~ 20. "Laboratory" means a laboratory approved by the Director as proper to be entrusted with the custody of controlled dangerous substances and the use of controlled dangerous substances for scientific and medical purposes and for purposes of instruction;

~~22.~~ 21. "Manufacture" means the production, preparation, propagation, compounding or processing of a controlled dangerous substance, either directly or indirectly by extraction from substances of natural or synthetic origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis. "Manufacturer" includes any person who packages, repackages or labels any container of any controlled dangerous substance, except practitioners who dispense or compound prescription orders for delivery to the ultimate consumer;

~~23.~~ 22. "Marihuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination;

~~24.~~ 23. "Medical purpose" means an intention to utilize a controlled dangerous substance for physical or mental treatment, for diagnosis, or for the prevention of a disease condition not in

violation of any state or federal law and not for the purpose of satisfying physiological or psychological dependence or other abuse;

~~25.~~ 24. "Mid-level practitioner" means an advanced practice nurse as defined and within parameters specified in Section 567.3a of Title 59 of the Oklahoma Statutes, or a certified animal euthanasia technician as defined in Section 698.2 of Title 59 of the Oklahoma Statutes, or an animal control officer registered by the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation under subsection B of Section ~~3~~ 2-301 of this ~~act~~ title within the parameters of such officer's duty under Sections 501 through 508 of Title 4 of the Oklahoma Statutes;

~~26.~~ 25. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- a. opium, coca leaves and opiates,
- b. a compound, manufacture, salt, derivative or preparation of opium, coca leaves or opiates,
- c. cocaine, its salts, optical and geometric isomers, and salts of isomers,
- d. ecgonine, its derivatives, their salts, isomers and salts of isomers, and
- e. a substance, and any compound, manufacture, salt, derivative or preparation thereof, which is chemically identical with any of the substances referred to in subparagraphs a through d of this paragraph, except that the words "narcotic drug" as used in Section 2-101 et seq. of this title shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine;

~~27.~~ 26. "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or

being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under the Uniform Controlled Dangerous Substances Act, the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;

~~28.~~ 27. "Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof;

~~29.~~ 28. "Peace officer" means a police officer, sheriff, deputy sheriff, district attorney's investigator, investigator from the Office of the Attorney General, or any other person elected or appointed by law to enforce any of the criminal laws of this state or of the United States;

~~30.~~ 29. "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;

~~31.~~ 30. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;

~~32.~~ 31. "Practitioner" means:

- a. (1) a medical doctor or osteopathic physician,
 - (2) a dentist,
 - (3) a podiatrist,
 - (4) an optometrist,
 - (5) a veterinarian,
 - (6) a physician assistant under the supervision of a licensed medical doctor or osteopathic physician,
 - (7) a scientific investigator, or
 - (8) any other person,
- licensed, registered or otherwise permitted to prescribe, distribute, dispense, conduct research with respect to, use for scientific purposes or administer

- a controlled dangerous substance in the course of professional practice or research in this state, or
- b. a pharmacy, hospital, laboratory or other institution, licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, use for scientific purposes or administer a controlled dangerous substance in the course of professional practice or research in this state;

~~33.~~ 32. "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled dangerous substance;

~~34.~~ 33. "State" means the State of Oklahoma or any other state of the United States;

~~35.~~ 34. "Ultimate user" means a person who lawfully possesses a controlled dangerous substance for the person's own use or for the use of a member of the person's household or for administration to an animal owned by the person or by a member of the person's household;

~~36.~~ 35. "Drug paraphernalia" means all equipment, products and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act including, but not limited to:

- a. kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled dangerous substance or from which a controlled dangerous substance can be derived,

- b. kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled dangerous substances,
- c. isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled dangerous substance,
- d. testing equipment used or intended for use in identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substances,
- e. scales and balances used or intended for use in weighing or measuring controlled dangerous substances,
- f. diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use in cutting controlled dangerous substances,
- g. separation gins and sifters used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana,
- h. blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled dangerous substances,
- i. capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled dangerous substances,
- j. containers and other objects used or intended for use in parenterally injecting controlled dangerous substances into the human body,
- k. hypodermic syringes, needles and other objects used or intended for use in parenterally injecting controlled dangerous substances into the human body, and

1. objects used or intended for use in ingesting, inhaling or otherwise introducing marihuana, cocaine, hashish or hashish oil into the human body, such as:
 - (1) metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls,
 - (2) water pipes,
 - (3) carburetion tubes and devices,
 - (4) smoking and carburetion masks,
 - (5) roach clips, meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand,
 - (6) miniature cocaine spoons and cocaine vials,
 - (7) chamber pipes,
 - (8) carburetor pipes,
 - (9) electric pipes,
 - (10) air-driven pipes,
 - (11) chillums,
 - (12) bonges, or
 - (13) ice pipes or chillers;

provided, however, the term "drug paraphernalia" shall not include separation gins intended for use in preparing tea or spice, clamps used for constructing electrical equipment, water pipes designed for ornamentation or pipes designed for smoking tobacco;

~~37.~~ 36. "Synthetic controlled substance" means a substance that is not a controlled dangerous substance, but is a substance that produces a like or similar physiological or psychological effect on the human central nervous system that currently has no accepted medical use in treatment in the United States and has a potential for abuse. The court or authority concerned with establishing that the substance is a synthetic controlled substance should consider,

in addition to all other factors, the following factors as related to "representations made" in determining whether the substance is a synthetic controlled substance:

- a. statements made by an owner or by any other person in control of the substance concerning the nature of the substance, its use or effect,
- b. statements made to the recipient that the substance may be resold for an inordinate profit,
- c. prior convictions, if any, of an owner or any person in control of the substance, under state or federal law related to controlled dangerous substances, and
- d. the proximity of the substance to any controlled dangerous substance;

~~38.~~ 37. "Tetrahydrocannabinols" means all substances that have been chemically synthesized to emulate the tetrahydrocannabinols of marihuana;

~~39.~~ 38. "Isomer" means the optical isomer, except as used in subsection C of Section 2-204 of this title and paragraph 4 of subsection A of Section 2-206 of this title. As used in subsection C of Section 2-204 of this title, "isomer" means the optical, positional or geometric isomer. As used in paragraph 4 of subsection A of Section 2-206 of this title, the term "isomer" means the optical or geometric isomer;

~~40.~~ 39. "Hazardous materials" means materials, whether solid, liquid or gas, which are toxic to human, animal, aquatic or plant life, and the disposal of which materials is controlled by state or federal guidelines; and

~~41.~~ 40. "Anhydrous ammonia" means any substance that exhibits cryogenic evaporative behavior and tests positive for ammonia.

SECTION 4. AMENDATORY 63 O.S. 2001, Section 2-103, as amended by Section 13, Chapter 199, O.S.L. 2003 (63 O.S. Supp. 2003, Section 2-103), is amended to read as follows:

~~Section 2-103. A. The Director shall be appointed by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission. The Director of Narcotics and Dangerous Drugs Control on January 1, 1984, shall be initially appointed as Director. The succeeding Director shall, at the time of the appointment, have a Bachelor's Degree from an accredited college or university and at least five (5) years' experience in drug law enforcement. The Director may appoint necessary assistants, agents, and other personnel to perform the work of the office and may prescribe their titles and duties and fix their compensation pursuant to Merit System rules. The Director may appoint an employee to the position of Public Information/Education Officer. Said position shall be unclassified and exempt from the rules and procedures of the Office of Personnel Management, except leave regulations. The office of the Director shall be located at a suitable place in Oklahoma City, Oklahoma.~~

~~B.~~ 1. Agents appointed by the Director shall have the powers of peace officers generally; provided, the Director may appoint special agents to meet specific investigatory need, who do not meet the age and educational requirements as specified in this section.

2. Agents appointed on and after November 1, 1998, shall be at least twenty-one (21) years of age and shall have a Bachelor's Degree from an accredited college or university.

3. Each entering agent shall be required to serve one (1) year in a probationary status as a prerequisite to being placed on permanent status.

~~C.~~ B. Agents appointed pursuant to the provisions of this section shall have the responsibility of investigating alleged violations and shall have the authority to arrest those suspected of having violated the provisions of the Uniform Controlled Dangerous Substances Act.

~~D.~~ C. A commissioned employee of the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation, appointed pursuant to the provisions of the Uniform Controlled Dangerous Substances Act, shall be entitled to receive upon retirement by reason of length of service, the continued custody and possession of the sidearm and badge carried by such employee immediately prior to retirement.

~~E.~~ D. A commissioned employee of the Bureau, employed pursuant to the provisions of the Uniform Controlled Dangerous Substances Act, may be entitled to receive, upon retirement by reason of disability, the continued custody and possession of the sidearm and badge carried by such employee immediately prior to retirement upon written approval of the Director.

~~F.~~ E. Custody and possession of the sidearm and badge of a commissioned employee killed in the line of duty may be awarded by the Director to the spouse or next of kin of the deceased employee.

~~G.~~ F. Custody and possession of the sidearm and badge of a commissioned employee who dies while employed at the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation, pursuant to the provision of the Uniform Controlled Dangerous Substances Act, may be awarded by the Director to the spouse or next of kin of the deceased employee.

~~H.~~ Any Director appointed on or after July 1, 2003, shall be eligible to participate in either the Oklahoma Public Employees Retirement System or in the Oklahoma Law Enforcement Retirement System and shall make an irrevocable election in writing to participate in one of the two retirement systems.

SECTION 5. AMENDATORY 63 O.S. 2001, Section 2-103.1, is amended to read as follows:

Section 2-103.1 A. In any investigation relating to the functions of the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation pursuant to the provisions of the

Uniform Controlled Dangerous Substances Act with respect to controlled substances, the Director of the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation, if recommended and approved by a chief agent of the Bureau and the legal counsel of the Bureau, may subpoena witnesses, compel the attendance and testimony of witnesses, and require the production of any records, including books, papers, documents, and other tangible things which constitute or contain evidence, which the Director or agent finds relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place in the state to a designated location in the county seat of the county of which the subpoenaed person is an inhabitant or in which the subpoenaed person carries on business or may be found. Witnesses summoned pursuant to this section shall be paid the same fees and mileage that are paid witnesses in the courts of this state.

B. The witness shall have the option of complying with said subpoena by:

1. Appearing and/or producing documents, as requested; or
2. Notifying the Bureau, in writing, of refusal to appear or produce documents, within ten (10) days of the date of service.

The subpoena form shall clearly set forth the optional means of compliance including instructions for sending written notice of refusal.

C. A subpoena issued pursuant to this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

D. In the case of contumacy by or refusal to obey a subpoena issued to any person, the Director may invoke the aid of any district court of the state within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which he carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Director to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as an indirect contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

E. The district court of the county wherein the subpoena is served may quash a subpoena issued pursuant to this section, upon a motion to quash the subpoena filed with the court by the party to whom the subpoena is issued.

SECTION 6. AMENDATORY 63 O.S. 2001, Section 2-105, is amended to read as follows:

Section 2-105. It shall be the duty of all departments, officers, agencies, and employees of the state to cooperate with the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Investigation in carrying out the functions of his office duties of the Director pursuant to the Uniform Controlled Dangerous Substances Act. The State Medical Examiner shall promptly report to the office of the Director all deaths occurring within the state which were the result or probable result of abuse of a controlled dangerous substance.

SECTION 7. AMENDATORY 63 O.S. 2001, Section 2-106, is amended to read as follows:

Section 2-106. A. The Director of the Oklahoma State Bureau of Investigation shall, in addition to other powers and duties vested in ~~him~~ the Director:

1. Cooperate with federal and other state agencies in discharging ~~his~~ responsibilities concerning traffic in narcotics and dangerous substances and in suppressing the abuse of dangerous substances;

2. Arrange for the exchange of information between governmental officials concerning the use and abuse of dangerous substances;

3. Coordinate and cooperate in training programs on dangerous substances law enforcement at the local and state levels;

4. Cooperate with the Federal Bureau of Narcotics and Dangerous Drugs by establishing a centralized unit which will accept, catalogue, file and collect statistics, including records of drug dependent persons and other dangerous substance law offenders within the state, and make such information available for federal, state and local law enforcement purposes; and may collect and furnish statistics for other appropriate purposes;

5. Coordinate and cooperate in programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled dangerous substances may be extracted.

B. Results, information and evidence received from the Federal Bureau of Narcotics and Dangerous Drugs relating to the regulatory functions of ~~this act~~ the Uniform Controlled Dangerous Substances Act, including results of inspections conducted by that agency, may be relied upon and acted upon by the Director in conformance with his regulatory functions under ~~this act~~ the Uniform Controlled Dangerous Substances Act.

C. The Director is further authorized and directed to:

1. Coordinate and cooperate in educational programs designed to prevent and deter misuse and abuse of controlled dangerous substances;

2. Promote better recognition of the problems of misuse and abuse of controlled dangerous substances within the regulated industry and among interested groups and organizations;

3. Assist the regulated industry, interested groups and organizations in contributing to the reduction of misuse and abuse of controlled dangerous substances;

4. Consult with interested groups and organizations to aid them in solving administrative and organizational problems;

5. Assist in evaluating procedures, projects, techniques and controls conducted or proposed as part of educational programs on misuse and abuse of controlled dangerous substances;

6. Disseminate the results of research on misuse and abuse of controlled dangerous substances to promote a better public understanding of what problems exist and what can be done to combat them; ~~and~~

7. Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled dangerous substances~~;~~i

8. Conduct an annual seminar to be attended by selected law enforcement officers in order to teach new techniques and advances in the investigation of violations of the Uniform Controlled Dangerous Substances Act~~;~~i ~~and~~

9. Supervise and direct agents appointed in the performance of their function of enforcement of the provisions of ~~this act~~ the Uniform Controlled Dangerous Substances Act.

D. The Director is further authorized and directed to:

1. Encourage research on misuse and abuse of controlled dangerous substances;

2. Cooperate in establishing methods to assess accurately the effects of controlled dangerous substances and to identify and characterize controlled dangerous substances with potential for abuse; and

3. Cooperate in making studies and in undertaking programs of research to:

- a. develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this act;
- b. determine patterns of misuse and abuse of controlled dangerous substances and the social effects thereof; and
- c. improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled dangerous substances.

E. The Director may enter into contracts with public agencies, institutions of higher education and private organizations or individuals for the purpose of conducting research, demonstrations or special projects which bear directly on misuse and abuse of controlled dangerous substances.

F. The Director may enter into contracts for educational and research activities without performance bonds.

G. The Director may authorize persons engaged in research or scientific activities on the use and effects of dangerous substances to withhold the names and other identifying characteristics of persons who are the subjects of such research. Persons who obtain this authorization may not be compelled in any state civil, criminal, administrative, legislative or other proceeding to identify the subjects of research for which such authorization was obtained.

H. The Director may authorize the lawful possession, distribution and use of controlled dangerous substances by persons engaged in research or scientific activities; authorization for possession of controlled dangerous substances may be extended to persons engaged in a program of drug education or persons in the performance of an official duty. Persons who obtain this authorization shall be exempt from state prosecution for possession,

distribution or use of dangerous substances to the extent authorized by the Director.

I. The Director is authorized to accept gifts, bequests, devises, contributions and grants, public or private, including federal funds or funds from any other source for use in furthering the purpose of the office of the Director.

J. The Director shall be in charge of all monies appropriated for or deposited to the credit of the office of the Director and is authorized to approve claims and payrolls as provided in Section 41.26 of Title 62 of the Oklahoma Statutes.

K. The Director shall have the authority of a peace officer and is authorized to commission assistants of his office as peace officers.

SECTION 8. AMENDATORY 63 O.S. 2001, Section 2-106.1, is amended to read as follows:

Section 2-106.1 The Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation is hereby authorized to lease the seaplane owned by said Bureau. Said lease shall not be subject to the provisions of Section 85.5 of Title 74 of the Oklahoma Statutes and shall not have to be approved by the Office of Public Affairs.

SECTION 9. AMENDATORY 63 O.S. 2001, Section 2-107, is amended to read as follows:

Section 2-107. There is hereby created in the State Treasury a revolving fund for the Oklahoma State Bureau ~~of Narcotics and Dangerous Drugs Control~~ of Investigation to be designated the "Bureau of Investigation Narcotics Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies received from the sale of surplus and confiscated property, fees and receipts collected pursuant to the Oklahoma Open Records Act, gifts, bequests, devises, contributions or grants, public or private, including federal funds unless

otherwise provided by federal law or regulation, registration fees and receipts relating to prescription pads and receipts from any other source. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation for ~~general operations of the agency~~ administration and enforcement of the provisions of the Uniform Controlled Dangerous Substances 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.

SECTION 10. AMENDATORY 63 O.S. 2001, Section 2-109, is amended to read as follows:

Section 2-109. The Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation is hereby authorized to rent and/or charter aircraft on a project mission basis for enforcement of the provisions of the Uniform Controlled Dangerous Substances Act; such rental or charter to last only for the duration of the project mission. The Bureau is also authorized to pay, from any funds available to the Bureau, expenses involved in qualifying multiengine and instrument pilots as may be required to accomplish agency responsibilities pursuant to the provisions of the Uniform Controlled Dangerous Substances Act.

SECTION 11. AMENDATORY 63 O.S. 2001, Section 2-110, is amended to read as follows:

Section 2-110. The Director of the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation may employ attorneys, who shall be unclassified employees of the state, or contract with attorneys, as needed for the enforcement and administration of the provisions of the Uniform Controlled Dangerous Substances Act. These attorneys may advise the Director, ~~the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission~~ and Bureau personnel on all legal matters and shall

appear for and represent the Director, ~~the Commission~~ and Bureau personnel in all administrative hearings and all litigation or other proceedings which may arise in the discharge of their duties. At the request of the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission~~ Director, such attorney shall assist the district attorney in prosecuting charges of violators of the Uniform Controlled Dangerous Substances Act or any felony relating to or arising from a violation of the Uniform Controlled Dangerous Substances Act. Provided, if a conflict of interest would be created by such attorney representing the Director, ~~the Commission~~ or Bureau personnel, additional counsel may be hired upon approval of the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission~~ Director. Any classified employee who is serving in an attorney position which is subject to the Merit System of Personnel Administration on the effective date of this act shall have the option of retaining such classified status. An incumbent who chooses to remain in the classified service shall be subject to all provisions and conditions of the Merit System of Personnel Administration. An incumbent who chooses to change status from classified to unclassified shall so indicate in writing. All future appointees to such positions shall be in the unclassified service.

SECTION 12. AMENDATORY 63 O.S. 2001, Section 2-201, is amended to read as follows:

Section 2-201. A. The ~~Commissioner~~ Director of the Oklahoma State Bureau of Investigation shall administer the provisions of ~~this act~~ the Uniform Controlled Dangerous Substances Act except as otherwise provided.

B. The Board of Pharmacy by rule may classify new products determined to have a potential for abuse as controlled dangerous substances after notice and hearing; provided that such rule shall be submitted to the next regular session of the Legislature, and such rule shall remain in force and effect unless a concurrent

resolution of disapproval is passed. Hearings shall be conducted by the Board of Pharmacy or such officers, agents or employees as the Board of Pharmacy may designate for the purpose. The Board of Pharmacy shall give appropriate notice of the proposed classification and of the time and place for a hearing. The rule so promulgated shall become effective on a date fixed by the Board of Pharmacy. Such rule may be amended or repealed in the same manner as provided for its adoption. Proceedings pursuant to this subsection shall be governed by the Administrative Procedures Act. A new substance controlled pursuant to this subsection shall be subject to the same regulatory provisions of ~~this act~~ the Uniform Controlled Dangerous Substances Act applicable to the Schedule of substances to which it is classified.

C. The ~~Commissioner~~ Director may recommend to the Legislature the addition, deletion or rescheduling of a substance.

D. In considering whether to make a recommendation or issue an order under this section, the Commissioner or the Board of Pharmacy, as the case may be, shall consider the following:

1. Its actual or relative potential for abuse;
2. Scientific evidence of its pharmacological effect, if known;
3. State of current scientific knowledge regarding the substance;
4. Its history and current pattern of abuse;
5. The scope, duration, and significance of abuse;
6. What, if any, risk there is to the public health;
7. Its psychic or physiological dependence liability; and
8. Whether the substance is an immediate precursor or principal compound of a substance already controlled under this article.

E. Substances which are precursors of a controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

F. ~~In addition to the filing requirements of the Administrative Procedures Act, copies of orders issued under this section shall, during the time the Legislature is not in session, be filed with the Chairman and Vice Chairman of the State Legislative Council's Judiciary Committee.~~

G. The Board of Pharmacy shall exclude any nonnarcotic substance from a schedule if such substance may, under the Federal Food, Drug and Cosmetic Act and the law of this state; be lawfully sold over the counter without a prescription.

SECTION 13. AMENDATORY 63 O.S. 2001, Section 2-301, as amended by Section 3, Chapter 338, O.S.L. 2003 (63 O.S. Supp. 2003, Section 2-301), is amended to read as follows:

Section 2-301. A. ~~The Commissioner~~ Director of the Oklahoma State Bureau of Investigation is authorized to promulgate rules and regulations relating to the registration and control of the manufacture, distribution, dispensing, prescribing, administering or use for scientific purposes of controlled dangerous substances within this state. Until such rules and regulations are promulgated, the rules and regulations promulgated by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall remain in effect. All proceedings before the office of ~~Commissioner~~ the Director pursuant to this section shall be governed by the Administrative Procedures Act.

B. ~~The Commissioner~~ Director shall promulgate rules relating to the training, certification and registration of animal control officers for the purpose of authorizing such individuals to purchase, possess and administer controlled dangerous substances for animal control within this state and operating under the parameters of Sections 501 through 508 of Title 4 of the Oklahoma Statutes. In promulgating such rules, ~~the Commissioner~~ Director shall cooperate with any federal, state or local entity with jurisdiction over the euthanasia of animals.

SECTION 14. AMENDATORY 63 O.S. 2001, Section 2-302, as amended by Section 1, Chapter 226, O.S.L. 2003 (63 O.S. Supp. 2003, Section 2-302), is amended to read as follows:

Section 2-302. A. Every person who manufactures, distributes, dispenses, prescribes, administers or uses for scientific purposes any controlled dangerous substance within this state, or who proposes to engage in the manufacture, distribution, dispensing, prescribing, administering or use for scientific purposes of any controlled dangerous substance within this state shall obtain a registration issued by the Director of the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation, in accordance with rules promulgated by the Director. Persons registered by the Director under Section 2-101 et seq. of this title to manufacture, distribute, dispense, or conduct research with controlled dangerous substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this article.

B. Out-of-state pharmaceutical suppliers who provide controlled dangerous substances to individuals within this state shall obtain a registration issued by the Director of the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation, in accordance with rules promulgated by the Director; provided that this provision shall not apply to wholesale distributors who ship controlled dangerous substances to pharmacies or other entities registered within this state in accordance with rules promulgated by the Director.

C. Manufacturers, distributors, home care agencies, hospices, home care services, and scientific researchers shall obtain a registration annually. Other practitioners shall obtain a registration for a period to be determined by the Director that will

be for a period not less than one (1) year nor more than three (3) years.

D. Every trainer or handler of a canine controlled dangerous substances detector who, in the ordinary course of such trainer's or handler's profession, desires to possess any controlled dangerous substance, annually, shall obtain a registration issued by the Director for a fee of Seventy Dollars (\$70.00). Such persons shall be subject to all applicable provisions of Section 2-101 et seq. of this title and such applicable rules promulgated by the Director for those individuals identified in subparagraph a of paragraph ~~28~~ 31 of Section 2-101 of this title. Persons registered by the Director pursuant to this subsection may possess controlled dangerous substances to the extent authorized by their registration and in conformity with the other provisions of this article.

E. The following persons shall not be required to register and may lawfully possess controlled dangerous substances under the provisions of Section 2-101 et seq. of this title:

1. An agent, or an employee thereof, of any registered manufacturer, distributor, dispenser or user for scientific purposes of any controlled dangerous substance, if such agent is acting in the usual course of such agent's or employee's business or employment;

2. Any person lawfully acting under the direction of a person authorized to administer controlled dangerous substances under Section 2-312 of this title;

3. A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled dangerous substance is in the usual course of such carrier's or warehouseman's business or employment;

4. An ultimate user or a person in possession of any controlled dangerous substance pursuant to a lawful order of a practitioner;

5. An individual pharmacist acting in the usual course of such pharmacist's employment with a pharmacy registered pursuant to the provisions of Section 2-101 et seq. of this title;

6. A nursing home licensed by this state; and

7. Registered nurses and licensed practical nurses.

F. The Director may, by rule, waive the requirement for registration or fee for registration of certain manufacturers, distributors, dispensers, prescribers, administrators, or users for scientific purposes if the Director finds it consistent with the public health and safety.

G. A separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, dispenses, prescribes, administers, or uses for scientific purposes controlled dangerous substances.

H. The Director is authorized to inspect the establishment of a registrant or applicant for registration in accordance with rules promulgated by the Director.

I. No person engaged in a profession or occupation for which a license to engage in such activity is provided by law shall be registered under this act unless such person holds a valid license of such person's profession or occupation.

J. Registrations shall be issued on the first day of November of each year. Registrations may be issued at other times, however, upon certification of the professional licensing board.

K. The licensing boards of all professions and occupations to which the use of controlled dangerous substances is incidental shall furnish a current list to the Director, not later than the first day of October of each year, of the persons holding valid licenses. All such persons except persons exempt from registration requirements under subsection E of this section shall be subject to the registration requirements of Section 2-101 et seq. of this title.

L. The licensing board of any professional defined as a mid-level practitioner shall notify and furnish to the Director, not later than the first day of October of each year that such professional holds a valid license, a current listing of individuals licensed and registered with their respective boards to prescribe, order, select, obtain and administer controlled dangerous substances. The licensing board shall immediately notify the Director of any action subsequently taken against any such individual.

SECTION 15. AMENDATORY 63 O.S. 2001, Section 2-303, as amended by Section 2, Chapter 226, O.S.L. 2003 (63 O.S. Supp. 2003, Section 2-303), is amended to read as follows:

Section 2-303. A. The Director of the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation shall register an applicant to manufacture, distribute, dispense, prescribe, administer or use for scientific purposes controlled dangerous substances included in Schedules I through V of Section 2-101 et seq. of this title unless the Director determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

1. Maintenance of effective controls against diversion of particular controlled dangerous substances and any Schedule I or II substance compounded therefrom into other than legitimate medical, scientific or industrial channels, including examination of the fitness of ~~his~~ employees or agents to handle dangerous substances;
2. Compliance with applicable state and local law;
3. Prior conviction record of applicant under federal or state laws relating to the manufacture, distribution or dispensing of such substances;

4. Furnishing by the applicant false or fraudulent material information in any application filed under Section 2-101 et seq. of this title;

5. Past experience in the manufacture, distribution, dispensing, prescribing, administering or use for scientific purposes of controlled dangerous substances, and the existence in the establishment of effective controls against diversion;

6. Denial, suspension or revocation of the applicant's federal registration to manufacture, distribute or dispense controlled dangerous substances as authorized by federal law; and

7. Such other factors as may be relevant to and consistent with the public health and safety.

Nothing herein shall be deemed to require individual licensed pharmacists to register under the provisions of the Uniform Controlled Dangerous Substances Act.

B. Registration granted under subsection A of this section shall not entitle a registrant to manufacture, distribute, dispense, prescribe, administer or use for scientific purposes controlled dangerous substances in Schedule I or II other than those specified in the registration.

C. Practitioners shall be registered to dispense, prescribe, administer or use for scientific purposes substances in Schedules II through V if they are authorized to carry on their respective activities under the laws of this state. A registration application by a practitioner who wishes to conduct research with Schedule I substances shall be accompanied by evidence of the applicant's federal registration to conduct such activity and shall be referred to the Medical Research Commission for advice. The Medical Research Commission shall promptly advise the Director concerning the qualifications of each practitioner requesting such registration. Registration for the purpose of bona fide research or of use for scientific purposes with Schedule I substances by a practitioner

deemed qualified by the Medical Research Commission may be denied only on a ground specified in subsection A of Section 2-304 of this title or if there are reasonable grounds to believe that the applicant will abuse or unlawfully transfer such substances or fail to safeguard adequately such applicant's supply of such substances against diversion from legitimate medical or scientific use.

D. 1. The Director shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution, dispensing, prescribing, administering or use for scientific purposes of any controlled dangerous substances prior to June 4, 1991, and who are registered or licensed by the state. Fees for registration under this section shall be as follows:

Practitioners and

mid-level practitioners	\$70.00	per year
		of
		registration

Home Care Agencies,

Hospices & Home Care Services	\$70.00	annually
Distributors	\$100.00	annually
Manufacturers	\$200.00	annually

2. A registrant shall be required to pay double the amount of the above-listed fee for any renewal of registration received more than sixty (60) days late.

3. A Ten Dollar (\$10.00) fee shall be charged for a duplicate registration certificate.

E. Compliance by manufacturers and distributors with the provisions of the Federal Controlled Substances Act, 21 U.S.C., Section 801 et seq., respecting registration, excluding fees, shall be deemed sufficient to qualify for registration under this ~~act~~ article.

SECTION 16. AMENDATORY 63 O.S. 2001, Section 2-309B, is amended to read as follows:

Section 2-309B. For the purposes of the Anti-Drug Diversion Act:

1. "Bureau" means the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation;

2. "Dispenser" means a person who distributes a Schedule II controlled dangerous substance, but does not include a licensed hospital pharmacy or a licensed nurse or medication aide who administers such a substance at the direction of a licensed physician;

3. "Dispenser's registration number" means the dispenser's Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation registration number or, in the case of a pharmacist, the National Association of Boards of Pharmacy number for the pharmacy where the dispensation is made;

4. "Exception report" means an output of data indicating Schedule II controlled dangerous substance dispensation which is outside expected norms for a prescriber practicing a particular specialty or field of health care, for a dispenser doing business in a particular location, or for a recipient;

5. "Recipient's identification number" means the unique number contained on a Schedule II controlled dangerous substance recipient's valid driver's license, valid military identification card, or valid identification card issued pursuant to Section 6-105 of Title 47 of the Oklahoma Statutes or similar statute of another state if the recipient is not a resident of the State of Oklahoma, or, if the recipient is less than eighteen (18) years old and has no such identification, the unique number contained on the recipient's parent's or guardian's valid driver's license, valid military identification card, or valid identification card issued pursuant to Section 6-105 of Title 47 of the Oklahoma Statutes or similar statute of another state if the parent or guardian is not a resident of the State of Oklahoma, or, if the controlled dangerous substance

is obtained for an animal, the unique number contained on the animal owner's valid driver's license, valid military identification card, or valid identification card issued pursuant to Section 6-105 of Title 47 of the Oklahoma Statutes or similar statute of another state if the owner is not a resident of the State of Oklahoma; and

6. "State" means any state, territory, or possession of the United States, the District of Columbia, or foreign nation.

SECTION 17. AMENDATORY 63 O.S. 2001, Section 2-309C, is amended to read as follows:

Section 2-309C. A. A dispenser of a Schedule II controlled dangerous substance shall transmit to a central repository designated by the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation the following information for each dispensation:

1. Recipient's name, when feasible to submit;
2. Recipient's identification number;
3. National Drug Code number of the substance dispensed;
4. Date of the dispensation;
5. Quantity of the substance dispensed;
6. Prescriber's U.S. Drug Enforcement Agency registration

number; and

7. Dispenser's registration number and location.

B. The information required by this section shall be transmitted:

1. On an electronic device which is compatible with the receiving device of the central repository or by computer diskette, magnetic tape, or, in the case of fewer than twenty submissions per month, by pharmacy universal claim form, which meets the specifications provided by rules of the Bureau; and

2. Within fifteen (15) days of the time that the substance is dispensed.

C. Willful failure to transmit information as required by this section shall be a misdemeanor punishable, upon conviction, by not more than one (1) year in the county jail or a fine of not more than One Thousand Dollars (\$1,000.00) or both such imprisonment and fine.

D. The Director of the Bureau shall have the authority to waive the limit on the number of submissions on the universal claim form, and to allow a dispenser of a Schedule II controlled dangerous substance to submit more than twenty universal claim forms per month if the dispenser has an appropriate hardship.

SECTION 18. AMENDATORY 63 O.S. 2001, Section 2-322, is amended to read as follows:

Section 2-322. A. No person or business shall possess, sell, manufacture, transfer, or otherwise furnish any of the following precursor substances without first having a permit or license issued by the Director of the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation, except as provided in Section 2-327 of this title:

1. D-Lysergic acid;
2. Ergotamine and its salts;
3. Ergonovine and its salts;
4. Methylamine;
5. Ethylamine;
6. Phenyl-2-Propanone;
7. Phenylacetic acid and its salts;
8. Ephedrine, its salts, optical isomers and salts of optical isomers;
9. Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers;
10. Phenylpropanolamine, its salts, optical isomers and salts of optical isomers;
11. Benzyl cyanide;

12. N-methylephedrine, its salts, optical isomers and salts of optical isomers;

13. Pseudoephedrine, its salts, optical isomers and salts of optical isomers;

14. Chloroephedrine, its salts, optical isomers and salts of optical isomers;

15. Piperidine and its salts;

16. Pyrrolidine and its salts;

17. Propionic anhydride;

18. Isosafrole;

19. Safrole;

20. Piperonal; and

21. Red Phosphorus.

B. Upon completion of an application for a license pursuant to Section 2-323 of this title, or a permit pursuant to Section 2-324 of this title, the Director of the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation shall either grant or deny such license or permit. A denial of an application for a permit or license shall be handled as provided by Section 2-325 of this title.

SECTION 19. AMENDATORY 63 O.S. 2001, Section 2-323, is amended to read as follows:

Section 2-323. A. A manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any precursor substance defined in Section 4 2-322 of this ~~act~~ title must first obtain a license annually from the Director of the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation.

B. The procedure for obtaining a license to sell, transfer, manufacture, purchase for resale, or otherwise furnish a precursor substance shall be as follows:

1. Obtain an application from the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation;

2. Submit the application to the Director of the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation; and

3. Demonstrate a legitimate reason to sell, transfer, or otherwise furnish precursor chemicals.

C. The content of the application for a license shall include, but not be limited to, the following information:

1. Name of business;
2. Address of business other than a post office box number;
3. Phone number of business;
4. Names and addresses of business owners;
5. Location of storage facility;
6. Identification of precursor substances to be sold; and
7. Criminal history of applicant.

D. A licensee shall make an accurate and legible record of any transaction of precursor substances and maintain such record together with the following records for a period of at least two (2) years:

1. Inventory on hand;
2. Purchase receipts;
3. Manufacturing records including the date and quantity of any precursor substance manufactured, the quantity of precursor substances used in manufacturing any other substance or product, and the inventory on hand of precursor substances after the manufacturing of any other substance or product;
4. Copies of the Oklahoma State Bureau of ~~Narcotics~~ Investigation purchase permits or written authorization waving the permit requirement, as provided by subsection E of Section ~~6~~ 2-324 of this ~~act~~ title; and
5. Records of substance disposal.

E. The license shall cost One Hundred Dollars (\$100.00) annually and shall be renewable on July 1 of each year. The fee shall be payable to the ~~Oklahoma State~~ Bureau of Investigation Narcotics Revolving Fund.

SECTION 20. AMENDATORY 63 O.S. 2001, Section 2-324, is amended to read as follows:

Section 2-324. A. Any person or business having a legitimate need for using precursor substances defined in Section 4 2-322 of this ~~act~~ title, shall apply in person to the Director of Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation, or ~~his~~ a designee, for a permit to possess such substances each time said substance is obtained.

B. The following must be submitted in person to the Director of Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation, or ~~his~~ a designee, to receive a permit for possession of precursor substances:

1. A driver's license number or other personal identification certificate number, date of birth, residential or mailing address, other than a post office box number, and a driver's license or personal identification card issued by the Department of Public Safety which contains a photograph of the recipient. In the event the applicant is a corporation, the information in this paragraph shall be required of the person making application for the permit. In addition, the person making application for the permit on behalf of a corporation shall disclose his relationship to the corporation;

2. A complete description of how the substance is to be used;
and

3. The location where the substance is to be stored and used.

C. The permit shall consist of three parts, including:

1. A copy to be retained by the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation;

2. A copy to be retained by the manufacturer, wholesaler, retailer, or other person furnishing precursor substances; and

3. A copy to be attached to the container of the precursor substances and to be kept with the substances at all times.

D. The permit shall cost Ten Dollars (\$10.00) and shall be payable to the ~~Oklahoma State~~ Bureau of Investigation Narcotics and ~~Dangerous Drugs Control~~ Revolving Fund.

E. The Director may authorize in writing any person or business to submit a comprehensive monthly report in lieu of the permit required by this section, if the Director determines that the recipient has established a record of utilization of the substance solely for a lawful purpose.

SECTION 21. AMENDATORY 63 O.S. 2001, Section 2-326, is amended to read as follows:

Section 2-326. A. Any person or business, licensed or permitted, who discovers a loss or theft of, or disposes of a substance listed in Section ~~4~~ 2-322 of this ~~act~~ title shall:

1. Submit a report of the loss, theft, or disposal to the Director of the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation no later than the third business day after the date the manufacturer, wholesaler, retailer, or other person discovers the loss or theft, or after the actual disposal; and

2. Include the amount of loss, theft, or disposal in the report. Any disposal of precursor substances must be done in accordance with the rules and regulations of the United States Environmental Protection Administration and shall be performed at the expense of the permit or license holder.

B. A manufacturer, wholesaler, retailer, or other person who sells, transfers, possesses, uses, or otherwise furnishes any precursor substance shall:

1. Maintain records as specified in Section ~~5~~ 2-323 of this ~~act~~ title;

2. Permit agents of the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation to conduct on-site audits, inspect inventory on hand and inspect all records made in accordance with ~~this act~~ the Precursor Substances Act at any reasonable time; and

3. Cooperate with the audit, and the full and complete inspection or copying of any records.

SECTION 22. AMENDATORY 63 O.S. 2001, Section 2-330, is amended to read as follows:

Section 2-330. A. Every law enforcement agency in this state shall notify the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation within ten (10) days of any officer of such agency seizing:

1. Any precursor chemical, as defined in the Precursor Substances Act, used or allegedly used, in full or in part, to manufacture any controlled substance; and

2. Any drug paraphernalia relating to an illegal laboratory, including but not limited to any glassware, instruments, devices, utensils or other objects or equipment used or allegedly used, in full or in part, to manufacture any controlled substance.

B. The Bureau may promulgate rules and forms to facilitate the required notification pursuant to this section. Until rules and forms are promulgated by the Bureau, the rules and forms promulgated by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall remain in effect.

SECTION 23. AMENDATORY 63 O.S. 2001, Section 2-331, is amended to read as follows:

Section 2-331. It shall be the duty of any peace officer of the State of Oklahoma who seizes any glassware, instruments, devices, utensils or precursor chemicals, as defined by Section 2-322 of

~~Title 63 of the Oklahoma Statutes~~ this title, which have been used or were intended to be used in the illicit manufacturing of any controlled dangerous substance, in full or in part, to make notice of the seizure in writing to the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation.

SECTION 24. AMENDATORY Section 1, Chapter 288, O.S.L. 2002, as amended by Section 3, Chapter 133, O.S.L. 2003 (63 O.S. Supp. 2003, Section 2-332), is amended to read as follows:

Section 2-332. A. It shall be unlawful for a person to knowingly and unlawfully possess a drug product containing ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product as a precursor to manufacture methamphetamine or another controlled substance.

B. Except as provided in this subsection, possession of a drug product containing more than twenty-four (24) grams of ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers shall constitute a rebuttable presumption of the intent to use the product as a precursor to methamphetamine or another controlled substance. The rebuttable presumption established by this subsection shall not apply to the following persons who are lawfully possessing drug products in the course of legitimate business:

1. A retail distributor of drug products or wholesaler;
2. A wholesale drug distributor, or its agents, licensed by the Board of Pharmacy;
3. A manufacturer of drug products, or its agents, licensed by the Board of Pharmacy;
4. A pharmacist licensed by the Board of Pharmacy; and
5. A licensed healthcare professional possessing the drug products in the course of carrying out his profession.

C. A violation of this section shall be a felony punishable by imprisonment in the State Penitentiary for a term of not more than five (5) years.

D. Any wholesaler, manufacturer, or distributor of drug products containing pseudoephedrine or phenylpropanolamine, or their salts, isomers, or salts of isomers shall obtain a registration annually from the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation. Any such wholesaler, manufacturer, or distributor shall keep complete records of all transactions involving such drug products including the names of all parties involved in the transaction and amount of the drug products involved. The records shall be kept readily retrievable and separate from all other invoices or records of transactions not involving such drug products, and shall be maintained for not less than three (3) years.

E. As used in this section:

1. "Manufacturer" means any person within this state who produces, compounds, packages, or in any manner initially prepares for sale or use any drug product described in subsection D of this section, or any such person in another state if they cause the products to be compounded, packaged, or transported into this state;

2. "Wholesaler" means any person within this state or another state, other than a manufacturer, who sells, transfers, or in any manner furnishes a drug product described in subsection A of this section to any other person in this state for the purpose of being resold;

3. "Distributor" means any person within this state or another state, other than a manufacturer or wholesaler, who sells, delivers, transfers, or in any manner furnishes a drug product described in subsection A of this section to any person who is not the ultimate user or consumer of the product; and

4. "Readily retrievable" means available for inspection without prior notice at the registration address if that address is within the State of Oklahoma. If the registration address is in a state other than Oklahoma, it means records must be furnished within three (3) working days by courier, facsimile, mail or electronic mail.

F. Any substances possessed without a registration as provided in subsection D of this section shall be subject to forfeiture upon conviction for a violation of this section.

G. In addition to any administrative penalties provided by law, any violation of this section shall be a misdemeanor, punishable upon conviction by a fine only in an amount not more than Ten Thousand Dollars (\$10,000.00).

SECTION 25. AMENDATORY Section 2, Chapter 288, O.S.L. 2002, as amended by Section 4, Chapter 133, O.S.L. 2003 (63 O.S. Supp. 2003, Section 2-333), is amended to read as follows:

Section 2-333. A. It shall be unlawful for any person to knowingly sell, transfer, distribute, or dispense any product containing ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers if the person knows that the purchaser will use the product as a precursor to manufacture methamphetamine or another controlled illegal substance or if the person sells, transfers, distributes or dispenses the product with reckless disregard as to how the product will be used.

B. A violation of this section shall be a felony punishable by imprisonment in the State Penitentiary for a term of not more than ten (10) years.

C. Any person who sells, transfers, distributes, dispenses, or in any manner furnishes any product containing pseudoephedrine or phenylpropanolamine, or their salts, isomers, or salts of isomers in a negligent manner, with knowledge or reason to know that the product will be used as a precursor to manufacture methamphetamine or any other illegal controlled substance, or with reckless

disregard as to how the product will be used, shall be liable for all damages, whether directly or indirectly caused by the sale, transfer, distribution, dispensation, or furnishing.

1. Such damages may include, but are not limited to, any and all costs of detecting, investigating, and cleaning up or remediating clandestine or other unlawfully operated or maintained laboratories where controlled dangerous substances are manufactured, any and all costs of prosecuting criminal cases arising from such manufacture, and any and all consequential and punitive damages otherwise allowed by law.

2. A civil action to recover damages against persons violating this subsection may be brought only by the Attorney General, Director of the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation or by any district attorney in whose jurisdiction such person may be shown to have committed such violation. Any funds recovered from such an action shall be used for payment or reimbursement of costs arising from investigating or prosecuting criminal cases involving the manufacture of controlled dangerous substances or for payment or reimbursement of remediating contaminated methamphetamine laboratory sites.

D. Violation of subsection A or C of this section shall be considered to affect at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal and is subject to the provisions of Section 2 of Title 50 of the Oklahoma Statutes and Section 1397 of Title 12 of the Oklahoma Statutes.

SECTION 26. AMENDATORY 63 O.S. 2001, Section 2-503, is amended to read as follows:

Section 2-503. A. The following shall be subject to forfeiture:

1. All controlled dangerous substances which have been manufactured, distributed, dispensed, acquired, concealed or possessed in violation of the Uniform Controlled Dangerous Substances Act, ~~Section 2-101 et seq. of this title;~~

2. All raw materials, products and equipment of any kind and all drug paraphernalia as defined by the Uniform Controlled Dangerous Substances Act, which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing or exporting, injecting, ingesting, inhaling, or otherwise introducing into the human body any controlled dangerous substance in violation of the provisions of the Uniform Controlled Dangerous Substances Act;

3. All property which is used, or intended for use, as a container for property described in paragraphs 1 and 2 of this subsection;

4. All conveyances, including aircraft, vehicles, vessels, or farm implements which are used to transport, conceal, or cultivate for the purpose of distribution as defined in Section 2-101 of this title, or which are used in any manner to facilitate the transportation or cultivation for the purpose of sale or receipt of property described in paragraphs 1 or 2 of this subsection or when the property described in paragraphs 1 or 2 of this subsection is unlawfully possessed by an occupant thereof, except that:

- a. no conveyance used by a person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of the Uniform Controlled Dangerous Substances Act unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or privy to a violation of the Uniform Controlled Dangerous Substances Act, and

b. no conveyance shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the knowledge or consent of such owner, and if the act is committed by any person other than such owner the owner shall establish further that the conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any state;

5. All books, records and research, including formulas, microfilm, tapes and data which are used in violation of the Uniform Controlled Dangerous Substances Act;

6. All things of value furnished, or intended to be furnished, in exchange for a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act, all proceeds traceable to such an exchange, and all monies, negotiable instruments, and securities used, or intended to be used, to facilitate any violation of the Uniform Controlled Dangerous Substances Act;

7. All moneys, coin and currency found in close proximity to forfeitable substances, to forfeitable drug manufacturing or distribution paraphernalia or to forfeitable records of the importation, manufacture or distribution of substances, which are rebuttably presumed to be forfeitable under Section 2-101 et seq. of this title. The burden of proof is upon claimants of the property to rebut this presumption;

8. All real property, including any right, title, and interest in the whole of any lot or tract of land and any appurtenance or improvement thereto, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of the Uniform Controlled Dangerous Substances Act which is punishable by imprisonment for more than one (1) year, except

that no property right, title or interest shall be forfeited pursuant to this paragraph, by reason of any act or omission established by the owner thereof to have been committed or omitted without the knowledge or consent of that owner; and

9. All weapons possessed, used or available for use in any manner to facilitate a violation of the Uniform Controlled Dangerous Substances Act, ~~Section 2-101 et seq. of this title.~~

B. Any property or thing of value of a person is subject to forfeiture if it is established by a preponderance of the evidence that such property or thing of value was acquired by such person during the period of the violation of the Uniform Controlled Dangerous Substances Act or within a reasonable time after such period and there was no likely source for such property or thing of value other than the violation of the Uniform Controlled Dangerous Substances Act.

C. Any property or thing of value of a person is subject to forfeiture if it is established by a preponderance of the evidence that the person has not paid all or part of a fine imposed pursuant to the provisions of Section 2-415 of this title.

D. All items forfeited in this section shall be forfeited under the procedures established in Section 2-506 of this title. Whenever any item is forfeited pursuant to this section except for items confiscated by ~~the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,~~ the Oklahoma Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Oklahoma Department of Corrections, or the Office of the Attorney General, the district court of the district shall order that such item, money, or monies derived from the sale of such item be deposited by the state, county or city law enforcement agency which seized the item in the revolving fund provided for in Section 2-506 of this title; provided, such item, money or monies derived from the sale of such item forfeited due to

nonpayment of a fine imposed pursuant to the provisions of Section 2-415 of this title shall be apportioned as provided in Section 2-416 of this title. Items, money or monies seized pursuant to subsections A and B of this section shall not be applied or considered toward satisfaction of the fine imposed by Section 2-415 of this title. All raw materials used or intended to be used by persons to unlawfully manufacture or attempt to manufacture any controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act shall be summarily forfeited pursuant to the provisions of Section 2-505 of this title.

E. All property taken or detained under this section by ~~the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,~~ the Oklahoma Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Oklahoma Department of Corrections, or the Office of the Attorney General, shall not be repleviable, but shall remain in the custody of the Bureaus, Departments, Commission, or Office, respectively, subject only to the orders and decrees of a court of competent jurisdiction. The ~~Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,~~ the Commissioner of Public Safety, the Director of the Oklahoma State Bureau of Investigation, the Director of the Alcoholic Beverage Laws Enforcement Commission, the Director of the Oklahoma Department of Corrections, and the Attorney General shall follow the procedures outlined in Section 2-506 of this title dealing with notification of seizure, intent of forfeiture, final disposition procedures, and release to innocent claimants with regard to all property included in this section detained by the Oklahoma Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Oklahoma Department of Corrections, or the Office of the Attorney General. Property taken or detained by ~~the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,~~

the Oklahoma Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Oklahoma Department of Corrections, or the Office of the Attorney General shall be disposed of or sold pursuant to the provisions of Section 2-508 of this title.

F. The proceeds of any forfeiture of items seized by the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control Investigation~~ shall be distributed as follows:

1. To the bona fide or innocent purchaser, conditional sales vendor or mortgagee of the property, if any, up to the amount of his interest in the property, when the court declaring a forfeiture orders a distribution to such person; and

2. The balance to the ~~Oklahoma State Bureau of Narcotics'~~ Investigation Narcotics Revolving Fund or the Bureau's agency special account established pursuant to Section 7.2 of Title 62 of the Oklahoma Statutes, provided the Bureau may enter into agreements with municipal, county, state or federal law enforcement agencies, assisting in the forfeiture or underlying criminal investigation, to return to such an agency a percentage of said proceeds.

The Bureau may expend up to Nine Hundred Thousand Dollars (\$900,000.00) of the forfeited funds within a fiscal year without prior approval of the Legislature. Documentation of such expenditures shall be forwarded to the Governor, Speaker of the House of Representatives and the President Pro Tempore of the Senate on a quarterly basis. Any additional expenditures of forfeited funds shall be pre-approved by the annual appropriations process or the Contingency Review Board.

G. Any agency that acquires seized or forfeited property or money shall maintain a true and accurate inventory and record of all such property seized pursuant to this section.

SECTION 27. AMENDATORY 63 O.S. 2001, Section 2-505, is amended to read as follows:

Section 2-505. A. All controlled substances in Schedule I of Section 2-101 et seq. of this title and all controlled substances in Schedules II, III, IV, and V that are not in properly labeled containers in accordance with this act that are possessed, transferred, sold, or offered for sale in violation of this act are deemed contraband and shall be seized and summarily forfeited.

B. All hazardous materials and all property contaminated with hazardous materials described in paragraph 2 of subsection A of Section 2-503 of this title, used or intended to be used by persons to unlawfully manufacture or attempt to manufacture any controlled dangerous substance, shall be summarily forfeited to the state and submitted to the Oklahoma State Bureau of Investigation for prompt destruction in accordance with state and federal laws.

C. Species of plants from which controlled substances in Schedules I or II of the Uniform Controlled Dangerous Substances Act, ~~Section 2-101 et seq. of this title,~~ may be derived which have been planted or cultivated in violation of the Uniform Controlled Dangerous Substances Act, or of which the owners or cultivators are unknown, or which are wild growths, may be seized by peace officers, summarily forfeited, and, in lieu of the eradication procedures contained in Section 2-509 of this title, promptly cut and burned where seized or destroyed by applications of herbicides approved for such purpose by the Department of Agriculture. Spraying shall be limited to the chemical glyphosate and shall be applied directly to the plants by hand spraying from portable ground-based spray units or by using equipment affixed to rotary-wing aircraft. Any application of glyphosate using rotary-wing aircraft shall employ equipment and methods capable of spot spraying and under no circumstances shall broadcast or other mass spraying methods be employed. The Oklahoma State Bureau of ~~Narcotics~~ Investigation

shall cooperate with the Oklahoma Department of Agriculture to ensure that persons spraying the plants are trained in its appropriate use and any safety and protection issues.

SECTION 28. AMENDATORY 63 O.S. 2001, Section 2-506, as amended by Section 36, Chapter 460, O.S.L. 2002 (63 O.S. Supp. 2003, Section 2-506), is amended to read as follows:

Section 2-506. A. Any peace officer of this state shall seize the following property:

1. Any property described in subsection A of Section 2-503 of this title. Such property shall be held as evidence until a forfeiture has been declared or release ordered, except for property described in paragraphs 1, 2 and 3 of subsection A of Section 2-503 of this title;

2. Any property described in subsection B of Section 2-503 of this title; or

3. Any property described in subsection C of Section 2-503 of this title.

B. Notice of seizure and intended forfeiture proceeding shall be filed in the office of the clerk of the district court for the county wherein such property is seized and shall be given all owners and parties in interest.

C. Notice shall be given by the agency seeking forfeiture according to one of the following methods:

1. Upon each owner or party in interest whose right, title or interest is of record in the Tax Commission, by mailing a copy of the notice by certified mail to the address as given upon the records of the Tax Commission;

2. Upon each owner or party in interest whose name and address is known to the attorney in the office of the agency prosecuting the action to recover unpaid fines, by mailing a copy of the notice by registered mail to the last-known address; or

3. Upon all other owners or interested parties, whose addresses are unknown, but who are believed to have an interest in the property, by one publication in a newspaper of general circulation in the county where the seizure was made.

D. Within forty-five (45) days after the mailing or publication of the notice, the owner of the property and any other party in interest or claimant may file a verified answer and claim to the property described in the notice of seizure and of the intended forfeiture proceeding.

E. If at the end of forty-five (45) days after the notice has been mailed or published there is no verified answer on file, the court shall hear evidence upon the fact of the unlawful use and shall order the property forfeited to the state, if such fact is proved.

F. If a verified answer is filed, the forfeiture proceeding shall be set for hearing.

G. At a hearing in a proceeding against property described in paragraphs 3 through 9 of subsection A or subsections B and C of Section 2-503 of this title, the requirements set forth in said paragraph or subsection, respectively, shall be satisfied by the state by a preponderance of the evidence.

H. The claimant of any right, title, or interest in the property may prove a lien, mortgage, or conditional sales contract to be a bona fide or innocent ownership interest and that such right, title, or interest was created without any knowledge or reason to believe that the property was being, or was to be, used for the purpose charged.

I. In the event of such proof, the court shall order the property released to the bona fide or innocent owner, lien holder, mortgagee or vendor if the amount due him is equal to, or in excess of, the value of the property as of the date of the seizure, it

being the intention of this section to forfeit only the right, title or interest of the purchaser.

J. If the amount due to such person is less than the value of the property, or if no bona fide claim is established, the property shall be forfeited to the state and sold under judgment of the court, as on sale upon execution, and as provided for in Section 2-508 of this title, except as otherwise provided for in Section 2-503 of this title.

K. Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the office of the district attorney of the county wherein the property was seized, subject only to the orders and decrees of the court or the official having jurisdiction thereof; said official shall maintain a true and accurate inventory and record of all such property seized under the provisions of this section. The provisions of this subsection shall not apply to property taken or detained by ~~the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,~~ the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections or the Office of the Attorney General. Property taken or detained by ~~the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,~~ the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections or the Office of the Attorney General shall be subject to the provisions of subsections E and F of Section 2-503 of this title.

L. The proceeds of the sale of any property not taken or detained by ~~the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,~~ the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections or the Office of the

Attorney General shall be distributed as follows, in the order indicated:

1. To the bona fide or innocent purchaser, conditional sales vendor or mortgagee of the property, if any, up to the amount of his interest in the property, when the court declaring the forfeiture orders a distribution to such person;

2. To the payment of the actual expenses of preserving the property and legitimate costs related to the civil forfeiture proceedings; and

3. The balance to a revolving fund in the office of the county treasurer of the county wherein the property was seized, said fund to be used as a revolving fund solely for enforcement of controlled dangerous substances laws, drug abuse prevention and drug abuse education, and maintained by the district attorney in his or her discretion for those purposes with a yearly accounting to the board of county commissioners in whose county the fund is established and to the District Attorneys Council; provided, one hundred percent (100%) of the balance of the proceeds of such sale of property forfeited due to nonpayment of a fine imposed pursuant to the provisions of Section 2-415 of this title shall be apportioned as provided in Section 2-416 of this title. The revolving fund shall be audited by the State Auditor and Inspector at least every two (2) years in the manner provided in Section 171 of Title 19 of the Oklahoma Statutes. Said audit shall include, but not be limited to, a compliance audit. A district attorney may enter into agreements with municipal, county or state agencies to return to such an agency a percentage of proceeds of the sale of any property seized by the agency and forfeited under the provisions of this section. The District Attorneys Council shall adopt guidelines which ensure that such agencies receive a reasonable percentage of such proceeds, considering the relative contribution of each agency to the drug enforcement and prosecution operations relating to the seizure. In

formulating said guidelines, the District Attorneys Council shall examine federal guidelines on asset distribution and use said guidelines as a basis for establishing guidelines for this state. The Attorney General is hereby authorized to mediate disputes between district attorneys and such agencies concerning the application of said guidelines in particular instances. Any agency that receives proceeds from an asset distribution shall maintain a true and accurate record of all such assets.

M. Whenever any vehicle, airplane or vessel is forfeited under this act, Section 2-101 et seq. of this title, the district court of jurisdiction may order that the vehicle, airplane or vessel seized may be retained by the state, county or city law enforcement agency which seized the vehicle, airplane or vessel for its official use.

N. If the court finds that the state failed to satisfy the required showing provided for in subsection G of this section, the court shall order the property released to the owner or owners.

O. Except as provided for in subsection Q of this section, a bona fide or innocent owner, lien holder, mortgagee or vendor that recovers property pursuant to this section shall not be liable for storage fees.

P. Except as provided for in subsection Q of this section, storage fees shall be paid by the agency which is processing the seizure and forfeiture from funds generated by seizure and forfeiture actions.

Q. The bona fide or innocent owner, lien holder, mortgagee or vendor shall reclaim subject seized property within thirty (30) days of written notice from the seizing agency. If such person fails to reclaim the property within the thirty-day time period, then storage fees may be assessed against their secured interest.

R. 1. At any hearing held relevant to this section, a report of the findings of the laboratory of the Oklahoma State Bureau of Investigation, 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, which has been made available to the accused by the office of the district attorney or other party to the forfeiture at least five (5) days prior to the hearing, with reference to all or 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 such report is deemed relevant by the forfeiture applicant or the respondent, the court shall admit such report without the testimony of the person making the report, unless the court, pursuant to this subsection, orders such person to appear.

2. When any alleged controlled dangerous substance has been submitted to the laboratory of the OSBI 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 except to the criminal justice agency originally submitting the substance to the OSBI for analysis, absent 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.

3. The court, upon motion of either party, shall order the attendance of any person preparing a report submitted as evidence in the hearing when it appears there is a substantial likelihood that material evidence not contained in said report may be produced by the testimony of any person having prepared a report. 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.

4. If within five (5) days prior to the hearing or during a hearing, a motion is made pursuant to this section 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 person making the report, the motion is heard, and, if sustained, the testimony ordered can be given.

SECTION 29. AMENDATORY 63 O.S. 2001, Section 2-508, as amended by Section 1, Chapter 111, O.S.L. 2002 (63 O.S. Supp. 2003, Section 2-508), is amended to read as follows:

Section 2-508. A. Except as otherwise provided, all property described in paragraphs 1 and 2 of subsection A of Section 2-503 of this title which is seized or surrendered pursuant to the provisions of the Uniform Controlled Dangerous Substances Act, ~~Section 2-101 et seq. of this title,~~ shall be destroyed. The destruction shall be done by or at the direction of the Oklahoma State Bureau of Investigation, who shall have the discretion prior to destruction to preserve samples of the substance for testing. In any county with a population of four hundred thousand (400,000) or more according to the latest Federal Decennial Census, there shall be a located site, approved by the Oklahoma State Bureau of Investigation, for the destruction of the property. Any such property submitted to the Oklahoma State Bureau of Investigation which it deems to be of use for investigative training, educational, or analytical purposes may be retained by the Oklahoma State Bureau of Investigation in lieu of destruction.

B. 1. With respect to controlled dangerous substances seized or surrendered pursuant to the provisions of the Uniform Controlled Dangerous Substances Act, municipal police departments, sheriffs, ~~the Oklahoma Bureau of Narcotics and Dangerous Drugs Control Commission,~~ the Oklahoma Highway Patrol, and the Oklahoma State Bureau of Investigation shall have the authority to destroy seized

controlled dangerous substances when the amount seized in a single incident exceeds ten (10) pounds. The destroying agency shall:

- a. photograph the seized substance with identifying case numbers or other means of identification,
- b. prepare a report describing the seized substance prior to the destruction,
- c. retain at least one (1) pound of the substance randomly selected from the seized substance for the purpose of evidence, and
- d. obtain and retain samples of the substance from enough containers, bales, bricks, or other units of substance seized to establish the presence of a weight of the substance necessary to establish a violation of the Trafficking in Illegal Drugs Act pursuant to subsection C of Section 2-415 of this title, if such a weight is present. If such weight is not present, samples of the substance from each container, bale, brick or other unit of substance seized shall be taken. Each sample taken pursuant to this section shall be large enough for the destroying agency and the defendant or suspect to have an independent test performed on the substance for purposes of identification.

2. If a defendant or suspect is known to the destroying agency, the destroying agency shall give at least seven (7) days' written notice to the defendant, suspect or counsel for the defendant or suspect of:

- a. the date, the time, and the place where the photographing will take place and notice of the right to attend the photographing, and

b. the right to obtain samples of the controlled dangerous substance for independent testing and use as evidence.

3. The written notice shall also inform the defendant, suspect or counsel for the defendant or suspect that the destroying agency must be notified in writing within seven (7) days from receipt of the notice of the intent of the suspect or defendant to obtain random samples and make arrangements for the taking of samples. The samples for the defendant or suspect must be taken by a person licensed by the Drug Enforcement Administration. If the defendant or counsel for the defendant fails to notify the destroying agency in writing of an intent to obtain samples and fails to make arrangements for the taking of samples, a sample taken pursuant to subparagraph d of paragraph 1 of this subsection shall be made available upon request of the defendant or suspect.

The representative samples, the photographs, the reports, and the records made under this section and properly identified shall be admissible in any court or administrative proceeding for any purposes for which the seized substance itself would have been admissible.

C. All other property not otherwise provided for in the Uniform Controlled Dangerous Substances Act which has come into the possession of the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation or a district attorney may be disposed of by order of the district court when no longer needed in connection with any litigation. If the owner of the property is unknown to the Bureau or district attorney, the Bureau shall hold the property for at least six (6) months prior to filing a petition for disposal with the district court except for laboratory equipment which may be forfeited when no longer needed in connection with litigation, unless the property is perishable. The Director or district attorney shall file a petition in the district court of

Oklahoma County or in the case of a district attorney, the petition shall be filed in a county within the district attorney's jurisdiction requesting the authority to:

1. Conduct a sale of the property;
2. Convert title of the property to the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation or to the district attorney's office for donation or transfer in accordance with subsection ~~¶ H~~ or ~~¶ J~~ of this section; or
3. Convert title of the property to the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation for the purpose of leasing the property in accordance with subsection ~~¶ I~~ of this section.

The Director or district attorney shall attach to the petition a list describing the property, including all identifying numbers and marks, if any, the date the property came into the possession of the Bureau or district attorney, and the name and address of the owner, if known. The notice of the hearing of the petition for the sale of the property, except laboratory equipment used in the processing, manufacturing or compounding of controlled dangerous substances in violation of the provisions of the Uniform Controlled Dangerous Substances Act, shall be given to every known owner, as set forth in the petition, by certified mail to the last-known address of the owner at least ten (10) days prior to the date of the hearing. Notice of a hearing on a petition for forfeiture or sale of laboratory equipment used in the processing, manufacturing or compounding of controlled dangerous substances in violation of the Uniform Controlled Dangerous Substances Act shall not be required. The notice shall contain a brief description of the property, and the location and date of the hearing. In addition, notice of the hearing shall be posted in three public places in the county, one such place being the county courthouse at the regular place assigned for the posting of legal notices. At the hearing, if no owner

appears and establishes ownership of the property, the court may enter an order authorizing the Director or district attorney to donate the property pursuant to subsection ~~¶~~ H of this section, to sell the property at a public auction to the highest bidder, or to convert title of the property to the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation for the purpose of leasing or transferring the property pursuant to subsection ~~¶~~ I or ~~¶~~ J of this section after at least ten (10) days' notice has been given by publication in one issue of a legal newspaper of the county. If the property is offered for sale at public auction and no bid is received that exceeds fifty percent (50%) of the value of the property, such value to be announced prior to the sale, the Director or district attorney may refuse to sell the item pursuant to any bid received. The Director or district attorney shall make a return of the sale and, when confirmed by the court, the order confirming the sale shall vest in the purchaser title to the property so purchased. The money received from the sale shall be used for the purpose of purchasing controlled dangerous substances to be used as evidence in narcotic cases and fees for informers, or employees and other associated expenses necessary to apprehend and convict violators of the laws of the State of Oklahoma regulating controlled dangerous substances. These funds shall be transferred to the agency special account established pursuant to Section 7.2 of Title 62 of the Oklahoma Statutes or the Bureau of Investigation Narcotics Revolving Fund or in the case of a district attorney, the revolving fund in that district for drug education and enforcement. The Director of the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation and the Director of State Finance are hereby authorized and directed to promulgate in writing the necessary rules and regulations requiring strict accountability relative to the expenditure of the above funds. In the case of a district attorney, the accountability relative to the expenditure of

the fund shall be according to rules already existing for county revolving funds.

D. At the request of the Department of Public Safety, the district attorney or a designee of the district attorney may conduct any forfeiture proceedings as described in Section 2-503 of this title on any property subject to forfeiture as described in subsection A, B, or C of Section 2-503 of this title. Except as provided in subsection A of this section, all other property not otherwise provided for in the Uniform Controlled Dangerous Substances Act which has come into the possession of the Oklahoma Department of Public Safety may be disposed of by order of the district court when no longer needed in connection with any litigation. If the owner of the property is unknown to the Department, the Department shall hold the property for at least six (6) months prior to filing a petition for disposal with the district court, unless the property is perishable. The Commissioner of Public Safety shall file a petition in the district court of Oklahoma County requesting the authority to conduct a sale of the property or to convert title of the property to the Oklahoma Department of Public Safety. The Commissioner of Public Safety shall attach to the petition a list describing the property, including all identifying numbers and marks, if any, the date the property came into the possession of the Department, and the name and address of the owner, if known. The notice of the hearing of the petition for the sale of the property shall be given to every known owner, as set forth in the petition, by certified mail to the last-known address of the owner and party in last possession if applicable, at least ten (10) days prior to the date of the hearing. The notice shall contain a brief description of the property, and the location and date of the hearing. In addition, notice of the hearing shall be posted in three public places in the county, one such place being the county courthouse at the regular place assigned

for the posting of legal notices. At the hearing, if no owner appears and establishes ownership of the property, the court may enter an order authorizing the Commissioner of Public Safety to donate the property pursuant to subsection ¶ H of this section, to sell the property to the highest bidder, or convert title of the property to the Oklahoma Department of Public Safety for the purpose of leasing or transferring the property pursuant to subsection ¶ I or ¶ J of this section after at least five (5) days' notice has been given by publication in one issue of a legal newspaper of the county. The Commissioner of Public Safety shall make a return of the sale and, when confirmed by the court, the order confirming the sale shall vest in the purchaser title to the property so purchased. The money received from the sale shall be deposited in the Department of Public Safety Revolving Fund and shall be expended for law enforcement purposes.

E. Except as provided in subsection A of this section, all other property not otherwise provided for in the Uniform Controlled Dangerous Substances Act which has come into the possession of the Alcoholic Beverage Laws Enforcement Commission may be disposed of by order of the district court when no longer needed in connection with any litigation. If the owner of the property is unknown to the Alcoholic Beverage Laws Enforcement Commission, the Commission shall hold the property for at least six (6) months prior to filing a petition for disposal with the district court, unless the property is perishable. The Director of the Alcoholic Beverage Laws Enforcement Commission shall file a petition in the district court of Oklahoma County requesting the authority to conduct a sale of the property or to convert title of the property to the Alcoholic Beverage Laws Enforcement Commission. The Director of the Alcoholic Beverage Laws Enforcement Commission shall attach to the petition a list describing the property, including all identifying numbers and marks, if any, the date the property came into the possession of the

Alcoholic Beverage Laws Enforcement Commission, and the name and address of the owner, if known. The notice of the hearing of the petition for the sale of the property shall be given to every known owner, as set forth in the petition, by certified mail to the last-known address of the owner at least ten (10) days prior to the date of the hearing. The notice shall contain a brief description of the property, and the location and date of the hearing. In addition, notice of the hearing shall be posted in three public places in the county, one such place being the county courthouse at the regular place assigned for the posting of legal notices. At the hearing, if no owner appears and establishes ownership of the property, the court may enter an order authorizing the Director of the Alcoholic Beverage Laws Enforcement Commission to donate the property pursuant to subsection ~~F~~ H of this section or to sell the property to the highest bidder after at least five (5) days' notice has been given by publication in one issue of a legal newspaper of the county. The Director of the Alcoholic Beverage Laws Enforcement Commission shall make a return of the sale and, when confirmed by the court, the order confirming the sale shall vest in the purchaser title to the property so purchased. The money received from the sale shall be deposited in the General Revenue Fund of the state.

~~F. Except as provided in subsection A of this section, all other property not otherwise provided for in the Uniform Controlled Dangerous Substances Act which has come into the possession of the Oklahoma State Bureau of Investigation may be disposed of by order of the district court when no longer needed in connection with any litigation. If the owner of the property is unknown to the Bureau, the Bureau shall hold the property for at least six (6) months prior to filing a petition for disposal with the district court, unless the property is perishable. The Director of the Oklahoma State Bureau of Investigation shall file a petition in the district court of Oklahoma County requesting the authority to conduct a sale of the~~

~~property or to convert title of the property to the Oklahoma State Bureau of Investigation. The Director of the Oklahoma State Bureau of Investigation shall attach to the petition a list describing the property, including all identifying numbers and marks, if any, the date the property came into the possession of the Bureau, and the name and address of the owner, if known. The notice of the hearing of the petition for the sale of the property shall be given to every known owner, as set forth in the petition, by certified mail to the last known address of the owner and party in last possession if applicable, at least ten (10) days prior to the date of the hearing. The notice shall contain a brief description of the property, and the location and date of the hearing. In addition, notice of the hearing shall be posted in three public places in the county, one such place being the county courthouse at the regular place assigned for the posting of legal notices. At the hearing, if no owner appears and establishes ownership of the property, the court may enter an order authorizing the Director of the Oklahoma State Bureau of Investigation to donate the property pursuant to subsection I of this section, to sell the property to the highest bidder, or convert title of the property to the Oklahoma State Bureau of Investigation for the purpose of leasing or transferring the property pursuant to subsection J or K of this section after at least five (5) days' notice has been given by publication in one issue of a legal newspaper of the county. The Director of the Oklahoma State Bureau of Investigation shall make a return of the sale and, when confirmed by the court, the order confirming the sale shall vest in the purchaser title to the property so purchased. The money received from the sale shall be deposited in the OSBI Revolving Fund and shall be expended for law enforcement purposes.~~

~~G.~~ Except as provided in subsection A of this section, all other property not otherwise provided for in the Uniform Controlled Dangerous Substances Act which has come into the possession of the

Oklahoma Department of Corrections may be disposed of by order of the district court when no longer needed in connection with any litigation. If the owner of the property is unknown to the Department, the Department shall hold the property for at least six (6) months prior to filing a petition for disposal with the district court, unless the property is perishable. The Director of the Oklahoma Department of Corrections shall file a petition in the district court of the county of seizure requesting the authority to conduct a sale of the property or to convert title to the property to the Oklahoma Department of Corrections. The Director of the Oklahoma Department of Corrections shall attach to the petition a list describing the property, including all identifying numbers and marks, if any, the date the property came into possession of the Department and the name and address of the owner, if known. The notice of the hearing of the petition for the sale of the property shall be given to every known owner, as set forth in the petition, by certified mail to the last-known address of the owner and party in last possession if applicable, at least ten (10) days prior to the date of the hearing. The notice shall contain a brief description of the property and the location and date of the hearing. In addition, notice of the hearing shall be posted in three public places in the county, one such place being the county courthouse at the regular place assigned for the posting of legal notices. At the hearing, if no owner appears and establishes ownership of the property, the court may enter an order authorizing the Director of the Oklahoma Department of Corrections to donate the property pursuant to subsection \mp H of this section, to sell the property to the highest bidder or convert title of the property to the Oklahoma Department of Corrections after at least five (5) days' notice has been given by publication in one issue of a legal newspaper of the county. The Director of the Oklahoma Department of Corrections shall make a return of the sale and when confirmed by

the court, the order confirming the sale shall vest in the purchaser title to the property so purchased. Twenty-five percent (25%) of the money received from the sale shall be disbursed to a revolving fund in the office of the county treasurer of the county wherein the property was seized, said fund to be used as a revolving fund solely for enforcement of controlled dangerous substances laws, drug abuse prevention and drug abuse education. The remaining seventy-five percent (75%) shall be deposited in the Department of Corrections Revolving Fund to be expended for equipment for probation and parole officers and correctional officers.

~~H.~~ G. Except as provided in subsection A of this section, all other property not otherwise provided for in the Uniform Controlled Dangerous Substances Act which has come into the possession of the Office of the Attorney General may be disposed of by order of the district court when no longer needed in connection with any litigation. If the owner of the property is unknown to the Office, the Office shall hold the property for at least six (6) months prior to filing a petition for disposal with the district court, unless the property is perishable. The Office of the Attorney General shall file a petition in the district court of Oklahoma County requesting the authority to conduct a sale of the property or to convert title of the property to the Office of the Attorney General. The Office of the Attorney General shall attach to the petition a list describing the property, including all identifying numbers and marks, if any, the date the property came into the possession of the Office, and the name and address of the owner, if known. The notice of the hearing of the petition for the sale of the property shall be given to every known owner, as set forth in the petition, by certified mail to the last-known address of the owner and party in last possession, if applicable, at least ten (10) days prior to the date of the hearing. The notice shall contain a brief description of the property and the location and date of the hearing. In

addition, notice of the hearing shall be posted in three public places in the county, one such place being the county courthouse at the regular place assigned for the posting of legal notices. At the hearing, if no owner appears and establishes ownership of the property, the court may enter an order authorizing the Attorney General to donate the property pursuant to subsection ~~F~~ H of this section, to sell the property to the highest bidder, or convert title of the property to the Office of the Attorney General for the purpose of leasing or transferring the property pursuant to subsection ~~F~~ I or ~~K~~ J of this section after at least five (5) days' notice has been given by publication in one issue of a legal newspaper of the county. The Attorney General shall make a return of the sale and, when confirmed by the court, the order confirming the sale shall vest in the purchaser title to the property so purchased. The money received from the sale shall be deposited in the Attorney General Law Enforcement Revolving Fund and shall be expended for law enforcement purposes. The Office of the Attorney General may enter into agreements with municipal, county or state agencies to return to such an agency a percentage of proceeds of the sale of any property seized by the agency and forfeited under the provisions of this section.

~~F~~ H. Any property, including but not limited to uncontaminated laboratory equipment used in the processing, manufacturing or compounding of controlled dangerous substances in violation of the provisions of the Uniform Controlled Dangerous Substances Act, upon a court order, may be donated for classroom or laboratory use by the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation, Oklahoma Department of Public Safety, district attorney, the Alcoholic Beverage Laws Enforcement Commission, the Oklahoma Department of Corrections, or the Office of the Attorney General to any public secondary school or technology center school

in this state or any institution of higher education within The Oklahoma State System of Higher Education.

~~J.~~ I. Any vehicle or firearm which has come into the possession and title vested in ~~the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,~~ the Oklahoma Department of Public Safety, the Oklahoma State Bureau of Investigation, or the Office of the Attorney General, may be offered for lease to any sheriff's office or police department in this state on an annual basis to assist with the enforcement of the provisions of the Uniform Controlled Dangerous Substances Act. Each agency shall promulgate rules, regulations and procedures for leasing vehicles and firearms. No fully automatic weapons will be subject to the leasing agreement. All firearms leased may be utilized only by C.L.E.E.T. certified officers who have received training in the type and class of weapon leased. Every lessee shall be required to submit an annual report to the leasing agency stating the condition of all leased property. A lease agreement may be renewed annually at the option of the leasing agency. Upon termination of a lease agreement, the property shall be returned to the leasing agency for sale or other disposition. All funds derived from lease agreements or other disposition of property no longer useful to law enforcement shall be deposited in the agency's revolving fund and shall be expended for law enforcement purposes.

~~K.~~ J. Before disposing of any property pursuant to subsections C through ~~F~~ E of this section, ~~the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,~~ the Department of Public Safety, the Alcoholic Beverage Laws Enforcement Commission, the Oklahoma State Bureau of Investigation, the Office of the Attorney General, or a district attorney shall notify the Department of Corrections and the Oklahoma Department of Career and Technology Education of the identity of any such property in their possession. The Department of Corrections and the Oklahoma Department of Career

and Technology Education must respond within ten (10) days of such notification, as to whether or not such property could be used in the operations or training programs of either agency. Upon receipt of the response, the agency or district attorney that issued the notification shall negotiate as to which agency will be entitled to the use of the property, the purpose of the use and the duration of such use. Upon return of the property, the property may be disposed of as otherwise provided in this section. The agencies and any district attorney that are parties to any transfer of property pursuant to this subsection shall enter into written agreements to carry out any such transfer of property. Any such agreement may also provide for the granting of title to any property being transferred as the parties deem appropriate.

SECTION 30. AMENDATORY 63 O.S. 2001, Section 2-509, is amended to read as follows:

Section 2-509. A. All species of plants from which controlled dangerous substances in Schedules I and II may be derived are hereby declared inimical to health and welfare of the public, and the intent of the Legislature is to control and eradicate these species of the plants in the State of Oklahoma.

B. It shall be unlawful for any person to cultivate or produce, or to knowingly permit the cultivation, production, or wild growing of any species of such plants, on any lands owned or controlled by such person, and it is hereby declared the duty of every such person to destroy all such plants found growing on lands owned or controlled by him.

C. 1. Whenever any peace officer of the state shall receive information that any species of any such plants has been found growing on any private lands in the State of Oklahoma, he shall notify the sheriff and county commissioners of the county wherein such plants are found growing. Within five (5) days of receipt of such notice, the county commissioners shall notify the owner or

person in possession of such lands that such plants have been found growing on the said lands and that the same must be destroyed or eradicated within fifteen (15) days. When the fifteen (15) days have elapsed, the reporting peace officer shall cause an investigation to be made of the aforesaid lands, and if any such plants be found growing thereon, the commissioners shall cause the same to be destroyed or eradicated by either cutting and burning or by applications of herbicides approved for such purpose by the Department of Agriculture in accordance with Section 2-505 of this title.

2. Whenever any such plants are destroyed or eradicated by order of the commissioners as provided herein, the cost of the same shall, if the work or labor be furnished by the commissioners, be taxed against the lands whereon the work was performed, and shall be a lien upon such land in all manner and respects as a lien of judgment, if the owner is charged with a violation of subsection B of this section. If the violation of subsection B of this section is by a person other than the owner of the land, without the knowledge of the owner, the costs shall be paid by the initiating law enforcement agency.

D. Knowingly violating the provisions of subsection B of this section is hereby declared, as to the owner, or person in possession of such lands, to be a felony and punishable as such by a fine not to exceed Fifty Thousand Dollars (\$50,000.00) and imprisonment in the State Penitentiary for not less than two (2) years nor more than life. The fine provided for in this subsection shall be in addition to other punishments provided by law and shall not be in lieu of other punishment. Any person convicted of a second or subsequent violation of subsection B of this section is punishable by a term of imprisonment twice that otherwise authorized and by twice the fine otherwise authorized. Any sentence shall not be subject to

statutory provisions for suspended sentences, deferred sentences, or probation, except when the conviction is for a first offense.

E. It shall be the duty of any peace officer of the State of Oklahoma who receives information of such plants growing in the State of Oklahoma, to make notice, in writing, to the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation and the future destruction or eradication of the annual growth of such plants shall be supervised by the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation. Any destruction or eradication of the annual growth of such plants supervised by the Bureau shall be by cutting and burning the same or by destruction and eradication through applications of herbicides approved for such purpose by the Department of Agriculture.

F. Any application of herbicides authorized by this section shall be made pursuant to the provisions of Section 2-505 of this title.

G. In lieu of the eradication procedures provided for in subsections B and C of this section, all species of plants from which controlled dangerous substances in Schedules I and II of the Uniform Controlled Dangerous Substances Act may be derived, may be disposed of pursuant to the provisions of subsection C of Section 2-505 of this title.

SECTION 31. AMENDATORY 74 O.S. 2001, Section 18c, as amended by Section 4, Chapter 438, O.S.L. 2002 (63 O.S. Supp. 2003, Section 18c), is amended to read as follows:

Section 18c. A. 1. Except as otherwise provided by this subsection, no state officer, board or commission shall have authority to employ or appoint attorneys to advise or represent said officer, board or commission in any matter.

2. The provisions of this subsection shall not apply to the Corporation Commission, the Council on Law Enforcement Education and Training, the Consumer Credit Commission, the Board of Managers of

the State Insurance Fund, the Oklahoma Tax Commission, the Commissioners of the Land Office, the Oklahoma Public Welfare Commission also known as the Commission for Human Services, the Board of Corrections, the Oklahoma Health Care Authority, the Department of Public Safety, the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Transportation Commission, the Oklahoma Energy Resources Board, the Department of Central Services, the Oklahoma Merit Protection Commission, the Office of Personnel Management, the Oklahoma Water Resources Board, the Department of Labor, the State Department of Agriculture, the Northeast Oklahoma Public Facilities Authority, the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Public Employees Retirement System, the Uniform Retirement System for Justices and Judges and the Office of Juvenile Affairs.

3. The provisions of paragraph 2 of this subsection shall not be construed to authorize the Office of Juvenile Affairs to employ any attorneys that are not specifically authorized by law.

4. All the legal duties of such officer, board or commission shall devolve upon and are hereby vested in the Attorney General; provided that:

- a. the Governor shall have authority to employ special counsel to protect the rights or interest of the state as provided in Section 6 of this title, and
- b. liquidation agents of banks shall have the authority to employ local counsel, with the consent of the Bank Commissioner and the Attorney General and the approval of the district court.

B. At the request of any state officer, board or commission, except the Corporation Commission, the Board of Managers of the CompSource Oklahoma, Oklahoma Tax Commission and the Commissioners of the Land Office, the Grand River Dam Authority, the Oklahoma

State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Public Employees Retirement System, the Uniform Retirement System for Justices and Judges and the Interstate Oil and Gas Compact Commission, the Attorney General shall defend any action in which they may be sued in their official capacity. At the request of any such state officer, board or commission, the Attorney General shall have authority to institute suits in the name of the State of Oklahoma on their relation, if after investigation the Attorney General is convinced there is sufficient legal merit to justify the action.

C. Any officer, board, or commission which has the authority to employ or appoint attorneys may request that the Attorney General defend any action arising pursuant to the provisions of the Governmental Tort Claims Act.

D. Nothing in this section shall be construed to repeal or affect the provisions of the statutes of this state pertaining to attorneys and legal advisors of the several commissions and departments of state specified in subsection B of this section, and all acts and parts of acts pertaining thereto shall be and remain in full force and effect.

SECTION 32. 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, and
- p. 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,
- m. 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,
- n. one fiscal officer for duties pursuant to the Uniform Controlled Dangerous Substances Act,
- o. one full-time programmer for duties pursuant to the Uniform Controlled Dangerous Substances Act, and
- p. one full-time network engineer for duties pursuant to the Uniform Controlled Dangerous Substances Act;

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.~~ 35. 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.~~ 36. 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.~~ 37. Four Water Quality Specialists, and four Water Resources Division Chiefs within the Oklahoma Water Resources Board;

~~39.~~ 38. 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.~~ 39. The Development Officer and the Director of the State Museum of History within the Oklahoma Historical Society;

~~41.~~ 40. 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.~~ 41. The Contracts Administrator within the Oklahoma State Employees Benefits Council;

~~43.~~ 42. The Development Officer within the Oklahoma Department of Libraries;

~~44.~~ 43. Oklahoma Real Estate Commission personnel occupying the following offices and positions:

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

~~45.~~ 44. A Chief Consumer Credit Examiner for the Department of Consumer Credit;

~~46.~~ 45. All officers and employees of the Oklahoma Capitol Complex and Centennial Commemoration Commission;

~~47.~~ 46. All officers and employees of the Oklahoma Motor Vehicle Commission;

~~48.~~ 47. One Museum Archivist of The Will Rogers Memorial Commission;

~~49.~~ 48. One Fire Protection Engineer of the Office of the State Fire Marshal; and

~~50.~~ 49. 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 33. REPEALER 63 O.S. 2001, Sections 2-102 and 2-104.1, as last amended by Section 4, Chapter 229, O.S.L. 2003 (63 O.S. Supp. 2003, Section 2-104.1), are hereby repealed.

SECTION 34. Section 2 of this act shall become effective July 1, 2004.

SECTION 35. Section 1 of this act and Sections 3 through 33 of this act shall become effective July 1, 2005.

SECTION 36. 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.

49-2-7199 SD 01/22/04