STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 2060 By: Morgan (Fred) of the House

and

Laster of the Senate

AS INTRODUCED

An Act relating to duplicate sections; amending, merging, consolidating, and repealing duplicate sections; repealing Section 3, Chapter 366, O.S.L. 2004 (4 O.S. Supp. 2004, Section 602); amending 11 O.S. 2001, Section 21-103, as last amended by Section 1, Chapter 528, O.S.L. 2004 (11 O.S. Supp. 2004, Section 21-103); repealing 11 O.S. 2001, Section 21-103, as last amended by Section 2, Chapter 514, O.S.L. 2004 (11 O.S. Supp. 2004, Section 21-103); amending 11 O.S. 2001, Section 21-104, as last amended by Section 2, Chapter 528, O.S.L. 2004 (11 O.S. Supp. 2004, Section 21-104); repealing 11 O.S. 2001, Section 21-104, as last amended by Section 3, Chapter 514, O.S.L. 2004 (11 O.S. Supp. 2004, Section 21-104); amending 12 O.S. 2001, Section 990.4, as amended by Section 3, Chapter 450, O.S.L. 2004 (12 O.S. Supp. 2004, Section 990.4); repealing 12 O.S. 2001, Section 990.4, as amended by Section 9, Chapter 368, O.S.L. 2004 (12 O.S. Supp. 2004, Section 990.4); repealing 12 O.S. 2001, Section 3226, as last amended by Section 13, Chapter 368, O.S.L. 2004 (12 O.S. Supp. 2004, Section 3226); amending 19 O.S. 2001, Section 131, as amended by Section 3, Chapter 53, O.S.L. 2004 (19 O.S. Supp. 2004, Section 131); repealing 19 O.S. 2001, Section 131, as amended by Section 1, Chapter 44, O.S.L. 2004 (19 O.S. Supp. 2004, Section 131); repealing 20 O.S. 2001, Section 31, as amended by Section 1, Chapter 442, O.S.L. 2004 (20 O.S. Supp. 2004, Section 31); amending 21 O.S. 2001, Section 644, as amended by Section 1, Chapter 516, O.S.L. 2004 (21 O.S. Supp. 2004, Section 644); repealing 21 O.S. 2001, Section 644, as amended by Section 1, Chapter 520, O.S.L. 2004 (21 O.S. Supp. 2004, Section 644); amending 21 O.S. 2001, Section 1767.1, as last amended by Section 8, Chapter 275, O.S.L. 2004 (21 O.S. Supp. 2004, Section 1767.1); repealing 21 O.S. 2001, Section 1767.1, as last amended by Section 2, Chapter 130, O.S.L. 2004 (21 O.S. Supp. 2004, Section 1767.1); amending 22 O.S. 2001, Section 979a, as last amended by Section 1, Chapter 455, O.S.L. 2004 (22 O.S. Supp. 2004, Section 979a); repealing 22 O.S. 2001, Section 979a, as last amended by Section 11, Chapter 275, O.S.L. 2004 (22 O.S. Supp. 2004, Section 979a); amending 22 O.S. 2001, Section 991c, as last amended by Section 12, Chapter 275, O.S.L. 2004 (22 O.S. Supp. 2004, Section 991c); repealing 22 O.S. 2001, Section 991c, as last

amended by Section 1, Chapter 145, O.S.L. 2004 (22 O.S. Supp. 2004, Section 991c); amending 26 O.S. 2001, Section 3-119, as amended by Section 4, Chapter 545, O.S.L. 2004 (26 O.S. Supp. 2004, Section 3-119); repealing 26 O.S. 2001, Section 3-119, as amended by Section 2, Chapter 307, O.S.L. 2004 (26 O.S. Supp. 2004, Section 3-119); repealing 26 O.S. 2001, Section 14-115.5, as amended by Section 9, Chapter 307, O.S.L. 2004 (26 O.S. Supp. 2004, Section 14-115.5); amending 27A O.S. 2001, Section 2-3-501, as amended by Section 1, Chapter 141, O.S.L. 2004 (27A O.S. Supp. 2004, Section 2-3-501); repealing 27A O.S. 2001, Section 2-3-501, as amended by Section 1, Chapter 111, O.S.L. 2004 (27A O.S. Supp. 2004, Section 2-3-501); amending 27A O.S. 2001, Section 2-7-123, as amended by Section 2, Chapter 141, O.S.L. 2004 (27A O.S. Supp. 2004, Section 2-7-123); repealing 27A O.S. 2001, Section 2-7-123, as amended by Section 2, Chapter 111, O.S.L. 2004 (27A O.S. Supp. 2004, Section 2-7-123); repealing 27A O.S. 2001, Section 2-15-102, as amended by Section 3, Chapter 111, O.S.L. 2004 (27A O.S. Supp. 2004, Section 2-15-102); repealing 27A O.S. 2001, Section 2-15-103, as amended by Section 4, Chapter 111, O.S.L. 2004 (27A O.S. Supp. 2004, Section 2-15-103); repealing 27A O.S. 2001, Section 2-15-105, as amended by Section 5, Chapter 111, O.S.L. 2004 (27A O.S. Supp. 2004, Section 2-15-105); repealing 27A O.S. 2001, Section 2-15-106, as amended by Section 6, Chapter 111, O.S.L. 2004 (27A O.S. Supp. 2004, Section 2-15-106); amending 28 O.S. 2001, Section 153, as last amended by Section 4, Chapter 525, O.S.L. 2004 (28 O.S. Supp. 2004, Section 153); repealing 28 O.S. 2001, Section 153, as last amended by Section 2, Chapter 386, O.S.L. 2004 (28 O.S. Supp. 2004, Section 153); repealing 28 O.S. 2001, Section 153, as last amended by Section 1, Chapter 451, O.S.L. 2004 (28 O.S. Supp. 2004, Section 153); repealing 29 O.S. 2001, Section 4-114, as last amended by Section 2, Chapter 284, O.S.L. 2004 (29 O.S. Supp. 2004, Section 4-114); repealing Section 11, Chapter 160, O.S.L. 2003, as amended by Section 1, Chapter 84, O.S.L. 2004 (29 O.S. Supp. 2004, Section 4-139); amending 36 O.S. 2001, Section 903, as amended by Section 7, Chapter 519, O.S.L. 2004 (36 O.S. Supp. 2004, Section 903); repealing 36 O.S. 2001, Section 903, as amended by Section 6, Chapter 274, O.S.L. 2004 (36 O.S. Supp. 2004, Section 903); amending 36 O.S. 2001, Section 941, as amended by Section 10, Chapter 519, O.S.L. 2004 (36 O.S. Supp. 2004, Section 941); repealing 36 O.S. 2001, Section 941, as amended by Section 1, Chapter 96, O.S.L. 2004 (36 O.S. Supp. 2004, Section 941); amending 37 O.S. 2001, Section 521, as last amended by Section 1, Chapter 72, O.S.L. 2004 (37 O.S. Supp. 2004, Section 521); repealing 37 O.S. 2001, Section 521, as last amended by Section 1, Chapter 43, O.S.L. 2004 (37 O.S. Supp. 2004, Section 521); amending 38 O.S. 2001, Section 28, as amended by Section 8, Chapter 525, O.S.L. 2004 (38 O.S. Supp. 2004, Section 28); repealing 38 O.S. 2001, Section 28, as amended by Section 2, Chapter 332, O.S.L. 2004 (38 O.S. Supp. 2004, Section 28); amending 47 O.S. 2001, Section 2-

105.6, as amended by Section 2, Chapter 161, O.S.L. 2004 (47 O.S. Supp. 2004, Section 2-105.6); repealing 47 O.S. 2001, Section 2-105.6, as amended by Section 1, Chapter 364, O.S.L. 2004 (47 O.S. Supp. 2004, Section 2-105.6); amending 47 O.S. 2001, Section 6-110, as last amended by Section 9, Chapter 418, O.S.L. 2004 (47 O.S. Supp. 2004, Section 6-110); repealing 47 O.S. 2001, Section 6-110, as last amended by Section 5, Chapter 390, O.S.L. 2004 (47 O.S. Supp. 2004, Section 6-110); amending 47 O.S. 2001, Section 6-111, as last amended by Section 4, Chapter 149, O.S.L. 2004 (47 O.S. Supp. 2004, Section 6-111); repealing 47 O.S. 2001, Section 6-111, as last amended by Section 38, Chapter 5, O.S.L. 2004 (47 O.S. Supp. 2004, Section 6-111); amending 47 O.S. 2001, Section 6-205, as last amended by Section 6, Chapter 149, O.S.L. 2004 (47 O.S. Supp. 2004, Section 6-205); repealing 47 O.S. 2001, Section 6-205, as last amended by Section 2, Chapter 49, O.S.L. 2004 (47 O.S. Supp. 2004, Section 6-205); amending 47 O.S. 2001, Section 6-303, as last amended by Section 1, Chapter 387, O.S.L. 2004 (47 O.S. Supp. 2004, Section 6-303); repealing 47 O.S. 2001, Section 6-303, as last amended by Section 9, Chapter 390, O.S.L. 2004 (47 O.S. Supp. 2004, Section 6-303); amending 47 O.S. 2001, Section 11-902, as last amended by Section 1, Chapter 548, O.S.L. 2004 (47 O.S. Supp. 2004, Section 11-902); repealing 47 O.S. 2001, Section 11-902, as last amended by Section 15, Chapter 418, O.S.L. 2004 (47 O.S. Supp. 2004, Section 11-902); amending 47 O.S. 2001, Section 40-102, as last amended by Section 18, Chapter 418, O.S.L. 2004 (47 O.S. Supp. 2004, Section 40-102); repealing 47 O.S. 2001, Section 40-102, as last amended by Section 1, Chapter 18, O.S.L. 2004 (47 O.S. Supp. 2004, Section 40-102); amending 47 O.S. 2001, Section 751, as last amended by Section 2, Chapter 548, O.S.L. 2004 (47 O.S. Supp. 2004, Section 751); repealing 47 O.S. 2001, Section 751, as last amended by Section 20, Chapter 418, O.S.L. 2004 (47 O.S. Supp. 2004, Section 751); amending 47 O.S. 2001, Section 754.1, as amended by Section 23, Chapter 418, O.S.L. 2004 (47 O.S. Supp. 2004, Section 754.1); repealing 47 O.S. 2001, Section 754.1, as amended by Section 16, Chapter 390, O.S.L. 2004 (47 O.S. Supp. 2004, Section 754.1); amending 47 O.S. 2001, Section 1105, as last amended by Section 30, Chapter 519, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1105); repealing 47 O.S. 2001, Section 1105, as last amended by Section 2, Chapter 534, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1105); amending 47 O.S. 2001, Section 1109, as last amended by Section 3, Chapter 534, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1109); repealing 47 O.S. 2001, Section 1109, as last amended by Section 11, Chapter 522, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1109); amending 47 O.S. 2001, Section 1113, as last amended by Section 4, Chapter 534, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1113); repealing 47 O.S. 2001, Section 1113, as last amended by Section 12, Chapter 522, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1113); amending 47 O.S. 2001, Section 1115, as last amended by Section 5, Chapter 534, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1115); repealing 47 O.S. 2001, Section 1115, as last

amended by Section 13, Chapter 522, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1115); repealing 47 O.S. 2001, Section 1120, as amended by Section 6, Chapter 534, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1120); amending 47 O.S. 2001, Section 1120.1, as amended by Section 7, Chapter 534, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1120.1); repealing 47 O.S. 2001, Section 1120.1, as amended by Section 16, Chapter 522, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1120.1); amending 47 O.S. 2001, Section 1124.1, as amended by Section 8, Chapter 534, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1124.1); repealing 47 O.S. 2001, Section 1124.1, as amended by Section 18, Chapter 522, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1124.1); amending 47 O.S. 2001, Section 1133, as amended by Section 1, Chapter 555, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1133); repealing 47 O.S. 2001, Section 1133, as amended by Section 19, Chapter 522, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1133); amending 47 O.S. 2001, Section 1140, as amended by Section 10, Chapter 534, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1140); repealing 47 O.S. 2001, Section 1140, as amended by Section 23, Chapter 522, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1140); amending 47 O.S. 2001, Section 1151, as last amended by Section 24, Chapter 522, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1151); repealing 47 O.S. 2001, Section 1151, as last amended by Section 27, Chapter 418, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1151); amending 51 O.S. 2001, Section 36.3, as amended by Section 7, Chapter 447, O.S.L. 2004 (51 O.S. Supp. 2004, Section 36.3); repealing 51 O.S. 2001, Section 36.3, as amended by Section 3, Chapter 101, O.S.L. 2004 (51 O.S. Supp. 2004, Section 36.3); amending 57 O.S. 2001, Section 583, as last amended by Section 1, Chapter 162, O.S.L. 2004 (57 O.S. Supp. 2004, Section 583); repealing 57 O.S. 2001, Section 583, as last amended by Section 1, Chapter 98, O.S.L. 2004 (57 O.S. Supp. 2004, Section 583); amending 59 O.S. 2001, Section 15.2, as amended by Section 3, Chapter 125, O.S.L. 2004 (59 O.S. Supp. 2004, Section 15.2); repealing 59 O.S. 2001, Section 15.2, as amended by Section 1, Chapter 27, O.S.L. 2004 (59 O.S. Supp. 2004, Section 15.2); amending 59 O.S. 2001, Section 353.24, as last amended by Section 21, Chapter 523, O.S.L. 2004 (59 O.S. Supp. 2004, Section 353.24); repealing 59 O.S. 2001, Section 353.24, as last amended by Section 8, Chapter 374, O.S.L. 2004 (59 O.S. Supp. 2004, Section 353.24); amending 61 O.S. 2001, Section 102, as last amended by Section 1, Chapter 97, O.S.L. 2004 (61 O.S. Supp. 2004, Section 102); repealing 61 O.S. 2001, Section 102, as last amended by Section 1, Chapter 52, O.S.L. 2004 (61 O.S. Supp. 2004, Section 102); repealing 62 O.S. 2001, Section 41.29b, as last amended by Section 22, Chapter 8, O.S.L. 2004 (62 O.S. Supp. 2004, Section 41.29b); repealing 63 O.S. 2001, Section 1-1950.3, as last amended by Section 1, Chapter 420, O.S.L. 2004 (63 O.S. Supp. 2004, Section 1-1950.3); repealing 63 O.S. 2001, Section 1-1950.5, as last amended by Section 4, Chapter 249, O.S.L. 2004 (63 O.S. Supp. 2004, Section 1-1950.5); amending 63 O.S. 2001, Section 330.97, as last amended by Section 10,

Chapter 459, O.S.L. 2004, and as last renumbered by Section 11, Chapter 459, O.S.L. 2004 (63 O.S. Supp. 2004, Section 1-2530.9); repealing 63 O.S. 2001, Section 330.97, as last amended by Section 3, Chapter 386, O.S.L. 2004, and as last renumbered by Section 11, Chapter 459, O.S.L. 2004 (63 O.S. Supp. 2004, Section 1-2530.9); repealing 63 O.S. 2001, Section 330.97, as last amended by Section 10, Chapter 396, O.S.L. 2004, and as last renumbered by Section 11, Chapter 459, O.S.L. 2004 (63 O.S. Supp. 2004, Section 1-2530.9); repealing 63 O.S. 2001, Section 1-2702, as amended by Section 2, Chapter 22, O.S.L. 2004 (63 O.S. Supp. 2004, Section 1-2702); amending 63 O.S. 2001, Section 2-101, as last amended by Section 1, Chapter 301, O.S.L. 2004 (63 O.S. Supp. 2004, Section 2-101); repealing 63 O.S. 2001, Section 2-101, as last amended by Section 1, Chapter 116, O.S.L. 2004 (63 O.S. Supp. 2004, Section 2-101); amending 63 O.S. 2001, Section 4021, as last amended by Section 14, Chapter 534, O.S.L. 2004 (63 O.S. Supp. 2004, Section 4021); repealing 63 O.S. 2001, Section 4021, as last amended by Section 3, Chapter 379, O.S.L. 2004 (63 O.S. Supp. 2004, Section 4021); amending 63 O.S. 2001, Section 4030, as last amended by Section 5, Chapter 379, O.S.L. 2004 (63 O.S. Supp. 2004, Section 4030); repealing 63 O.S. 2001, Section 4030, as last amended by Section 2, Chapter 364, O.S.L. 2004 (63 O.S. Supp. 2004, Section 4030); amending 68 O.S. 2001, Section 1354, as last amended by Section 4, Chapter 535, O.S.L. 2004 (68 O.S. Supp. 2004, Section 1354); repealing 68 O.S. 2001, Section 1354, as last amended by Section 1, Chapter 362, O.S.L. 2004 (68 O.S. Supp. 2004, Section 1354); amending 68 O.S. 2001, Section 1355, as amended by Section 12, Chapter 322, O.S.L. 2004 (68 O.S. Supp. 2004, Section 1355); repealing 68 O.S. 2001, Section 1355, as amended by Section 3, Chapter 330, O.S.L. 2004 (68 O.S. Supp. 2004, Section 1355); amending 68 O.S. 2001, Section 1356, as last amended by Section 6, Chapter 535, O.S.L. 2004 (68 O.S. Supp. 2004, Section 1356); repealing 68 O.S. 2001, Section 1356, as last amended by Section 1, Chapter 384, O.S.L. 2004 (68 O.S. Supp. 2004, Section 1356); repealing 68 O.S. 2001, Section 1356, as last amended by Section 1, Chapter 518, O.S.L. 2004 (68 O.S. Supp. 2004, Section 1356); amending 68 O.S. 2001, Section 2103, as amended by Section 2, Chapter 555, O.S.L. 2004 (68 O.S. Supp. 2004, Section 2103); repealing 68 O.S. 2001, Section 2103, as amended by Section 27, Chapter 522, O.S.L. 2004 (68 O.S. Supp. 2004, Section 2103); repealing Section 2, Chapter 366, O.S.L. 2004 (68 O.S. Supp. 2004, Section 2368.13); amending 68 O.S. 2001, Section 2890.1, as amended by Section 9, Chapter 447, O.S.L. 2004 (68 O.S. Supp. 2004, Section 2890.1); repealing 68 O.S. 2001, Section 2890.1, as amended by Section 1, Chapter 383, O.S.L. 2004 (68 O.S. Supp. 2004, Section 2890.1); amending 68 O.S. 2001, Section 2902, as last amended by Section 11, Chapter 447, O.S.L. 2004 (68 O.S. Supp. 2004, Section 2902); repealing 68 O.S. 2001, Section 2902, as last amended by Section 2, Chapter 317, O.S.L. 2004 (68 O.S. Supp. 2004, Section 2902); amending 70 O.S. 2001, Section 17-101, as amended by Section 16, Chapter 536, O.S.L.

2004 (70 O.S. Supp. 2004, Section 17-101); repealing 70 O.S. 2001, Section 17-101, as amended by Section 1, Chapter 315, O.S.L. 2004 (70 O.S. Supp. 2004, Section 17-101); repealing 70 O.S. 2001, Section 17-101, as amended by Section 9, Chapter 385, O.S.L. 2004 (70 O.S. Supp. 2004, Section 17-101); repealing 70 O.S. 2001, Section 17-105, as last amended by Section 2, Chapter 315, O.S.L. 2004 (70 O.S. Supp. 2004, Section 17-105); amending 70 O.S. 2001, Section 17-116.2, as last amended by Section 19, Chapter 536, O.S.L. 2004 (70 O.S. Supp. 2004, Section 17-116.2); repealing 70 O.S. 2001, Section 17-116.2, as last amended by Section 3, Chapter 315, O.S.L. 2004 (70 O.S. Supp. 2004, Section 17-116.2); amending 70 O.S. 2001, Section 1210.508C, as amended by Section 2, Chapter 197, O.S.L. 2004 (70 O.S. Supp. 2004, Section 1210.508C); repealing 70 O.S. 2001, Section 1210.508C, as amended by Section 1, Chapter 175, O.S.L. 2004 (70 O.S. Supp. 2004, Section 1210.508C); amending 74 O.S. 2001, Section 85.5, as last amended by Section 2, Chapter 511, O.S.L. 2004 (74 O.S. Supp. 2004, Section 85.5); repealing 74 O.S. 2001, Section 85.5, as last amended by Section 1, Chapter 404, O.S.L. 2004 (74 O.S. Supp. 2004, Section 85.5); amending 74 O.S. 2001, Section 150.27a, as last amended by Section 4, Chapter 143, O.S.L. 2004 (74 O.S. Supp. 2004, Section 150.27a); repealing 74 O.S. 2001, Section 150.27a, as last amended by Section 1, Chapter 61, O.S.L. 2004 (74 O.S. Supp. 2004, Section 150.27a); amending 74 O.S. 2001, Section 840-2.27C, as last amended by Section 11, Chapter 312, O.S.L. 2004 (74 O.S. Supp. 2004, Section 840-2.27C); repealing 74 O.S. 2001, Section 840-2.27C, as last amended by Section 1, Chapter 277, O.S.L. 2004 (74 O.S. Supp. 2004, Section 840-2.27C); amending 74 O.S. 2001, Section 840-5.5, as last amended by Section 1, Chapter 462, O.S.L. 2004 (74 O.S. Supp. 2004, Section 840-5.5); repealing 74 O.S. 2001, Section 840-5.5, as last amended by Section 28, Chapter 418, O.S.L. 2004 (74 O.S. Supp. 2004, Section 840-5.5); amending 74 O.S. 2001, Section 902, as last amended by Section 2, Chapter 539, O.S.L. 2004 (74 O.S. Supp. 2004, Section 902); repealing 74 O.S. 2001, Section 902, as last amended by Section 1, Chapter 325, O.S.L. 2004 (74 O.S. Supp. 2004, Section 902); amending 74 O.S. 2001, Section 913, as last amended by Section 1, Chapter 359, O.S.L. 2004 (74 O.S. Supp. 2004, Section 913); repealing 74 O.S. 2001, Section 913, as last amended by Section 16, Chapter 275, O.S.L. 2004 (74 O.S. Supp. 2004, Section 913); amending 74 O.S. 2001, Section 915, as last amended by Section 3, Chapter 539, O.S.L. 2004 (74 O.S. Supp. 2004, Section 915); repealing 74 O.S. 2001, Section 915, as last amended by Section 24, Chapter 536, O.S.L. 2004 (74 O.S. Supp. 2004, Section 915); amending 74 O.S. 2001, Section 920A, as last amended by Section 27, Chapter 536, O.S.L. 2004 (74 O.S. Supp. 2004, Section 920A); repealing 74 O.S. 2001, Section 920A, as last amended by Section 3, Chapter 325, O.S.L. 2004 (74 O.S. Supp. 2004, Section 920A); amending 74 O.S. 2001, Section 1306, as last amended by Section 1, Chapter 405, O.S.L. 2004 (74 O.S. Supp. 2004, Section 1306); repealing 74 O.S. 2001, Section 1306, as last amended

by Section 2, Chapter 345, O.S.L. 2004 (74 O.S. Supp. 2004, Section 1306); amending 74 O.S. 2001, Section 1365, as last amended by Section 2, Chapter 405, O.S.L. 2004 (74 O.S. Supp. 2004, Section 1365); repealing 74 O.S. 2001, Section 1365, as last amended by Section 2, Chapter 373, O.S.L. 2004 (74 O.S. Supp. 2004, Section 1365); providing effective dates; and declaring an emergency.

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

SECTION 1. REPEALER Section 3, Chapter 366, O.S.L. 2004 (4 O.S. Supp. 2004, Section 602), is hereby repealed.

SECTION 2. AMENDATORY 11 O.S. 2001, Section 21-103, as last amended by Section 1, Chapter 528, O.S.L. 2004 (11 O.S. Supp. 2004, Section 21-103), is amended to read as follows:

Section 21-103. A. Before the governing body of a city may annex any territory adjacent or contiguous to the city, it must obtain the written consent of the owners of at least a majority of the acres to be annexed to the municipality and provide for notice and a public hearing on the proposed annexation of the territory in the manner provided in subsection B of this section; except that no such consent is needed where:

1. The territory to be annexed is subdivided into tracts or parcels of less than five (5) acres and contains more than one residence; or

2. Three sides of the territory to be annexed are adjacent or contiguous to the property already within the municipal limits if:

a. the adjacent property on each side constitutes an area in width greater than three hundred (300) feet at its narrowest point excluding a roadway or right-of-way that is adjacent or contiguous to the territory,

b. the municipal governing body makes findings that the annexation furthers municipal purposes relating to airports, spaceports and military installations and

such findings are included in the public hearing provided for in subsection D of this section, or

c. prior to the effective date of this act, the municipality has directed that notice be published in accordance with subsection B of this section.

B. The governing body shall provide the notice and public hearing required in subsection A of this section in the following manner:

1. The governing body of the municipality shall direct that notice of the proposed annexation of the territory be published in a legally qualified newspaper of general circulation in the territory and shall describe the boundaries of the territory proposed to be annexed by reference to a map, geographical locations, legal or physical description or other reasonable designation. The notice shall state the date, time, and place the governing body shall conduct a public hearing on the question of annexing the territory. The notice shall be published in a legal newspaper of general circulation in the territory sought to be annexed within fourteen (14) days following the date the governing body directed the notice to be published;

2. A copy of the notice of annexation shall be mailed by first-class mail to all owners of property to be annexed as shown by the current year's ownership rolls in the office of the county treasurer and to all owners of property abutting any public right-of-way that forms the boundary of the territory proposed to be annexed; provided that the notice of annexation shall be mailed by certified mail to every person who owns a parcel of land of five (5) acres or more used for agricultural purposes; and

3. The public hearing of such annexation shall be held no earlier than fourteen (14) days nor more than thirty (30) days following the publication and mailing of the notice.

C. Unless otherwise provided by law, a roadway or road right-of-way that is adjacent or contiguous to the territory to be annexed shall be considered a part and parcel to the territory to be annexed.

D. Before any territory is annexed to a municipality, without the written consent of the owners of at least a majority of the acres to be annexed to the municipality in accordance with subsection A of this section, the governing body of the municipality shall direct that notice of the proposed annexation of the territory be published in a legally qualified newspaper of general circulation in the territory and shall hold a public hearing on the proposed annexation. Prior to the publication of notice, the municipality shall prepare a plan to extend municipal services including, but not limited to, water, sewer, fire protection, law enforcement and the cost of such services appropriate to the proposed annexed territory. The plan shall provide that the municipality complete the implementation of the plan in accordance with any existing capital improvement plan applicable to the portion of the municipality adjacent to the territory proposed to be annexed. If no such capital improvement plan has been adopted, the municipality shall complete the service plan within one hundred twenty (120) months from the date of annexation unless a different time is determined by consensus between property owners and the municipality at the hearing. The time for completion of the service plan shall be set forth in the ordinance annexing the territory. If municipality services are not substantially complete within the prescribed time, then the territory shall be detached by the governing body as provided in Section 21-110 of this title. For purposes of this subsection, services may be provided by any method or means available to the municipality to extend municipal services to any other area of the city. Such notice, hearing and plan shall be subject to the following provisions:

1. The notice shall describe the boundaries of the territory proposed to be annexed by reference to a map, geographical locations, legal or physical description or other reasonable designation and shall state that the proposed service plan is available for inspection at a specified location. The notice shall state the date, time, and place when the governing body shall conduct a public hearing on the question of annexing the territory. The notice shall be published in a legal newspaper of general circulation in the territory sought to be annexed within fourteen (14) days following the date the governing body directed the notice to be published. A copy of the notice of annexation shall be mailed by first-class mail to all owners of property to be annexed as shown by the current year's ownership rolls in the office of the county treasurer and to the Department of Transportation for purposes of clarifying any road maintenance responsibilities; provided that the notice of annexation shall be mailed by certified mail to every person who owns parcel of land of five (5) acres or more used for agricultural purposes and to the board of county commissioners of the respective county where the proposed annexation is located. If the territory to be annexed encroaches upon any adjacent county, a copy of the notice of annexation shall be mailed by first-class mail to the board of county commissioners of the adjacent county and of the county where the proposed annexation is located;

2. The public hearing of such annexation shall be held no earlier than fourteen (14) days nor more than thirty (30) days following the publication and mailing of the notice; and

3. The proposed service plan shall be available for inspection and be explained to the property owners of the territory to be annexed at the public hearing. The plan may be amended through negotiation at the hearing. The final service plan shall be incorporated into and made part of the ordinance annexing the territory.

E. As used in this section:

1. “Airport” means any facility owned by any legal entity or by a county, a municipality or a public trust having at least one county or municipality as its beneficiary which is used primarily for the purpose of providing air transportation of persons or goods or both by aircraft powered through the use of propellers, turboprops, jets or similar propulsion systems;

2. “Military installation” means those facilities constituting the active or formerly active bases owned by the Department of Defense or other applicable entity of the United States government or by any entity of local government after transfer of title to such installation; and

3. “Spaceport” means any area as defined pursuant to Section 5202 of Title 74 of the Oklahoma Statutes.

F. Except for ordinances enacted pursuant to Section 43-101.1 of this title, parcels of land five (5) acres or more used for agricultural purposes annexed into the municipal limits on or after July 1, 2003, shall be exempt from ordinances restricting land use and building construction to the extent such land use or construction is related to agricultural purposes. Where there is no residence within fifty (50) feet of the boundaries of such a parcel of land, the property shall not be subject to ordinances regulating conduct that would not be an offense under state law; provided, that any such property that discharges into the municipal water, wastewater, or sewer system shall be subject to any ordinances or regulations related to compliance with environmental standards for that system.

G. Parcels of land situated within an area that is or may be subject to any form of land use or other regulatory control as a result of proximity to an airport, spaceport or military installation shall not be exempt from municipal ordinances or other laws regulating property for the purpose of operations necessary for

the use of an airport, spaceport or military installation and such parcels of land shall be subject to all ordinances enacted pursuant to Section 43-101.1 of this title.

SECTION 3. REPEALER 11 O.S. 2001, Section 21-103, as last amended by Section 2, Chapter 514, O.S.L. 2004 (11 O.S. Supp. 2004, Section 21-103), is hereby repealed.

SECTION 4. AMENDATORY 11 O.S. 2001, Section 21-104, as last amended by Section 2, Chapter 528, O.S.L. 2004 (11 O.S. Supp. 2004, Section 21-104), is amended to read as follows:

Section 21-104. A. The town board of trustees by ordinance may annex lots which are adjacent or contiguous to the town if the lots have been platted and recorded in the office of the county clerk. The governing body shall provide notice and a public hearing in the following manner:

1. The governing body of the municipality shall direct that notice of the proposed annexation of the territory be published in a legally qualified newspaper of general circulation in the territory and shall describe the boundaries of the territory proposed to be annexed by reference to a map, geographical locations, legal or physical description or other reasonable designation. The notice shall state the date, time, and place the governing body shall conduct a public hearing on the question of annexing the territory. The notice shall be published in a legal newspaper of general circulation in the territory sought to be annexed within fourteen (14) days following the date the governing body directed the notice to be published;

2. A copy of the notice of annexation shall be mailed by first-class mail to all owners of property to be annexed as shown by the current year's ownership rolls in the office of the county treasurer and to all owners of property abutting any public right-of-way that forms the boundary of the territory proposed to be annexed; provided that the notice of annexation shall be mailed by certified mail to

every person who owns a parcel of land of five (5) acres or more used for agricultural purposes; and

3. The public hearing of such annexation shall be held no earlier than fourteen (14) days nor more than thirty (30) days following the publication and mailing of the notice.

B. When the town board of trustees desires to annex any territory adjacent to the town which has not been platted and recorded, the town board of trustees shall direct that notice of the proposed annexation of the territory be published in a legal newspaper of general circulation in the territory and shall hold a public hearing on the proposed annexation. Unless otherwise provided by law, a roadway or road right-of-way that is adjacent or contiguous to the territory to be annexed shall be considered a part and parcel to the territory to be annexed. Prior to the publication of notice, the town board of trustees shall prepare a plan to extend appropriate town services, including, but not limited to, water, sewer, fire protection, law enforcement and the cost of such services to the proposed annexed territory. The plan shall provide that the town board of trustees shall complete the implementation of the plan in accordance with any existing capital improvement plan applicable to the portion of the town adjacent to the territory proposed to be annexed. If no such capital improvement plan has been adopted, the town shall complete the service plan within one hundred twenty (120) months from the date of annexation unless a different time is determined by consensus between property owners and the town at the hearing. The time for completion of the service plan shall be set forth in the ordinance annexing the territory. If the town services are not substantially complete within the prescribed time, then the territory shall be detached by the governing body as provided in Section 21-110 of this title. For purposes of this subsection, services may be provided by any method or means available to the town that have been used to extend such

services to any other area of the town. Such notice, hearing, and plan shall be subject to the following provisions:

1. The notice shall describe the boundaries of the territory proposed to be annexed by reference to a map, geographical location, legal or physical description, or other reasonable designation and shall state that the proposed service plan is available for inspection at a specified location. The notice shall state the date, time, and place the town board of trustees shall conduct a public hearing on the question of annexing the territory. The notice shall be published in a legal newspaper of general circulation in the territory sought to be annexed within fourteen (14) days following the date the town board of trustees directed the notice to be published. A copy of the notice of annexation shall be mailed by first-class mail to all owners of property to be annexed as shown by the current year's ownership rolls in the office of the county treasurer and to the Department of Transportation for purposes of changing any road maintenance responsibility; provided that the notice of annexation shall be mailed by certified mail to every person who owns parcels of land of five (5) acres or more used for agricultural purposes and to the board of county commissioners of the respective county where the proposed annexation is located. If the territory to be annexed encroaches upon any adjacent county, a copy of the notice of annexation shall be mailed by first-class mail to the board of county commissioners of the adjacent county and of the county where the proposed annexation is located;

2. The public hearing of such annexation shall be held no earlier than fourteen (14) days nor later than thirty (30) days following the publication and mailing of the notice; and

3. At the public hearing, the proposed service plan shall be available for inspection and be explained to the property owners of the territory to be annexed. The plan may be amended through negotiation at the hearing. The final service plan shall be

incorporated into and made part of the ordinance annexing the territory.

C. A town board of trustees shall not annex any territory which has an assessed valuation greater than the assessed valuation of the town without the written consent of the owner or owners of at least a majority of the acres to be annexed to the town.

D. As used in subsection F of this section:

1. "Airport" means any facility owned by any legal entity or by a county, a municipality or a public trust having at least one county or municipality as its beneficiary which is used primarily for the purpose of providing air transportation of persons or goods or both by aircraft powered through the use of propellers, turboprops, jets or similar propulsion systems;

2. "Military installation" means those facilities constituting the active or formerly active bases owned by the Department of Defense or other applicable entity of the United States government or by any entity of local government after transfer of title to such installation; and

3. "Spaceport" means any area as defined pursuant to Section 5202 of Title 74 of the Oklahoma Statutes.

E. Except for ordinances enacted pursuant to Section 43-101.1 of this title, parcels of land five (5) acres or more used for agricultural purposes annexed into the municipal limits on or after the effective date of this act shall be exempt from ordinances restricting land use and building construction to the extent such land use or construction is related to agricultural purposes. Where there is no residence within fifty (50) feet of the boundaries of such a parcel of land, the property shall not be subject to ordinances regulating conduct that would not be an offense under state law; provided that any such property that discharges into the municipal water, wastewater, or sewer system shall be subject to any

ordinances or regulations related to compliance with environmental standards for that system.

F. Parcels of land situated within an area that is or may be subject to any form of land use or other regulatory control as a result of proximity to an airport, spaceport or military installation shall not be exempt from municipal ordinances or other laws regulating property for the purpose of operations necessary for the use of an airport, spaceport or military installation and such parcels of land shall be subject to all ordinances enacted pursuant to Section 43-101.1 of this title.

SECTION 5. REPEALER 11 O.S. 2001, Section 21-104, as last amended by Section 3, Chapter 514, O.S.L. 2004 (11 O.S. Supp. 2004, Section 21-104), is hereby repealed.

SECTION 6. AMENDATORY 12 O.S. 2001, Section 990.4, as amended by Section 3, Chapter 450, O.S.L. 2004 (12 O.S. Supp. 2004, Section 990.4), is amended to read as follows:

Section 990.4 A. Except as provided in subsection C of this section, a party may obtain a stay of the enforcement of a judgment, decree or final order:

1. While a post-trial motion is pending;

2. During the time in which an appeal may be commenced; or

3. While an appeal is pending.

Such stay may be obtained by filing with the court clerk a written undertaking and the posting of a supersedeas bond or other security as provided in this section. In the undertaking the appellant shall agree to satisfy the judgment, decree or final order, and pay the costs and interest on appeal, if it is affirmed. The undertaking and supersedeas bond or security may be given at any time. The stay is effective when the bond and the sufficiency of the sureties are approved by the trial court or the security is deposited with the court clerk. The enforcement of the judgment, decree or order shall

no longer be stayed, and the judgment, decree or order may be enforced against any surety on the bond or other security:

1. If neither a post-trial motion nor a petition in error is filed, and the time for appeal has expired;

2. If a post-trial motion is no longer pending, no petition in error has been filed, and the time for appeal has expired; or

3. If an appeal is no longer pending.

B. The amount of the bond or other security shall be as follows:

1. When the judgment, decree or final order is for payment of money:

a. ~~The~~ the bond shall be double the amount of the judgment, decree or final order, unless the bond is executed or guaranteed by a surety as hereinafter provided. The bond shall be for the amount of the judgment, decree or order including costs and interest on appeal where it is executed or guaranteed by an entity with suretyship powers as provided by the laws of Oklahoma. On a showing by the judgment debtor that the judgment debtor is likely to suffer substantial economic harm if required to post bond in the amount required by this paragraph, the court shall balance the likely substantial economic harm to the judgment debtor with the ability of the judgment creditor to collect the judgment in the event the judgment is affirmed on appeal and may lower the bond accordingly. "Substantial economic harm" means insolvency or creating a significant risk of insolvency. The court shall not lower a bond as provided in this paragraph to the extent there is in effect an insurance policy, or agreement under which a third party is liable to satisfy part or all of the judgment entered and such

party is required to post all or part of the bond. Upon lowering the bond as provided in this paragraph, the court shall enter an order enjoining a judgment debtor from dissipating or transferring assets to avoid satisfaction of the judgment, but the court shall not make any order that interferes with the judgment debtor's use of assets in the normal course of business, and

b. ~~Instead~~ instead of filing a supersedeas bond, the appellant may obtain a stay by depositing cash with the court clerk in the amount of the judgment or order plus an amount that the court determines will cover costs and interest on appeal. The court shall have discretion to accept United States Treasury notes or general obligation bonds of the State of Oklahoma in lieu of cash. If the court accepts such notes or bonds, it shall make appropriate orders for their safekeeping and maintenance during the stay;

2. When the judgment, decree or final order directs execution of a conveyance or other instrument, the amount of the bond shall be determined by the court. Instead of posting a supersedeas bond or other security, the appellant may execute the conveyance or other instrument and deliver it to the clerk of the court for deposit with a public or private entity for safekeeping, as directed by the court in writing;

3. When the judgment, decree or final order directs the delivery of possession of real or personal property, the bond shall be in an amount, to be determined by the court, that will protect the interests of the parties. The court may consider the value of the use of the property, any waste that may be committed on or to the property during the pendency of the stay, the value of the property, and all costs. When the judgment, decree or final order

is for the sale of mortgaged premises and the payment of a deficiency arising from the sale, the bond must also provide for the payment of the deficiency;

4. When the judgment or final order directs the assignment or delivery of documents, they may be placed in the custody of the clerk of the court in which the judgment or order was rendered, for deposit with a public or private entity for safekeeping during the pendency of the stay, as directed by the court in writing, or the bond shall be in such sum as may be prescribed by the court; or

5. In order to protect any monies payable to the Tobacco Settlement Fund as set forth in Section 50 of Title 62 of the Oklahoma Statutes, the bond in any action or litigation brought under any legal theory involving a signatory, successor of a signatory or an affiliate of a signatory to the Master Settlement Agreement dated November 23, 1998, or a signatory, successor of a signatory or an affiliate of a signatory to the Smokeless Tobacco Master Settlement Agreement, also dated November 23, 1998, shall be in an amount not to exceed one hundred percent (100%) of the judgment, exclusive of interest and costs, or Twenty-five Million Dollars ($25,000,000.00), whichever is less. However, if it is proved by a preponderance of the evidence that the appellant for whom the bond has been limited pursuant to this paragraph is intentionally dissipating or diverting assets outside of the ordinary course of its business for the purpose of avoiding payment of the judgment, the court shall enter such orders as are necessary to prevent dissipation or diversion, including, but not limited to, requiring that a bond be posted equal to the full amount of security required pursuant to this section. For purposes of this paragraph, "Master Settlement Agreement" shall have the same meaning as that term is defined in paragraph 5 of Section 600.22 of Title 37 of the Oklahoma Statutes, and "Smokeless Tobacco Master Settlement Agreement" means the settlement agreement and related documents

entered into on November 23, 1998, by this state and leading United States smokeless tobacco product manufacturers.

C. Subsections A and B of this section shall not apply in actions involving temporary or permanent injunctions, actions for divorce, separate maintenance, annulment, paternity, custody, adoption, or termination of parental rights, or in juvenile matters, post-decree matrimonial proceedings or habeas corpus proceedings. The trial or appellate court, in its discretion, may stay the enforcement of any provision in a judgment, decree or final order in any of the types of actions or proceedings listed in this subsection during the pendency of the appeal or while any post-trial motion is pending upon such terms as to bond or otherwise as it considers proper for the security of the rights of the parties. If a temporary or permanent injunction is denied or dissolved, the trial or appellate court, in its discretion, may restore or grant an injunction during the pendency of the appeal and while any post-trial motions are pending upon such terms as to bond or otherwise as it considers proper for the security of the rights of the parties.

D. In any action not provided for in subsections A, B or C, the court may stay the enforcement of any judgment, decree or final order during the pendency of the appeal or while any post-trial motion is pending upon such terms as to bond or otherwise as it considers proper for the security of the rights of the parties.

E. The trial court shall have continuing jurisdiction during the pendency of any post-trial motion and appeal to modify any order it has entered regarding security or other conditions in connection with a stay.

F. The execution of a supersedeas bond shall not be a condition for the granting of a stay of judgment, decree or final order of any judicial tribunal against any county, municipality, or other political subdivision of the State of Oklahoma.

G. Executors, administrators and guardians who have given bond in this state, with sureties, according to law, are not required to provide a supersedeas bond if they are granted a stay of enforcement of a judgment, decree or final order.

H. After an appeal has been decided, but before the mandate has issued, a party whose trial court judgment has been affirmed, may move the appellate court to order judgment on the bond or other security in the amount of the judgment plus interest, appeals costs and allowable appeal-related ~~attorney's~~ attorney fees. After mandate has issued, a party who has posted a bond or other security may move for exoneration of the bond or other security only in the trial court; and all motions concerning the bond or other security must be addressed to the trial court.

SECTION 7. REPEALER 12 O.S. 2001, Section 990.4, as amended by Section 9, Chapter 368, O.S.L. 2004 (12 O.S. Supp. 2004, Section 990.4), is hereby repealed.

SECTION 8. REPEALER 12 O.S. 2001, Section 3226, as last amended by Section 13, Chapter 368, O.S.L. 2004 (12 O.S. Supp. 2004, Section 3226), is hereby repealed.

SECTION 9. AMENDATORY 19 O.S. 2001, Section 131, as amended by Section 3, Chapter 53, O.S.L. 2004 (19 O.S. Supp. 2004, Section 131), is amended to read as follows:

Section 131. A. At the general election to be held in November 1974, there shall be elected in each county of the state, a court clerk, a county sheriff, and a county clerk who shall hold office for a term of two (2) years, the terms of the court clerk, county sheriff and county clerk beginning on the first Monday in January following their election, and until their successors are elected and qualified. At the general election to be held in November 1976, and each four (4) years thereafter, there shall be elected in each county of the state, a court clerk, a county sheriff, and a county clerk who shall hold office for a term of four (4) years; the terms

of the court clerk, the county sheriff and the county clerk, beginning on the first business day in January following their election, and until their successors are elected and qualified.

B. At the general election to be held in November 1974, and each four (4) years thereafter, there shall be elected in each county of the state, a county assessor and a county treasurer, who shall hold office for a term of four (4) years. The term of the county assessor shall begin on the first business day in January following the election, and shall terminate when a successor is elected and qualified. The term of the county treasurer shall begin on the first Monday in July following the election and shall terminate when the successor is duly elected and qualified.

C. At the general election to be held in November 1990, and each four (4) years thereafter, there shall be elected in each county of the state two county commissioners, one from the first county commissioner district and one from the third county commissioner district, who shall hold office for a term of four (4) years. At the general election to be held in November 1990, there shall be elected in each county of the state one county commissioner from the second county commissioner district who shall hold office for a term of six (6) years. At the general election to be held in November 1996, and each four (4) years thereafter, there shall be elected in each county of the state, one county commissioner from the second county commissioner district, who shall hold office for a term of four (4) years. The terms of the county commissioners shall begin on the first business day in January following their election, and shall terminate when their successors are elected and qualified.

D. A county officer shall ~~not, unless the county officer resigns from the office held by such officer,~~ be eligible to become a candidate for another county office or state office. In order to file as a candidate for county commissioner in a county commissioner's district, the candidate must have been a qualified

registered elector in that district for at least six (6) months immediately preceding the first day of the filing period prescribed by law. Except, however, to file as a candidate for a county commissioner in any county commissioner's district in 2004, the candidate must have been a qualified registered elector in that district no later than December 21, 2003.

SECTION 10. REPEALER 19 O.S. 2001, Section 131, as amended by Section 1, Chapter 44, O.S.L. 2004 (19 O.S. Supp. 2004, Section 131), is hereby repealed.

SECTION 11. REPEALER 20 O.S. 2001, Section 31, as amended by Section 1, Chapter 442, O.S.L. 2004 (20 O.S. Supp. 2004, Section 31), is hereby repealed.

SECTION 12. AMENDATORY 21 O.S. 2001, Section 644, as amended by Section 1, Chapter 516, O.S.L. 2004 (21 O.S. Supp. 2004, Section 644), is amended to read as follows:

Section 644. A. Assault shall be punishable by imprisonment in a county jail not exceeding thirty (30) days, or by a fine of not more than Five Hundred Dollars ($500.00), or by both such fine and imprisonment.

B. Assault and battery shall be punishable by imprisonment in a county jail not exceeding ninety (90) days, or by a fine of not more than One Thousand Dollars ($1,000.00), or by both such fine and imprisonment ~~and fine~~.

C. Any person who commits any assault and battery against a current or former spouse, a present spouse of a former spouse, parents, a foster parent, a child, a person otherwise related by blood or marriage, a person with whom the defendant is in a dating relationship as defined by Section 60.1 of Title 22 of the Oklahoma Statutes, an individual with whom the defendant has had a child, a person who formerly lived in the same household as the defendant, or a person living in the same household as the defendant shall be guilty of domestic abuse. Upon conviction, the defendant shall be

punished by imprisonment in the county jail ~~not exceeding~~ for not more than one (1) year, or by a fine ~~of~~ not ~~more than Three Thousand Dollars ($3,000.00)~~ exceeding Five Thousand Dollars ($5,000.00), or by both such fine and imprisonment. Upon conviction for a second or subsequent offense, the person shall be punished by imprisonment in the custody of the Department of Corrections for not more than four (4) years, or by a fine not exceeding Five Thousand Dollars ($5,000.00), or by both such fine and imprisonment. The provisions of Section 51.1 of this title shall not apply to any second or subsequent offense.

D. Any person convicted of domestic abuse as defined in subsection C of this section that results in great bodily injury to the victim shall be guilty of a felony and punished by imprisonment in the custody of the Department of Corrections for not more than ten (10) years, or by imprisonment in the county jail for not more than one (1) year. The provisions of Section 51.1 of this title shall apply to any second or subsequent conviction of a violation of this subsection.

E. Any person convicted of domestic abuse as defined in ~~this~~ subsection C of this section that was committed in the presence of a child shall be ~~sentenced to~~ punished by imprisonment in the county jail for not less than six (6) months nor more than one (1) year, or by a fine not exceeding Five Thousand Dollars ($5,000.00), or by both such fine and imprisonment. ~~Any second or subsequent conviction of domestic abuse shall be a felony.~~ Any person convicted of a second or subsequent domestic abuse as defined in ~~this~~ subsection C of this section that was committed in the presence of a child shall be ~~sentenced to~~ punished by imprisonment in the custody of the Department of Corrections for not less than one (1) year nor more than five (5) years, or by a fine not exceeding Seven Thousand Dollars ($7,000.00), or by both such fine and imprisonment. ~~The fine for a felony violation of this subsection shall not be more~~

~~than Five Thousand Dollars ($5,000.00)~~ The provisions of Section 51.1 of this title shall not apply to any second or subsequent offense. For every conviction of domestic abuse, the court shall:

1. Specifically order as a condition of a suspended sentence or probation that a defendant participate in counseling or undergo treatment to bring about the cessation of domestic abuse as specified in paragraph 2 of this subsection;

2. a. The court shall require the defendant to participate in counseling or undergo treatment for domestic abuse by an individual licensed practitioner or a domestic abuse counseling program approved by the court or a domestic abuse treatment program certified by the Department of Mental Health and Substance Abuse Services. If the defendant is ordered to participate in a domestic abuse counseling or treatment program, the order shall require the defendant to attend the program for a minimum of fifty-two (52) weeks, complete the program, and be evaluated before and after attendance of the program by a program counselor or a private counselor.

b. A program for anger management, couples counseling, or family and marital counseling shall not solely qualify for the counseling or treatment requirement for domestic abuse pursuant to this subsection. The counseling may be ordered in addition to counseling specifically for the treatment of domestic abuse or per evaluation as set forth below. If, after sufficient evaluation and attendance at required counseling sessions, the domestic violence treatment program or licensed professional determines that the defendant does not evaluate as a perpetrator of domestic violence or does evaluate as a perpetrator of

domestic violence and should complete other programs of treatment simultaneously or prior to domestic violence treatment, including but not limited to programs related to the mental health, apparent substance or alcohol abuse or inability or refusal to manage anger, the defendant shall be ordered to complete the counseling as per the recommendations of the domestic violence treatment program or licensed professional;

3. a. The court shall set a review hearing no more than one hundred twenty (120) days after the defendant is ordered to participate in a domestic abuse counseling program or undergo treatment for domestic abuse to assure the attendance and compliance of the defendant with the provisions of this subsection and the domestic abuse counseling or treatment requirements.

b. The court shall set a second review hearing after the completion of the counseling or treatment to assure the attendance and compliance of the defendant with the provisions of this subsection and the domestic abuse counseling or treatment requirements. The court shall retain continuing jurisdiction over the defendant during the course of ordered counseling through the final review hearing;

4. The court may set subsequent or other review hearings as the court determines necessary to assure the defendant attends and fully complies with the provisions of this subsection and the domestic abuse counseling or treatment requirements;

5. At any review hearing, if the defendant is not satisfactorily attending individual counseling or a domestic abuse counseling or treatment program or is not in compliance with any domestic abuse counseling or treatment requirements, the court may

order the defendant to further or continue counseling, treatment, or other necessary services. The court may revoke all or any part of a suspended sentence, deferred sentence, or probation pursuant to Section 991b of Title 22 of the Oklahoma Statutes and subject the defendant to any or all remaining portions of the original sentence;

6. At the first review hearing, the court shall require the defendant to appear in court. Thereafter, for any subsequent review hearings, the court may accept a report on the progress of the defendant from individual counseling, domestic abuse counseling, or the treatment program. There shall be no requirement for the victim to attend review hearings; and

7. If funding is available, a referee may be appointed and assigned by the presiding judge of the district court to hear designated cases set for review under this subsection. Reasonable compensation for the referees shall be fixed by the presiding judge. The referee shall meet the requirements and perform all duties in the same manner and procedure as set forth in Sections 7003-8.6 and 7303-7.5 of Title 10 of the Oklahoma Statutes pertaining to referees appointed in juvenile proceedings.

The defendant may be required to pay all or part of the cost of the counseling or treatment, in the discretion of the court.

~~D.~~ F. As used in subsection ~~C~~ E of this section, "in the presence of a child" means in the physical presence of a child; or having knowledge that a child is present and may see or hear an act of domestic violence. For the purposes of ~~subsection~~ subsections C and E of this section, "child" may be any child whether or not related to the victim or the defendant.

~~E.~~ G. For the purposes of ~~subsection~~ subsections C and E of this section, any conviction for assault and battery against a current or former spouse, a present spouse of a former spouse, parents, a foster parent, a child, a person otherwise related by blood or marriage, a person with whom the defendant is in a dating

relationship as defined by Section 60.1 of Title 22 of the Oklahoma Statutes, an individual with whom the defendant has had a child, a person who formerly lived in the same household as the defendant, or any person living in the same household as the defendant, shall constitute a sufficient basis for a felony charge:

1. If that conviction is rendered in any state, county or parish court of record of this or any other state; or

2. If that conviction is rendered in any municipal court of record of this or any other state for which any jail time was served; provided, no conviction in a municipal court of record entered prior to November 1, 1997, shall constitute a prior conviction for purposes of a felony charge.

~~F.~~ H. Any person who commits any assault and battery with intent to cause great bodily harm by strangulation or attempted strangulation against a current or former spouse, a present spouse of a former spouse, parents, a foster parent, a child, a person otherwise related by blood or marriage, a person with whom the defendant is in a dating relationship as defined by Section 60.1 of Title 22 of the Oklahoma Statutes, an individual with whom the defendant has had a child, a person who formerly lived in the same household as the defendant, or a person living in the same household as the defendant shall, upon conviction, be guilty of domestic abuse by strangulation and shall be punished by imprisonment in the State Penitentiary for a period of not less than one (1) year nor more than three (3) years, or by a fine of not more than Three Thousand Dollars ($3,000.00), or by both such fine and imprisonment. Upon a second or subsequent conviction, the defendant shall be punished by imprisonment in the State Penitentiary for a period of not less than three (3) years nor more than ten (10) years, or by a fine of not more than Twenty Thousand Dollars ($20,000.00), or by both such fine and imprisonment. As used in this subsection, "strangulation" means a form of asphyxia characterized by closure of the blood vessels or

air passages of the neck as a result of external pressure on the neck.

~~G.~~ I. Any district court of this state and any judge thereof shall be immune from any liability or prosecution for issuing an order that requires a defendant to:

1. Attend a treatment program for domestic abusers certified by the Department of Mental Health and Substance Abuse Services;

2. Attend counseling or treatment services ordered as part of any suspended or deferred sentence or probation; and

3. Attend, complete, and be evaluated before and after attendance by a treatment program for domestic abusers, certified by the Department of Mental Health and Substance Abuse Services.

~~H.~~ J. There shall be no charge of fees or costs to any victim of domestic violence, stalking, or sexual assault in connection with the prosecution of a domestic violence, stalking, or sexual assault offense in this state.

~~I.~~ K. In the course of prosecuting any charge of domestic abuse, stalking, harassment, rape, or violation of a protective order, the prosecutor shall provide the court, prior to sentencing or any plea agreement, a local history and any other available history of past convictions of the defendant within the last ten (10) years relating to domestic abuse, stalking, harassment, rape, violation of a protective order, or any other violent misdemeanor or felony convictions.

L. For purposes of subsection D of this section, "great bodily injury" means bone fracture, protracted and obvious disfigurement, protracted loss or impairment of the function of a body part, organ or mental faculty, or substantial risk of death.

SECTION 13. REPEALER 21 O.S. 2001, Section 644, as amended by Section 1, Chapter 520, O.S.L. 2004 (21 O.S. Supp. 2004, Section 644), is hereby repealed.

SECTION 14. AMENDATORY 21 O.S. 2001, Section 1767.1, as last amended by Section 8, Chapter 275, O.S.L. 2004 (21 O.S. Supp. 2004, Section 1767.1), is amended to read as follows:

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

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

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

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

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

5. Place in, upon, under, against or near to any building, car, truck, aircraft, motor or other vehicle, vessel, railroad, railway car, or locomotive or structure, any foul, poisonous, offensive or injurious substance or compound ~~or~~, explosive, incendiary device, or

simulated bomb with intent to wrongfully injure, molest or coerce another person or to injure or damage the property of another person; or

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

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

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

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

B. Nothing contained herein shall be construed to apply to, or repeal any laws pertaining to, the acts of mischief of juveniles involving no injurious firecrackers or devices commonly called "stink bombs".

SECTION 15. REPEALER 21 O.S. 2001, Section 1767.1, as last amended by Section 2, Chapter 130, O.S.L. 2004 (21 O.S. Supp. 2004, Section 1767.1), is hereby repealed.

SECTION 16. AMENDATORY 22 O.S. 2001, Section 979a, as last amended by Section 1, Chapter 455, O.S.L. 2004 (22 O.S. Supp. 2004, Section 979a), is amended to read as follows:

Section 979a. A. The municipal attorney or district attorney shall ask the court to require a person confined in a city or county jail, for any offense, to pay the jail facility the costs of incarceration, both before and after conviction, upon conviction or receiving a deferred sentence. The costs of incarceration shall be collected by the clerk of the court as provided for collection of

other costs and fines, which shall be subject to review under the procedures set forth in Section VIII of the Rules of the Oklahoma Court of Criminal Appeals, Chapter 18, Appendix of Title 22. Costs of incarceration shall include booking, receiving and processing out, housing, food, clothing, medical care, dental care, and psychiatric services. The costs for incarceration shall be an amount equal to the actual cost of the services and shall be determined by the chief of police for city jails, by the county sheriff for county jails or by contract amount, if applicable. The cost of incarceration shall be paid by the court clerk when collected to the municipality, county or other public entity responsible for the operation of all jail facilities where the person is held before and after conviction. ~~Five percent (5%)~~ Ten percent (10%) of any amount collected by the court clerk shall be paid to the municipal attorney's or district attorney's office, ~~five percent (5%) shall be transmitted by the court clerk to the District Attorneys Council Revolving Fund, established by Section 215.28 of Title 19 of the Oklahoma Statutes, to be used to fund personnel to process victim compensation claims in district offices designated by the Crime Victims Compensation Board~~ and the remaining amount shall be paid to the municipality, the sheriff's service fee account or, if the sheriff does not operate the jail facility, the remaining amount shall be deposited with the public entity responsible for the operation of the jail facility where the person is held. The court shall order the defendant to reimburse all actual costs of incarceration, upon conviction or upon entry of a deferred judgment and sentence unless the defendant is a mentally ill person as defined by Section 1-103 of Title 43A of the Oklahoma Statutes. The sheriff shall give notice to the defendant of the actual costs owed before any court-ordered costs are collected. The defendant shall have an opportunity to object to the amount of costs solely on the grounds that the number of days served is incorrect. If no

objection is made, the costs may be collected in the amount stated in the notice to the defendant. The sheriff, municipality or other public entity responsible for the operation of the jail may collect costs of incarceration ordered by the court from the inmate's jail account. If the funds collected from the inmate's jail account are insufficient to satisfy the actual incarceration costs ordered by the court, the sheriff, municipality or other public entity responsible for the operation of the jail is authorized to collect the remaining balance of the incarceration costs by civil action. When the sheriff, municipality or other public entity responsible for the operation of the jail collects any court-ordered incarceration costs from an inmate's jail account or by criminal or civil action, the court clerk shall be notified of the amount collected.

B. Any offender receiving routine or emergency medical services or medications or injured during the commission of a felony or misdemeanor offense and administered any medical care shall be required to reimburse the sheriff, municipality or other public entity responsible for the operation of the jail, the full amount paid by the sheriff, municipality or other public entity responsible for the operation of the jail for any medical care or treatment administered to such offender during any period of incarceration or preceding incarceration in that jail facility. The sheriff, municipality or other public entity responsible for the operation of the jail may deduct the costs of medical care and treatment as authorized by Section 531 of Title 19 of the Oklahoma Statutes. If the funds collected from the inmate's jail account are insufficient to satisfy the actual medical costs paid, the sheriff, municipality or other public entity responsible for the operation of the jail shall be authorized to collect the remaining balance of the medical care and treatment by civil actions.

C. Costs of incarceration shall be a debt of the inmate owed to the municipality, county, or other public entity responsible for the operation of the jail and may be collected as provided by law for collection of any other civil debt or criminal penalty. Jail fees shall not exceed Three Thousand Dollars ($3,000.00).

SECTION 17. REPEALER 22 O.S. 2001, Section 979a, as last amended by Section 11, Chapter 275, O.S.L. 2004 (22 O.S. Supp. 2004, Section 979a), is hereby repealed.

SECTION 18. AMENDATORY 22 O.S. 2001, Section 991c, as last amended by Section 12, Chapter 275, O.S.L. 2004 (22 O.S. Supp. 2004, Section 991c), is amended to read as follows:

Section 991c. A. Upon a verdict or plea of guilty or upon a plea of nolo contendere, but before a judgment of guilt, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings upon the specific conditions prescribed by the court not to exceed a five-year period. The court shall first consider restitution among the various conditions it may prescribe. The court may also consider ordering the defendant to:

1. Pay court costs;

2. Pay an assessment in lieu of any fine authorized by law for the offense;

3. Pay any other assessment or cost authorized by law;

4. Engage in a term of community service without compensation, according to a schedule consistent with the employment and family responsibilities of the defendant;

5. County jail confinement for a period not to exceed ninety (90) days or the maximum amount of jail time provided for the offense, if it is less than ninety (90) days;

6. Pay an amount as reimbursement for reasonable attorney fees, to be paid into the court fund, if a court-appointed attorney has been provided to defendant;

7. Be supervised in the community for a period not to exceed two (2) years. As a condition of any supervision, the defendant shall be required to pay a supervision fee of Forty Dollars ($40.00) per month. The supervision fee shall be waived in whole or part by the supervisory agency when the accused is indigent. No person shall be denied supervision based solely on the person's inability to pay a fee;

8. Pay into the court fund a monthly amount not exceeding Forty Dollars ($40.00) per month during any period during which the proceedings are deferred when the defendant is not to be supervised in the community. The total amount to be paid into the court fund shall be established by the court and shall not exceed the amount of the maximum fine authorized by law for the offense;

9. Make other reparations to the community or victim as required and deemed appropriate by the court;

10. Order any conditions which can be imposed for a suspended sentence pursuant to paragraph 1 of subsection A of Section 991a of this title; or

11. Any combination of the above provisions.

B. In addition to any conditions of supervision provided for in subsection A of this section, the court shall, in the case of a person before the court for the offense of operating or being in control of a motor vehicle while the person was under the influence of alcohol, other intoxicating substance, or a combination of alcohol and another intoxicating substance, or who is before the court for the offense of operating a motor vehicle while the ability of the person to operate such vehicle was impaired due to the consumption of alcohol, require the person to participate in an alcohol and drug substance abuse evaluation program offered by a facility or qualified practitioner certified by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating the receptivity to treatment and prognosis of the person.

The court shall order the person to reimburse the facility or qualified practitioner for the evaluation. The Department of Mental Health and Substance Abuse Services shall establish a fee schedule, based upon a person's ability to pay, provided the fee for an evaluation shall not exceed Seventy-five Dollars ($75.00). The evaluation shall be conducted at a certified facility, the office of a qualified practitioner or at another location as ordered by the court. The facility or qualified practitioner shall, within seventy-two (72) hours from the time the person is assessed, submit a written report to the court for the purpose of assisting the court in its determination of conditions for deferred sentence. No person, agency or facility operating an alcohol and drug substance abuse evaluation program certified by the Department of Mental Health and Substance Abuse Services shall solicit or refer any person evaluated pursuant to this subsection for any treatment program or alcohol and drug substance abuse service in which the person, agency or facility has a vested interest; however, this provision shall not be construed to prohibit the court from ordering participation in or any person from voluntarily utilizing a treatment program or alcohol and drug substance abuse service offered by such person, agency or facility. Any evaluation report submitted to the court pursuant to this subsection shall be handled in a manner which will keep the report confidential from the general public's review. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence in the event the defendant fails or refuses to comply with an order of the court to obtain the evaluation required by this subsection. As used in this subsection, "qualified practitioner" means a person with at least a bachelor's degree in substance abuse treatment, mental health or a related health care field and at least two (2) years' experience in providing alcohol abuse treatment, other drug abuse treatment, or both alcohol and other drug abuse treatment who

is certified each year by the Department of Mental Health and Substance Abuse Services to provide these assessments. However, any person who does not meet the requirements for a qualified practitioner as defined herein, but who has been previously certified by the Department of Mental Health and Substance Abuse Services to provide alcohol or drug treatment or assessments, shall be considered a qualified practitioner provided all education, experience and certification requirements stated herein are met by September 1, 1995. The court may also require the person to participate in one or both of the following:

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

2. A victims impact panel program, if such a program is offered in the county where the judgment is rendered. The defendant shall be required to pay a fee, not less than Five Dollars ($5.00) nor more than Fifteen Dollars ($15.00) as set by the governing authority of the program and approved by the court, to the victims impact panel program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee.

C. Upon completion of the conditions of the deferred judgment, and upon a finding by the court that the conditions have been met and all fines, fees, and monetary assessments have been paid as ordered, the defendant shall be discharged without a court judgment of guilt, and the court shall order the verdict or plea of guilty or plea of nolo contendere to be expunged from the record and the charge shall be dismissed with prejudice to any further action. The procedure to expunge the defendant's record shall be as follows:

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

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

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

4. No information concerning the confidential file shall be revealed or released, except upon written order of a judge of the district court or upon written request by the named defendant to the court clerk for the purpose of updating the defendant's criminal history record with the Oklahoma State Bureau of Investigation; and

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

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

E. Upon violation of any condition of the deferred judgment, the court may enter a judgment of guilt and proceed as provided in Section 991a of this title or may modify any condition imposed. Provided, however, if the deferred judgment is for a felony offense, and the defendant commits another felony offense, the defendant shall not be allowed bail pending appeal.

F. The deferred judgment procedure described in this section shall apply only to defendants who have not been previously convicted of a felony offense and have not received a deferred judgment for a felony offense within the ten (10) years previous to the commission of the pending offense.

Provided, the court may waive this prohibition upon written application of the district attorney. Both the application and the waiver shall be made a part of the record of the case.

G. The deferred judgment procedure described in this section shall not apply to defendants found guilty or who plead guilty or nolo contendere to a sex offense required by law to register pursuant to the Sex Offenders Registration Act.

SECTION 19. REPEALER 22 O.S. 2001, Section 991c, as last amended by Section 1, Chapter 145, O.S.L. 2004 (22 O.S. Supp. 2004, Section 991c), is hereby repealed.

SECTION 20. AMENDATORY 26 O.S. 2001, Section 3-119, as amended by Section 4, Chapter 545, O.S.L. 2004 (26 O.S. Supp. 2004, Section 3-119), is amended to read as follows:

Section 3-119. A. Except as provided in subsection B of this section, if fewer than ~~one~~ two hundred registered voters are affected, an area constituting the maximum area possible without crossing boundaries of any district court judicial district electoral division or any congressional, legislative or county commissioner district may be designated as a subprecinct.

B. In metropolitan statistical areas, if fewer than three hundred registered voters are affected, an area constituting the maximum area possible without crossing boundaries of any district court judicial district electoral division or any congressional, legislative or county commissioner district may be designated as a subprecinct.

C. Registration records shall be maintained for subprecincts in like manner as for other precincts. Subprecincts need not have a polling place separate from another precinct, nor shall they be required to have a precinct election board. The secretary of the county election board may authorize registered voters of a subprecinct to vote at a specific adjacent precinct. Provided, separate election materials shall be there afforded for the subprecinct in order that a separate certification will be made of the subprecinct's election results. Appropriate ballots shall be issued to the voters of the subprecinct.

SECTION 21. REPEALER 26 O.S. 2001, Section 3-119, as amended by Section 2, Chapter 307, O.S.L. 2004 (26 O.S. Supp. 2004, Section 3-119), is hereby repealed.

SECTION 22. REPEALER 26 O.S. 2001, Section 14-115.5, as amended by Section 9, Chapter 307, O.S.L. 2004 (26 O.S. Supp. 2004, Section 14-115.5), is hereby repealed.

SECTION 23. AMENDATORY 27A O.S. 2001, Section 2-3-501, as amended by Section 1, Chapter 141, O.S.L. 2004 (27A O.S. Supp. 2004, Section 2-3-501), is amended to read as follows:

Section 2-3-501. A. Any duly authorized representative of the Department of Environmental Quality shall have the power to enter at reasonable times upon any private or public property for the purpose of sampling, inspecting and investigating conditions relating to pollution, damage to natural resources or the possible pollution of any air, land or waters of the state or the environment or relating to any other environmental or permitting responsibility authorized by law.

B. If the property to be entered has been identified on the federal National Priority List as a Superfund site or otherwise identified for an action under the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C., Section 9601 et seq.) and the Department of Environmental Quality has been designated by the United States Environmental Protection Agency as lead agency for CERCLA activities at the site, any duly authorized representative of the Department shall have the power, in addition to the powers listed in subsection A of this section, to enter for purposes of conducting those CERCLA activities or to prevent unreasonable interference with such activities or remedies. The Department may seek administrative or judicial remedies for any person's refusal to allow, or interference with, entry for this purpose.

C. The Department may require the establishment and maintenance of records and reports relating to any activity regulated by the Department. Copies of such records shall be submitted to the Department on request. Any authorized representative of the

Department shall be allowed access and may examine such reports or records.

D. The Department may apply to and obtain from a judge of the district court, an order authorizing an administrative warrant to enforce access to premises for sampling, investigation, inquiry and inspection under the provisions of this Code and the rules promulgated by the Board. Failure to obey an administrative warrant of the district court may be punished by the district court as a contempt of court.

E. The Executive Director may appoint commissioned peace officers, certified by the Council on Law Enforcement Education and Training, to investigate environmental crimes. Peace officers who become employed under this section who have service credit in the Oklahoma Law Enforcement Retirement System may, within thirty (30) days after becoming employed, elect to continue membership in the Oklahoma Law Enforcement Retirement System; otherwise they shall be eligible to enroll only in the Oklahoma Public Employees Retirement System.

SECTION 24. REPEALER 27A O.S. 2001, Section 2-3-501, as amended by Section 1, Chapter 111, O.S.L. 2004 (27A O.S. Supp. 2004, Section 2-3-501), is hereby repealed.

SECTION 25. AMENDATORY 27A O.S. 2001, Section 2-7-123, as amended by Section 2, Chapter 141, O.S.L. 2004 (27A O.S. Supp. 2004, Section 2-7-123), is amended to read as follows:

Section 2-7-123. A. Upon issuance of any permit issued pursuant to the requirements of the Oklahoma Hazardous Waste Management Act, the Department of Environmental Quality shall file a recordable notice of the permit in the land records of the county in which the site is located. The notice shall contain the legal description of the site as well as the terms under which the permit was issued.

B. The Department shall file a recordable notice of remediation or related action taken pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act in the land records of the county in which the site is located. The notice shall contain a legal description of the affected property and shall identify all engineering controls used to ensure the effectiveness of the ~~remedial action~~ remediation.

C. When remediation of contaminated property to risk-based standards is performed under an order of or a remediation plan approved by the Department, the Department shall file a recordable notice of remediation taken in the land records of the county in which the property is located. The notice shall contain a legal description of the affected property and shall identify all engineering controls used to ensure the effectiveness of the ~~remedial action~~ remediation.

D. The notices required in subsections B and C of this section shall also contain a prohibition against engaging in any activities that cause or could cause damage to the ~~remedy~~ remediation or the engineering controls, or recontamination of the soil or groundwater. The notices shall also contain any appropriate restrictions on land use or other activities that are incompatible with the cleanup level, including, but not limited to, restrictions against using groundwater for drinking or irrigation purposes or redeveloping the land for residential use. Any person who damages or interferes with the ~~remedy~~ remediation, the engineering controls, or continuing operation, maintenance or monitoring of the site is liable to repair the damage or remedy the interference, or for costs incurred by the Department in doing so. The Department may take administrative or civil action to recover costs or to compel compliance with this subsection.

SECTION 26. REPEALER 27A O.S. 2001, Section 2-7-123, as amended by Section 2, Chapter 111, O.S.L. 2004 (27A O.S. Supp. 2004, Section 2-7-123), is hereby repealed.

SECTION 27. REPEALER 27A O.S. 2001, Section 2-15-102, as amended by Section 3, Chapter 111, O.S.L. 2004 (27A O.S. Supp. 2004, Section 2-15-102), is hereby repealed.

SECTION 28. REPEALER 27A O.S. 2001, Section 2-15-103, as amended by Section 4, Chapter 111, O.S.L. 2004 (27A O.S. Supp. 2004, Section 2-15-103), is hereby repealed.

SECTION 29. REPEALER 27A O.S. 2001, Section 2-15-105, as amended by Section 5, Chapter 111, O.S.L. 2004 (27A O.S. Supp. 2004, Section 2-15-105), is hereby repealed.

SECTION 30. REPEALER 27A O.S. 2001, Section 2-15-106, as amended by Section 6, Chapter 111, O.S.L. 2004 (27A O.S. Supp. 2004, Section 2-15-106), is hereby repealed.

SECTION 31. AMENDATORY 28 O.S. 2001, Section 153, as last amended by Section 4, Chapter 525, O.S.L. 2004 (28 O.S. Supp. 2004, Section 153), is amended to read as follows:

Section 153. A. The clerks of the courts shall collect as costs in every criminal case for each offense of which the defendant is convicted, irrespective of whether or not the sentence is deferred, the following flat charges and no more, except for standing and parking violations and for charges otherwise provided for by law, which fee shall cover docketing of the case, filing of all papers, issuance of process, warrants, orders, and other services to the date of judgment:

1. For each defendant convicted of exceeding the speed limit by at least one (1) mile per hour but not more than ten (10) miles per hour, whether charged individually or conjointly with others..... $77.00

2. For each defendant convicted of a misdemeanor traffic violation other than an offense provided for in paragraph 1 or 5 of this subsection, whether charged individually or conjointly with others..... ~~$88.00~~ $98.00

3. For each defendant convicted of a misdemeanor, other than for driving under the influence of alcohol or other intoxicating substance or an offense provided for in paragraph 1 or 2 of this subsection, whether charged individually or conjointly with others..... ~~$83.00~~ $93.00

4. For each defendant convicted of a felony, other than for driving under the influence of alcohol or other intoxicating substance, whether charged individually or conjointly with others..... $103.00

5. For each defendant convicted of the misdemeanor of driving under the influence of alcohol or other intoxicating substance, whether charged individually or conjointly with others..... ~~$283.00~~ $383.00

6. For each defendant convicted of the felony of driving under the influence of alcohol or other intoxicating substance, whether charged individually or conjointly with others..... ~~$283.00~~ $383.00

7. For the services of a court reporter at each preliminary hearing and trial held in the case..... $20.00

8. For each time a jury is requested..... $30.00

9. A sheriff's fee for serving or endeavoring to serve each writ, warrant, order, process, command, or notice or pursuing any fugitive from justice

a. within the county..... $30.00, or mileage as established by the Oklahoma Statutes, whichever is greater, or

b. outside of the county..... $30.00, or actual, necessary expenses, whichever is greater

10. For the services of a language interpreter, other than an interpreter appointed pursuant to the provisions of the Oklahoma Interpreter for the Deaf Act, at each hearing held in the case, the actual cost of the interpreter.

B. In addition to the amount collected pursuant to paragraphs 2 through 5 of subsection A of this section, the sum of Six Dollars ($6.00) shall be assessed and credited to the Law Library Fund pursuant to Section 1201 et seq. of Title 20 of the Oklahoma Statutes.

C. In addition to the amount collected pursuant to subsection A of this section, the sum of Ten Dollars ($10.00) shall be assessed and collected ~~for each~~ in every traffic case for each offense other than for driving under the influence of alcohol or other intoxicating substance; the sum of Fifteen Dollars ($15.00) shall be

assessed and collected ~~for each~~ in every misdemeanor case for each offense; the sum of Fifteen Dollars ($15.00) shall be assessed and collected ~~for each~~ in every misdemeanor case for each offense for driving under the influence of alcohol or other intoxicating substance; the sum of Twenty-five Dollars ($25.00) shall be assessed and collected ~~for each~~ in every felony case for each offense; and the sum of Twenty-five Dollars ($25.00) shall be assessed and collected ~~for each~~ in every felony case for each offense for driving under the influence of alcohol or other intoxicating substance.

D. In addition to the amounts collected pursuant to subsections A and B of this section, the sum of Ten Dollars ($10.00) shall be assessed and credited to the Oklahoma Court Information System Revolving Fund created pursuant to Section 1315 of Title 20 of the Oklahoma Statutes.

E. Prior to conviction, parties in criminal cases shall not be required to pay, advance, or post security for the services of a language interpreter or for the issuance or service of process to obtain compulsory attendance of witnesses.

F. The fees collected pursuant to this section shall be deposited into the court fund, except the following:

1. The sheriff's fee provided for in paragraph 9 of subsection A of this section which, when collected, shall be deposited in the Sheriff's Service Fee Account, created pursuant to the provisions of Section 514.1 of Title 19 of the Oklahoma Statutes, of the sheriff in the county in which service is made or attempted;

2. The sheriff’s fee provided for in Section 153.2 of this title;

3. The witness fees paid by the district attorney pursuant to the provisions of Section 82 of this title which, if collected by the court clerk, shall be transferred to the district attorney’s office in the county where witness attendance was required. Fees

transferred pursuant to this paragraph shall be deposited in the district attorney's maintenance and operating expense account; ~~and~~

4. The fees provided for in subsection C of this section shall be forwarded to the District Attorneys Council Revolving Fund to defray the costs of prosecution; and

5. The following amounts of the fees provided for in paragraphs 2, 3, 5 and 6 of subsection A of this section, when collected, shall be deposited in the Trauma Care Assistance Revolving Fund, created pursuant to the provisions of Section 1-2522 of Title 63 of the Oklahoma Statutes:

a. Ten Dollars ($10.00) of the Ninety-eight-Dollar fee provided for in paragraph 2 of subsection A of this section,

b. Ten Dollars ($10.00) of the Ninety-three Dollar fee provided for in paragraph 3 of subsection A of this section,

c. One Hundred Dollars ($100.00) of the Three-Hundred-Eighty-three-Dollar fee provided for in paragraph 5 of subsection A of this section, and

d. One Hundred Dollars ($100.00) of the Three-Hundred-Eighty-three-Dollar fee provided for in paragraph 6 of subsection A of this section.

G. Costs required to be collected pursuant to this section shall not be dismissed or waived; provided, if the court determines that a person needing the services of a language interpreter is indigent, the court may waive all or part of the costs or require the payment of costs in installments.

H. As used in this section, "convicted" means any final adjudication of guilt, whether pursuant to a plea of guilty or nolo contendere or otherwise, and any deferred judgment or suspended sentence.

I. A court clerk may accept in payment for any fee, fine, or cost for violation of any traffic law a nationally recognized credit card issued to the applicant. The court clerk may add an amount equal to the amount of the service charge incurred, not to exceed four percent (4%) of the amount of the payment as a service charge for the acceptance of the credit card. For purposes of this paragraph, "nationally recognized credit card" means any instrument or device, whether known as a credit card, credit plate, charge plate, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining goods, services, or anything else of value and which is accepted by over one thousand (1,000) merchants in this state. The court clerk shall determine which nationally recognized credit cards will be accepted as payment for fees; provided, the court clerk must ensure that no loss of state revenue will occur by the use of such cards.

J. Upon receipt of payment of fines and costs for offenses charged prior to July 1, 1992, the court clerk shall apportion and pay Thirteen Dollars ($13.00) per conviction to the court fund.

SECTION 32. REPEALER 28 O.S. 2001, Section 153, as last amended by Section 2, Chapter 386, O.S.L. 2004 (28 O.S. Supp. 2004, Section 153), is hereby repealed.

SECTION 33. REPEALER 28 O.S. 2001, Section 153, as last amended by Section 1, Chapter 451, O.S.L. 2004 (28 O.S. Supp. 2004, Section 153), is hereby repealed.

SECTION 34. REPEALER 29 O.S. 2001, Section 4-114, as last amended by Section 2, Chapter 284, O.S.L. 2004 (29 O.S. Supp. 2004, Section 4-114), is hereby repealed.

SECTION 35. REPEALER Section 11, Chapter 160, O.S.L. 2003, as amended by Section 1, Chapter 84, O.S.L. 2004 (29 O.S. Supp. 2004, Section 4-139), is hereby repealed.

SECTION 36. AMENDATORY 36 O.S. 2001, Section 903, as amended by Section 7, Chapter 519, O.S.L. 2004 (36 O.S. Supp. 2004, Section 903), is amended to read as follows:

Section 903. A. 1. Except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every ~~insurer~~ insurance company governed by the provisions of this act shall file with the Board, either directly or through a licensed rating organization of which it is a member or subscriber, all rates and rating plans and classifications, class rates, rating schedules, loss cost and all other supplementary rate information and every modification of any of the foregoing, which it uses or proposes to use in this state except as otherwise provided in this section.

2. The Board shall send a notification of filing of rates to any person who annually requests, in writing, to be notified of filings pursuant to regulation of the Board.

3. The Attorney General shall be notified within ten (10) days, in writing, of each:

a. filing of rates, whether for prior approval or for immediate use, and

b. certification of completion of a filing.

4. The Attorney General shall be notified at least ten (10) days in advance, in writing, of each:

a. meeting of the Board, and

b. hearing conducted by the Board.

B. Rates, rating plans, classifications, schedules, loss cost and other information shall be deemed approved thirty (30) calendar days following certification of completion of the filing as provided in this act unless, within the thirty (30) calendar-day period:

1. The Board by majority vote, approves, disapproves or approves with modification, the filing at one of its scheduled meetings or hearings;

2. The Board orders a formal hearing on the filing; or

3. The Board or the Commissioner, if a quorum of the Board is not available at the next regularly scheduled meeting, extends this period for one additional thirty (30) calendar-day period.

C. Nothing in this act shall be construed to require any filing for approval of rates, rating plans, classifications, schedules, loss cost and other information approved by the Board prior to the effective date of this act.

D. Any formal hearing ordered by the Board shall be completed and a written order on the filing issued by the Board within ninety (90) calendar days from the date of the order setting the formal hearing, or the filing shall be deemed approved at the expiration of the ninety-day period.

E. Rates or risks which are not by general custom of the business, or because of rarity or peculiar characteristics, written according to normal classification or rating procedure and which cannot be practicably filed before they are used, may be used before being filed. The Board may make such examination as it may deem advisable to ascertain whether any such rates meet the requirements of this act.

F. Whenever it shall be made to appear to the Board, either from its own information or from complaint of any party alleging to be aggrieved thereby, that there are reasonable grounds to believe that the rates on any or on all risks or classes of risks or kinds of insurance within the scope of this article are not in accordance with the terms of this act, it shall be the duty of the Board to investigate and determine whether or not any or all of such rates meet the requirements of this act.

G. When investigating rates to determine whether or not they comply with the provisions of this act, the previously approved filing shall not be changed, altered, amended, or held in abeyance until after completion of the investigation and an opportunity for

hearing in accordance with the provisions of this article. Following such hearing, the Board shall enter its order in accordance with the provisions of this act. The effective date of such order shall not be less than thirty (30) days nor more than sixty (60) days after the date of the order unless the Board determines that, in the public interest, a shorter or longer period is appropriate; provided, the filer has adequate time to implement such rate change. Any such order shall apply prospectively only and shall not affect premiums collected on new or renewal policies issued prior to the effective date of this order.

H. Under such rules ~~and regulations~~ as it shall adopt, the Board may, by written order, suspend or modify the requirements of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The Board may make such examination as it may deem advisable to ascertain whether any rates affected by such order meet the standards set forth in this act. This subsection shall not apply to workers' compensation filings.

I. Any filing with respect to fidelity, surety or guaranty bonds shall, however, be deemed approved from the date of filing.

J. If the Board finds that a filing does not meet the requirements of this act, it shall send to the insurer or rating organization which made such filing, written notice of disapproval of such filing, specifying therein in what respects it finds that such filing fails to meet the requirements of this act and stating that such filing shall not become effective to the extent disapproved.

SECTION 37. REPEALER 36 O.S. 2001, Section 903, as amended by Section 6, Chapter 274, O.S.L. 2004 (36 O.S. Supp. 2004, Section 903), is hereby repealed.

SECTION 38. AMENDATORY 36 O.S. 2001, Section 941, as amended by Section 10, Chapter 519, O.S.L. 2004 (36 O.S. Supp. 2004, Section 941), is amended to read as follows:

Section 941. A. No insurance carrier who issues motor vehicle insurance policies in this state shall assign driving record points, cancel, refuse to issue or renew, or charge a higher premium rate for any motor vehicle liability or collision insurance policy for the reason that the insured has been involved in a motor vehicle collision and was not at fault.

B. No insurance carrier who issues motor vehicle insurance policies in this state shall cancel, refuse to issue or renew, or charge a higher premium for any motor vehicle liability or collision insurance policy for the reason that the insured had lower liability limits with a previous insurer without actuarial justification. This prohibition includes using prior limits for company or tier placement unless the insurer provides actuarial justification.

C. This section shall not apply to an insured who has been convicted of:

1. Homicide or assault arising out of the operation of any motor vehicle; or

2. A violation of Section 11-902 or 761 of Title 47 of the Oklahoma Statutes as being impaired by or under the influence of alcohol or intoxicating liquor or who was under the influence of any substance included in the Uniform Controlled Dangerous Substances Act.

SECTION 39. REPEALER 36 O.S. 2001, Section 941, as amended by Section 1, Chapter 96, O.S.L. 2004 (36 O.S. Supp. 2004, Section 941), is hereby repealed.

SECTION 40. AMENDATORY 37 O.S. 2001, Section 521, as last amended by Section 1, Chapter 72, O.S.L. 2004 (37 O.S. Supp. 2004, Section 521), is amended to read as follows:

Section 521. A. A brewer license shall authorize the holder thereof: To manufacture, bottle, package, and store beer on licensed premises; to sell beer in this state to holders of Class B wholesaler licenses and retail licenses and to sell beer out of this state to qualified persons.

B. A distiller license shall authorize the holder thereof: To manufacture, bottle, package, and store spirits on licensed premises; to sell spirits in this state to licensed wholesalers and manufacturers only; to sell spirits out of this state to qualified persons; to purchase from licensed distillers and rectifiers in this state, and import spirits from without this state for manufacturing purposes in accordance with federal laws and regulations.

C. A winemaker license shall authorize the holder thereof: To manufacture (including such mixing, blending and cellar treatment as authorized by federal law), bottle, package, and store on licensed premises wine containing not more than twenty-four percent (24%) alcohol by volume, provided the bottle or package sizes authorized shall be limited to the capacities approved by the United States Bureau of Alcohol, Tobacco and Firearms; to sell wine in this state to licensed wholesalers and manufacturers, provided, an Oklahoma winemaker may sell and ship wine produced at a winery in this state directly to retail package stores and restaurants in this state; to sell bottles of wine produced at the winery from grapes and other fruits and berries grown in this state, if available, to consumers on the premises of the winery; to serve visitors on the licensed premises ~~free~~ samples of wine produced on the premises; to serve ~~free~~ samples of wine produced at the winery at festivals and trade shows; to sell wine produced at the winery, in original sealed containers, at festivals and trade shows; to sell wine out of this state to qualified persons; to purchase from licensed winemakers, distillers and rectifiers in this state, and to import into this

state wine, brandy and fruit spirits for use in manufacturing in accordance with federal laws and regulations.

D. A rectifier license shall authorize the holder thereof: To rectify spirits and wines, bottle, package, and store same on the licensed premises; to sell spirits and wines in this state to licensed wholesalers and manufacturers only; to sell spirits and wines out of this state to qualified persons; to purchase from licensed manufacturers in this state; and to import into this state for manufacturing purposes spirits and wines in accordance with federal laws and regulations.

E. A wholesaler license shall authorize the holder thereof: To purchase and import into this state spirits and wines from persons authorized to sell same who are the holders of a nonresident seller license, and their agents who are the holders of manufacturers agent licenses; to purchase spirits and wines from licensed distillers, rectifiers, winemakers and wholesalers in this state; to sell spirits and wines in retail containers in this state to retailers, mixed beverage, caterer, special event, hotel beverage or airline/railroad beverage licensees; to sell spirits in containers with a capacity of less than one-twentieth (1/20) gallon in full case lots and in the original unbroken case to hotel beverage or airline/railroad beverage licensees only; to sell wines in containers with a capacity of less than one-twentieth (1/20) gallon in full case lots and in the original unbroken case; to sell spirits and wines to wholesalers authorized to sell same; to sell spirits and wines out of this state to qualified persons; provided, a wholesaler license shall authorize the holder thereof to sell alcoholic beverages in containers with a capacity of less than one-twentieth (1/20) gallon, if the containers are packaged with other containers and the total capacity is greater than one-twentieth (1/20) gallon. Wholesalers shall be authorized to place such signs

outside their place of business as are required by Acts of Congress and by such laws and regulations promulgated under such Acts.

A wholesaler license shall authorize the holder thereof to operate a single bonded warehouse with a single central office together with delivery facilities at a location in this state only at the principal place of business for which the wholesaler license was granted.

F. A Class B wholesaler license shall authorize the holder thereof: To purchase and import into this state beer from persons authorized to sell same who are the holders of nonresident seller licenses, and their agents who are the holders of manufacturers agent licenses; to purchase beer from licensed brewers and Class B wholesalers in this state; to sell in retail containers to retailers, mixed beverage, caterer, special event, hotel beverage and airline/railroad beverage licensees in this state, beer which has been unloaded and stored at the holder's self-owned or leased and self-operated warehouse facilities for a period of at least twenty-four (24) hours before such sale; and to sell beer in this state to Class B wholesalers and out of this state to qualified persons, including federal instrumentalities and voluntary associations of military personnel on federal enclaves in this state over which this state has ceded jurisdiction.

G. A package store license shall authorize the holder thereof: To purchase alcohol, spirits and beer in retail containers with a capacity of more than one-twentieth (1/20) gallon or in retail containers with a capacity of less than one-twentieth (1/20) gallon if the containers are packaged with other containers and the total capacity is greater than one-twentieth (1/20) gallon, and wine in retail containers with any capacity approved by the United States Bureau of Alcohol, Tobacco and Firearms from the holder of a brewer, wholesaler or Class B wholesaler license and to purchase wine produced at a winery in this state from an Oklahoma winemaker and to

sell same on the licensed premises in such containers to consumers for off-premises consumption only and not for resale; provided, wine may be sold to charitable organizations that are holders of charitable auction licenses. All alcoholic beverages that are sold by a package store are to be sold at ordinary room temperature. No package store licensee may purchase or sell alcohol, spirits or beer in retail containers with a capacity of less than one-twentieth (1/20) gallon, except that a package store licensee may sell alcoholic beverages in retail containers with a capacity of less than one-twentieth (1/20) gallon, if the containers are packaged with other containers and the total capacity is greater than one-twentieth (1/20) gallon.

H. A mixed beverage license shall authorize the holder thereof: To purchase alcohol, spirits or beer in retail containers with a capacity of more than one-twentieth (1/20) gallon and wine in retail containers with a capacity approved by the United States Bureau of Alcohol, Tobacco and Firearms from the holder of a wholesaler or Class B wholesaler license or as specifically provided by law and to sell, offer for sale and possess mixed beverages for on-premises consumption only; provided, the holder of a mixed beverage license issued for an establishment which is also a restaurant may purchase wine produced at wineries in this state directly from an Oklahoma winemaker as provided in Section 3 of Article XXVIII of the Oklahoma Constitution.

Sales and service of mixed beverages by holders of mixed beverage licenses shall be limited to the licensed premises of the licensee unless the holder of the mixed beverage license also obtains a caterer license or a mixed beverage/caterer combination license. A mixed beverage license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business. No

mixed beverage license shall be issued for any place of business functioning as a motion picture theater, as defined by Section 506 of this title.

I. A bottle club license shall authorize the holder thereof: To store, possess and mix alcoholic beverages belonging to members of the club and to serve such alcoholic beverages for on-premises consumption to club members. A bottle club license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has not been authorized. A separate license shall be required for each place of business.

J. A caterer license shall authorize the holder thereof: To sell mixed beverages for on-premises consumption incidental to the sale or distribution of food at particular functions, occasions, or events which are temporary in nature. A caterer license shall not be issued in lieu of a mixed beverage license. A caterer license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business.

K. 1. An annual special event license shall authorize the holder thereof: To sell and distribute mixed beverages for consumption on the premises for which the license has been issued for up to four events to be held over a period not to exceed one (1) year, not to exceed two such events in any three-month period. For purposes of this paragraph, an event shall not exceed a period of ten (10) consecutive days. An annual special event license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. The holder of an annual special event license shall provide written notice to the ABLE Commission of each special event not less than ten (10) days before the event is held.

2. A quarterly special event license shall authorize the holder thereof: To sell and distribute mixed beverages for consumption on the premises for which the license has been issued for up to three events to be held over a period not to exceed three (3) months. For purposes of this paragraph, an event shall not exceed a period of ten (10) consecutive days. A quarterly special event license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. The holder of a quarterly special event license shall provide written notice to the ABLE Commission of each special event not less than ten (10) days before the event is held.

L. A hotel beverage license shall authorize the holder thereof: To sell or serve alcoholic beverages in 50 milliliter spirits, 187 milliliter wine, and 12-ounce malt beverage containers which are distributed from a hotel room mini-bar. A hotel beverage license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A hotel beverage license shall only be issued to a hotel or motel as defined by Section 506 of this title which is also the holder of a mixed beverage license. Provided, that application may be made simultaneously for both such licenses. A separate license shall be required for each place of business.

M. An airline/railroad beverage license shall authorize the holder thereof: To sell or serve alcoholic beverages in or from any size container on a commercial passenger airplane or railroad operated in compliance with a valid license, permit or certificate issued under the authority of the United States or this state, even though the airplane or train, in the course of its travel, may cross an area in which the sale of alcoholic beverages by the individual drink is not authorized and to store alcoholic beverages in sealed containers of any size at any airport or station regularly served by

the licensee, in accordance with rules promulgated by the Alcoholic Beverage Laws Enforcement Commission. Alcoholic beverages purchased by the holder of an airline/railroad license from the holder of a wholesaler license shall be presumed to be purchased for consumption outside the State of Oklahoma or in interstate commerce, and shall be exempt from the excise tax provided for in Section 553 of this title.

N. An agent license shall authorize the holder thereof: To represent only the holders of licenses within this state, other than retailers, authorized to sell alcoholic beverages to retail dealers in Oklahoma, and to solicit and to take orders for the purchase of alcoholic beverages from retailers including licensees authorized to sell alcoholic beverages by the individual drink for on-premises consumption. Such license shall be issued only to agents and employees of the holder of a license under the Oklahoma Alcoholic Beverage Control Act, Section 502 et seq. of this title but no such license shall be required of an employee making sales of alcoholic beverages on licensed premises of the employee's principal. No person holding an agent license shall be entitled to a manufacturers agent license.

O. An employee license shall authorize the holder thereof: To work in a package store, mixed beverage establishment, bottle club, or any establishment where alcohol or alcoholic beverages are sold, mixed, or served. Persons employed by a mixed beverage licensee or a bottle club who do not participate in the service, mixing, or sale of mixed beverages shall not be required to have an employee license. Provided, however, that a manager employed by a mixed beverage licensee or a bottle club shall be required to have an employee license whether or not the manager participates in the service, mixing or sale of mixed beverages. Applicants for an employee license must have a health card issued by the county in which they are employed, if the county issues such a card.

Employees of special event, caterer or airline/railroad beverage licensees shall not be required to obtain an employee license. Persons employed by a hotel licensee who participate in the stocking of hotel room mini-bars or in the handling of alcoholic beverages to be placed in such devices shall be required to have an employee license.

P. An industrial license may be issued to persons desiring to import, transport, and use alcohol for the following purposes:

1. Manufacture of patent, proprietary, medicinal, pharmaceutical, antiseptic, and toilet preparations;

2. Manufacture of extracts, syrups, condiments, and food products; and

3. For use in scientific, chemical, mechanical, industrial, and medicinal products and purposes.

No other provisions of the Oklahoma Alcoholic Beverage Control Act shall apply to alcohol intended for industrial, medical, mechanical, or scientific use.

Any person receiving alcohol under authority of an industrial license who shall use, permit, or cause same to be used for purposes other than authorized purposes specified above, and all such alcohol, shall be liable to all provisions of the Oklahoma Alcoholic Beverage Control Act, including payment of tax thereon.

No provisions of the Oklahoma Alcoholic Beverage Control Act shall apply to alcohol withdrawn by any person free of federal tax under a tax-free permit issued by the United States government, if such alcohol is received, stored, and used as authorized by federal laws.

Q. A carrier license may be issued to any common carrier operating under a certificate of convenience and necessity issued by any duly authorized federal or state regulatory agency. Such license shall authorize the holder thereof to transport alcoholic beverages into, within, and out of this state under such terms,

conditions, limitations, and restrictions as the ABLE Commission may prescribe by order issuing such license and by regulations.

R. A private carrier license may be issued to any carrier other than a common carrier described in subsection P of this section. Such license shall authorize the holder thereof to transport alcoholic beverages into, within, or out of this state under such terms, conditions, limitations, and restrictions as the ABLE Commission may prescribe by order issuing such license and by regulations. No carrier license or private carrier license shall be required of licensed brewers, distillers, winemakers, rectifiers, wholesalers, or Class B wholesalers, to transport alcoholic beverages from the place of purchase or acquisition to the licensed premises of such licensees and from such licensed premises to the licensed premises of the purchaser in vehicles owned or leased by such licensee when such transportation is for a lawful purpose and not for hire.

No carrier license or private carrier license shall be required of the holder of a package store, mixed beverage, caterer, special event, hotel beverage or airline/railroad license to pick up alcoholic beverage orders from the licensees' wholesaler or Class B wholesaler from whom they are purchased, and to transport such alcoholic beverages from the place of purchase or acquisition to the licensed premise of such licensees in vehicles owned or under the control of such licensee or a licensed employee of such licensee under such terms, conditions, limitations and restrictions as the ABLE Commission may prescribe.

S. A bonded warehouse license shall authorize the holder thereof: To receive and store alcoholic beverages for the holders of storage licenses on the licensed premises of the bonded warehouse licensee. No goods, wares or merchandise other than alcoholic beverages may be stored in the same bonded warehouse with alcoholic beverages. The holder of a bonded warehouse license shall furnish

and file with the ABLE Commission a bond running to all bailers of alcoholic beverages under proper storage licenses and their assignees (including mortgagees or other bona fide lienholders) conditioned upon faithful performance of the terms and conditions of such bailments.

T. A storage license may be issued to a holder of a brewer, distiller, winemaker, rectifier, wholesaler, Class B wholesaler, nonresident seller, package store, mixed beverage, caterer, or hotel beverage license, and shall authorize the holder thereof: To store alcoholic beverages in a public warehouse holding a bonded warehouse license, and no goods, wares or merchandise other than alcoholic beverages may be stored in the same warehouse with alcoholic beverages in private warehouses owned or leased and operated by such licensees elsewhere than on their licensed premises. Provided:

1. A storage license issued to a Class B wholesaler shall permit the storage of light beer and permit the sale and delivery to retailers from the premises covered by such license;

2. Any licensee who is the holder of a mixed beverage/caterer combination license or the holder of a mixed beverage license and a hotel beverage license who is issued a storage license shall store all inventories of alcoholic beverages either on the premises of the mixed beverage establishment or in the warehouse;

3. A storage license shall not be required for a special event licensee storing alcoholic beverages for use at a subsequent event; and

4. Notwithstanding the provisions of subsection H of this section or any other provision of this title, a licensee who wholly owns more than one licensed mixed beverage establishment may store alcoholic beverages for each of the licensed establishments in one location under one storage license. Alcoholic beverages purchased and stored pursuant to the provisions of a storage license, for one licensed mixed beverage establishment may be transferred by a

licensee to another licensed mixed beverage establishment which is wholly owned by the same licensee. Notice of such a transfer shall be given in writing to the Oklahoma Tax Commission and the ABLE Commission within three (3) business days of the transfer. The notice shall clearly show the quantity, brand and size of every transferred bottle or case.

U. A sacramental wine supplier license shall authorize the holder thereof: To sell, ship or deliver sacramental wine to any religious corporation or society of this state holding a valid exemption from taxation issued pursuant to Section 501(a) of the Internal Revenue Code, 1986, and listed as an exempt organization in Section 501(c)(3) of the Internal Revenue Code, 1986, of the United States, as amended.

V. A beer and wine license shall authorize the holder thereof: To purchase beer and wine in retail containers with a capacity of more than one-twentieth (1/20) gallon from the holder of a wholesaler or Class B wholesaler license or as specifically provided by law and to sell, offer for sale and possess beer and wine for on-premises consumption only; provided, the holder of a beer and wine license issued for an establishment which is also a restaurant may purchase wine produced at wineries in this state directly from an Oklahoma winemaker as provided in Section 3 of Article XXVIII of the Oklahoma Constitution.

Sales and service of beer and wine by holders of beer and wine licenses shall be limited to the licensed premises of the licensee unless the holder of the beer and wine license also obtains a caterer license. A beer and wine license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business. No beer and wine license shall be issued for any place of business functioning as a motion picture theater, as defined by Section 506

of this title. No spirits shall be stored, possessed or consumed on the licensed premises of a beer and wine licensee.

W. A charitable auction license may be issued to a charitable organization exempt from taxation under Section 501(c)(3), (4), (5), (7), (8), (9), (10), or (19) of the United States Internal Revenue Code. The license shall authorize the holder thereof to auction wine purchased from a retail package store or received as a gift from an individual, if the auction is conducted to raise funds for charitable purposes. The license shall be issued for a period not exceeding two (2) days. Only one such license may be issued to an organization in any twelve-month period. The maximum amount of wine auctioned pursuant to the license shall not exceed fifty (50) gallons. All wines auctioned shall be registered and all fees and taxes shall be paid in accordance with the Oklahoma Alcoholic Beverage Control Act. The auction may be either a live auction conducted by an auctioneer or a silent auction for which bid sheets are accepted from interested bidders.

X. A mixed beverage/caterer combination license shall authorize the holder thereof: To purchase or sell mixed beverages as specifically provided by law for the holder of a mixed beverage license or a caterer license. All provisions of the Oklahoma Alcoholic Beverage Control Act applicable to mixed beverage licenses or caterer licenses, or the holders thereof, shall also be applicable to mixed beverage/caterer combination licenses or the holders thereof, except where specifically otherwise provided. A mixed beverage/caterer combination license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business.

SECTION 41. REPEALER 37 O.S. 2001, Section 521, as last amended by Section 1, Chapter 43, O.S.L. 2004 (37 O.S. Supp. 2004, Section 521), is hereby repealed.

SECTION 42. AMENDATORY 38 O.S. 2001, Section 28, as amended by Section 8, Chapter 525, O.S.L. 2004 (38 O.S. Supp. 2004, Section 28), is amended to read as follows:

Section 28. A. It is the policy of this state that all citizens qualified for jury service pursuant to this section have an obligation to serve on petit juries when summoned by the courts of this state, unless excused.

B. All citizens of the United States, residing in this state, having the qualifications of electors of this state, are competent jurors to serve on all grand and petit juries within their counties; provided, that persons over seventy (70) years of age and persons who have served as a grand or petit juror during the last two (2) immediately preceding calendar years shall not be compelled to serve as jurors in this state and the court may excuse or discharge any juror drawn and summoned as a grand or petit juror if:

1. The prospective juror has a mental or physical condition that causes him or her to be incapable of performing jury service. The juror, or the juror's personal representative, shall provide the court with documentation from a physician licensed to practice medicine verifying that a mental or physical condition renders the person unfit for jury service for a period of up to twenty-four (24) months; or

2. Jury service would cause undue or extreme physical or financial hardship to the prospective juror or a person under his or her care or supervision. A judge of the court for which the individual was called to jury service shall make undue or extreme physical or financial hardship determinations. The authority to make these determinations is delegable only to court officials or personnel who are authorized by the laws of this state to function as members of the judiciary. A person requesting to be excused based on a finding of undue or extreme physical or financial hardship shall take all actions necessary to have obtained a ruling

on that request by no later than the date on which the individual is scheduled to appear for jury duty. For purposes of this act, "undue or extreme physical or financial hardship" is limited to circumstances in which an individual would be required to abandon a person under his or her personal care or supervision due to the impossibility of obtaining an appropriate substitute caregiver during the period of participation in the jury pool or on the jury, incur costs that would have a substantial adverse impact on the payment of the individual's necessary daily living expenses or on those for whom he or she provides the principle means of support, or suffer physical hardship that would result in illness or disease. Undue or extreme physical or financial hardship does not exist solely based on the fact that a prospective juror will be required to be absent from his or her place of employment. A person requesting a judge to grant an excuse based on undue or extreme physical or financial hardship shall be required to provide the judge with documentation, such as, but not limited to, federal and state income tax returns, medical statements from licensed physicians, proof of dependency or guardianship, and similar documents, which the judge finds to clearly support the request to be excused. Failure to provide satisfactory documentation shall result in a denial of the request to be excused.

After two (2) years, a person excused from jury service shall become eligible once again for qualification as a juror unless the person was excused from service permanently. A person is excused from jury service permanently only when the deciding judge determines that the underlying grounds for being excused are of a permanent nature.

C. Persons who are not qualified to serve as jurors are:

1. Justices of the Supreme Court or the Court of Civil Appeals;

2. Judges of the Court of Criminal Appeals or the district court;

3. Sheriffs or deputy sheriffs;

4. Jailers or law enforcement officers, state or federal, having custody of prisoners;

5. Licensed attorneys engaged in the practice of law;

6. Persons who have been convicted of any felony or who have served a term of imprisonment in any penitentiary, state or federal, for the commission of a felony; provided, any such citizen convicted, who has been fully restored to his or her civil rights, shall be eligible to serve as a juror; and

7. Legislators during a session of the Legislature or when involved in state business.

D. Mothers who are breast-feeding a baby, upon their request, shall be exempt from service as jurors.

SECTION 43. REPEALER 38 O.S. 2001, Section 28, as amended by Section 2, Chapter 332, O.S.L. 2004 (38 O.S. Supp. 2004, Section 28), is hereby repealed.

SECTION 44. AMENDATORY 47 O.S. 2001, Section 2-105.6, as amended by Section 2, Chapter 161, O.S.L. 2004 (47 O.S. Supp. 2004, Section 2-105.6), is amended to read as follows:

Section 2-105.6 A. There is hereby created within the Oklahoma Highway Patrol Division of the Department of Public Safety a Lake Patrol Section which shall consist of such employees as may be necessary to enforce the provisions of Section 4001 et seq., Section 4101 et seq., and Section 4200 et seq. of Title 63 of the Oklahoma Statutes. All commissioned officers of the Lake Patrol Section as designated by the Commissioner shall have the authority to stop and board any vessel subject to Section 4001 et seq. of Title 63 of the Oklahoma Statutes and make any necessary arrest for violations of Section 4001 et seq. of Title 63 of the Oklahoma Statutes or the rules promulgated by the Department of Public Safety or the Department of Wildlife Conservation or take any other action within their lawful authority. Any statutory references to the Oklahoma

Lake Patrol Division shall mean the Lake Patrol Section of the Oklahoma Highway Patrol Division of the Department of Public Safety.

B. Any officer of the Lake Patrol Section of the Oklahoma Highway Patrol Division of the Department of Public Safety may request reclassification to the equivalent lateral position, rank and salary within the Oklahoma Highway Patrol Division and shall be reclassified to such position if the officer:

1. Meets the requirements of paragraph 2 of subsection B of Section 2-105 of this title. Provided, such officer shall be exempt from the maximum age limitation;

2. Satisfactorily completes a course of training as prescribed by the Commissioner; and

3. Serves a twelve-month probationary period which shall commence upon entering into the course of training required by paragraph 2 of this subsection.

C. All commissioned officers of the Lake Patrol Section of the Oklahoma Highway Patrol Division of the Department of Public Safety shall have, in addition to their primary duty as prescribed in subsection A of this section, a secondary duty to enforce all state statutes, to make arrests for violations and to perform other duties as prescribed by the Commissioner.

D. 1. a. Effective January 1, 2005, the annual salaries for the commissioned officers within the Lake Patrol Section of the Oklahoma Highway Patrol Division of the Department of Public Safety shall be in accordance and conformity with the following salary schedule, exclusive of longevity pay, as authorized by Section 840-2.18 of Title 74 of the Oklahoma Statutes, expense allowance, as authorized by Section 2-130 of this title, and irregular shift pay, as authorized by Section 2-130.1 of this title:

Patrol First Lieutenant	$56,543.00

Patrol Supervisor	$52,606.00
Patrolman	
Step 6	$45,881.00
Step 7	$49,387.00

b. On January 1, 2005, each Patrolman shall be assigned and the salary of such Patrolman shall be adjusted to the salary schedule provided for in subparagraph a of this paragraph. Such initial adjustment of salaries shall be to the step whose number corresponds to the number of completed years of service the Patrolman has accumulated in the Highway Patrol Division, including service in the former Lake Patrol Division of the Department of Public Safety. Provided, however, no such Patrolman shall receive less than the salary the Patrolman was receiving on December 31, 2004. If the number of completed years of service of such Patrolman exceeds seven (7) years on January 1, 2005, the Patrolman shall be assigned to and the Patrolman's salary adjusted to Step 7 of the salary schedule.

c. Beginning January 2, 2005, through June 30, 2005, inclusive, each Patrolman shall receive upon the anniversary date of the Patrolman an annual salary increase to the next higher step of the salary schedule provided for in subparagraph a of this paragraph if such Patrolman, within the preceding twelve-month period:

(1) has achieved a satisfactory Performance Rating Score,

(2) has not received any disciplinary action which has resulted in any suspension from the Department for a period of ten (10) or more days, and

(3) has not received any disciplinary action which has resulted in demotion.

If the number of completed years of service on the anniversary date of the Patrolman is or exceeds seven (7) years, the Patrolman shall be assigned to, and the salary of the Patrolman adjusted to, Step 7 of the salary schedule.

2. a. Effective July 1, 2005, the annual salaries for the commissioned officers within the Lake Patrol Section of the Oklahoma Highway Patrol Division of the Department of Public Safety shall be in accordance and conformity with the following salary schedule, exclusive of longevity pay, as authorized by Section 840-2.18 of Title 74 of the Oklahoma Statutes, expense allowance, as authorized by Section 2-130 of this title, and irregular shift pay, as authorized by Section 2-130.1 of this title:

Patrol First Lieutenant	$57,243.00
Patrol Supervisor	$53,306.00
Patrolman	
Step 6	$45,881.00
Step 7	$50,087.00

b. On July 1, 2005, each Patrolman shall be assigned and the salary of such Patrolman shall be adjusted to the salary schedule provided for in subparagraph a of this paragraph. Such initial adjustment of salaries shall be to the step whose number corresponds to the number of completed years of service the Patrolman has accumulated in the Highway Patrol Division, including service in the former Lake Patrol Division of the Department of Public Safety. Provided, however, no such Patrolman shall receive less than the salary the Patrolman was receiving on June 30, 2005. If the

number of completed years of service of such Patrolman exceeds seven (7) years on July 1, 2005, the Patrolman shall be assigned to and the Patrolman's salary adjusted to Step 7 of the salary schedule.

c. After July 1, 2005, each Highway Patrolman shall receive upon the anniversary date of the Patrolman an annual salary increase to the next higher step of the salary schedule provided for in subparagraph a of this paragraph if the Patrolman, within the preceding twelve-month period:

(1) has achieved a satisfactory Performance Rating Score,

(2) has not received any disciplinary action which has resulted in any suspension from the Department for a period of ten (10) or more days, and

(3) has not received any disciplinary action which has resulted in demotion.

If the number of completed years of service on the anniversary date of the Patrolman is or exceeds seven (7) years, the Patrolman shall be assigned to, and the salary of the Patrolman adjusted to, Step 7 of the salary schedule.

3. Except as provided in paragraphs 1 and 2 of this subsection, in any twelve-month period no Patrolman shall receive:

a. a salary increase which exceeds an increase to the next higher step of the salary schedule provided for in paragraphs 1 and 2 of this subsection, or

b. more than one such salary increase to the step of the salary schedule provided for in paragraphs 1 and 2 of this subsection, unless salary increases are authorized by the Legislature.

Provided, however, such Patrolman shall receive the salary increase which results from a promotion to another position within the Oklahoma Highway Patrol Division.

4. The steps prescribed for the position of Patrolman in the salary schedule provided for in paragraphs 1 and 2 of this subsection are for salary and compensation purposes only. No Patrolman shall be reassigned to another such step of said salary schedule for the purposes of demotion, discipline, promotion, incentive, reward or for any other reason other than the salary increases provided for in paragraphs 1 and 2 of this subsection.

E. The provisions of this section shall supersede all existing laws covering the salaries for the commissioned Patrolmen in the Lake Patrol Section of the Oklahoma Highway Patrol Division of the Department of Public Safety.

SECTION 45. REPEALER 47 O.S. 2001, Section 2-105.6, as amended by Section 1, Chapter 364, O.S.L. 2004 (47 O.S. Supp. 2004, Section 2-105.6), is hereby repealed.

SECTION 46. AMENDATORY 47 O.S. 2001, Section 6-110, as last amended by Section 9, Chapter 418, O.S.L. 2004 (47 O.S. Supp. 2004, Section 6-110), is amended to read as follows:

Section 6-110. A. 1. The Department of Public Safety shall examine every applicant for an original Class A, B, C or D license and for any endorsements thereon, except as otherwise provided in Sections 6-101 through 6-309 of this title or as provided in paragraph 2 of this subsection or in subsection D of this section. Such examination shall include a test of the applicant's:

a. eyesight,

b. ability to read and understand highway signs regulating, warning and directing traffic,

c. knowledge of the traffic laws of this state, and

d. ability, by actual demonstration, to exercise ordinary and reasonable control in the operation of a motor

vehicle. The actual demonstration shall be conducted in the type of motor vehicle for the class of driver license being applied for.

Any licensee seeking to apply for a driver license of another class which is not covered by the licensee's current driver license shall be considered an applicant for an original license for that class.

2. The Department of Public Safety shall have the authority to waive the requirement of any part of the examination required in paragraph 1 of this subsection for those applicants who surrender a valid unexpired driver license issued by any state or country for the same type or types of vehicles, provided that the applicant's driving record meets the standards set by the Department of Public Safety.

3. All applicants requiring a hazardous materials endorsement shall be required, for the renewal of the endorsement, to successfully complete the examination and to submit to the Department a ~~current~~ national criminal history ~~record~~ records search, as defined by Section 150.9 of Title 74 of the Oklahoma Statutes, from the Oklahoma State Bureau of Investigation ~~and the Federal Bureau of Investigation~~ which shall be used to determine whether the applicant is eligible for renewal of the endorsement pursuant to federal law and regulation.

4. The Department of Public Safety shall give the complete examination as provided for in this section within thirty (30) days from the date the application is received, and the examination shall be given at a location within one hundred (100) miles of the residence of the applicant. The Department shall make every effort to make the examination locations and times convenient for applicants. The Department shall consider giving the examination at various school sites if the district board of education for the

district in which the site is located agrees and if economically feasible and practicable.

5. The Department of Public Safety shall provide an alternative method of testing for an applicant for a Class D driver license who is eighteen (18) years of age or older and who can only understand Spanish, subject to the availability of funds. The Department may limit the number of testing sites where the examination in Spanish may be administered.

B. Any person holding a valid Oklahoma Class D license and applying for a Class A, B or C commercial license shall be required to successfully complete all examinations as required for the specified class.

C. Except as provided in subsection E of Section 6-101 of this title, any person holding a valid Oklahoma Class A, B or C commercial license shall, upon time for renewal thereof, be entitled to a Class D license without any type of testing or examination, except for any endorsements thereon as otherwise provided for by Section 6-110.1 of this title.

D. Any certified driver education instructor may administer the written portion of the Oklahoma driving examination as required for a driver education course.

SECTION 47. REPEALER 47 O.S. 2001, Section 6-110, as last amended by Section 5, Chapter 390, O.S.L. 2004 (47 O.S. Supp. 2004, Section 6-110), is hereby repealed.

SECTION 48. AMENDATORY 47 O.S. 2001, Section 6-111, as last amended by Section 4, Chapter 149, O.S.L. 2004 (47 O.S. Supp. 2004, Section 6-111), is amended to read as follows:

Section 6-111. A. 1. The Department of Public Safety shall, upon payment of the required fee, issue to every applicant qualifying therefore a Class A, B, C or D driver license or identification card as applied for, which license or card shall bear thereon a distinguishing number assigned to the licensee or

cardholder, date of issuance and date of expiration of the license or card, the full name, signature or computerized signature, date of birth, mailing address, sex, a color photograph or computerized image of the licensee or cardholder and security features as determined by the Department. The photograph or image shall depict a full front unobstructed view of the entire face of the licensee or cardholder. When any person is issued both a driver license and an identification card, the Department shall ensure the information on both the license and the card are the same, unless otherwise provided by law.

2. A driver license or identification card issued by the Department on or after the effective date of this act shall bear thereon the county of residence of the licensee or cardholder.

3. The Department may cancel the distinguishing number, when that distinguishing number is another person's Social Security number, assign a new distinguishing number, and issue a new license or identification card without charge to the licensee or cardholder.

~~3.~~ 4. The Department may promulgate rules for inclusion of the height and a brief description of the licensee or cardholder on the face of the card or license identifying the licensee or cardholder as deaf or hard-of-hearing.

~~4.~~ 5. It is unlawful for any person to apply, adhere, or otherwise attach to a driver license or identification card any decal, sticker, label, or other attachment. Any law enforcement officer is authorized to remove and dispose of any unlawful decal, sticker, label, or other attachment from the driver license of a person. The law enforcement officer, the employing agency of the officer, the Department of Public Safety, and the State of Oklahoma shall be immune from any liability for any loss suffered by the licensee, cardholder, or the owner of the decal, sticker, label, or other attachment caused by the removal and destruction of the decal, sticker, label, or other attachment.

~~5.~~ 6. The Department of Public Safety shall develop an alternative procedure whereby a person applying for a renewal or replacement Class D license or identification card who satisfactorily demonstrates to the Department the inability to appear personally to be photographed, because the person is not in the state at the time of renewal or at a time a replacement is required by the person, may be issued a license or card bearing the words "Valid Without Photo"; provided, immediately upon returning to Oklahoma, the person shall obtain a replacement license or card, as applicable, which contains and displays a photograph or computerized image of the person.

B. The Department may issue a temporary permit to an applicant for a driver license permitting such applicant to operate a motor vehicle while the Department is completing its investigation and determination of all facts relative to such applicant's privilege to receive a license. Such permit must be in the immediate possession of the driver while operating a motor vehicle, and it shall be invalid when the applicant's driver license has been issued or for good cause has been refused.

C. 1. The Department may issue a restricted commercial driver license to seasonal drivers eighteen (18) years of age or older for any of the following specific farm-related service industries:

a. farm retail outlets and suppliers,

b. agri-chemical businesses,

c. custom harvesters, and

d. livestock feeders.

The applicant shall hold a valid Oklahoma driver license and shall meet all the requirements for a commercial driver license. The restricted commercial driver license shall not exceed a total of one hundred eighty (180) days within any twelve-month period.

2. The restricted commercial driver license shall not be valid for operators of commercial motor vehicles beyond one hundred fifty

(150) miles from the place of business or the farm currently being served. Such license shall be limited to Class B vehicles. Holders of such licenses who transport hazardous materials which are required to be placarded shall be limited to the following:

a. diesel fuel in quantities of one thousand (1,000) gallons or less,

b. liquid fertilizers in vehicles with total capacities of three thousand (3,000) gallons or less, and

c. solid fertilizers that are not mixed with any organic substance.

No other placarded hazardous materials shall be transported by holders of such licenses.

SECTION 49. REPEALER 47 O.S. 2001, Section 6-111, as last amended by Section 38, Chapter 5, O.S.L. 2004 (47 O.S. Supp. 2004, Section 6-111), is hereby repealed.

SECTION 50. AMENDATORY 47 O.S. 2001, Section 6-205, as last amended by Section 6, Chapter 149, O.S.L. 2004 (47 O.S. Supp. 2004, Section 6-205), is amended to read as follows:

Section 6-205. A. The Department of Public Safety shall immediately revoke the driving privilege of any person, whether adult or juvenile, upon receiving a record of conviction in any municipal, state or federal court within the United States of any of the following offenses, when such conviction has become final:

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

2. Driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance, any violation of paragraph 1, 2, 3 or 4 of subsection A of Section 11-902 of this title or any violation of Section 11-906.4 of this title. However, the Department shall not additionally revoke the driving privileges of the person pursuant to

this subsection if the person's driving privilege has been revoked because of a test result or test refusal pursuant to Section 753 or 754 of this title arising from the same circumstances which resulted in the conviction unless the revocation because of a test result or test refusal is set aside;

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

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

5. Perjury or the making of a false affidavit or statement under oath to the Department under the Uniform Vehicle Code or under any other law relating to the ownership or operation of motor vehicles;

6. A misdemeanor or felony conviction for unlawfully possessing, distributing, dispensing, manufacturing or trafficking in a controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act;

7. Failure to pay for gasoline pumped into a vehicle pursuant to Section 1740 of Title 21 of the Oklahoma Statutes; ~~or~~

8. A conviction for a violation of paragraph 3 of subsection A of Section 1151 of this title; or

9. A misdemeanor conviction for a violation of Section 1 of this act.

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

C. A license revocation under any provision of this section, except for paragraph 2, 6, 7 or 8 of subsection A of this section, shall be for a period of three (3) years if a prior revocation under this section, except under paragraph 2 of subsection A of this

section, commenced within the preceding five-year period as shown by the Department's record. Such period shall not be modified.

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

E. The first license revocation under paragraph 7 of subsection A of this section shall be for a period of six (6) months. A second or subsequent license revocation under paragraph 7 of subsection A of this section shall be for a period of one (1) year. Such periods shall not be modified.

F. The period of license revocation under paragraph 8 of subsection A of this section shall be effective until the person provides to the Department proof of registration of the vehicle in Oklahoma or proof that the person no longer owns the vehicle.

SECTION 51. REPEALER 47 O.S. 2001, Section 6-205, as last amended by Section 2, Chapter 49, O.S.L. 2004 (47 O.S. Supp. 2004, Section 6-205), is hereby repealed.

SECTION 52. AMENDATORY 47 O.S. 2001, Section 6-303, as last amended by Section 1, Chapter 387, O.S.L. 2004 (47 O.S. Supp. 2004, Section 6-303), is amended to read as follows:

Section 6-303. A. No person shall operate a motor vehicle upon the public roads, streets, highways, turnpikes or other public place of this state without having first procured a driver license for the class of vehicle being operated from the Oklahoma Department of Public Safety, except as herein specifically exempted.

Any violation of the provisions of this subsection shall constitute a misdemeanor and shall be punishable by a fine of not less than Fifty Dollars ($50.00) nor more than Three Hundred Dollars ($300.00) plus costs or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.

B. Any person who drives a motor vehicle on any public roads, streets, highways, turnpikes or other public place of this state at

a time when the person's privilege to do so is canceled, denied, suspended or revoked or at a time when the person is disqualified from so doing shall be guilty of a misdemeanor and upon conviction shall be punished by a fine:

1. For a first conviction, of not less than One Hundred Dollars ($100.00) and not more than Five Hundred Dollars ($500.00);

2. For a second conviction, of not less than Two Hundred Dollars ($200.00) and not more than Seven Hundred Fifty Dollars ($750.00); or

3. For a third and subsequent conviction, of not less than Three Hundred Dollars ($300.00) and not more than One Thousand Dollars ($1,000.00),

or by imprisonment for not more than one (1) year or by both such fine and imprisonment. Each act of driving on the highways as prohibited shall constitute a separate offense.

C. Any person who drives a motor vehicle on any public roads, streets, highways, turnpikes or other public roads of this state at a time when the driving privilege of that person is canceled, denied, suspended or revoked, pursuant to paragraph 1 of subsection A of Section 6-205.1 of this title, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine:

1. For a first conviction, of not less than Five Hundred Dollars ($500.00) and not more than One Thousand Dollars ($1,000.00);

2. For a second conviction, of not less than One Thousand Dollars ($1,000.00) and not more than Two Thousand Dollars ($2,000.00); or

3. For a third and subsequent conviction, of not less than Two Thousand Dollars ($2,000.00) and not more than Five Thousand Dollars ($5,000.00),

or by imprisonment for not more than one (1) year or by both such fine and imprisonment. Each act of driving on the highways as prohibited shall constitute a separate offense.

D. The Department upon receiving a record of conviction of an offense committed by any person whose license or privilege to operate motor vehicles is under suspension or revocation ~~or who is disqualified from operating a motor vehicle~~, shall extend the period of such ~~disqualification,~~ suspension or revocation for an additional three-month period of time. The additional orders of suspension~~, disqualification~~ or revocation shall be dated and become effective the day following the date terminating the prior order of suspension~~, disqualification~~ or revocation.

E. The Department upon receiving a record of conviction of an offense committed by any person whose license or privilege to operate motor vehicles is under revocation, pursuant to paragraph 1, 2, or 3 of subsection A of Section 6-205.1 of this title, ~~or who is disqualified from operating a motor vehicle, pursuant to paragraph 1, 2, or 3 of subsection B or paragraph 1, 2, or 3 of subsection C of Section 6-205.2 of this title, or both such revocation and disqualification,~~ shall extend the period of such ~~disqualification or~~ revocation for an additional four-month period of time. The additional orders of ~~disqualification or~~ revocation shall be dated and become effective the day following the date terminating the prior order of ~~disqualification or~~ revocation.

F. It shall be a misdemeanor, punishable by imprisonment for not less than seven (7) days, nor more than six (6) months or by a fine of not more than Five Hundred Dollars ($500.00), or by both such fine and imprisonment for any person to apply for a renewal or a replacement license to operate a motor vehicle while the person's license, permit or other evidence of driving privilege is in the custody of a law enforcement officer or the Department. A notice regarding this offense and the penalty therefor shall be included on

the same form containing the notice of revocation issued by the officer.

G. Any fine collected pursuant to a second or subsequent conviction as provided for in subsections B and C of this section, shall be deposited to the Trauma Care Assistance Revolving Fund created in Section 1-2522 of Title 63 of the Oklahoma Statutes.

SECTION 53. REPEALER 47 O.S. 2001, Section 6-303, as last amended by Section 9, Chapter 390, O.S.L. 2004 (47 O.S. Supp. 2004, Section 6-303), is hereby repealed.

SECTION 54. AMENDATORY 47 O.S. 2001, Section 11-902, as last amended by Section 1, Chapter 548, O.S.L. 2004 (47 O.S. Supp. 2004, Section 11-902), is amended to read as follows:

Section 11-902. A. It is unlawful and punishable as provided in this section for any person to drive, operate, or be in actual physical control of a motor vehicle within this state, whether upon public roads, highways, streets, turnpikes, other public places or upon any private road, street, alley or lane which provides access to one or more single or multi-family dwellings, who:

1. Has a blood or breath alcohol concentration, as defined in Section 756 of this title, of eight-hundredths (0.08) or more at the time of a test of such person’s blood or breath administered within two (2) hours after the arrest of such person;

2. Is under the influence of alcohol;

3. Is under the influence of any intoxicating substance other than alcohol which may render such person incapable of safely driving or operating a motor vehicle; or

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

B. The fact that any person charged with a violation of this section is or has been lawfully entitled to use alcohol or a controlled dangerous substance or any other intoxicating substance

shall not constitute a defense against any charge of violating this section.

C. 1. Any person who is convicted of a violation of the provisions of this section shall be deemed guilty of a misdemeanor for the first offense and shall participate in an assessment and evaluation by an assessment agency or assessment personnel certified by the Department of Mental Health and Substance Abuse Services pursuant to Section 3-460 of Title 43A of the Oklahoma Statutes and shall follow all recommendations made in the assessment and evaluation and be punished by imprisonment in jail for not less than ten (10) days nor more than one (1) year. Any person convicted of a violation for a first offense shall be fined not more than One Thousand Dollars ($1,000.00).

2. Any person who, within ten (10) years after a previous conviction of a violation of this section or a violation pursuant to the provisions of any law of another state prohibiting the offense provided in subsection A of this section, is convicted of a second offense pursuant to the provisions of this section or has a prior conviction in a municipal criminal court of record for the violation of a municipal ordinance prohibiting the offense provided for in subsection A of this section and within ten (10) years of such municipal conviction is convicted pursuant to the provision of this section shall be deemed guilty of a felony and shall participate in an assessment and evaluation by an assessment agency or assessment personnel certified by the Department of Mental Health and Substance Abuse Services pursuant to Section 3-460 of Title 43A of the Oklahoma Statutes and shall be sentenced to:

a. follow all recommendations made in the assessment and evaluation with a minimum of twenty-eight (28) days of treatment followed by thirty (30) days of aftercare at the defendant’s expense, or

b. placement in the custody of the Department of Corrections for not less than one (1) year and not to exceed five (5) years and a fine of not more than Two Thousand Five Hundred Dollars ($2,500.00), or

c. treatment, imprisonment and a fine within the limitations prescribed in subparagraphs a and b of this paragraph.

However, if the treatment in subparagraph a of this paragraph does not include residential or inpatient treatment for a period of not less than five (5) days, the person shall serve a term of imprisonment of at least five (5) days.

3. Any person who is convicted of a second felony offense pursuant to the provisions of this section shall participate in an assessment and evaluation by an assessment agency or assessment personnel certified by the Department of Mental Health and Substance Abuse Services pursuant to Section 3-460 of Title 43A of the Oklahoma Statutes and shall be sentenced to:

a. follow all recommendations made in the assessment and evaluation at the defendant's expense with a minimum of twenty-eight (28) days of residential or inpatient treatment followed by ninety (90) days of aftercare at the defendant's expense, two hundred forty (240) hours of community service following the aftercare and use of an ignition interlock device, or

b. placement in the custody of the Department of Corrections for not less than one (1) year and not to exceed seven (7) years and a fine of not more than Five Thousand Dollars ($5,000.00), or

c. treatment, imprisonment and a fine within the limitations prescribed in subparagraphs a and b of this paragraph.

However, if the treatment in subparagraph a of this paragraph does not include residential or inpatient treatment for a period of not less than ten (10) days, the person shall serve a term of imprisonment of at least ten (10) days.

4. Any person who is convicted of a third or subsequent felony offense pursuant to the provisions of this section shall participate in an assessment and evaluation by an assessment agency or assessment personnel certified by the Department of Mental Health and Substance Abuse Services pursuant to Section 3-460 of Title 43A of the Oklahoma Statutes and shall be sentenced to:

a. follow all recommendations made in the assessment and evaluation at the defendant's expense with a minimum of twenty-eight (28) days residential or inpatient treatment followed by not less than one (1) year of supervision, periodic testing, and aftercare at the defendant's expense, four hundred eighty (480) hours of community service following the period of aftercare, and use of an ignition interlock device for a minimum of thirty (30) days, or

b. placement in the custody of the Department of Corrections for not less than one (1) year and not to exceed ten (10) years and a fine of not more than Five Thousand Dollars ($5,000.00), or

c. treatment, imprisonment and a fine within the limitations prescribed in subparagraphs a and b of this paragraph.

However, if the person does not undergo residential or inpatient treatment pursuant to subparagraph a of this paragraph the person shall serve a term of imprisonment of at least ten (10) days.

5. Any person who, within ten (10) years after a previous conviction of a violation of murder in the second degree or manslaughter in the first degree in which the death was caused as a

result of driving under the influence of alcohol or other intoxicating substance, is convicted of a violation of this section shall be deemed guilty of a felony.

6. Provided, however, a conviction from another state shall not be used to enhance punishment pursuant to the provisions of this subsection if that conviction is based on a blood or breath alcohol concentration of less than eight-hundredths (0.08).

7. In any case in which a defendant is charged with a second or subsequent driving under the influence of alcohol or other intoxicating substance offense within any municipality with a municipal court other than a court of record, the charge shall be presented to the county's district attorney and filed with the district court of the county within which the municipality is located.

D. Any person who is convicted of a violation of driving under the influence with a blood or breath alcohol concentration of fifteen-hundredths (0.15) or more shall be deemed guilty of aggravated driving under the influence. A person convicted of aggravated driving under the influence shall participate in an assessment and evaluation by an assessment agency or assessment personnel certified by the Department of Mental Health and Substance Abuse Services pursuant to Section 3-460 of Title 43A of the Oklahoma Statutes and shall comply with all recommendations and shall be punished by mandatory residential or inpatient treatment for a minimum of twenty-eight (28) days followed by not less than one (1) year of supervision, periodic testing, and aftercare at the defendant's expense, four hundred eighty (480) hours of community service following the period of aftercare, and an ignition interlock device for a minimum of thirty (30) days. Nothing in this subsection shall preclude the defendant from being charged or punished as provided in paragraph 1, 2, 3, 4 or 5 of subsection C of this section.

E. When a person is sentenced to imprisonment in the custody of the Department of Corrections, the person shall be processed through the Lexington Assessment and Reception Center or at a place determined by the Director of the Department of Corrections. The Department of Corrections shall classify and assign the person to one or more of the following:

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

2. A correctional facility operated by the Department of Corrections with assignment to substance abuse treatment.

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

G. Any person who is found guilty of a violation of the provisions of this section shall be ordered to participate in, prior to sentencing, an alcohol and drug substance abuse evaluation and assessment program offered by a certified assessment agency or certified assessor for the purpose of evaluating and assessing the receptivity to treatment and prognosis of the person. The court shall order the person to reimburse the agency or assessor for the evaluation and assessment. The fee for an evaluation and assessment shall be the amount provided in subsection C of Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation and assessment shall be conducted at a certified assessment agency, the office of a certified assessor or at another location as ordered by the court. The agency or assessor shall, within seventy-two (72) hours from the time the person is evaluated and assessed, submit a written report to the court for the purpose of assisting the court in its final sentencing determination. If such report indicates that the evaluation and assessment shows that the defendant would benefit

from a ten-hour or twenty-four-hour alcohol and drug substance abuse course or a treatment program or both, the court shall, as a condition of any sentence imposed, including deferred and suspended sentences, require the person to follow all recommendations identified by the evaluation and assessment and ordered by the court. No person, agency or facility operating an evaluation and assessment program certified by the Department of Mental Health and Substance Abuse Services shall solicit or refer any person evaluated and assessed pursuant to this section for any treatment program or substance abuse service in which such person, agency or facility has a vested interest; however, this provision shall not be construed to prohibit the court from ordering participation in or any person from voluntarily utilizing a treatment program or substance abuse service offered by such person, agency or facility. If a person is sentenced to imprisonment in the custody of the Department of Corrections and the court has received a written evaluation report pursuant to the provisions of this subsection, the report shall be furnished to the Department of Corrections with the judgment and sentence. Any evaluation and assessment report submitted to the court pursuant to the provisions of this subsection shall be handled in a manner which will keep such report confidential from the general public's review. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence in the event the defendant fails or refuses to comply with an order of the court to obtain the evaluation and assessment required by this subsection. If the defendant fails or refuses to comply with an order of the court to obtain the evaluation and assessment, the Department of Public Safety shall not reinstate driving privileges until the defendant has complied in full with such order. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence and any

other sanction authorized by law for failure or refusal to comply with an order of the court.

H. Any person who is found guilty of a violation of the provisions of this section may be required by the court to attend a victims impact panel program, if such a program is offered in the county where the judgment is rendered, and to pay a fee, not less than Fifteen Dollars ($15.00) nor more than Twenty-five Dollars ($25.00) as set by the governing authority of the program and approved by the court, to the program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee.

I. Any person who is found guilty of a second or subsequent violation of the provisions of this section, shall be ordered by the court to have installed, after the conclusion of the mandatory revocation period pursuant to Section 6-205.1 of this title, on every motor vehicle owned by the person and on the vehicle regularly operated by the person, if such vehicle is not owned by the person pursuant to Sections 754.1 and 755 of this title, an ignition interlock device approved by the ~~Department of Public Safety~~ Board of Tests for Alcohol and Drug Influence at the person's own expense for a period of not less than six (6) months nor more than three (3) years. The person shall pay the monthly maintenance fee for each ignition interlock device installed pursuant to this subsection. The installation of an ignition interlock device, as required by this subsection, shall not be construed to authorize the person to drive unless the person is otherwise eligible to drive.

J. Any person who is found guilty of a felony violation of the provisions of this section may be required to submit to electronic monitoring as authorized and defined by Section 991a of Title 22 of the Oklahoma Statutes.

K. Any person who, within ten (10) years after a previous conviction of a violation of this section or a violation pursuant to

the provisions of law of another state prohibiting the offense provided in subsection A of this section or a violation of a municipal ordinance prohibiting the offense provided in subsection A of this section, pleads guilty or nolo contendere or is convicted of a violation of this section shall not be required to undergo the alcohol and drug substance evaluation program required by subsection G of this section. The court shall, as a condition of any sentence imposed, including deferred and suspended sentences, require the person to participate in and successfully complete all recommendations from the evaluation, such as an alcohol and drug substance abuse treatment program pursuant to Section 3-452 of Title 43A of the Oklahoma Statutes.

L. Any person who is found guilty of a violation of the provisions of this section who has been sentenced by the court to perform any type of community service shall not be permitted to pay a fine in lieu of performing the community service.

M. When a person is found guilty of a violation of the provisions of this section, the court shall order, in addition to any other penalty, the defendant to pay a one-hundred-dollar assessment to be deposited in the Drug Abuse Education and Treatment Revolving Fund created in Section 2-503.2 of Title 63 of the Oklahoma Statutes, upon collection.

N. In any case in which a person is convicted of violating the provisions of this section and who was transporting in the motor vehicle a child fifteen (15) years of age or younger, the fine shall be enhanced to double the amount of the whole sum otherwise prescribed.

SECTION 55. REPEALER 47 O.S. 2001, Section 11-902, as last amended by Section 15, Chapter 418, O.S.L. 2004 (47 O.S. Supp. 2004, Section 11-902), is hereby repealed.

SECTION 56. AMENDATORY 47 O.S. 2001, Section 40-102, as last amended by Section 18, Chapter 418, O.S.L. 2004 (47 O.S. Supp. 2004, Section 40-102), is amended to read as follows:

Section 40-102. A. 1. Every law enforcement officer who, in the regular course of duty, investigates or receives a report of a traffic collision resulting in injury to or death of a person or total property damage to an apparent extent of Five Hundred Dollars ($500.00) or more shall prepare a written report of the collision on the standard collision report form supplied by the Department of Public Safety. Such reports shall be forwarded forthwith by the law enforcement agency preparing the report to the Department of Public Safety.

2. Reports of collisions shall be kept confidential for a period of sixty (60) days after the date of the collision; provided, such reports shall be made available immediately after filing upon request to any:

a. party involved in the collision,

b. legal representatives of a party involved in the collision,

c. state, county or city law enforcement agency,

d. the Department of Transportation or any county or city transportation or road and highway maintenance agency,

e. licensed insurance agents of a party involved in the collision,

f. insurer of a party involved in the collision,

g. insurer to which a party has applied for coverage,

h. person under contract with an insurer, as described in subparagraph e, f or g of this paragraph, to provide claims or underwriting information,

i. prosecutorial authority,

j. newspaper as defined in Section 106 of Title 25 of the Oklahoma Statutes,

k. radio or television broadcaster, ~~or~~

l. licensed private investigators employed by ~~parties to~~ a party involved in the collision, or

m. provider of health services to a party involved in the collision.

3. Any person who knowingly violates this section and obtains or provides information made confidential by this section is guilty of a misdemeanor and shall be fined no more than Two Thousand Five Hundred Dollars ($2,500.00). Second and subsequent offenses shall carry a penalty of imprisonment in the county jail for not more than thirty (30) days.

B. 1. No public employee or officer shall allow a person to examine or reproduce a collision report or any related investigation report if examination or reproduction of the report is sought for the purpose of making a commercial solicitation. Any person requesting a collision report may be required to state, in writing, under penalty of perjury, that the report will not be examined, reproduced or otherwise used for commercial solicitation purposes. It shall be unlawful and constitute a misdemeanor for any person to obtain or use information from a collision report or a copy thereof for the purpose of making a commercial solicitation.

2. As used in this subsection:

a. "commercial solicitation" means any attempt to use, or offer for use, information contained in a collision report to solicit any person named in the report, or a relative of such person, or to solicit a professional, business, or commercial relationship. "Commercial solicitation" does not include publication in a newspaper, as defined in Section 106 of Title 25 of the Oklahoma Statutes, or broadcast of information by news media for news purposes, or obtaining information

for the purpose of verification or settlement of claims by insurance companies, and

b. "collision report" means any report regarding a motor vehicle collision which has been submitted by an individual or investigating officer on a form prescribed or used by the Department of Public Safety or local police department.

3. Publication in a newspaper, as defined in Section 106 of Title 25 of the Oklahoma Statutes, or broadcast by news media for news purposes shall not constitute a resale or use of data for trade or commercial solicitation purposes. Because publication by a newspaper, broadcast by news media for news purposes, or obtaining information for verification or settlement of claims by insurance companies is not a resale or use of data for commercial purposes, an affidavit shall not be required as a condition for allowing a member of a newspaper or broadcast news media, or allowing an agent, or business serving as an agent, to insurance companies, to examine or obtain a copy of a collision report. Any agent or business obtaining information for verification or settlement of claims involving persons named in a report shall secure an affidavit annually from each client stating the information provided to the client shall not be used for commercial solicitation purposes under penalty of law.

4. The Department and local police departments shall include the following or a similar notice upon any copy of a collision report furnished to others: "Warning - State Law. Use of contents for commercial solicitation is unlawful."

C. ~~1. In addition to any other penalties or remedies provided by law:~~

~~a. a violation of this section by a health care professional or health care provider shall be grounds for disciplinary action by the state agency licensing,~~

~~certifying or registering such professional or provider, and~~

~~b. the state agency licensing, certifying or registering such professional or provider may institute an action to enjoin violation or potential violation of this section.~~

~~2. As used in this subsection:~~

~~a. "health care professional" means any person who offers or provides health care services under a license, certification or registration issued pursuant to Title 59 of the Oklahoma Statutes, and~~

~~b. "health care provider" means any hospital or related institution who offers or provides health care services under a license issued pursuant to Section 1-702 et seq. of Title 63 of the Oklahoma Statutes.~~

~~D.~~ As used in this section~~, "newspaper"~~:

1. "Newspaper" means a legal newspaper as defined in Section 106 of Title 25 of the Oklahoma Statutes, provided that the primary purpose of the newspaper is not the publication of personally identifying information concerning parties involved in the traffic collision; and

2. "Provider of health services" means any person that provides health care services to the injured person under a license, certification or registration issued pursuant to Title 59 of the Oklahoma Statutes, or any hospital or related institution that offers or provides health care services under a license issued pursuant to Section 1-702 et seq. of Title 63 of the Oklahoma Statutes.

SECTION 57. REPEALER 47 O.S. 2001, Section 40-102, as last amended by Section 1, Chapter 18, O.S.L. 2004 (47 O.S. Supp. 2004, Section 40-102), is hereby repealed.

SECTION 58. AMENDATORY 47 O.S. 2001, Section 751, as last amended by Section 2, Chapter 548, O.S.L. 2004 (47 O.S. Supp. 2004, Section 751), is amended to read as follows:

Section 751. A. 1. Any person who operates a motor vehicle upon the public roads, highways, streets, turnpikes or other public place or upon any private road, street, alley or lane which provides access to one or more single or multi-family dwellings within this state shall be deemed to have given consent to a test or tests of such person's blood or breath, for the purpose of determining the alcohol concentration as defined in Section 756 of this title, and such person's blood, saliva or urine for determining the presence and concentration of any other intoxicating substance therein as defined in this section, if arrested for any offense arising out of acts alleged to have been committed while the person was operating or in actual physical control of a motor vehicle upon the public roads, highways, streets, turnpikes or other public place or upon any private road, street, alley or lane which provides access to one or more single or multi-family dwellings while under the influence of alcohol or other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance, or if the person is involved in a traffic accident that resulted in the immediate death or serious injury of any person and is removed from the scene of the accident to a hospital or other health care facility outside the State of Oklahoma before a law enforcement officer can effect an arrest.

2. A law enforcement officer, having reasonable grounds to believe that such person was operating or in actual physical control of a motor vehicle while under the influence may direct the administration of or administer the test or tests.

As used in this title, the term "other intoxicating substance" shall mean any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act and any other substance,

other than alcohol, which is capable of being ingested, inhaled, injected or absorbed into the human body and is capable of adversely affecting the central nervous system, vision, hearing or other sensory or motor functions.

B. The law enforcement agency by which the arresting officer is employed may designate, in accordance with the rules ~~and regulations~~ of the Board of Tests for Alcohol and Drug Influence, hereinafter referred to as the Board, whether blood or breath is to be tested for the alcohol concentration thereof, and whether blood, saliva or urine is to be tested for the presence and concentration of any other intoxicating substance therein.

In the event the law enforcement agency does not designate the test to be administered, breath shall be the substance tested for alcohol concentration. Blood may also be tested to determine the alcohol concentration thereof in the event that breath cannot be tested to determine the alcohol concentration thereof because of the lack of an approved device or qualified person to administer a breath test or because such breath test for any other reason cannot be administered in accordance with the rules of the Board.

In the event the law enforcement agency does not designate the test to be administered, blood, saliva or urine shall be the substance tested for the presence and concentration of any other intoxicating substance or the combination of alcohol and any other intoxicating substance.

C. In the event the person is incapable of submitting to and successfully completing, by reason of illness or injury or other physical disability, the test to be administered, an alternate test may be administered in accordance with the rules of the Board.

D. Any person who is unconscious or otherwise incapable of refusing to submit to a test of such person’s blood or breath to determine the alcohol concentration thereof, or to a test of such person’s blood, saliva or urine to determine the presence and

concentration of any other intoxicating substance therein, shall be deemed not to have withdrawn the consent provided by subsection A of this section, and such test may be administered as provided herein.

An unconscious person who has been issued a citation by a law enforcement officer for one of the offenses listed in subsection A of this section is arrested for purposes of this section. The arresting officer must leave a copy of the citation with the arrested person which may be accomplished by handing it to the arrested person, or by leaving it with the personal effects of the arrested party, so as to inform the unconscious person of the arrest.

Any person who has been arrested for one of the offenses listed in subsection A of this section who is unconscious or injured and who requires immediate medical treatment as determined by a treating physician may be released on the person’s own recognizance for medical reasons by the arresting officer. The arresting officer who releases an arrested person on the person’s own recognizance must indicate the release on the face of the citation. Any person released on his or her own recognizance for medical reasons shall remain at liberty pending the filing of charges.

E. In addition to any test designated by the arresting officer, the arrested person may also designate any additional test to be administered to determine the concentration of alcohol, any other intoxicating substance or the combination of alcohol and any other intoxicating substance. The cost of such additional test shall be at the expense of the arrested person.

A sufficient quantity of any specimen obtained at the designation of the arrested person shall be available to the law enforcement agency employing the arresting officer. Such specimens shall be treated in accordance with the rules applicable to the specimens obtained by an arresting officer.

SECTION 59. REPEALER 47 O.S. 2001, Section 751, as last amended by Section 20, Chapter 418, O.S.L. 2004 (47 O.S. Supp. 2004, Section 751), is hereby repealed.

SECTION 60. AMENDATORY 47 O.S. 2001, Section 754.1, as amended by Section 23, Chapter 418, O.S.L. 2004 (47 O.S. Supp. 2004, Section 754.1), is amended to read as follows:

Section 754.1 A. The Department of Public Safety, prior to an administrative hearing for a revocation or denial arising under the provisions of Sections 751 through 754 of this title or under the provisions of Section 6-205.1 of this title, may modify the revocation or denial when it is determined by the Department that no other adequate means of transportation exists for the person whose driving privilege has been revoked or denied; provided, any modification under this paragraph shall apply to Class D motor vehicles only.

B. As a prerequisite and condition of any modification, the person shall be required to have installed an ignition interlock device approved by the Board of Tests for Alcohol and Drug Influence, at the person's own expense, upon every motor vehicle operated by such person, provided, the Department shall not require as a condition of modification the device to be installed upon any vehicle owned or leased by an employer of the person, except when the person is self-employed or employed by relatives within the first degree of consanguinity or who resides in the same household, without the employer's written permission to install the ignition interlock device on any vehicle to be operated by the person during the course of employment. The permission to install the ignition interlock device shall be in writing on the official letterhead of the employer. The person shall comply with all provisions of law and rule regarding ignition interlock devices.

C. Upon the issuance of a modification order pursuant to this section or Section 755 of this title, the person shall pay a

modification fee of One Hundred Fifty Dollars ($150.00) to the Department. For each modification fee collected pursuant to the provisions of this section, One Hundred Dollars ($100.00) shall be remitted to the State Treasurer to be credited to the General Revenue Fund in the State Treasury and Fifty Dollars ($50.00) shall be remitted to the State Treasurer to be credited to the Department of Public Safety Revolving Fund. All monies accruing to the credit of the Department of Public Safety Revolving Fund from modification fees shall be budgeted and expended solely for the purpose of administering the provisions of this section and Section 755 of this title.

D. The Board of Tests for Alcohol and Drug Influence shall promulgate such rules as are necessary to implement and administer the provisions of this subsection relating to ignition interlock devices and the providers of such devices.

SECTION 61. REPEALER 47 O.S. 2001, Section 754.1, as amended by Section 16, Chapter 390, O.S.L. 2004 (47 O.S. Supp. 2004, Section 754.1), is hereby repealed.

SECTION 62. AMENDATORY 47 O.S. 2001, Section 1105, as last amended by Section 30, Chapter 519, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1105), is amended to read as follows:

Section 1105. A. As used in the Oklahoma Vehicle License and Registration Act:

1. "Salvage vehicle" means any vehicle which is within the last ten (10) model years and which has been damaged by collision or other occurrence to the extent that the cost of repairing the vehicle for safe operation on the highway exceeds sixty percent (60%) of its fair market value, as defined by Section 1111 of this title, immediately prior to the damage. For purposes of this section, actual repair costs shall only include labor and parts for actual damage to the suspension, motor, transmission, frame or unibody and designated structural components;

2. "Rebuilt vehicle" means any salvage vehicle which has been rebuilt and inspected for the purpose of registration and title;

3. "Flood-damaged vehicle" means a salvage or rebuilt vehicle which was damaged by flooding or a vehicle which was submerged at a level to or above the dashboard of the vehicle and on which an amount of loss was paid by the insurer;

4. "Recovered-theft vehicle" means a salvage or rebuilt vehicle which was recovered from a theft; and

5. "Junked vehicle" means any vehicle which is incapable of operation or use on the highway, has no resale value except as a source of parts or scrap and has an eighty percent (80%) loss in fair market value.

B. The owner of every vehicle in this state shall possess a certificate of title as proof of ownership of such vehicle, except those vehicles registered pursuant to Section 1120 of this title and trailers registered pursuant to Section 1133 of this title, previously titled by anyone in another state and engaged in interstate commerce, and except as provided in subsection M of this section. There shall be six types of certificates of title:

1. Original title for any motor vehicle which is not a remanufactured, salvage, rebuilt or junked vehicle;

2. Salvage title for any motor vehicle which is a salvage vehicle or is specified as a salvage vehicle or the equivalent thereof on a certificate of title from another state;

3. Rebuilt title for any motor vehicle which is a rebuilt vehicle;

4. Junked title for any motor vehicle which is a junked vehicle or is specified as a junked vehicle or the equivalent thereof on a certificate of title from another state;

5. Classic title for any motor vehicle, except a junked vehicle, which is twenty-five (25) model years or older; and

6. Remanufactured title for any vehicle which is a remanufactured vehicle.

Application for a certificate of title, whether the initial certificate of title or a duplicate, may be made to the Oklahoma Tax Commission or any motor license agent. When application is made with a motor license agent, the application information shall be transmitted either electronically or by mail to the Tax Commission by the motor license agent. If the application information is transmitted electronically, the motor license agent shall forward the required application along with evidence of ownership, where required, by mail. Where the transmission of application information cannot be performed electronically, the Tax Commission is authorized to provide postage paid envelopes to motor license agents for the purpose of mailing the application along with evidence of ownership, where required. The Tax Commission shall upon receipt of proper application information issue an Oklahoma certificate of title. The certificates may be mailed to the applicant. Upon issuance of a certificate of title, the Tax Commission shall provide the appropriate motor license agent with confirmation of such issuance.

C. 1. The application for certificate of title shall be upon a blank form furnished by the Tax Commission, containing:

a. a full description of the vehicle,

b. the manufacturer's serial or other identification number,

c. the motor number and the date on which first sold by the manufacturer or dealer to the owner,

d. any distinguishing marks,

e. a statement of the applicant's source of title,

f. any security interest upon the vehicle, and

g. such other information as the Tax Commission may require.

2. The application for a certificate of title for a vehicle which is within the last seven (7) model years shall require a declaration as to whether the vehicle has been damaged by collision or other occurrence and whether the vehicle has been recovered from theft and the extent of the damage to the vehicle. The declaration shall be made by the owner of a vehicle if:

a. the vehicle has been damaged or stolen,

b. the owner did or did not receive any payment for the loss from an insurer, or

c. the vehicle is titled or registered in a state that does not classify the vehicle or brand the title because of damage to or loss of the vehicle similar to the classifications or brands utilized by this state.

The declaration shall be based upon the best information and knowledge of the owner and shall be in addition to the requirements specified in paragraph 1 of this subsection. The Tax Commission shall not issue a certificate of title for a vehicle which is subject to the provisions of this paragraph without the required declaration, completed and signed by the owner of the vehicle. Upon receipt of an application without the properly completed declaration, the Tax Commission shall return the application to the applicant with notice that the title may not be issued without the required declaration. Nothing in this paragraph shall prohibit the Tax Commission from recognizing the type of or brand on a title or other ownership document issued by another state or the inspection conducted in another state and issuing the appropriate certificate of title for the vehicle.

3. The certificate of title shall have the following security features:

a. intaglio printing or security thread, with or without watermark,

b. latent images,

c. fluorescent inks,

d. micro print,

e. void background, and

f. color coding.

4. Each title issued pursuant to the provisions of the Oklahoma Vehicle License and Registration Act shall be color coded as determined by the Tax Commission.

5. The certificate of title shall be of such size and design and color as the Tax Commission may direct pursuant to the provisions of this section. The title shall be on colored paper or other material as designated by the Tax Commission and be of such intensity or hue as will allow easy identification as to whether the title is an original title, a salvage title, a rebuilt title, remanufactured title, or a junked title. The type of title shall be identified on the front of the certificate of title. The original title, rebuilt title, remanufactured title, or classic title shall be identified by the word "Original", "Rebuilt", “Remanufactured” or "Classic" printed in the upper right quadrant of the certificate of title, in the space which is currently captioned "type of title".

D. 1. To obtain an original certificate of title for a vehicle that is being registered for the first time in this state which has not been previously registered in any other state, the applicant shall be required to deliver, as evidence of ownership, a manufacturer's certificate of origin properly assigned by the manufacturer, distributor, or dealer licensed in this or any other state shown thereon to be the last transferee to the applicant upon a form to be prescribed and approved by the Tax Commission. A manufacturer's certificate of origin shall contain:

a. the manufacturer's serial or other identification number,

b. date on which first sold by the manufacturer to the dealer,

c. any distinguishing marks including model and the year same was made,

d. a statement of any security interests upon the vehicle, and

e. such other information as the Tax Commission may require.

2. The manufacturer's certificate of origin shall have the following security features:

a. intaglio printing or security thread, with or without watermark,

b. latent images,

c. fluorescent inks,

d. micro print, and

e. void background.

E. In the absence of a dealer's or manufacturer's number, the Tax Commission may assign such identifying number to the vehicle, which shall be permanently stamped, burned or pressed or attached into the vehicle, and a certificate of title shall be delivered to the applicant upon payment of all fees and taxes, and the remaining copies shall be permanently filed and indexed by the Tax Commission. The Tax Commission shall assign an identifying number to any rebuilt vehicle if the vehicle identification number displayed on the rebuilt vehicle does not accurately describe the vehicle as rebuilt. The motor license agent, at the time of inspection of the rebuilt vehicle pursuant to Section 1111 of this title, shall identify the make, model, and year for the body to accurately describe the rebuilt vehicle. At the time of the inspection, an appropriate identifying number shall be permanently stamped, burned, pressed, or attached on the rebuilt vehicle. The assigned identifying number shall be recorded on the certificate of title for the rebuilt vehicle. The dealer's or manufacturer's vehicle identification

number on the rebuilt vehicle shall be preserved in the computer files of the Tax Commission for at least five (5) years.

F. When registering for the first time in this state a vehicle which was not originally manufactured for sale in the United States, to obtain a certificate of title, the Tax Commission shall require the applicant to deliver:

1. As evidence of ownership, if the vehicle has not previously been titled in the United States, the documents constituting valid proof of ownership in the country in which the vehicle was originally purchased, together with a notarized translation of any such documents; and

2. As evidence of compliance with federal law, copies of the bond release letters for the vehicle issued by the United States Environmental Protection Agency and the United States Department of Transportation, together with a receipt issued by the Internal Revenue Service indicating that the applicable federal gas guzzler tax has been paid.

The Tax Commission shall not issue a certificate of title for a vehicle which is subject to the provisions of this paragraph without the required documentation from agencies of the United States and evidence of ownership. Upon receipt of an application without the required documentation, the Tax Commission shall return the application to the applicant with notice that the certificate of title may not be issued without the required documentation. Nothing in this paragraph shall prohibit the Tax Commission from issuing certificates of title for antique or classic vehicles not driven upon the public streets, roads, or highways.

G. When registering in this state a vehicle which was titled in another state and which title contains the name of a secured party on the face of the other state certificate of title, or such state certificate is being held by the secured party in that state or any other state, the Tax Commission or the motor license agent shall

complete a lien entry form as prescribed by the Tax Commission. The owner of such vehicle shall file an affidavit with the Tax Commission or the motor license agent stating that title to the vehicle is being held by a secured party has not been issued pursuant to the laws of the state where titled, and that there is an existing lien or encumbrance on the vehicle. The current name and address of the secured party or lienholder shall also be stated in the affidavit. The form of the affidavit shall be prescribed by the Tax Commission and contain any other information deemed necessary by the Tax Commission. A statement of the lien or encumbrance shall be included on the Oklahoma certificate of title and the lien or encumbrance shall be deemed continuously perfected as though it had been perfected pursuant to Section 1110 of this title. For completing the lien entry form and recording the security interest on the certificate of title, the Tax Commission or the motor license agent shall collect a fee of Three Dollars ($3.00) which shall be in addition to other fees provided by the Oklahoma Vehicle License and Registration Act. The fee, if collected by the motor license agent pursuant to this subsection, shall be retained by the motor license agent.

H. The charge for each certificate of title issued, except for junked titles as defined in paragraph 4 of subsection B of this section, shall be Eleven Dollars ($11.00), which charge shall be in addition to any other fees or taxes imposed by law for such vehicle. One Dollar ($1.00) of each such charge shall be deposited in the Oklahoma Tax Commission Reimbursement Fund. However, the charge shall not apply to any vehicle which is to be registered in this state pursuant to the provisions of Section 1120 or 1133 of this title and which was registered in another state at least sixty (60) days prior to the time it is required to be registered in this state.

I. The vehicle identification number of a junked vehicle shall be preserved in the computer files of the Tax Commission for a period of not less than five (5) years. The charge of junked titles as defined in paragraph 4 of subsection B of this section shall be Four Dollars ($4.00). The fee remitted to the Tax Commission shall be deposited in the Oklahoma Tax Commission Reimbursement Fund.

J. If a vehicle is sold to a resident of another state destroyed, dismantled, or ceases to be used as a vehicle, the owner shall immediately notify the Tax Commission. Absent evidence to the contrary, failure to notify the Tax Commission shall be prima facie evidence that the vehicle has been in continuous operation in this state.

K. If a vehicle is stolen, the owner shall immediately notify the appropriate law enforcement agency. Immediately after receiving such notification, the law enforcement agency shall notify the Tax Commission.

L. No title for an out-of-state vehicle, except any commercial truck or truck-tractor registered pursuant to Section 1120 of this title which is engaged in interstate commerce or any trailer or semitrailer registered pursuant to Section 1133 of this title which is engaged in interstate commerce, shall be issued without an inspection of such vehicle and payment of a fee of Four Dollars ($4.00) for such inspection; provided, the Tax Commission may enter into reciprocal agreements with other states for such inspections to be performed at locations outside the boundaries of this state for vehicles which:

1. Are offered for sale at auction;

2. Have been solely used as vehicles for rent under the ownership of a licensed motor vehicle dealer or a person engaged in the business of renting motor vehicles; or

3. Have not been registered in this or any other state for more than one (1) year.

The inspection shall include a comparison of the vehicle identification number on the vehicle with the number recorded on the ownership records and the recording of the actual odometer reading on the vehicle. The four-dollar fee shall be collected by the motor license agent or Commission when the title is issued. The motor license agent shall retain Two Dollars ($2.00). The remaining Two Dollars ($2.00) shall be deposited in the Oklahoma Tax Commission Reimbursement Fund.

The Tax Commission may allow the inspection to be performed at a location out-of-state by another state's department of motor vehicles or state police.

M. No title for any out-of-state vehicle offered for sale at salvage pools, salvage disposal sales, or an auction, or by a dealer or a licensed automotive dismantler and parts recycler, shall be issued without an inspection to compare the vehicle identification number on the vehicle with the number recorded on the ownership record and to record the actual odometer reading on the vehicle. Upon request of the seller, person or entity conducting an auction, dealer or licensed dismantler, the inspection shall be conducted at the location or place of business of the sale, auction, dealer, or the dismantler. The inspection shall be conducted by any motor license agent or a duly authorized employee thereof; provided, if the vehicle identification number on the vehicle offered for sale at salvage pools, salvage disposal sales or a classic or antique auction does not match the number recorded on the ownership record, the inspection may be conducted at the location of or place of business of such sale or auction by any state, county or city law enforcement officer. The Tax Commission may enter into reciprocal agreements with other states for such inspections to be performed at locations outside the boundaries of this state for vehicles which:

1. Are offered for sale at auction;

2. Have been solely used as vehicles for rent under the ownership of a licensed motor vehicle dealer or a person engaged in the business of renting motor vehicles; or

3. Have not been registered in this or any other state for more than one (1) year.

The inspection shall be certified upon forms prescribed by the Tax Commission. The name and other identification of the authorized person conducting the inspection shall be legibly printed or typed on the form. Prior to any inspection by any employee of a motor license agent, the motor license agent shall notify the Tax Commission of the name and any other identification information requested by the Tax Commission of the authorized person. A signature specimen of the authorized person shall be submitted to the Tax Commission by the employing motor license agent. If the authorization to inspect vehicles is withdrawn or the employer-employee relationship is terminated, the motor license agent, immediately, shall notify the Tax Commission and return any remaining inspection forms to the Tax Commission. The fee for the inspection shall be Four Dollars ($4.00). The motor license agent shall retain Three Dollars ($3.00) of the fee. Fees received by a motor license agent or an authorized employee thereof shall be handled and accounted for in the manner as prescribed by law for any other fees paid to or received by a motor license agent. Out-of-state vehicles brought into this state by a person licensed in another state to sell new or used vehicles to be sold within this state at a motor vehicle auction which is limited to dealer to dealer transactions shall not be required to be inspected, unless the vehicle is purchased by an Oklahoma dealer. Any person licensed in another state to sell new or used motor vehicles, who offers a motor vehicle for sale within this state at a motor vehicle auction which is limited to dealer-to-dealer transactions, shall not be

within the definition of "owner" in Section 1102 of this title, for purposes of Section 1101 et seq. of this title.

N. A licensed motor vehicle dealer, upon payment of a fee of Fifteen Dollars ($15.00), may reassign an out-of-state certificate of title to a used motor vehicle provided such dealer obtains the appropriate inspection form required by either subsection L or M of this section and attaches the form to the out-of-state certificate of title. Motor license agents shall be allowed to retain Two Dollars and twenty-five cents ($2.25) of the fee plus an additional Two Dollars ($2.00) or Three Dollars ($3.00) as provided in subsections L and M of this section for performance of the inspection. Two Dollars ($2.00) of the fee shall be deposited in the Tax Commission Reimbursement Fund. An out-of-state vehicle which has been rebuilt shall be inspected pursuant to the provisions of Section 1111 of this title. The Tax Commission shall train motor license agents in interpreting vehicle identification numbers to assure that it accurately describes the vehicle and to detect rollback or alteration of the odometer. Failure of a motor license agent to inspect the vehicle and make the required notations shall be a misdemeanor punishable by a fine of not more than One Thousand Dollars ($1,000.00) for the first offense and Five Thousand Dollars ($5,000.00) for the second offense or subsequent offense, or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

O. The ownership of any vehicle which has been declared a total loss by an insurer because of theft shall be transferred to the insurer by a salvage title; provided, the ownership of any such vehicle which has been declared a total loss by an insurer licensed by the Oklahoma Insurance Department and maintaining a multi-state motor vehicle salvage processing center in this state shall be transferred to the insurer by a salvage title without the requirement of a visual inspection of the vehicle identification

number by the insurer. Upon recovery of the vehicle, the ownership shall be transferred by an original title, salvage title, or junked title, as may be appropriate based upon an estimate of the amount of loss submitted by the insurer.

P. The owner of any vehicle which is incapable of operation or use on the public roads and has no resale value, except as parts, scrap or junk, may deliver the certificate of title to the vehicle to the Tax Commission for cancellation. Upon verification that any perfected lien against the vehicle has been released, the certificate of title shall be canceled without any fee, charge, or cost required from the owner. The vehicle identification numbers on the certificates of title shall be preserved in the computer files of the Tax Commission for at least five (5) years from the date of cancellation of the certificate of title. The Tax Commission shall prescribe and provide an affidavit form to be completed by the owner of any vehicle for which the certificate of title is canceled. No title or registration shall subsequently be issued for a vehicle for which the certificate of title has been surrendered pursuant to this subsection. The Tax Commission shall prescribe a form for the transfer of ownership of a vehicle for which the certificate of title has been canceled.

Q. The owner of a vehicle which is not within the last ten (10) model years, not roadworthy and not capable of repair for operation or use on the roads and highways shall transfer the vehicle only upon a certificate of ownership prescribed by the Tax Commission, if the certificate of title to the vehicle is lost, has been canceled, or otherwise not available. The prescribed ownership form shall include the names and addresses of the buyer and seller, the driver license number or social security number of the seller, the make and model of the vehicle, and the public vehicle identification number. If there is no public vehicle identification number, the vehicle shall be inspected by a law enforcement officer to verify the

absence of the number on the vehicle and the prescribed ownership form shall include a signed statement, by such officer, verifying the absence of the number.

The certificate of ownership shall be completed in triplicate. The buyer and seller shall each retain a copy. Within thirty (30) days of the transaction, the seller shall submit one copy to the Tax Commission or a motor license agent accompanied with a fee of Four Dollars ($4.00). One Dollar ($1.00) shall be retained by the motor license agent and Three Dollars ($3.00) shall be deposited in the Oklahoma Tax Commission Reimbursement Fund in the State Treasury.

Upon receipt of the certificate, the Tax Commission shall verify that any perfected lien upon the vehicle has been released. If the lien is not released, the Tax Commission shall mail notice of the transfer to the lienholder at the lienholder's last-known address. If a certificate of title has been issued, it shall be canceled and the vehicle identification number shall be preserved in the computer of the Tax Commission for at least five (5) years. The buyer of the vehicle may not be sued and shall not be liable for monetary damages to the lienholder, however, the vehicle shall be subject to a valid repossession by a lienholder.

R. The Tax Commission shall notify the chief administrative officer of the agency or department responsible for issuing motor vehicle certificates of title in each state in the United States of the types of motor vehicle certificate of title effective in Oklahoma on and after January 1, 1989.

S. When registering for the first time in this state a remanufactured vehicle which has not been registered in any other state since its remanufacture, before issuing a certificate of title, the Tax Commission shall require the applicant to deliver a statement of origin from the remanufacturer.

T. If a vehicle is sold to a foreign buyer pursuant to the provisions of the Automotive Dismantlers and Parts Recycler Act, the

licensed seller shall stamp the title with: "EXPORT ONLY. NONTRANSFERABLE IN THE UNITED STATES." The licensed seller shall supply the Tax Commission the title number, the vehicle identification number and the foreign buyer's bid identification number on a form prescribed by the Commission. The Commission shall cancel the title, and the vehicle identification number shall be preserved in the computer files of the Tax Commission for a period of not less than five (5) years.

SECTION 63. REPEALER 47 O.S. 2001, Section 1105, as last amended by Section 2, Chapter 534, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1105), is hereby repealed.

SECTION 64. AMENDATORY 47 O.S. 2001, Section 1109, as last amended by Section 3, Chapter 534, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1109), is amended to read as follows:

Section 1109. A. All information contained in certificates of title, applications therefor, vehicle registration records and computer data files is hereby declared to be confidential information and shall not be copied by anyone or disclosed to anyone other than employees of the Oklahoma Tax Commission <u>or the Corporation Commission</u> in the regular course of their employment, except as follows:

1. For use by any governmental agency, including but not limited to any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a federal, state or local governmental agency in carrying out its functions. Information relating to motor vehicle insurance, including the insurer and insurance policy numbers, may be released to law enforcement officers investigating an accident pursuant to the provisions of Section 10-104 of this title;

2. For use by any motor vehicle manufacturer or an authorized representative thereof in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle

product alterations, recalls or advisories, performance monitoring of motor vehicles, motor vehicle parts and dealers, motor vehicle market research activities, including survey research, and removal of non-owner records from the original owner records of motor vehicle manufacturers. The confidentiality of the information shall be protected, as set out above, and used only for the purpose stated; provided, further, that the Tax Commission or Corporation Commission shall be authorized to review the use of and the measures employed to safeguard the information; and provided, further, that the manufacturer or representative shall bear the cost incurred by the Tax Commission or Corporation Commission in the production of the information requested. If the confidentiality provisions, as set out above, are violated, the provisions of subsection D of Section 205 of Title 68 of the Oklahoma Statutes shall apply and the privilege of obtaining information shall be terminated. Any manufacturer or representative violating the provisions of this paragraph, upon conviction, shall be punishable by a fine not to exceed Fifty Thousand Dollars ($50,000.00);

3. For use by any person compiling and publishing motor vehicle statistics, provided that such statistics do not disclose the names and addresses of individuals. Such information shall be provided upon payment of a fee as determined by the Tax Commission or the Corporation Commission;

4. For use by a wrecker or towing service licensed pursuant to the provisions of Section 951 et seq. of this title for use in providing notice to the owners and secured parties of towed or impounded vehicles, upon payment of a fee of One Dollar ($1.00) per vehicle record page to the Tax Commission, the Corporation Commission or any motor license agent;

5. For use by a legitimate business or its agents, employees, or contractors for use in the normal course of business, upon payment of a fee of One Dollar ($1.00) per vehicle record page to

the Tax Commission, the Corporation Commission or any motor license agent, but only:

a. to verify the accuracy of personal information submitted by the individual to whom the information pertains to the business or its agents, employees, or contractors, or

b. to obtain the correct information, if such information submitted by the individual to whom the information pertains to the business is not correct, or is no longer correct, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against the individual;

6. For use in connection with any civil, criminal, administrative or arbitral proceeding in any federal, state or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a federal, state or local court, upon payment of a fee of One Dollar ($1.00) per vehicle record page to the Tax Commission, the Corporation Commission or any motor license agent;

7. For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, anti-fraud activities, rating or underwriting, upon payment of a fee of One Dollar ($1.00) per vehicle record page to the Tax Commission, the Corporation Commission or any motor license agent;

8. For use by any licensed private investigative agency or licensed security service for any purpose permitted under this subsection, upon payment of a fee of One Dollar ($1.00) per vehicle record page to the Tax Commission, the Corporation Commission or any motor license agent;

9. For use by a requester, upon payment of a fee of One Dollar ($1.00) per vehicle record page to the Tax Commission, the Corporation Commission or any motor license agent, if the requester demonstrates that it has obtained the written consent of the individual to whom the information pertains;

10. For use in connection with the operation of private toll transportation facilities; or

11. For furnishing the name and address of all commercial entities who have current registrations of any particular model of vehicle; provided, this exception shall not allow the release of personal information pursuant to the provisions of the Driver's Privacy Protection Act, 18 U.S.C., Sections 2721 through 2725.

As used in this section, the term "vehicle record page" means a computer-generated printout of the motor vehicle inquiry screen. Information provided on the motor vehicle inquiry screen printout shall include the current vehicle owner name and address, vehicle make, model and year, identifying numbers for the vehicle license plate, certificate of title and vehicle identification number, relevant dates relating to the vehicle registration and certificate of title, and lien status.

B. In addition to the information provided on the vehicle record page, the Tax Commission or Corporation Commission may, upon written request, release to any requester authorized by the provisions of this section to obtain individual motor vehicle information, corresponding copies of vehicle certificates of title, applications therefor, vehicle registration records and computer data files.

There shall be an informational search and retrieval fee of Five Dollars ($5.00) per vehicle for such computerized record copies. If the Tax Commission or Corporation Commission does a manual search and retrieval, the fee for document record copies shall be Seven Dollars and fifty cents ($7.50) per vehicle. Certified copies of

vehicle certificates of title and applications therefor shall be included within the informational search and retrieval by the Tax Commission or Corporation Commission for a fee of Ten Dollars ($10.00). Such duly certified copies may be received in evidence with the same effect as the original when the original is not in the possession or under the control of the party desiring to use the same.

C. Requesters authorized by this section to receive motor vehicle information shall submit to the Tax Commission, Corporation Commission or motor license agent an affidavit supported by such documentation as the Tax Commission or Corporation Commission may require, on a form prescribed by the Tax Commission or Corporation Commission certifying that the information is requested for a lawful and legitimate purpose and will not be further disseminated.

D. Notwithstanding the foregoing, the Tax Commission or Corporation Commission may allow the release of information from its motor vehicle records upon magnetic tape consisting only of the following information:

1. The date of the certificate of title;
2. The certificate of title number;
3. The type of title issued for the vehicle;
4. The odometer reading from the certificate of title;
5. The year in which the vehicle was manufactured;
6. The vehicle identification number for the vehicle;
7. The make of the vehicle; and
8. The location in which the vehicle is registered.

The Tax Commission or Corporation Commission shall allow the release of such information upon payment of a fee to be determined by the Tax Commission or Corporation Commission. The information released as authorized by this subsection may only be used for purposes of detecting odometer rollback or odometer tampering, for determining the issuance in this state or any other state of salvage

or rebuilt titles for vehicles or for determining whether a vehicle has been reported stolen in this state or any other state.

E. Notwithstanding the provisions of this section or of Section 205 of Title 68 of the Oklahoma Statutes, the Tax Commission or Corporation Commission may inform a secured party that taxes and fees are delinquent with respect to a vehicle upon which the secured party has a perfected lien.

F. Fees received by a motor license agent pursuant to the provisions of this section shall not be included in the maximum sum that may be retained by motor license agents as compensation pursuant to the provisions of Section 1143 of this title.

G. All funds collected by the Tax Commission pursuant to the provisions of this section shall be deposited in the Oklahoma Tax Commission Revolving Fund. All funds collected by the Corporation Commission pursuant to the provisions of this section shall be apportioned as provided in subsection C of Section 3 of this act.

H. It is further provided that the provisions of this section shall be strictly interpreted and shall not be construed as permitting the disclosure of any other information contained in the files and records of the Tax Commission or Corporation Commission.

I. It shall be unlawful for any person to commit any of the following acts:

1. To knowingly obtain or disclose personal information from a motor vehicle record for any use not expressly permitted by this section; or

2. To make false representation to obtain any personal information from an individual's motor vehicle record.

Any violation of the provisions of this section shall constitute a misdemeanor and shall be punishable by the imposition of a fine not exceeding One Thousand Dollars ($1,000.00), or by imprisonment in the county jail for a term not exceeding one (1) year, or by both such fine and imprisonment. Where applicable, a person convicted of

a violation of the provisions of this section shall be removed or dismissed from office or state employment. No liability whatsoever, civil or criminal, shall attach to any member or employee of the Tax Commission or Corporation Commission for any error or omission in the disclosure of such information.

SECTION 65. REPEALER 47 O.S. 2001, Section 1109, as last amended by Section 11, Chapter 522, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1109), is hereby repealed.

SECTION 66. AMENDATORY 47 O.S. 2001, Section 1113, as last amended by Section 4, Chapter 534, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1113), is amended to read as follows:

Section 1113. A. 1. Upon the filing of a registration application and the payment of the fees provided for in the Oklahoma Vehicle License and Registration Act, the Oklahoma Tax Commission or Corporation Commission, as applicable, shall assign to the vehicle described in the application a distinctive number, and issue to the owner of the vehicle a certificate of registration, one license plate and a yearly decal. For each subsequent registration year, the Tax Commission shall issue a yearly decal to be affixed to the license plate. The yearly decal shall have an identification number and the last two numbers of the registration year for which it shall expire. Except as provided by Section 1113A of this title, the license plate shall be affixed to the exterior of the vehicle until a replacement license plate is applied for. If the owner applies for a replacement license plate, the Tax Commission shall charge the fee provided for in Section 1114 of this title. The yearly decal will validate the license plate for each registration period other than the year the license plate is issued. The license plate and decal shall be of such size, color, design and numbering as the Tax Commission may direct. However, yearly decals issued to the owner of a vehicle who has filed an affidavit with the appropriate motor license agent in accordance with Section 7-607 of this title shall

be a separate and distinct color from all other decals issued under this section.

2. The license plate shall be securely attached to the rear of the vehicle, except truck-tractor plates which shall be attached to the front of the vehicle. The Tax Commission may, with the concurrence of the Department of Public Safety, by Joint Rule, change and direct the manner, place and location of display of any vehicle license plate when such action is deemed in the public interest. The license plate, decal and all letters and numbers shall be clearly visible at all times. The operation of a vehicle in this state, regardless of where such vehicle is registered, upon which the license plate is covered, overlaid or otherwise screened with any material, whether such material be clear, translucent, tinted or opaque, shall be a violation of this paragraph.

3. Upon payment of the annual registration fee provided in Section 1133 of this title, the Tax Commission <u>or Corporation Commission, as applicable,</u> or a motor license agent may issue a permanent nonexpiring license plate to an owner of one hundred or more commercial motor vehicles and for vehicles registered under the provisions of Section 1120 of this title. Upon payment of the annual registration fee, the Tax Commission <u>or Corporation Commission</u> shall issue a certificate of registration that shall be carried at all times in the vehicle for which it is issued. Provided, if the registrant submits its application through electronic means, such qualified owners of one hundred or more commercial motor vehicles, properly registered pursuant to the provisions of Section 1133 of this title, may elect to receive a permanent certificate of registration that shall be carried at all times in the vehicle for which it is issued.

B. The license plates required under the provisions of this title shall conform to the requirements and specifications listed hereinafter:

1. Each license plate shall have a space for the placement of the yearly decals for each succeeding year of registration after the initial issue;

2. The provisions of the Oklahoma Vehicle License and Registration Act regarding the issuance of yearly decals shall not apply to the issuance of apportioned license plates, including license plates for state vehicles, and exempt plates for governmental entities and fire departments organized pursuant to Section 592 of Title 18 of the Oklahoma Statutes;

3. Within the limits herein prescribed the Tax Commission shall redesign the official vehicle license plates which currently bear the legend "Oklahoma OK" or "Oklahoma is OK!" and substitute therefor the legend "Oklahoma Native America" as further described in this paragraph. Except for personalized license plates and license plates issued for motorcycles and mopeds, the emblem on the state flag of Oklahoma as provided for in Section 91 of Title 25 of the Oklahoma Statutes shall be a part of all license plates issued after December 31, 1988. The Tax Commission may continue to issue license plates with the legend "Oklahoma is OK!" or "Oklahoma OK" until any inventory of such license plates is depleted but the Tax Commission shall not produce or cause to be produced any additional license plates with these legends. Except for personalized license plates, license plates issued for commercial vehicles, and license plates issued for motorcycles and mopeds, the "Oklahoma Native America" emblem shall be a part of all license plates issued after December 31, 1993. The specifications for lettering style and appearance for the legend "Oklahoma Native America" shall be provided to the Tax Commission by the Oklahoma Tourism and Recreation Department. The license plates shall be issued with the letters and numerals in the colors of green and white. All license plates and decals shall be made with reflectorized material as a background to the letters, numbers and characters ~~impressed~~

displayed thereon. The reflectorized material shall be of such a nature as to provide effective and dependable brightness during the service period for which the license plate or decal is issued;

4. Except as otherwise provided in this subsection, the Tax Commission shall design appropriate official license plates for all state vehicles. Such license plates shall be permanent in nature and designed in such manner as to remain with the vehicle for the duration of the vehicle's life span or until the title is transferred to a nongovernmental owner;

5. Within the limits prescribed in this section, the Tax Commission shall design appropriate official license plates for vehicles of the Oklahoma Highway Patrol. The license plates shall have the legend "Oklahoma OK" and shall contain the letters "OHP" followed by the state seal and the badge number of the Highway Patrol officer to whom the vehicle is assigned. The words "Oklahoma Highway Patrol" shall also be included on such license plates; and

6. Within the limits prescribed in this section, the Tax Commission shall design appropriate official license plates for vehicles of the Oklahoma Military Department. Such license plates shall have the legend "Oklahoma OK" and shall contain the letters "OMD" followed by the state seal and three numbers or letters as designated by the Adjutant General. The words "Oklahoma Military Department" shall also be included on such license plates.

C. Where the applicant has satisfactorily shown that the applicant owns the vehicle sought to be registered but is unable to produce documentary evidence of the ownership, a license plate may be issued upon approval by the Tax Commission or Corporation Commission, as applicable. In such instances the reason for not issuing a certificate of title shall be indicated on the receipt given to the applicant. It shall still be the duty of the applicant to immediately take all necessary steps to obtain the Oklahoma certificate of title and it shall be unlawful for the applicant to

sell the vehicle until the certificate has been obtained in the applicant's name.

D. The certificate of registration provided for in this section shall be in convenient form, and the certificate of registration, or a certified copy or photostatic copy thereof, duly authenticated by the Tax Commission or Corporation Commission, as applicable, shall be carried at all times in or upon commercial vehicles so registered, in such manner as to permit a ready examination thereof upon demand by any peace officer of the state or duly authorized employee of the Department of Public Safety. Any such officer or agent may seize and hold such commercial vehicle when the operator of the same does not have the registration certificate in the operator's possession or when any such officer or agent determines that the registration certificate has been obtained by misrepresentation of any essential or material fact or when any number or identifying information appearing on such certificate has been changed, altered, obliterated or concealed in any way, until the proper registration or identification of such vehicle has been made or produced by the owner thereof.

E. The purchaser of a new or used manufactured home shall, within thirty (30) days of the date of purchase, register the home with the Tax Commission or a motor license agent pursuant to the provisions of Section 1117 of this title. For a new manufactured home, it shall be the responsibility of the dealer selling the home to place a temporary license plate on the home in the same manner as provided in Section 1128 of this title for other new motor vehicles. For the first year that any manufactured home is registered in this state, the Tax Commission shall issue a metal license plate which shall be affixed to the manufactured home. The temporary dealer license plate or the metal license plate shall be displayed on the manufactured home at all times when upon a public roadway; provided, a repossession affidavit issued pursuant to Sections 1110 and 1126

of this title shall be permissible in lieu of a current license plate and decal for the purposes of removing a repossessed manufactured home to a secure location. Manufactured homes previously registered and subject to ad valorem taxation as provided by law shall have a decal affixed at the time ad valorem taxes are paid for such manufactured home; provided, for a manufactured home permanently affixed to real estate, no decal or license plate shall be required to be affixed and the owner thereof shall be given a receipt upon payment of ad valorem taxes due on the home. The Tax Commission shall make sufficient plates and decals available to the various motor license agents of the state in order for an owner of a manufactured home to acquire the plate or decal. A One Dollar ($1.00) fee shall be charged for issuance of any plate or decal. The fee shall be apportioned each month to the General Revenue Fund of the State Treasury.

F. The manufactured home license plate shall be designed so that it is easily visible for purposes of verification by a county assessor that the manufactured home is properly assessed for ad valorem taxation. The plate shall be designed for a yearly decal. In the first year of registration, a decal shall be issued for placement on the license plate indicating payment of applicable registration fees and excise taxes. In the second and all subsequent years for which the manufactured home is subject to ad valorem taxation, an annual decal shall be affixed to the license plate as evidence of payment of ad valorem taxes. The Tax Commission shall issue decals to the various county treasurers of the state in order for a manufactured home owner to obtain such decal each year. Upon presentation of a valid ad valorem tax receipt, the manufactured home owner shall be issued the annual decal.

G. Upon the registration of a manufactured home in this state for the first time or upon discovery of a manufactured home

previously registered within this state for which the information required by this subsection is not known, the Tax Commission shall obtain:

1. The name of the owner of the manufactured home;

2. The serial number or identification number of the manufactured home;

3. A legal description or address of the location for the home;

4. The actual retail selling price of the manufactured home excluding Oklahoma taxes;

5. The certificate of title number for the home; and

6. Any other information which the Tax Commission deems to be necessary.

The application for registration shall also include the school district in which the manufactured home is located or is to be located. The information shall be entered into a computer data system which shall be used by the Tax Commission to provide information to county assessors upon request by the assessor. The assessor may request any information from the system in order to properly assess a manufactured home for ad valorem taxation.

SECTION 67. REPEALER 47 O.S. 2001, Section 1113, as last amended by Section 12, Chapter 522, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1113), is hereby repealed.

SECTION 68. AMENDATORY 47 O.S. 2001, Section 1115, as last amended by Section 5, Chapter 534, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1115), is amended to read as follows:

Section 1115. A. Unless provided otherwise by statute, the following vehicles shall be registered annually: manufactured homes, vehicles registered with a permanent nonexpiring license plate pursuant to Section 1113 of this title, commercial vehicles registered pursuant to the provisions of the International Registration Plan and commercial vehicles registered pursuant to the installment plan provided in subsection H of Section 1133 of this

title. The following schedule shall apply for such vehicle purchased in this state or brought into this state by residents of this state:

1. Between January 1 and March 31, the payment of the full annual fee shall be required;

2. Between April 1 and June 30, the payment of three-fourths (3/4) the annual fee shall be required;

3. Between July 1 and September 30, the payment of one-half (1/2) the annual fee shall be required; and

4. Between October 1 and November 30, one-fourth (1/4) the annual fee shall be required.

License plates or decals for each year shall be made available on December 1 of each preceding year for such vehicles. Any person who purchases such vehicle or manufactured home between December 1 and December 31 of any year shall register it within thirty (30) days from date of purchase and obtain a license plate or Manufactured Home License Registration Decal, as appropriate, for the following calendar year upon payment of the full annual fee. Unless provided otherwise by statute, all annual license, registration and other fees for such vehicles shall be due and payable on January 1 of each year and if not paid by February 1 shall be deemed delinquent.

B. 1. All vehicles, other than those required to be registered pursuant to the provisions of subsection A of this section, shall be registered on a staggered system of registration and licensing on a monthly series basis to distribute the work of registering such vehicles as uniformly and expeditiously as practicable throughout the calendar year. After the end of the month following the expiration date, the license and registration fees for the new registration period shall become delinquent.

2. All fleet vehicles registered pursuant to new applications approved pursuant to the provisions of Section 1120 of this title shall be registered on a staggered system monthly basis.

3. Applicants seeking to establish Oklahoma as the base jurisdiction for registering apportioned fleet vehicles shall have a one-time option of registering for a period of not less than four (4) nor greater than fifteen (15) months. Subsequent renewals for these registrants will be for twelve (12) months, expiring on the last day of the month chosen by the registrant under the one-time option as provided herein. In addition, registrants with multiple fleets may designate a different registration month of expiration for each fleet.

As used in this section, "fleet" shall have the same meaning as set forth in the International Registration Plan.

4. Effective January 1, 2004, all motorcycles and mopeds shall be registered on a staggered system of registration. The Oklahoma Tax Commission shall notify in writing, prior to December 1, 2003, all owners of motorcycles or mopeds registered as of such date, who shall have a one-time option of registering for a period of not less than three (3) months nor greater than fifteen (15) months. Subsequent renewals for these registrants will be for twelve (12) months, expiring on the last day of the month chosen by the registrant under the one-time option as provided herein. All motorcycles and mopeds registered pursuant to new applications received on or after December 1, 2003, shall also be registered pursuant to the provisions of this paragraph.

C. The following penalties shall apply for delinquent registration fees:

1. For fleet vehicles required to be registered pursuant to the provisions of Section 1120 of this title for which a properly completed application for registration has not been received by the ~~Tax Commission~~ Corporation Commission by the last day of the month

following the registration expiration date, a penalty of thirty percent (30%) of the Oklahoma portion of the annual registration fee, or Two Hundred Dollars ($200.00), whichever is greater, shall be assessed. The license and registration cards issued by the ~~Tax Commission~~ Corporation Commission for each fleet vehicle shall be valid until two (2) months after the registration expiration date;

2. For commercial vehicles registered under the provisions of subsection B of this section, except those vehicles registered pursuant to Section 1133.1 of this title, a penalty shall be assessed after the last day of the month following the registration expiration date. A penalty of twenty-five cents ($0.25) per day shall be added to the license fee of such vehicle and shall accrue for one (1) month. Thereafter, the penalty shall be thirty percent (30%) of the annual registration fee, or Two Hundred Dollars ($200.00), whichever is greater;

3. For new or used manufactured homes, not registered within thirty (30) days from date of purchase or date such manufactured home was brought into this state, a penalty equal to the registration fee shall be assessed; or

4. Except as provided in subsection H of Section 1133 of this title, for all other vehicles a penalty shall be assessed after the last day of the month following the expiration date. A penalty of twenty-five cents ($0.25) per day shall be added to the license fee of such vehicle and shall accrue for three (3) months. Thereafter, the penalty shall be Twenty-five Dollars ($25.00), provided that the penalty shall not exceed the amount equal to the license fee of such vehicle.

D. In addition to all other penalties provided in the Oklahoma Vehicle License and Registration Act, the following penalties shall be imposed and collected by any ~~Revenue~~ Enforcement Officer of the ~~Tax Commission~~ Corporation Commission upon finding any commercial

vehicle being operated in violation of the provisions of the Oklahoma Vehicle License and Registration Act.

The penalties shall apply to any commercial vehicle found to be operating in violation of the following provisions:

1. A penalty ~~in the amount~~ of not less than Fifty Dollars ($50.00) shall be imposed upon any person found to be operating a commercial vehicle sixty (60) days after the end of the month in which the license plate or registration credentials expire without the current year license plate or registration credential displayed. Such penalty shall not exceed the amount established by the Corporation Commission pursuant to the provisions of subsection A of Section 3 of this act. Revenue from such penalties shall be apportioned as provided in Section 3 of this act;

2. A penalty ~~in the amount~~ of not less than Fifty Dollars ($50.00) shall be imposed for any person operating a commercial vehicle subject to the provisions of Section 1120 or Section 1133 of this title without the proper display of, or, carrying in such commercial vehicle, the identification credentials issued by the ~~Tax Commission~~ Corporation Commission as evidence of payment of the fee or tax as provided in Section 1120 or Section 1133 of this title. Such penalty shall not exceed the amount established by the Corporation Commission pursuant to the provisions of subsection A of Section 3 of this act. Revenue from such penalties shall be apportioned as provided in Section 3 of this act; and

3. A penalty ~~in the amount~~ of not less than One Hundred Dollars ($100.00) shall be imposed for any person that fails to register any commercial vehicle subject to the Oklahoma Vehicle License and Registration Act. Such penalty shall not exceed the amount established by the Corporation Commission pursuant to the provisions of subsection A of Section 3 of this act. Revenue from such penalties shall be apportioned as provided in Section 3 of this act.

E. The Tax Commission, or Corporation Commission with respect to vehicles registered under Section 1120 or Section 1133 of this title, shall assess the registration fees and penalties for the year or years a vehicle was not registered. For vehicles not registered for two (2) or more years, the registration fees and penalties shall be due only for the current year and one (1) previous year. ~~The Tax Commission shall waive road user fees and penalties for failure to register a vehicle, provided road user fees shall not be waived for the current registration year in cases where the vehicle is proven to have been inoperable during the registration period. Proof of inoperability may be by, but is not limited to, submission of parts or repair receipts or such other evidence deemed appropriate by the Tax Commission.~~

F. In addition to any other penalty prescribed by law, there shall be a penalty ~~in the amount~~ of not less than Twenty Dollars ($20.00) upon a finding by ~~a revenue~~ an enforcement officer that:

1. The registration of a vehicle registered pursuant to Section 1132 of this title is expired and it is sixty (60) or more days after the end of the month of expiration; or

2. The registration fees for a vehicle that is subject to the registration fees pursuant to Section 1132 of this title have not been paid.

Such penalty shall not exceed the amount established by the Corporation Commission pursuant to the provisions of subsection A of Section 3 of this act. Revenue from such penalties shall be apportioned as provided in Section 3 of this act.

G. If a vehicle is donated to a nonprofit charitable organization, the nonprofit charitable organization shall be exempt from paying any current or past due registration fees, excise tax, transfer fees, and penalties and interest. However, after the donation, if the person donating the vehicle, or someone on behalf of such person, purchases the same vehicle back from the nonprofit

charitable organization to which the vehicle was donated, such person shall be liable for all current and past-due registration fees, excise tax, title or transfer fees, and penalties and interest on such vehicle.

SECTION 69. REPEALER 47 O.S. 2001, Section 1115, as last amended by Section 13, Chapter 522, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1115), is hereby repealed.

SECTION 70. REPEALER 47 O.S. 2001, Section 1120, as amended by Section 6, Chapter 534, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1120), is hereby repealed.

SECTION 71. AMENDATORY 47 O.S. 2001, Section 1120.1, as amended by Section 7, Chapter 534, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1120.1), is amended to read as follows:

Section 1120.1 A. The ~~Oklahoma Tax Commission~~ Corporation Commission, when in the interest of the State of Oklahoma and its residents, may enter into the International Registration Plan or other compacts or agreements with other states to permit motor vehicle registration and license taxes on any motor vehicle to be used as a rental motor vehicle as defined in the International Registration Plan.

B. The Tax Commission or Corporation Commission, as applicable, shall require that each rental motor vehicle be assessed the following registration fees in lieu of the fee schedule set forth in Section 1132 of this title:

1. A fee of Fifteen Dollars ($15.00) shall be assessed for the first year of registration in this or any other state; and

2. A fee of Ten Dollars ($10.00) shall be assessed in the first year and each subsequent year of registration in this or any other state.

C. Upon registration and payment of the fees required by this section, the owner shall receive a license plate which shall be

valid until the vehicle is permanently withdrawn from the rental fleet of the owner.

SECTION 72. REPEALER 47 O.S. 2001, Section 1120.1, as amended by Section 16, Chapter 522, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1120.1), is hereby repealed.

SECTION 73. AMENDATORY 47 O.S. 2001, Section 1124.1, as amended by Section 8, Chapter 534, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1124.1), is amended to read as follows:

Section 1124.1 The ~~Oklahoma Tax Commission~~ Corporation Commission is authorized to issue temporary permits or authorization for any vehicle to be proportionally registered in this state or which is currently proportionally registered in this state under the provisions of the International Registration Plan. Temporary permits may be issued for adding vehicles or jurisdictions to established accounts in good standing. New accounts may be issued temporary permits only after all fees are paid. Such temporary permit or authorization shall authorize a vehicle to be driven on the public roads of this state pending completion by the ~~Tax~~ Corporation Commission of an application for proportional registration of such vehicle. The temporary permit or authorization shall be recognized in lieu of registration in this state. The temporary permit or authorization shall clearly indicate the time and date of issuance, the reason for the issuance, and the date of expiration, which shall be forty-five (45) days, including the day of issuance. The ~~Tax~~ Corporation Commission may enter into reciprocal agreements with other states for recognition of temporary permits or authorizations.

The ~~Tax~~ Corporation Commission may assign the temporary permits or authorization to owners or operators of vehicles subject to proportional registration and such owners or operators may issue the temporary permits or authorization as needed for the operation of vehicles that will be operated as a fleet of proportionally

registered vehicles. Owners or operators shall be accountable for all temporary permits or authorization assigned to them by the ~~Tax~~ Corporation Commission and shall be subject to audit by the ~~Tax~~ Corporation Commission.

The ~~Tax~~ Corporation Commission may enter into an agreement with any person located within or without the state for the distribution and issuance of temporary permits or authorizations for any vehicle which is currently proportionally registered in this state under the provisions of the International Registration Plan when the ~~Tax~~ Corporation Commission determines that such agreement is in the best interest of the state. Any such person or corporation shall be accountable for all temporary permits or authorizations assigned to them by the ~~Tax~~ Corporation Commission and shall be subject to audit by the ~~Tax~~ Corporation Commission.

The phrase "currently proportionally registered", as used in this section, shall be defined as any prorate account for which a properly completed original application has been received by the ~~Tax~~ Corporation Commission and all corresponding and assessed fees have been paid in full.

Self-issue temporary permits or authorizations may be issued to a maximum of twenty-five percent (25%) of the size of the registrant's fleet, and any registrant with a fleet of ~~less~~ fewer than six vehicles may be assigned one self-issue permit.

An application shall be filed with the ~~Motor Vehicle Division~~ Corporation Commission within fifteen (15) days to proportionally register any vehicle for which a temporary permit or authorization has been issued.

Any owner, operator or person that has entered into such an agreement with the ~~Tax~~ Corporation Commission, that is unable to produce, or refuses to produce, upon request by the ~~Tax~~ Corporation Commission, any unissued temporary permit or authorization assigned to such entity, shall be subject to the following penalty:

A fee of One Hundred Eighty Dollars ($180.00) which is an amount equal to the fee for the number of seventy-two-hour temporary permits, provided for in Section 1124 of this title, that would be required for the operation of a vehicle for a forty-five-day period.

If, as the result of an audit, it is determined that any owner, operator or person that has entered into such an agreement with the ~~Tax~~ Corporation Commission has used temporary permits or authorizations to avoid payment of proportional registration fees, all remaining unissued temporary permits or authorizations in the possession of such owner, operator or person that has entered into such an agreement with the ~~Tax~~ Corporation Commission shall be returned to the ~~Tax~~ Corporation Commission, and the ~~Tax~~ Corporation Commission may deny further use of temporary permits or authorizations by such owner, operator or person that has entered into such an agreement with the ~~Tax~~ Corporation Commission for a minimum period of six (6) months.

SECTION 74. REPEALER 47 O.S. 2001, Section 1124.1, as amended by Section 18, Chapter 522, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1124.1), is hereby repealed.

SECTION 75. AMENDATORY 47 O.S. 2001, Section 1133, as amended by Section 1, Chapter 555, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1133), is amended to read as follows:

Section 1133. A. The following license fees shall be paid annually to the Oklahoma Tax Commission or Corporation Commission, as applicable, upon the registration of the following vehicles:

For each commercial vehicle over eight thousand (8,000) pounds as defined in Section 1102 of this title, the license fee shall be based on the combined laden weight of the vehicle or combination of vehicles. The license fees shall be computed and assessed at the following rates:

1. From 8,001 pounds to 15,000 pounds $ 95.00

2. From 15,001 pounds to 18,000 pounds 120.00

3.	From 18,001 pounds to 21,000 pounds	155.00
4.	From 21,001 pounds to 24,000 pounds	190.00
5.	From 24,001 pounds to 27,000 pounds	225.00
6.	From 27,001 pounds to 30,000 pounds	260.00
7.	From 30,001 pounds to 33,000 pounds	295.00
8.	From 33,001 pounds to 36,000 pounds	325.00
9.	From 36,001 pounds to 39,000 pounds	350.00
10.	From 39,001 pounds to 42,000 pounds	375.00
11.	From 42,001 pounds to 45,000 pounds	400.00
12.	From 45,001 pounds to 48,000 pounds	425.00
13.	From 48,001 pounds to 51,000 pounds	450.00
14.	From 51,001 pounds to 54,000 pounds	475.00
15.	From 54,001 pounds to 57,000 pounds	648.00
16.	From 57,001 pounds to 60,000 pounds	681.00
17.	From 60,001 pounds to 63,000 pounds	713.00
18.	From 63,001 pounds to 66,000 pounds	746.00
19.	From 66,001 pounds to 69,000 pounds	778.00
20.	From 69,001 pounds to 72,000 pounds	817.00
21.	From 72,001 pounds to 73,280 pounds	857.00
22.	From 73,281 pounds to 74,000 pounds	870.00
23.	From 74,001 pounds to 75,000 pounds	883.00
24.	From 75,001 pounds to 76,000 pounds	896.00
25.	From 76,001 pounds to 77,000 pounds	909.00
26.	From 77,001 pounds to 78,000 pounds	922.00
27.	From 78,001 pounds to 79,000 pounds	935.00
28.	From 79,001 pounds to 80,000 pounds	948.00
29.	From 80,001 pounds to 81,000 pounds	961.00
30.	From 81,001 pounds to 82,000 pounds	974.00
31.	From 82,001 pounds to 83,000 pounds	987.00
32.	From 83,001 pounds to 84,000 pounds	1000.00
33.	From 84,001 pounds to 85,000 pounds	1013.00
34.	From 85,001 pounds to 86,000 pounds	1026.00

35. From 86,001 pounds to 87,000 pounds 1039.00

36. From 87,001 pounds to 88,000 pounds 1052.00

37. From 88,001 pounds to 89,000 pounds 1065.00

38. From 89,001 pounds to 90,000 pounds 1078.00

B. After the fifth year's registration in this or any other state, the license fee upon any truck registered on a basis of the combined laden weight not in excess of fifteen thousand (15,000) pounds shall be assessed at fifty percent (50%) of the fee computed and assessed for each of the first five (5) years. On the seventh and all subsequent years of registration in this or any other state, on such truck, such license fees shall be assessed and computed at fifty percent (50%) of the amount due on the sixth year's registration. In no event shall such annual license fee on any truck be less than Ten Dollars ($10.00) nor shall the annual license fee of any truck-tractor be less than Ninety-five Dollars ($95.00).

C. In addition to the fees required by subsection A of this section, there shall be paid a registration fee of Forty Dollars ($40.00) upon the first registration in this state after July 1, 1985, and upon the transfer of ownership of any frac tank, as defined by Section 54 of Title 17 of the Oklahoma Statutes, rental trailer, commercial trailer or semitrailer designed to be pulled and usually pulled by a truck or truck-tractor.

Thereafter, a fee of Four Dollars ($4.00) shall be paid annually for each frac tank, rental trailer, commercial trailer or semitrailer. The fee of Four Dollars ($4.00) shall be due and payable on January 1 of each year and shall be the only fee due on any frac tank, rental trailer, commercial trailer or semitrailer registered under this section.

Upon the payment of the registration fee of Forty Dollars ($40.00), a nonexpiring registration certificate and identification plate shall be issued for each frac tank, rental trailer, commercial trailer or semitrailer. The nonexpiring identification plate shall

remain displayed on the frac tank, rental trailer, commercial trailer or semitrailer for which the identification plate is issued until such frac tank, trailer or semitrailer is sold or removed from service.

A receipt shall be issued upon the payment of the annual fee. The receipt shall show the total fee paid for one or more frac tanks, rental trailers, commercial trailers or semitrailers. The receipt shall be retained by the owner of any frac tank, rental trailer, commercial trailer or semitrailer for a period of three (3) years and shall be subject to audit by the Tax Commission or Corporation Commission.

Any frac tank, commercial trailer or semitrailer licensed pursuant to this section shall not be permitted to be operated on the highways of this state when such frac tank, commercial trailer or semitrailer is being operated by a resident of this state, or is being operated by a person operating a vehicle or vehicles domiciled in this state and required by law to be licensed in Oklahoma, unless the pulling truck or truck-tractor has been licensed pursuant to this section. In no event shall any truck, truck-tractor, frac tank, trailer, or semitrailer used in the furtherance of any commercial enterprise be permitted to operate on the highways of this state or register at a smaller license fee than that prescribed in this section except as provided in this section.

D. For ~~the fiscal year beginning July 1, 1994, and for~~ each fiscal year ~~thereafter~~, notwithstanding the provisions of Section 1104 of this title, the first Four Hundred Thousand Dollars ($400,000.00) of all monies collected pursuant to subsections A, B and C of this section shall be paid by the Tax Commission to the State Treasurer of the State of Oklahoma who shall deposit same each fiscal year, or such lesser amount as may accrue each fiscal year, under the provisions of this section to the credit of the General Revenue Fund of the State Treasury. All monies collected in excess

of Four Hundred Thousand Dollars ($400,000.00) each fiscal year shall be apportioned as provided in Section 1104 of this title.

E. If any vehicle is used for a purpose other than that for which it has been registered, the owner of the vehicle shall be required to immediately reregister the vehicle at the appropriate rate. If any vehicle is placed or operated upon any street, road or highway of this state with a laden weight in excess of that for which it is licensed, the license fee for such increased laden weight shall become due, and the owner of the vehicle shall be required to immediately reregister the vehicle at the increased rate. Provided that, in either event there shall be credited upon the increased license fee for such reregistration for any portion of the year or period remaining after the change in use or increase in laden weight shall have occurred a proportionate part of the license fees previously paid. If this reregistration is made voluntarily by the owner, the ratable proportion of the credit allowed shall be determined as of the date the reregistration is voluntarily made. If the reregistration is not voluntarily made but occurs as a result of the discovery by any enforcement officer of an improper operation of the vehicle, that shall be considered prima facie evidence that it has been improperly registered for the entire portion of the year covered by the improper registration. Provided further that the ratable credit shall be allowed only on the first reregistration of any vehicle during any calendar year. If, during the calendar year, subsequent changes of license plate are desired, the ratable credit shall not be allowed but the owner of the vehicle shall be required to pay the license fee due for that portion of the calendar year remaining without benefit of any additional credits. No owner of a motor vehicle shall possess at any time more than one license plate for any vehicle owned by such person. No reregistration shall be made until the current license plate previously issued has been surrendered.

Any person who has paid a fee under the terms and provisions of this subsection may at any time within one (1) year after the payment of such fee file with the Tax Commission or Corporation Commission a claim under oath for refund stating the grounds therefor. However, the Tax Commission or Corporation Commission shall allow refunds only where the amount of tax paid has been erroneously computed or determined through clerical errors or miscalculations. No refund shall be allowed by the Tax Commission or Corporation Commission of a tax paid by the person where such payment is made through a mistake as to the legal misinterpretation or construction of the provisions of this section. Any refunds made by the Tax Commission or Corporation Commission pursuant to this subsection shall be made out of any monies collected pursuant to this subsection and which have not been apportioned.

F. The annual license fee required by this section is intended to cover only the motor vehicle for which it is issued. The Tax Commission or Corporation Commission upon application, when a licensed truck-tractor has been destroyed by fire or accident, shall credit the unused portion of the annual license fee of ~~said~~ the vehicle toward the license fee of a replacement vehicle of equal registered weight. The amount of credit shall not exceed the license fee due on the replacement vehicle. The Tax Commission or Corporation Commission shall not be required to make a refund. If the replacement vehicle is to be registered at a greater weight, the applicant shall pay an additional sum equivalent to the difference between the unused portion of the annual license fee for the original motor vehicle and the license fee due for the replacement motor vehicle.

G. The license fees provided for in this section shall be paid each year whether or not the vehicle is operated on the public highway.

H. Notwithstanding the provision of any other statute in respect to the time for payment of license fees on motor vehicles, if the total amount of the annual license fees due from any resident owner, either individual, partnership, or Oklahoma corporation, upon the registration, on or before January 15 of any year, of commercial trucks, truck-tractors, frac tanks, trailers or semitrailers exceeds the sum of One Thousand Dollars ($1,000.00), the license fees may be paid in equal semiannual installments. The first installment shall be paid at the time of the application for registration of the vehicles and not later than January 15 of each year, and the second installment shall be paid on or before the first day of July of such year.

This subsection shall not operate to reduce the amount of the license fees due. If any installment is not paid on or before the date due, all unpaid installments of license fees for such year on each vehicle shall be deemed delinquent and immediately due and payable, and there shall be added a penalty of twenty-five cents ($0.25) per day to the balance of the license fee due on each vehicle for each day the balance remains unpaid up to thirty (30) days, after which the penalty due on each vehicle shall be Twenty-five Dollars ($25.00). The penalty for vehicles registered by weight in excess of eight thousand (8,000) pounds shall be an amount equal to the license fee. On and after the ~~30th~~ thirtieth day each such vehicle involved shall be considered as improperly licensed and as not currently registered, and all of the provisions of the Oklahoma Vehicle License and Registration Act relating to enforcement, including the provisions for the seizure and sale of vehicles not registered and not displaying current license plates, shall apply to the vehicles.

All fees and taxes levied by ~~this act~~ the Oklahoma Vehicle License and Registration Act shall become and remain a first lien upon the vehicle upon which the fees or taxes are due until paid.

The lien shall have priority to all other liens. No title to any vehicle may be transferred until the unpaid balance on the vehicle has been paid in full. Provided that any unpaid balance of the license fees shall remain and become a lien against any and all property of the owner, both real and personal, for so long as any license tag fee balance shall remain unpaid. Any unpaid balance under these provisions shall be immediately due and payable by the owner if any vehicle is sold, wrecked, or otherwise retired from service.

Any person electing to pay license fees on a semiannual installment basis, as herein authorized, shall be required to purchase a new license tag for the last half and shall pay the sum of Four Dollars ($4.00) for each tag to cover the costs of the license tags. The license tags for each half shall be plainly marked in designating the half for which they were issued. A validation sticker may be used in lieu of a metal tag where appropriate. Such license tag fee shall be, in addition to the license fees or any other fees, collected on each application as provided by statute and shall be apportioned according to the provisions of Section 1104 of this title.

I. Any person pulling or towing any vehicle intended to be resold, into or through this state, shall pay a fee of Three Dollars ($3.00) for the vehicle towing and Three Dollars ($3.00) for the one being towed. It shall be unlawful to operate any series of such units on the public highways of this state at a distance closer than five hundred (500) feet from each other. All fees and taxes levied by the terms and provisions of this section shall become and remain a first lien upon the vehicle upon which the fees or taxes are due until paid. The lien shall be prior, superior, and paramount to all other liens of whatsoever kind or character.

J. In addition to any other penalties prescribed by law, the following penalty shall be imposed by ~~revenue~~ enforcement officers

upon any owner or operator of a commercial vehicle registered under the provisions of this section when the laden weight or combined laden weight of such vehicle is found to be in excess of that for which registered. The penalty shall be imposed each and every time a vehicle is found to be in violation of the registered laden weight or combined laden weight.

The penalty shall be not less than Twenty Dollars ($20.00) when such vehicle exceeds the laden weight or combined laden weight by two thousand one (2,001) pounds; thereafter, an additional penalty of not less than Twenty Dollars ($20.00) shall be imposed for each additional one thousand (1,000) pounds or fraction thereof of weight in excess of the registered laden weight or combined laden weight. Such penalty shall not exceed the amount established by the Corporation Commission pursuant to the provisions of subsection A of Section 3 of this act. Revenue from such penalties shall be apportioned as provided in Section 3 of this act.

SECTION 76. REPEALER 47 O.S. 2001, Section 1133, as amended by Section 19, Chapter 522, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1133), is hereby repealed.

SECTION 77. AMENDATORY 47 O.S. 2001, Section 1140, as amended by Section 10, Chapter 534, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1140), is amended to read as follows:

Section 1140. A. In municipalities having a population in excess of eight thousand five hundred (8,500) located in a county having a population in excess of one hundred thirty thousand (130,000), according to the latest Federal Decennial Census, the Oklahoma Tax Commission shall adopt~~, not later than sixty (60) days after the effective date of this act,~~ rules ~~and regulations~~ prescribing minimum qualifications and requirements for locating motor license agencies and for persons applying for appointment as a motor license agent. Such qualifications and requirements shall include, but not be limited to, the following:

1. Necessary job skills and experience;

2. Minimum office hours;

3. Provision for sufficient staffing, equipment, office space and parking to provide maximum efficiency and maximum convenience to the public;

4. Obtainment of a faithful performance surety bond as provided for by law;

5. ~~Operation~~ A requirement that operation of a motor license agency ~~shall~~ be the primary source of income for said agent;

6. That the applicant has not been convicted of a felony and that no felony charges are pending against the applicant;

7. That a complete financial statement be submitted by the applicant on forms provided by the Tax Commission;

8. That a report of the applicant's credit history be obtained through the appropriate credit bureau; and

9. That the location specified in the application for appointment as a motor license agent not be owned by a member of the Oklahoma Legislature or any person related to a member of the Oklahoma Legislature within the third degree by consanguinity or affinity and that the location not be within a three-mile radius of an existing motor license agency unless the applicant is assuming the location of an operating agency~~; and~~.

~~10.~~ After the necessary information has been forwarded to the Tax Commission, each applicant shall be interviewed by the Tax Commission or its designees and each item of information shall be reviewed.

The qualifications and requirements specified in ~~paragraphs 1 through 10 of~~ this subsection shall apply only to persons making application to be appointed as motor license agents on or after ~~the effective date of this act~~ June 25, 1987.

Any person making application to the Tax Commission for the purpose of becoming a motor license agent shall pay when submitting

the application, a nonrefundable application fee of One Hundred Dollars ($100.00). All such application fees shall be deposited in the Oklahoma Tax Commission Revolving Fund.

Upon application by a person to serve as a motor license agent, in such counties, the Tax Commission shall make a determination whether such person and such location meets the qualifications and requirements prescribed herein and, if such be the case, shall appoint such person to serve as a motor license agent.

A motor license agent, appointed pursuant to this subsection shall be permitted to operate a motor license agency at a single location and shall be prohibited from operating subagencies or branch agencies, unless such subagencies or branch agencies were established prior to June 1, 1985.

Unless otherwise specifically provided, motor license agents appointed pursuant to this subsection shall be subject to all laws relating to motor license agents and shall be subject to removal at the will of the Tax Commission.

B. In all other counties of this state and in municipalities having a population of less than eight thousand five hundred (8,500) located in a county having a population in excess of one hundred thirty thousand (130,000), according to the latest Federal Decennial Census, the Tax Commission shall appoint as many motor license agents as it deems necessary to carry out the provisions of the Motor Vehicle License and Registration Act. Provided, that in counties with a population in excess of twenty-five thousand (25,000) persons, according to the latest Federal Decennial Census, having only one motor license agent serving ~~said~~ the county, the Tax Commission shall establish at least one additional agency to serve ~~said~~ the county.

Such agents shall be self-employed independent contractors, and all agents shall be under the supervision of the Tax Commission; provided, any agent authorized to issue registrations pursuant to

the International Registration Plan shall also be under the supervision of the Corporation Commission, subject to rules promulgated by the Corporation Commission pursuant to the provisions of subsection E of Section 2 of this act. Any such agent, upon being appointed, shall furnish and file with the Tax Commission a bond in such amount as may be fixed by ~~said~~ the Tax Commission. Such agent shall be removable at the will of the Tax Commission. Such agent shall perform all duties and do such things in the administration of the laws of this state as shall be enjoined upon and required ~~of him~~ by the Tax Commission or the Corporation Commission. Provided ~~that~~, the Tax Commission may operate a motor license agency in any county where a vacancy occurs.

C. In the event of a vacancy existing by reason of resignation, removal, death or otherwise, in the position of any motor license agent, the Tax Commission is hereby empowered and authorized to take any and all actions it deems appropriate in order to provide for the orderly transition and for the maintenance of operations of the motor license agency including~~,~~ but not limited to~~,~~ the designation of one of its regular employees to serve as "acting agent" without bond, and to receive and expend all fees or charges authorized or provided by law and exercise the same powers and authority as a regularly appointed motor license agent. ~~Said~~ An acting agent may be authorized by the Tax Commission equally as the preceding agent to make disbursements from any balances in the preceding motor license agent's operating account and the agent's operating funds for the payment of expenses of operations and salaries and other overhead. If such funds are insufficient, the Tax Commission is authorized to expend from funds appropriated for the operation of the Tax Commission such amounts as are necessary to maintain and continue the operation of any such motor license agency until a successor agent is appointed and qualified. The Tax Commission may require a blanket fiduciary bond of the agency employees.

D. Any motor license agency operated by a motor license agent who has been charged with a felony shall be closed immediately. The State Auditor and Inspector shall immediately conduct an audit of such motor license agency and forward the report of the audit to the Tax Commission for review. The Tax Commission shall determine whether the motor license agency shall be reopened and operated by the motor license agent or whether the agency shall be reopened and operated by the Tax Commission. The review of the audit and the Tax Commission determination shall be effected as soon as possible to prevent additional inconvenience to the public.

E. When an application for registration is made with the Tax Commission, Corporation Commission or a motor license agent, a registration fee of One Dollar and seventy-five cents ($1.75) shall be collected for each license plate or decal issued. Such fees shall be in addition to the registration fees on motor vehicles and when an application for registration is made to the motor license agent such motor license agent shall retain ~~One Dollar and twenty-five cents ($1.25) and such retained amounts shall be distributed as provided for other such fees retained by a motor license agent and the remaining fifty cents ($0.50) shall be remitted to the Tax Commission to be distributed according to the provisions of Section 1104 of this title.~~

~~It is provided further that, when applications are made to the motor license agent in transactions involving issuance of title and the payment of excise taxes as required by law, the motor license agent shall receive four percent (4%) of the excise tax as provided for in Section 2102 of Title 68 of the Oklahoma Statutes and such fees shall be used for operating expenses as herein defined, and the excess funds are to be deposited in school general funds as provided by law for other motor license agent fees~~ a fee as provided in Section 1141.1 of this title. When the fee is paid by a person making ~~his~~ application directly with the Tax Commission or

Corporation Commission, as applicable, ~~said~~ the registration fees shall be in the same amount as provided for motor license agents and ~~One Dollar and twenty-five cents ($1.25) of such fees~~ the fee provided by Section 1141.1 of this title shall be deposited in the Oklahoma Tax Commission Revolving Fund ~~and fifty cents ($0.50) of such fees shall be apportioned according to the provisions of Section 1104 of this title~~ or as provided in Section 3 of this act, as applicable. The Tax Commission shall prepare schedules of registration fees and charges for titles which shall include the fees for such agents and all fees and charges paid by a person shall be listed separately on the application and registration and totaled on the application and registration. The motor license agents shall charge only such fees as are specifically provided for by law, and all such authorized fees shall be posted in such a manner that any person shall have notice of all fees that are imposed by law.

F. ~~Beginning on the effective date of this act, no~~ No person shall be appointed as a motor license agent unless the person has attested under oath that the person is not related by affinity or consanguinity within the third degree to:

1. Any member of the Oklahoma Legislature;

2. Any person who has served as a member of the Oklahoma Legislature within the two-year period preceding the date of appointment as motor license agent; or

3. Any employee of the Tax Commission.

G. Any motor license agent appointed under the provisions of this title shall be responsible for all costs incurred by the Tax Commission when relocating an existing motor license agency. The Tax Commission may waive payment of such costs in case of unforeseen business or emergency conditions beyond the control of the agent.

SECTION 78. REPEALER 47 O.S. 2001, Section 1140, as amended by Section 23, Chapter 522, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1140), is hereby repealed.

SECTION 79. AMENDATORY 47 O.S. 2001, Section 1151, as last amended by Section 24, Chapter 522, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1151), is amended to read as follows:

Section 1151. A. It shall be unlawful for any person to commit any of the following acts:

1. To lend or to sell to, or knowingly permit the use of by, one not entitled thereto any certificate of title, license plate or decal issued to or in the custody of the person so lending or permitting the use thereof;

2. To alter or in any manner change a certificate of title, registration certificate, license plate or decal issued under the laws of this or any other state;

3. To procure from another state or country, or display upon any vehicle owned by such person within this state, except as otherwise provided in the Oklahoma Vehicle License and Registration Act, any license plate issued by any state or country other than this state, unless there shall be displayed upon such vehicle at all times the current license plate and decal assigned to it by the Oklahoma Tax Commission or the Corporation Commission or the vehicle shall display evidence that the vehicle is registered as a nonresident vehicle pursuant to rules promulgated by the Tax Commission, with the concurrence of the Department of Public Safety. A violation of the provisions of this paragraph shall be presumed to have occurred if a person who is the holder of an Oklahoma driver license operates a vehicle owned by such person on the public roads or highways of this state and there is not displayed on the vehicle a current Oklahoma license plate and decal, unless the vehicle is owned by a member of the Armed Forces of the United States assigned to duty in this state in compliance with official military or naval orders or the spouse of such a member of the Armed Forces;

4. To drive, operate or move, or for the owner to cause or permit to be driven or moved, upon the roads, streets or highways of

this state, any vehicle loaded in excess of its registered laden weight, or which is licensed for a capacity less than the manufacturer's rated capacity as provided for in the Oklahoma Vehicle License and Registration Act;

5. To operate a vehicle without proper license plate or decal or on which all taxes due the state have not been paid;

6. To buy, sell or dispose of, or possess for sale, use or storage, any secondhand or used vehicle on which the registration or license fee has not been paid, as required by law, and on which vehicle the person neglects, fails or refuses to display at all times the license plate or decal assigned to it;

7. To give a fictitious name or fictitious address or make any misstatement of facts in application for certificate of title and registration of a vehicle;

8. To purchase a license plate on an assigned certificate of title. This particular paragraph shall be applicable to all persons except a bona fide registered ~~dealers~~ dealer in used cars who are holders of a current and valid used car ~~dealers' licenses~~ dealer license;

9. To operate a vehicle upon the highways of this state after the registration deadline for that vehicle without a proper license plate, as prescribed by the Oklahoma Vehicle License and Registration Act, for the current year;

10. For any owner of a vehicle registered on the basis of laden weight to fail or refuse to weigh or reweigh it when requested to do so by any enforcement officer charged with the duty of enforcing this law;

11. To operate or possess any vehicle which bears a motor number or serial number other than the original number placed thereon by the factory except a number duly assigned and authorized by the state;

12. For any motor license agent to release a license plate, a manufactured home registration receipt, decal or excise tax receipt to any unauthorized person or source, including any dealer in new or used motor vehicles. Violation of this paragraph shall constitute sufficient grounds for discharge of a motor license agent by the Tax Commission;

13. To operate any vehicle registered as a commercial vehicle without the lettering requirements of Section 1102 of this title; or

14. To operate any vehicle in violation of the provisions of Sections 7-600 through 7-606 of this title while displaying a yearly decal issued to the owner who has filed an affidavit with the appropriate motor license agent in accordance with Section 7-607 of this title.

Any person convicted of violating any provision of this subsection, other than paragraph 3 of this subsection, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed Five Hundred Dollars ($500.00). Any person convicted of violating the provisions of paragraph 3 of this subsection shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than One Hundred Dollars ($100.00) and not more than Five Hundred Dollars ($500.00) and shall be required to obtain an Oklahoma license plate. Employees of the Corporation Commission may be authorized by the Corporation Commission to issue citations for a violation of paragraph 5 of this subsection. If a person convicted of violating the provisions of paragraph 5 of this subsection was issued a citation by a duly authorized employee of the Corporation Commission, the fine herein levied shall be apportioned as provided in Section 3 of this act.

B. Except as otherwise authorized by law, it shall be unlawful to:

1. Lend or sell to, or knowingly permit the use of by, one not entitled thereto any certificate of title issued for a manufactured home, manufactured home registration receipt, manufactured home registration decal or excise tax receipt;

2. Alter or in any manner change a certificate of title issued for a manufactured home under the laws of this state or any other state;

3. Remove or alter a manufactured home registration receipt, manufactured home registration decal or excise tax receipt attached to a certificate of title or attach such receipts to a certificate of title with the intent to misrepresent the payment of the required excise tax and registration fees;

4. Buy, sell, or dispose of, or possess for sale, use or storage any used manufactured home on which the registration fees or excise taxes have not been paid as required by law; or

5. Purchase identification, manufactured home registration receipt, manufactured home registration decal or excise tax receipt on an assigned certificate of title.

Anyone violating the provisions of this subsection, upon conviction, shall be guilty of a felony.

C. In the event a new vehicle is not registered within thirty (30) days from date of purchase, the penalty for the failure of the owner of the vehicle to register the vehicle within thirty (30) days shall be Twenty-five Dollars ($25.00), provided that in no event shall the penalty exceed an amount equal to the license fee. The penalty for new commercial vehicles shall be equal to the license fee for such vehicles.

If a used vehicle is brought into Oklahoma by a resident of this state and is not registered within thirty (30) days, a penalty of twenty-five cents ($0.25) per day shall be charged from the date of entry to the date of registration, such penalty to accrue for thirty (30) days, upon failure to register, at the end of which time the

penalty shall be Twenty-five Dollars ($25.00), provided that in no event shall the penalty exceed an amount equal to the license fee. The penalty for used commercial vehicles shall be equal to the license fee for such vehicles.

D. Any owner who knowingly makes or causes to be made any false statement of a fact required in this section to be shown in an application for the registration of one or more vehicles shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than One Thousand Dollars ($1,000.00), or shall be imprisoned in the county jail for not more than one (1) year, or by both such fine and imprisonment.

E. ~~Self-propelled or motor-driven cycles, known and commonly referred to as "minibikes" and other similar trade names,~~ The following self-propelled or motor-driven and operated vehicles shall not be registered under the provisions of the Oklahoma Vehicle License and Registration Act or, except as provided for in Section 16 of this act, be permitted to be operated on the streets or highways of this state. ~~Provided that minibikes may be operated on the streets when used in a parade. Notwithstanding other provisions of this subsection,~~:

1. Vehicles known and commonly referred to as "minibikes" and other similar trade names; provided, minibikes may be registered and operated in this state by food vendor services upon streets having a speed limit of thirty (30) miles per hour or less~~.~~;

~~All minibikes offered for sale in this state shall bear the following notice to the customer:~~

> ~~"This machine is not manufactured or sold for operation on the public streets or highways. Since it is not provided with equipment required by law for street or highway use, all persons are cautioned that any operation of this vehicle upon a public street or highway will be in~~

~~violation of the motor vehicle laws of this state and will subject the violator to arrest."~~

2. Golf carts;

3. Go-carts;

4. All-terrain vehicles; and

5. Other motor vehicles which are manufactured principally for use off the streets and highways.

Transfers and sales of such vehicles shall be subject to sales tax and not motor vehicle excise taxes.

~~The provisions of this subsection shall also apply to those motor-driven or operated vehicles known as "golf carts", "go-carts" and other motor vehicles which are manufactured principally for use off the streets and highways. Provided that golf carts owned by the Oklahoma Tourism and Recreation Department, and operated by employees or agents of the Department or employees of independent management companies working on behalf of the Department, may be operated on the streets and highways of this state during daylight hours or under regulation developed by the Oklahoma Tourism and Recreation Commission, when such streets and highways are located within the boundaries of a state park. The Department shall have warning signs placed at the entrance and other locations at those state parks allowing golf carts to be operated on the streets and highways of this state located within the boundaries of those state parks. The warning signs shall state that golf carts may be on such streets and highways and that motor vehicle operators shall take special precautions to be alert for the presence of the golf carts on such streets and highways.~~

~~The provisions of this subsection shall also apply to those motor-driven or operated vehicles known as "all-terrain vehicles", which are manufactured principally for use off the roads. All-terrain vehicles may be operated on unpaved roads which are located within the boundaries of any property of the Forest Service of the~~

~~United States Department of Agriculture. Also, all-terrain vehicles may operate upon the public streets and highways of this state under the following circumstances:~~

~~1. An all-terrain vehicle may be operated upon public streets and highways if the vehicle needs to make a direct crossing of the street or highway while the vehicle is traveling upon a regularly traveled trail and needs to continue travel from one area of the trail to another and if the vehicle comes to a complete stop, yields the right-of-way to all oncoming traffic that constitutes an immediate hazard, and crosses the street or highway at an angle of approximately ninety (90) degrees to the direction of the street or highway. This exception shall not apply to divided highways or streets or highways with a posted speed limit of more than thirty-five (35) miles per hour in the area of the crossing;~~

~~2. An all-terrain vehicle may be operated upon public streets and highways if the vehicle needs to travel on a public street or highway in order to cross a railroad track. In that event, the all-terrain vehicle may travel for not more than three hundred (300) feet on a public street or highway to cross a railroad track;~~

~~3. The operator of the all-terrain vehicle making the crossing at a street or highway has a valid driver license; and~~

~~4. The operation of the vehicle making a crossing on a street or highway occurs during daylight hours only.~~

F. Any person violating paragraph 3 or 6 of subsection A of this section, in addition to the penal provisions provided in this section, shall pay as additional penalty a sum equal to the amount of license fees due on such vehicle or registration fees due on a manufactured home known to be in violation and such amount is hereby declared to be a lien upon the vehicle as provided in the Oklahoma Vehicle License and Registration Act. In addition to the penalty provisions provided in this section, any person violating paragraph 3 of subsection A of this section shall be deemed guilty of a

misdemeanor and shall, upon conviction, be punished by a fine of One Hundred Dollars ($100.00) and the suspension of such person's driver license and right to operate the vehicle.

G. Each violation of any provision of the Oklahoma Vehicle License and Registration Act for each and every day such violation has occurred shall constitute a separate offense.

H. Anyone violating any of the provisions heretofore enumerated in this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than Ten Dollars ($10.00) and not to exceed Three Hundred Dollars ($300.00).

I. Any violation of any portion of the Oklahoma Vehicle License and Registration Act where a specific penalty has not been imposed shall constitute a misdemeanor and upon conviction thereof the person having violated it shall be fined not less than Ten Dollars ($10.00) and not to exceed Three Hundred Dollars ($300.00).

J. Any provision of Section 1101 et seq. of this title providing for proportional registration under reciprocal agreements and the International Registration Plan that relates to the promulgation of rules and regulations shall not be subject to the provisions of this section.

SECTION 80. REPEALER 47 O.S. 2001, Section 1151, as last amended by Section 27, Chapter 418, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1151), is hereby repealed.

SECTION 81. AMENDATORY 51 O.S. 2001, Section 36.3, as amended by Section 7, Chapter 447, O.S.L. 2004 (51 O.S. Supp. 2004, Section 36.3), is amended to read as follows:

Section 36.3 A. The oath or affirmation required by Section 36.2A of this title and taken and subscribed to by:

1. Every state officer shall be filed with the Secretary of State;

2. Every state employee shall be filed with the personnel officer of the state entity employing the state employee;

3. All other officers shall be filed with the office of the county clerk of the county of official residence of the officer;

4. All other employees shall be filed with the office of the county clerk of the county in which the entity employing the employee is located; and

5. Every notary public shall be filed with the office of the ~~court clerk of the county of official residence of the notary, or if a nonresident, the county of employment of the notary~~ Secretary of State.

B. No fee shall be charged for the filings or for the administration of the oaths or affirmation.

C. Blank oath forms will be furnished, without charge, by the Secretary of State to such officers and employees upon request.

D. The provisions of paragraphs 3, 4 and 5 of subsection A of this section shall not apply to municipal officers and employees or school district officers and employees. All oaths or affirmations of municipal officers or employees or school district officers or employees shall be filed in the office of the municipal clerk of the municipality or in the office of the school clerk of the school district for which the officer or employee serves or by which the officer or employee is employed.

SECTION 82. REPEALER 51 O.S. 2001, Section 36.3, as amended by Section 3, Chapter 101, O.S.L. 2004 (51 O.S. Supp. 2004, Section 36.3), is hereby repealed.

SECTION 83. AMENDATORY 57 O.S. 2001, Section 583, as last amended by Section 1, Chapter 162, O.S.L. 2004 (57 O.S. Supp. 2004, Section 583), is amended to read as follows:

Section 583. A. Any person who becomes subject to the provisions of the Sex Offenders Registration Act on or after November 1, 1989, shall be registered as follows:

1. With the Department of Corrections within three (3) business days of being convicted or receiving a suspended sentence or any

probationary term, including a deferred sentence imposed in violation of subsection G of Section 991c of Title 22 of the Oklahoma Statutes, if the person is not incarcerated, or within three (3) business days of release of the person from a correctional institution, except as provided in subsection B of this section;

2. With the local law enforcement authority having jurisdiction in the area where the person resides or intends to reside for more than seven (7) days. The registration is required within three (3) days after entering the jurisdiction of the law enforcement authority; and

3. With the Department of Corrections and the local law enforcement authority no less than three (3) business days prior to abandoning or moving from the address of the previous registration.

For purposes of this section, "local law enforcement authority" means:

a. the municipal police department, if the person resides or intends to reside or stay within the jurisdiction of any municipality of this state, or

b. the county sheriff, if the person resides or intends to reside or stay at any place outside the jurisdiction of any municipality within this state, and

c. the police or security department of any institution of higher learning within this state if the person:

(1) enrolls as a full-time or part-time student,

(2) is a full-time or part-time employee at an institution of higher learning, or

(3) resides or intends to reside or stay on any property owned or controlled by the institution of higher learning.

B. Any person who has been convicted of an offense or received a deferred judgment for an offense on or after November 1, 1989, in

another jurisdiction, which offense if committed or attempted in this state, would have been punishable as one or more of the offenses listed in Section 582 of this title and who enters this state shall be registered as follows:

1. With the Department of Corrections when the person enters and intends to be in the state for any purpose for ~~thirty (30)~~ five (5) days or longer, has any type of full-time or part-time employment, with or without compensation for more than ~~fourteen (14)~~ five (5) days ~~or an aggregate period exceeding thirty (30) days within a calendar year~~, or is enrolled as a full-time or part-time student within this state. Such registration is required within ~~three (3)~~ two (2) days after entering the state;

2. With the local law enforcement authority having jurisdiction in the area where the person intends to reside or to stay for more than ~~seven (7)~~ five (5) days, has any type of full-time or part-time employment, with or without compensation for more than ~~fourteen (14)~~ five (5) days ~~or an aggregate period exceeding thirty (30) days within a calendar year~~, or is enrolled as a full-time or part-time student within this state. The registration is required with local law enforcement within ~~three (3)~~ two (2) days after entering the jurisdiction of the law enforcement authority; and

3. With the Department of Corrections and the local law enforcement authority no less than three (3) business days prior to abandoning or moving from the address of the previous registration.

C. Except for habitual or aggravated sex offenders, the person shall be required to register for a period of ten (10) years from the date of the completion of the sentence and the information received pursuant to the registration with the Department of Corrections required by this section shall be maintained by the Department of Corrections for at least ten (10) years from the date of the last registration.

D. Except for habitual or aggravated sex offenders, the person shall be required to register for a period of ten (10) years from the date of completion of the sentence and the information received pursuant to the registration with the local law enforcement authority required by this section shall be maintained by such authority for at least ten (10) years from the date of the last registration.

E. When registering an offender as provided in this section the Department of Corrections or the local law enforcement agency having jurisdiction shall:

1. Inform the offender of the duty to register and obtain the information required for registration as described in this section;

2. Inform the offender that if the offender changes address, the offender shall give notice of the move and the new address to the Department of Corrections in writing no later than three (3) days before the offender establishes residence or is temporarily domiciled at the new address;

3. Inform the offender that if the offender changes address to another state, the offender shall give notice of the move and shall register the new address with the ~~Oklahoma~~ Department of Corrections and with a designated law enforcement agency in the new state not later than ten (10) days before the offender establishes residency or is temporarily domiciled in the new state, if the new state has a registration requirement;

4. Inform the offender that if the offender participates in any full-time or part-time employment, in another state, with or without compensation for more than fourteen (14) days or an aggregate period exceeding thirty (30) days in a calendar year, then the offender has a duty to register as a sex offender in that state;

5. Inform the offender that if the offender enrolls in any type of school in another state as a full-time or part-time student then the offender has a duty to register as a sex offender in that state;

6. Inform the offender that if the offender enrolls in any school within this state as a full-time or part-time student, then the offender has a duty to register as a sex offender with the Department of Corrections and the local law enforcement authority;

7. Inform the offender that if the offender participates in any full-time or part-time employment at any school, with or without compensation, or participates in any vocational course or occupation at any school in this state, then the offender has a duty to notify the Department of Corrections and the local law enforcement authority in writing of such employment or participation at least three (3) days before commencing or upon terminating such employment or participation;

8. Inform the offender that if the offender graduates, transfers, drops, terminates or otherwise changes enrollment or employment at any school in this state, then the offender shall notify the Department of Corrections and the local law enforcement authority in writing of such change in enrollment or employment within three (3) days of the change; and

9. Require the offender to read and sign a form stating that the duty of the person to register under the Sex Offenders Registration Act has been explained.

F. For the purpose of this section, the "date of the completion of the sentence" means the day an offender completes all incarceration, probation and parole pertaining to the sentence.

G. Any person who resides in another state and who has been convicted of an offense or received a deferred judgment for an offense in this state, or in another jurisdiction, which offense if committed or attempted in this state would have been punishable as one or more of the offenses listed in Section 582 of this title, and who is the spouse of a person living in this state shall be registered as follows:

1. With the Department of Corrections when the person enters and intends to be in the state for any purpose for five (5) days or longer or an aggregate period of five (5) days or longer in a calendar year. Such registration is required within two (2) days after entering the state; and

2. With the local law enforcement authority having jurisdiction in the area where the person intends to reside or to stay within this state for two (2) days or longer. The registration is required with local law enforcement within two (2) days after entering the jurisdiction of the law enforcement authority.

SECTION 84. REPEALER 57 O.S. 2001, Section 583, as last amended by Section 1, Chapter 98, O.S.L. 2004 (57 O.S. Supp. 2004, Section 583), is hereby repealed.

SECTION 85. AMENDATORY 59 O.S. 2001, Section 15.2, as amended by Section 3, Chapter 125, O.S.L. 2004 (59 O.S. Supp. 2004, Section 15.2), is amended to read as follows:

Section 15.2 A. There is hereby re-created, to continue until July 1, ~~2004~~ 2010, in accordance with the provisions of the Oklahoma Sunset Law, the Oklahoma Accountancy Board. The Oklahoma Accountancy Board shall have the responsibility for administering and enforcing the Oklahoma Accountancy Act. The Oklahoma Accountancy Board shall be composed of seven (7) members, who shall have professional or practical experience in the use of accounting services and financial matters, so as to be qualified to make judgments about the qualifications and conduct of persons and firms subject to regulation under this act to be appointed by the Governor and confirmed by the Senate. The number of registrant members shall not be more than six, not including a firm, who shall serve terms of five (5) years. No member who has served two successive complete terms shall be eligible for reappointment, but an appointment to fill an unexpired term shall not be considered a complete term for

this purpose. The public member shall serve coterminously with the Governor appointing the public member.

B. One member shall be a public accountant licensed and holding a permit pursuant to the provisions of the Oklahoma Accountancy Act. A list of qualified persons shall be compiled and submitted to the Governor by the Oklahoma Society of Public Accountants from time to time as appointment of the public accountant Board member is required to be made. A list of three names shall be submitted for each single appointment from which the Governor may make the appointment.

C. Five members shall be certified public accountants holding certificates and four shall hold permits issued pursuant to the provisions of the Oklahoma Accountancy Act, at least four of whom shall have been engaged in the practice of public accounting as a certified public accountant continuously for not less than five (5) out of the last fifteen (15) years immediately preceding their appointments. A list of qualified persons shall be compiled and submitted to the Governor by the Oklahoma Society of Certified Public Accountants from time to time as appointments of the certified public accountant Board members are required. A list of three names shall be submitted for each single appointment from which the Governor may make the appointment.

D. One member shall be a public member who is not a certified public accountant or licensed public accountant. The public member shall be appointed by the Governor to a term coterminous with the Governor. The public member shall serve at the pleasure of the Governor.

E. Upon the expiration of the term of office, a member shall continue to serve until a qualified successor has been appointed. Confirmation by the Senate is required during the next regular session of the Oklahoma Senate for the member to continue to serve.

SECTION 86. REPEALER 59 O.S. 2001, Section 15.2, as amended by Section 1, Chapter 27, O.S.L. 2004 (59 O.S. Supp. 2004, Section 15.2), is hereby repealed.

SECTION 87. AMENDATORY 59 O.S. 2001, Section 353.24, as last amended by Section 21, Chapter 523, O.S.L. 2004 (59 O.S. Supp. 2004, Section 353.24), is amended to read as follows:

Section 353.24 It shall be unlawful for any person, firm or corporation to:

1. Forge or increase the quantity of drug in any prescription, or to present a prescription bearing forged, fictitious or altered information or to possess any drug secured by such forged, fictitious or altered prescription;

2. Sell, offer for sale, barter or give away any unused quantity of drugs obtained by prescription, except through a program pursuant to the Utilization of Unused Prescription Medications Act or as otherwise provided by the Board of Pharmacy;

3. Sell, offer for sale, barter or give away any drugs damaged by fire, water, or other causes without first obtaining the written approval of the Board or the State Department of Health;

4. Enter into any arrangement whereby prescription orders are received, or prescriptions delivered at a place other than the pharmacy in which they are compounded and dispensed. However, nothing in this paragraph shall prevent a pharmacist or an employee of the pharmacy from personally receiving a prescription or delivering a legally filled prescription at a residence, office or place of employment of the patient for whom the prescription was written. Nothing in this paragraph shall prevent veterinary prescription drugs from being shipped directly from a wholesaler or distributor to a client; provided, such drugs may be dispensed only on prescription of a licensed veterinarian and only when an existing veterinary-client-patient relationship exists;

5. Sell, offer for sale or barter or buy any professional samples except through a program pursuant to the Utilization of Unused Prescription Medications Act. For purpose of this paragraph, "professional samples" means complimentary drugs packaged in accordance with federal and state statutes and regulations and provided to a licensed practitioner free of charge by manufacturers or distributors for the purpose of being distributed free of charge in such package by the licensed practitioner to a patient;

6. Refuse to permit or otherwise prevent members of the Board or such representatives thereof from entering and inspecting any and all places, including premises, equipment, contents, and records, where drugs, medicine, chemicals or poisons are stored, sold, vended, given away, compounded, dispensed or manufactured; or

7. Possess dangerous drugs without a valid prescription or a valid license to possess such drugs.

SECTION 88. REPEALER 59 O.S. 2001, Section 353.24, as last amended by Section 8, Chapter 374, O.S.L. 2004 (59 O.S. Supp. 2004, Section 353.24), is hereby repealed.

SECTION 89. AMENDATORY 61 O.S. 2001, Section 102, as last amended by Section 1, Chapter 97, O.S.L. 2004 (61 O.S. Supp. 2004, Section 102), is amended to read as follows:

Section 102. As used in the Public Competitive Bidding Act of 1974:

1. "Administrator" means the State Construction Administrator of the Construction and Properties Division of the Department of Central Services;

2. "Awarding public agency" means the public agency which solicits and receives sealed bids on a particular public construction contract;

3. "Bidding documents" means the bid notice, instruction to bidders, plans and specifications, bidding form, bidding instructions, general conditions, special conditions and all other

written instruments prepared by or on behalf of an awarding public agency for use by prospective bidders on a public construction contract;

4. "Chief administrative officer" means an individual responsible for directing the administration of a public agency. The term does not mean one or all of the individuals that make policy for a public agency;

5. "Public agency" means the State of Oklahoma, and any county, city, town, school district or other political subdivision of the state, any public trust, any public entity specifically created by the statutes of the State of Oklahoma or as a result of statutory authorization therefor, and any department, agency, board, bureau, commission, committee or authority of any of the foregoing public entities;

6. "Public construction contract" or "contract" means any contract, exceeding Twenty-five Thousand Dollars ($25,000.00) in amount, awarded by any public agency for the purpose of making any public improvements or constructing any public building or making repairs to or performing maintenance on the same except where the improvements, construction of any building or repairs to the same are improvements or buildings leased to a person or other legal entity exclusively for private and not for public use and no public tax revenues shall be expended on or for the contract unless the public tax revenues used for the project are authorized by a majority of the voters of the applicable public agency voting at an election held for that purpose and the public tax revenues do not exceed twenty-five percent (25%) of the total project cost. The amount of public tax dollars committed to the project will not exceed a fixed amount established by resolution of the governing body prior to or concurrent with approval of the project;

7. "Public improvement" means any beneficial or valuable change or addition, betterment, enhancement or amelioration of or upon any

real property, or interest therein, belonging to a public agency, intended to enhance its value, beauty or utility or to adapt it to new or further purposes. The term does not include the direct purchase of materials, provided that the materials are not purchased in increments for an amount of less than Twenty-five Thousand Dollars ($25,000.00) and used for the purposes of completing a single project, equipment or supplies by a public agency, or any personal property as defined in paragraphs 1 and 4 of subsection B of Section 430.1 of Title 62 of the Oklahoma Statutes; and

8. "Retainage" means the difference between the amount earned by the contractor on a public construction contract, with the work being accepted by the public agency, and the amount paid on said contract by the public agency.

SECTION 90. REPEALER 61 O.S. 2001, Section 102, as last amended by Section 1, Chapter 52, O.S.L. 2004 (61 O.S. Supp. 2004, Section 102), is hereby repealed.

SECTION 91. REPEALER 62 O.S. 2001, Section 41.29b, as last amended by Section 22, Chapter 8, O.S.L. 2004 (62 O.S. Supp. 2004, Section 41.29b), is hereby repealed.

SECTION 92. REPEALER 63 O.S. 2001, Section 1-1950.3, as last amended by Section 1, Chapter 420, O.S.L. 2004 (63 O.S. Supp. 2004, Section 1-1950.3), is hereby repealed.

SECTION 93. REPEALER 63 O.S. 2001, Section 1-1950.5, as last amended by Section 4, Chapter 249, O.S.L. 2004 (63 O.S. Supp. 2004, Section 1-1950.5), is hereby repealed.

SECTION 94. AMENDATORY 63 O.S. 2001, Section 330.97, as last amended by Section 10, Chapter 459, O.S.L. 2004, and as last renumbered by Section 11, Chapter 459, O.S.L. 2004 (63 O.S. Supp. 2004, Section 1-2530.9), is amended to read as follows:

Section 1-2530.9 A. There is hereby created in the State Treasury a revolving fund for the State Department of Health to be designated the "Trauma Care Assistance Revolving Fund". The fund

shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Department of Health from monies apportioned thereto for purposes of this section. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department as follows:

1. Ninety percent (90%) of such monies shall be used to reimburse recognized trauma facilities, licensed ambulance service providers and physicians for uncompensated trauma care expenditures as documented in the statewide emergency medical services and trauma analysis system developed pursuant to the provisions of Section 1-2511 of this title~~; provided, however, any~~. Any monies used for the treatment of Medicaid-eligible patients that are subsequently used to establish federal matching fund requirements shall also be reimbursed to eligible trauma facilities, licensed ambulance service providers and physicians; and

2. Ten percent (10%) of such monies shall be used by the Department in the furtherance of its powers and duties set forth in the Oklahoma Emergency Response Systems Development Act.

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

C. The State Board of Health shall establish by rule a formula and procedure for the distribution of funds for uncompensated trauma care that shall provide for the allocation of funds to hospitals, ambulance service providers and physicians.

D. Annually, monies accumulated in the fund may be transferred to the Oklahoma Health Care Authority, by order of the State Commissioner of Health, to maximize Medicaid reimbursement of trauma care. The Oklahoma Health Care Authority shall use these funds with federal matching funds to reimburse hospitals, ambulance service

providers and physicians for trauma care provided to severely injured patients who are participants in Medicaid.

E. An annual report detailing the disbursements from the fund shall be provided on January 1 of each year to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Chair of each health-related committee of both the House of Representatives and the Senate.

SECTION 95. REPEALER 63 O.S. 2001, Section 330.97, as last amended by Section 3, Chapter 386, O.S.L. 2004, and as last renumbered by Section 11, Chapter 459, O.S.L. 2004 (63 O.S. Supp. 2004, Section 1-2530.9), is hereby repealed.

SECTION 96. REPEALER 63 O.S. 2001, Section 330.97, as last amended by Section 10, Chapter 396, O.S.L. 2004, and as last renumbered by Section 11, Chapter 459, O.S.L. 2004 (63 O.S. Supp. 2004, Section 1-2530.9), is hereby repealed.

SECTION 97. REPEALER 63 O.S. 2001, Section 1-2702, as amended by Section 2, Chapter 22, O.S.L. 2004 (63 O.S. Supp. 2004, Section 1-2702), is hereby repealed.

SECTION 98. AMENDATORY 63 O.S. 2001, Section 2-101, as last amended by Section 1, Chapter 301, O.S.L. 2004 (63 O.S. Supp. 2004, 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 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 warehouser 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;

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

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

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

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

13. "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;

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

18. "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. "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. "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. "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. "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. "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. "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. "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 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. "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. "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. "Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof;

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

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

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

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

35. "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. "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or fashioned specifically 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, intended for use, or fashioned specifically 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, intended for use, or fashioned specifically for use in manufacturing, compounding, converting, producing, processing or preparing controlled dangerous substances,

c. isomerization devices used, intended for use, or fashioned specifically for use in increasing the potency of any species of plant which is a controlled dangerous substance,

d. testing equipment used, intended for use, or fashioned specifically for use in identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substances,

e. scales and balances used, intended for use, or fashioned specifically for use in weighing or measuring controlled dangerous substances,

f. diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or fashioned specifically for use in cutting controlled dangerous substances,

g. separation gins and sifters used, intended for use, or fashioned specifically for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana,

h. blenders, bowls, containers, spoons and mixing devices used, intended for use, or fashioned specifically for use in compounding controlled dangerous substances,

i. capsules, balloons, envelopes and other containers used, intended for use, or fashioned specifically for use in packaging small quantities of controlled dangerous substances,

j. containers and other objects used, intended for use, or fashioned specifically for use in parenterally injecting controlled dangerous substances into the human body,

k. hypodermic syringes, needles and other objects used, intended for use, or fashioned specifically for use in parenterally injecting controlled dangerous substances into the human body,

l. objects used, intended for use, or fashioned specifically 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) bongs, or

(13) ice pipes or chillers,

m. all hidden or novelty pipes, and

n. any pipe that has a tobacco bowl or chamber of less than one-half (1/2) inch in diameter in which there is any detectable residue of any controlled dangerous substance as defined in this section or any other substances not legal for possession or use;

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 in which no detectable amount of an illegal substance

is found or pipes designed and used solely for smoking tobacco, traditional pipes of an American Indian tribal religious ceremony, or antique pipes that are thirty (30) years of age or older;

37. "Synthetic controlled substance" means a substance, whether synthetic or naturally occurring, that is not a controlled dangerous substance, but ~~is a substance that~~ which 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. "Tetrahydrocannabinols" means all substances that have been chemically synthesized to emulate the tetrahydrocannabinols of marihuana;

39. "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. "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. “Anhydrous ammonia” means any substance that exhibits cryogenic evaporative behavior and tests positive for ammonia.

SECTION 99. REPEALER 63 O.S. 2001, Section 2-101, as last amended by Section 1, Chapter 116, O.S.L. 2004 (63 O.S. Supp. 2004, Section 2-101), is hereby repealed.

SECTION 100. AMENDATORY 63 O.S. 2001, Section 4021, as last amended by Section 14, Chapter 534, O.S.L. 2004 (63 O.S. Supp. 2004, Section 4021), is amended to read as follows:

Section 4021. A. The application required for the initial and ~~annual~~ subsequent registration of a vessel or a motor shall be accompanied by payment of the following fees:

1. Where the manufacturer’s factory delivered price, or in the absence of such price being published in a recognized publication for the use of marine dealers and/or for purposes of insurance and financing firms, where the provable original or new cost of all materials, is One Hundred Fifty Dollars ($150.00) or less, the registration and license fee for the first and for each succeeding year’s registration shall be One Dollar ($1.00);

2. Where the manufacturer’s factory delivered price, or in the absence of such price being published as provided in paragraph 1 of this section, where the value of such vessel or motor is determined and fixed as above required and, is in excess of One Hundred Fifty Dollars ($150.00), there shall be added to the fee of One Dollar ($1.00), the sum of One Dollar ($1.00) for each One Hundred Dollars ($100.00) or any fraction thereof, in excess of One Hundred Fifty

Dollars ($150.00) provided such fee shall not exceed One Hundred Fifty Dollars ($150.00);

3. After the first year's registration in this state under the Oklahoma Vessel and Motor Registration Act of any new vessel or new motor under paragraph 2 of this subsection, the registration for the second year shall be ninety percent (90%) of the fee computed and assessed hereunder for the first year, and thereafter, such fee shall be computed and assessed at ninety percent (90%) of the previous year's fee and shall be so computed and assessed for the next nine (9) successive years provided such fee shall not exceed One Hundred Fifty Dollars ($150.00);

4. The initial and ~~annual~~ subsequent registration fee for any vessel which is a part of a fleet used for lodging and for which a rental fee and sales tax are collected shall be Forty Dollars ($40.00) in lieu of the fees required by paragraphs 1 through 3 of this subsection. For the purpose of this paragraph, "fleet" means twenty or more vessels operated by a business organization from a single anchorage. The fee provided for in this paragraph may be reduced annually to zero until the total reduction equals the difference between the sum of the fees paid pursuant to paragraphs 1 through 3 of this subsection for the two registration years preceding January 1, 1990, and the fee provided for in this paragraph;

5. For any vessel or motor owned and numbered, registered or licensed prior to January 1, 1990, in this or any other state, or in the absence of such registration upon proof of the year, model and age of same, the registration fee shall be computed and assessed at the rate hereinabove provided for a new vessel or motor based on the value thereof determined as provided in this subsection, but reduced as though same had been registered for each prior year of its existence. Except as provided in paragraph 1 of this subsection, the registration fee for the eleventh year computed in accordance

with the provisions of this subsection shall be the amount of the fee to be assessed for such eleventh year and shall be the minimum annual registration fee for such vessel or motor for any subsequent year; and

6. The initial and ~~annual~~ subsequent registration fee for any vessel or motor which is not being used in a trade or business or for any commercial purpose and is owned by:

a. a nonresident member of the Armed Forces of the United States assigned to duty in this state in compliance with official military or naval orders,

b. a resident member of the Armed Forces of the United States assigned to duty in this state in compliance with official military or naval orders,

c. the spouse, who resides in Oklahoma, of a resident or nonresident member of the Armed Forces of the United States serving in a foreign country, or

d. any Oklahoma resident who is stationed out of state due to an official assignment of the Armed Forces of the United States,

shall be the lesser of either a Fifteen Dollar ($15.00) registration fee or the fee computed and assessed for vessels or motors of similar age and model pursuant to this section.

B. As used in this section, the term "manufacturer's factory delivered price" shall represent the recommended retail selling price and shall not mean the wholesale price to a dealer.

C. The Oklahoma Tax Commission shall assess the registration fees and penalties for the year or years a vessel or motor was not registered as provided in the Oklahoma Vessel and Motor Registration Act. For vessels or motors not registered for two (2) or more years, the registration fees and penalties shall be due only for the current year and one (1) previous year.

D. Upon each vessel or motor repossessed by a mortgagee, a fee of Forty-six Dollars ($46.00) shall be assessed. This fee shall be in lieu of any applicable vessel or motor excise tax and registration fees. Each motor license agent accepting applications for certificates of title for such vessel or motors shall receive Seven Dollars ($7.00) to be deducted from the license fee specified in this paragraph for each application accepted.

E. All vessels or motors owned by the State of Oklahoma, its agencies or departments, or political subdivisions thereof, or which under the law would be exempt from direct ad valorem taxation, shall be registered pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act for an annual fee of Two Dollars and twenty-five cents ($2.25) irrespective of whether registered by a motor license agent or the Tax Commission.

F. All vessels and motors owned by Boy Scouts of America, Girl Scouts of U.S.A., and the Campfire Girls, devoted exclusively to youth programs emphasizing physical fitness, character development and citizenship training, are hereby exempt from the payment of registration fees required by this section. Provided all of such vessels or motors shall be registered and shall otherwise comply with the provisions of the Oklahoma Vessel and Motor Registration Act.

G. A credit shall be allowed with respect to the fee for registration of any new vessel or new motor, when such new vessel or motor is a replacement for:

1. A new original vessel or new original motor which is stolen from the purchaser/registrant within ninety (90) days of the date of purchase of the original vessel or new original motor as certified by a police report or other documentation as required by the Tax Commission; or

2. A defective new original vessel or new original motor returned by the purchaser/registrant to the seller within six (6)

months of the date of purchase of the defective new original vessel or new original motor as certified by the manufacturer. Such credit shall be in the amount of the fee for registration which was paid for the new original vessel or new original motor and shall be applied to the registration fee for the replacement vessel or motor. In no event will said credit be refunded.

H. Upon proper proof of a lost certificate of registration being made to the Tax Commission or one of its motor license agents, accompanied by an application therefor and payment of the fees required by the Oklahoma Vessel and Motor Registration Act, a duplicate certificate of registration shall be issued to the applicant. The charge for such duplicate certificate of registration shall be Two Dollars and twenty-five cents ($2.25), which charge shall be in addition to any other fees imposed by Section 4022 of this title for any such vessel or motor.

I. In addition to any other fees levied by the Oklahoma Vessel and Motor Registration Act, there is levied and there shall be paid to the Tax Commission, for each year a vessel or motor is registered, a fee of One Dollar ($1.00) ~~upon every~~ for each vessel or motor for which a registration or license fee is required pursuant to the provisions of this section. The fee shall accrue and shall be collected upon each vessel or motor under the same circumstances and shall be payable in the same manner and times as apply to vessel and motor licenses and registrations under the provisions of the Oklahoma Vessel and Motor Registration Act; provided, the fee shall be paid in full for the then current year at the time any vehicle is first registered in a calendar year.

Monies collected pursuant to this subsection shall be apportioned by the Tax Commission to the State Treasurer for deposit in the Trauma Care Assistance Revolving Fund created in Section 330.97 of this title.

The collection and payment of the fee shall be a prerequisite to license or registration of any vessel or motor.

J. If a vessel or motor is donated to a nonprofit charitable organization, the nonprofit charitable organization shall be exempt from paying any current or past due registration fees, excise tax, transfer fees, and penalties and interest; provided, subsequent to such donation, if the person, entity or party acting on another's behalf who donated the vessel or motor, purchases the same vessel or motor from the nonprofit charitable organization receiving the original donation, such person, entity or party acting on another's behalf shall be liable for all current and past due registration fees, excise tax, transfer fees, and penalties and interest on such vehicle.

SECTION 101. REPEALER 63 O.S. 2001, Section 4021, as last amended by Section 3, Chapter 379, O.S.L. 2004 (63 O.S. Supp. 2004, Section 4021), is hereby repealed.

SECTION 102. AMENDATORY 63 O.S. 2001, Section 4030, as last amended by Section 5, Chapter 379, O.S.L. 2004 (63 O.S. Supp. 2004, Section 4030), is amended to read as follows:

Section 4030. A. Except as otherwise provided by this section, every vessel on the waters of this state shall display the permanent number assigned to it by the Oklahoma Tax Commission or by a federally recognized Indian tribe which number shall not be obliterated, erased, mutilated, removed or missing.

B. The vessels authorized to display a number other than that required by the provisions of the Oklahoma Vessel and Motor Registration Act are:

1. A documented vessel, provided that such vessel is currently registered, is displaying both current registration decals, and the name, hailing port and official federal documentation number assigned to it are displayed on the vessel according to federal law or federal rules and regulations;

2. A vessel from a country other than the United States temporarily using the waters of this state;

3. A vessel from another state owned by an out-of-state resident using the waters of this state;

4. A vessel whose owner is the United States, a state or a subdivision thereof; provided, however, if such vessel is used for recreational or rental purposes on the public waters of this state, said vessel shall display the permanent number assigned to it by the Commission;

5. A vessel that is used exclusively and solely for racing purposes;

6. A vessel that is used exclusively and solely as a lifeboat; and

7. A commercial flotation device which is assigned a permit by the Oklahoma Scenic Rivers Commission pursuant to the provisions of Sections 1461 et seq. of Title 82 of the Oklahoma Statutes.

C. Except as otherwise provided for in this section, every vessel and every outboard motor on the waters of this state shall display the current registration decals or decal assigned to it by the Oklahoma Tax Commission. ~~If, due to the size of the decal, the decal is unable to be properly displayed on the vessel or outboard motor, a new decal shall be issued for the vessel or outboard motor that would be able to be displayed properly.~~

D. The owner of any vessel issued a permanent number pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title, shall place on or attach to the vessel said permanent number in such manner as may be prescribed by the rules of the Commission, in order that it may be clearly visible. The number shall be maintained in legible condition.

E. The provisions of this section shall not apply to sailboards or fishing tubes.

F. The Tax Commission shall adopt rules for the placement of the registration decal in an alternate location for antique boats. In this subsection, "antique boat" means a boat that:

1. Is used primarily for recreational purposes; and

2. Was manufactured before 1968.

Such rules shall allow vessels registered as antique boats to display the registration decal on the left portion of the windshield. In the absence of a windshield, the rules shall allow operators of antique boats to attach the registration decal to the certificate of registration and make such decal and certificate available for inspection when the boat is operated on public water.

SECTION 103. REPEALER 63 O.S. 2001, Section 4030, as last amended by Section 2, Chapter 364, O.S.L. 2004 (63 O.S. Supp. 2004, Section 4030), is hereby repealed.

SECTION 104. AMENDATORY 68 O.S. 2001, Section 1354, as last amended by Section 4, Chapter 535, O.S.L. 2004 (68 O.S. Supp. 2004, Section 1354), is amended to read as follows:

Section 1354. A. There is hereby levied upon all sales, not otherwise exempted in the Oklahoma Sales Tax Code, an excise tax of four and one-half percent (4.5%) of the gross receipts or gross proceeds of each sale of the following:

1. Tangible personal property, except newspapers and periodicals;

2. Natural or artificial gas, electricity, ice, steam, or any other utility or public service, except water, sewage and refuse. Provided, the rate of four and one-half percent (4.5%) shall not apply to sales subject to the provisions of paragraph 6 of Section 1357 of this title;

3. Transportation for hire to persons by common carriers, including railroads both steam and electric, motor transportation companies, pullman car companies, airlines, and other means of transportation for hire, excluding:

a. transportation services provided by a tourism service broker which are incidental to the rendition of tourism brokerage services by such broker to a customer regardless of whether or not such transportation services are actually owned and operated by the tourism service broker. For purposes of this subsection, "tourism service broker" means any person, firm, association or corporation or any employee of such person, firm, association or corporation which, for a fee, commission or other valuable consideration, arranges or offers to arrange trips, tours or other vacation or recreational travel plans for a customer, and

b. transportation services provided by a funeral establishment to family members and other persons for purposes of conducting a funeral in this state;

4. Telecommunications services that originate and terminate in this state and that originate or terminate in this state and are charged to the consumer's telephone number or account in this state regardless of where the billing for such service is made, all mobile telecommunications services that are sourced to this state pursuant to the federal Mobile Telecommunications Sourcing Act, 4 U.S.C., Sections 116-126, and all local telecommunications service and rental charges, including all installation and construction charges and all service and rental charges having any connection with transmission of any message or image. Provided:

a. the term "telecommunications services" shall mean the transmission of any interactive, two-way electromagnetic communications, including voice, image, data and information, through the use of any medium such as wires, cables, microwaves, cellular radio, radio waves, light waves, or any combination of

those or similar media, but shall not include the following:

(1) sales of value-added nonvocal services in which computer processing applications are used to act on the form, content, code, or protocol of the information to be transmitted, including charges for the storage of data or information for subsequent retrieval but not including services commonly known as voice mail,

(2) any interstate telecommunications service which is:

(a) rendered by a company for private use within its organization, or

(b) used, allocated, or distributed by a company to its affiliated group, ~~or~~

(3) sales of any carrier access services, right of access services, telecommunications services to be resold, or telecommunications services used in the subsequent provision of, use as a component part of, or integrated into end-to-end telecommunications service, ~~and~~ or

(4) labor charges for the construction, installation, movement, servicing repair or maintenance of any equipment such as antennas or dishes that have a connection with the transmission of a message or image from cellular towers that are used for the transmission of telecommunications, and

b. the term "telecommunications services" shall include, but not be limited to sales of any interstate telecommunications services which:

(1) entitle the subscriber to inward or outward calling respectively between a station associated

with an access line in the local telephone system area or a station directly connected to any interexchange carrier's facilities and telephone or radiotelephone stations in diverse geographical locations specified by the subscriber, or

(2) entitle the subscriber to private communications services which allow exclusive or priority use of a communications channel or group of channels between exchanges, and

c. the term "interstate" includes any international service that either originates or terminates outside of the fifty (50) United States and the District of Columbia;

5. Printing or printed matter of all types, kinds, or character and, except for services of printing, copying or photocopying performed by a privately owned scientific and educational library sustained by monthly or annual dues paid by members sharing the use of such services with students interested in the study of geology, petroleum engineering or related subjects, any service of printing or overprinting, including the copying of information by mimeograph, multigraph, or by otherwise duplicating written or printed matter in any manner, or the production of microfiche containing information from magnetic tapes or other media furnished by customers;

6. Service of furnishing rooms by hotel, apartment hotel, public rooming house, motel, public lodging house, or tourist camp;

7. Service of furnishing storage or parking privileges by auto hotels or parking lots;

8. Computer hardware, software, coding sheets, cards, magnetic tapes or other media on which prewritten programs have been coded, punched, or otherwise recorded, including the gross receipts from the licensing of software programs;

9. Foods, confections, and all drinks sold or dispensed by hotels, restaurants, or other dispensers, and sold for immediate consumption upon the premises or delivered or carried away from the premises for consumption elsewhere;

10. Advertising of all kinds, types, and characters, including any and all devices used for advertising purposes except those specifically exempt pursuant to the provisions of Section 1357 of this title;

11. Dues or fees to clubs including free or complimentary dues or fees which have a value equivalent to the charge that would have otherwise been made, including any fees paid for the use of facilities or services rendered at a health spa or club or any similar facility or business;

12. Tickets for admission to or voluntary contributions made to places of amusement, sports, entertainment, exhibition, display, or other recreational events or activities, including free or complimentary admissions which have a value equivalent to the charge that would have otherwise been made;

13. Charges made for the privilege of entering or engaging in any kind of activity, such as tennis, racquetball, or handball, when spectators are charged no admission fee;

14. Charges made for the privilege of using items for amusement, sports, entertainment, or recreational activity, such as trampolines or golf carts;

15. The rental of equipment for amusement, sports, entertainment, or other recreational activities, such as bowling shoes, skates, golf carts, or other sports or athletic equipment;

16. The gross receipts from sales from any vending machine without any deduction for rental to locate the vending machine on the premises of a person who is not the owner or any other deductions therefrom;

17. The gross receipts or gross proceeds from the rental or lease of tangible personal property, including rental or lease of personal property when the rental or lease agreement requires the vendor to launder, clean, repair, or otherwise service the rented or leased property on a regular basis, without any deduction for the cost of the service rendered. If the rental or lease charge is based on the retail value of the property at the time of making the rental or lease agreement and the expected life of the property, and the rental or lease charge is separately stated from the service cost in the statement, bill, or invoice delivered to the consumer, the cost of services rendered shall be deducted from the gross receipts or gross proceeds;

18. Flowers, plants, shrubs, trees, and other floral items, whether or not produced by the vendor, sold by persons engaged in florist or nursery business in this state, including all orders taken by an Oklahoma business for delivery in another state. All orders taken outside this state for delivery within this state shall not be subject to the taxes levied in this section;

19. Tangible personal property sold to persons, peddlers, solicitors, or other salesmen, for resale when there is likelihood that this state will lose tax revenue due to the difficulty of enforcing the provisions of the Oklahoma Sales Tax Code because of:

a. the operation of the business,

b. the nature of the business,

c. the turnover of independent contractors,

d. the lack of place of business in which to display a permit or keep records,

e. lack of adequate records,

f. the fact that the persons are minors or transients,

g. the fact that the persons are engaged in service businesses, or

h. any other reasonable reason;

20. Any taxable services and tangible personal property including materials, supplies, and equipment sold to contractors for the purpose of developing and improving real estate even though said real estate is intended for resale as real property, hereby declared to be sales to consumers or users, however, taxable materials, supplies and equipment sold to contractors as provided by this subsection which are purchased as a result of and subsequent to the date of a contract entered into either prior to the effective date of any law increasing the rate of sales tax imposed by this article, or entered into prior to the effective date of an ordinance or other measure increasing the sales tax levy of a political subdivision shall be subject to the rate of sales tax applicable, as of the date such contract was entered into, to sales of such materials, supplies and equipment if such purchases are required in order to complete the contract. Such rate shall be applicable to purchases made pursuant to the contract or any change order under the contract until the contract or any change order has been completed, accepted and the contractor has been discharged from any further obligation under the contract or change order or until two (2) years from the date on which the contract was entered into whichever occurs first. The increased sales tax rate shall be applicable to all such purchases at the time of sale and the contractor shall file a claim for refund before the expiration of three (3) years after the date of contract completion or five (5) years after the contract was entered into, whichever occurs earlier. However, the Oklahoma Tax Commission shall prescribe rules and regulations and shall provide procedures for the refund to a contractor of sales taxes collected on purchases eligible for the lower sales tax rate authorized by this subsection; and

21. Any taxable services and tangible personal property sold to persons who are primarily engaged in selling their services, such as repairmen, hereby declared to be sales to consumers or users.

B. All solicitations or advertisements in print or electronic media by Group Three vendors, for the sale of tangible property to be delivered within this state, shall contain a notice that the sale is subject to Oklahoma sales tax, unless the sale is exempt from such taxation.

SECTION 105. REPEALER 68 O.S. 2001, Section 1354, as last amended by Section 1, Chapter 362, O.S.L. 2004 (68 O.S. Supp. 2004, Section 1354), is hereby repealed.

SECTION 106. AMENDATORY 68 O.S. 2001, Section 1355, as amended by Section 12, Chapter 322, O.S.L. 2004 (68 O.S. Supp. 2004, Section 1355), is amended to read as follows:

Section 1355. Exemptions - Subject to other tax.

There are hereby specifically exempted from the tax levied pursuant to the provisions of Section 1350 et seq. of this title:

1. Sale of gasoline, motor fuel, methanol, "M-85" which is a mixture of methanol and gasoline containing at least eighty-five percent (85%) methanol, compressed natural gas, liquefied natural gas, or liquefied petroleum gas on which the Motor Fuel Tax, Gasoline Excise Tax, Special Fuels Tax or the fee in lieu of Special Fuels Tax levied in Section 500.1 et seq., Section 601 et seq. or Section 701 et seq. of this title has been, or will be paid;

2. Sale of motor vehicles or any optional equipment or accessories attached to motor vehicles on which the Oklahoma Motor Vehicle Excise Tax levied in Section 2101 et seq. of this title has been, or will be paid;

3. Sale of crude petroleum or natural or casinghead gas and other products subject to gross production tax pursuant to the provisions of Section 1001 et seq. and Section 1101 et seq. of this title. This exemption shall not apply when such products are sold to a consumer or user for consumption or use, except when used for injection into the earth for the purpose of promoting or facilitating the production of oil or gas. This paragraph shall not

operate to increase or repeal the gross production tax levied by the laws of this state;

4. Sale of aircraft on which the tax levied pursuant to the provisions of Sections 6001 through 6007 of this title has been, or will be paid or which are specifically exempt from such tax pursuant to the provisions of Section 6003 of this title;

5. Sales from coin-operated devices on which the fee imposed by Sections 1501 through 1512 of this title has been paid;

6. Leases of twelve (12) months or more of motor vehicles in which the owners of the vehicles have paid the vehicle excise tax levied by Section 2103 of this title;

7. Sales of charity game equipment on which a tax is levied pursuant to the Oklahoma Charity Games Act, Section 401 et seq. of Title 3A of the Oklahoma Statutes, or which is sold to an organization that is a veterans' organization exempt from taxation pursuant to the provisions of paragraph (4), (7), (8), (10) or (19) of subsection (c) of Section 501 of the United States Internal Revenue Code of 1986, as amended;

8. Sales of cigarettes or tobacco products to:

a. a federally recognized Indian tribe or nation which has entered into a compact with the State of Oklahoma pursuant to the provisions of subsection C of Section 346 of this title or to a licensee of such a tribe or nation, upon which the payment in lieu of taxes required by the compact has been paid, or

b. a federally recognized Indian tribe or nation or to a licensee of such a tribe or nation upon which the tax levied pursuant to the provisions of Section 349 or Section 426 of this title has been paid;

9. Leases of aircraft upon which the owners have paid the aircraft excise tax levied by Section 6001 et seq. of this title or

which are specifically exempt from such tax pursuant to the provisions of Section 6003 of this title;

10. The sale of low-speed electrical vehicles on which the Oklahoma Motor Vehicle Excise Tax levied in Section 2101 et seq. of this title has been or will be paid; and

11. Effective January 1, 2005, sales of cigarettes on which the tax levied in Section 301 et seq. of this title or tobacco products on which the tax levied in Section 401 et seq. of this title has been paid.

SECTION 107. REPEALER 68 O.S. 2001, Section 1355, as amended by Section 3, Chapter 330, O.S.L. 2004 (68 O.S. Supp. 2004, Section 1355), is hereby repealed.

SECTION 108. AMENDATORY 68 O.S. 2001, Section 1356, as last amended by Section 6, Chapter 535, O.S.L. 2004 (68 O.S. Supp. 2004, Section 1356), is amended to read as follows:

Section 1356. Exemptions - Governmental and nonprofit entities.

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

1. Sale of tangible personal property or services to the United States government or to the State of Oklahoma, any political subdivision of this state or any agency of a political subdivision of this state; provided, all sales to contractors in connection with the performance of any contract with the United States government, State of Oklahoma or any of its political subdivisions shall not be exempted from the tax levied by Section 1350 et seq. of this title, except as hereinafter provided;

2. Sales of property to agents appointed by or under contract with agencies or instrumentalities of the United States government if ownership and possession of such property transfers immediately to the United States government;

3. Sales of property to agents appointed by or under contract with a political subdivision of this state if the sale of such

property is associated with the development of a qualified federal facility, as provided in the Oklahoma Federal Facilities Development Act, and if ownership and possession of such property transfers immediately to the political subdivision or the state;

4. Sales made directly by county, district or state fair authorities of this state, upon the premises of the fair authority, for the sole benefit of the fair authority or sales of admission tickets to such fairs or fair events at any location in the state authorized by county, district or state fair authorities; provided, the exemption provided by this paragraph for admission tickets to fair events shall apply only to any portion of the admission price that is retained by or distributed to the fair authority. As used in this paragraph, "fair event" shall be limited to an event held on the premises of the fair authority in conjunction with and during the time period of a county, district or state fair;

5. Sale of food in cafeterias or lunch rooms of elementary schools, high schools, colleges or universities which are operated primarily for teachers and pupils and are not operated primarily for the public or for profit;

6. Dues paid to fraternal, religious, civic, charitable or educational societies or organizations by regular members thereof, provided, such societies or organizations operate under what is commonly termed the lodge plan or system, and provided such societies or organizations do not operate for a profit which inures to the benefit of any individual member or members thereof to the exclusion of other members and dues paid monthly or annually to privately owned scientific and educational libraries by members sharing the use of services rendered by such libraries with students interested in the study of geology, petroleum engineering or related subjects;

7. Sale of tangible personal property or services to or by churches, except sales made in the course of business for profit or

savings, competing with other persons engaged in the same or a similar business or sale of tangible personal property or services by an organization exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, made on behalf of or at the request of a church or churches if the sale of such property is conducted not more than once each calendar year for a period not to exceed three (3) days by the organization and proceeds from the sale of such property are used by the church or churches or by the organization for charitable purposes;

8. The amount of proceeds received from the sale of admission tickets which is separately stated on the ticket of admission for the repayment of money borrowed by any accredited state-supported college or university or any public trust of which a county in this state is the beneficiary, for the purpose of constructing or enlarging any facility to be used for the staging of an athletic event, a theatrical production, or any other form of entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket. Such facilities include, but are not limited to, athletic fields, athletic stadiums, field houses, amphitheaters and theaters. To be eligible for this sales tax exemption, the amount separately stated on the admission ticket shall be a surcharge which is imposed, collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the college or university to effect the capital improvements hereinbefore described;

9. Sales of tangible personal property or services to the council organizations or similar state supervisory organizations of the Boy Scouts of America, Girl Scouts of U.S.A. and the Campfire Boys and Girls;

10. Sale of tangible personal property or services to any county, municipality, rural water district, public school district, the institutions of The Oklahoma State System of Higher Education,

the Grand River Dam Authority, the Northeast Oklahoma Public Facilities Authority, the Oklahoma Municipal Power Authority, City of Tulsa-Rogers County Port Authority, Muskogee City-County Port Authority, the Oklahoma Department of Veterans Affairs, the Broken Bow Economic Development Authority, Ardmore Development Authority, Durant Industrial Authority, Oklahoma Ordnance Works Authority or to any person with whom any of the above-named subdivisions or agencies of this state has duly entered into a public contract pursuant to law, necessary for carrying out such public contract or to any subcontractor to such a public contract. Any person making purchases on behalf of such subdivision or agency of this state shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such subdivision or agency of this state and set out the name of such public subdivision or agency. Any person who wrongfully or erroneously certifies that purchases are for any of the above-named subdivisions or agencies of this state or who otherwise violates this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both;

11. Sales of tangible personal property or services to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), including materials, supplies, and equipment used in the construction and improvement of buildings and other structures owned by the institutions and operated for educational purposes.

Any person, firm, agency or entity making purchases on behalf of any institution, agency or subdivision in this state, shall certify in writing, on the copy of the invoice or sales ticket the nature of the purchases, and violation of this paragraph shall be a misdemeanor as set forth in paragraph 10 of this section;

12. Tuition and educational fees paid to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

13. a. Sales of tangible personal property made by:

(1) a public school,

(2) a private school offering instruction for grade levels kindergarten through twelfth grade,

(3) a public school district,

(4) a public or private school board,

(5) a public or private school student group or organization,

(6) a parent-teacher association or organization other than as specified in subparagraph b of this paragraph, or

(7) public or private school personnel for purposes of raising funds for the benefit of a public or private school, public school district, public or private school board or public or private school student group or organization, or

b. Sales of tangible personal property made by or to nonprofit parent-teacher associations or organizations

exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c)(3).

The exemption provided by this paragraph for sales made by a public or private school shall be limited to those public or private schools accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs. Sale of tangible personal property in this paragraph shall include sale of admission tickets and concessions at athletic events;

14. Sales of tangible personal property by:

a. local 4-H clubs,

b. county, regional or state 4-H councils,

c. county, regional or state 4-H committees,

d. 4-H leader associations,

e. county, regional or state 4-H foundations, and

f. authorized 4-H camps and training centers.

The exemption provided by this paragraph shall be limited to sales for the purpose of raising funds for the benefit of such organizations. Sale of tangible personal property exempted by this paragraph shall include sale of admission tickets;

15. The first Seventy-five Thousand Dollars ($75,000.00) each year from sale of tickets and concessions at athletic events by each organization exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(4);

16. Items or services which are subsequently given away by the Oklahoma Tourism and Recreation Department as promotional items pursuant to Section 1834 of Title 74 of the Oklahoma Statutes;

17. Sales of tangible personal property or services to fire departments organized pursuant to Section 592 of Title 18 of the Oklahoma Statutes which items are to be used for the purposes of the fire department. Any person making purchases on behalf of any such fire department shall certify, in writing, on the copy of the

invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such fire department and set out the name of such fire department. Any person who wrongfully or erroneously certifies that the purchases are for any such fire department or who otherwise violates the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or both;

18. Complimentary or free tickets for admission to places of amusement, sports, entertainment, exhibition, display or other recreational events or activities which are issued through a box office or other entity which is operated by a state institution of higher education with institutional employees or by a municipality with municipal employees;

19. The first Fifteen Thousand Dollars ($15,000.00) each year from sales of tangible personal property by fire departments organized pursuant to Titles 11, 18, or 19 of the Oklahoma Statutes for the purposes of raising funds for the benefit of the fire department. Fire departments selling tangible personal property for the purposes of raising funds shall be limited to no more than six (6) days each year to raise such funds in order to receive the exemption granted by this paragraph;

20. Sales of tangible personal property or services to any Boys & Girls Clubs of America affiliate in this state which is not affiliated with the Salvation Army and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

21. Sales of tangible personal property or services to any organization, which takes court-adjudicated juveniles for purposes of rehabilitation, and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), provided that at least fifty percent (50%) of the

juveniles served by such organization are court adjudicated and the organization receives state funds in an amount less than ten percent (10%) of the annual budget of the organization;

22. Sales of tangible personal property or services to:

a. any federally qualified community health center as defined in Section 254c of Title 42 of the United States Code,

b. any migrant health center as defined in Section 254b of Title 42 of the United States Code,

c. any clinic receiving disbursements of state monies from the Indigent Health Care Revolving Fund pursuant to the provisions of Section 66 of Title 56 of the Oklahoma Statutes, and

d. any community based health center which meets all of the following criteria:

(1) provides primary care services at no cost to the recipient, and

(2) is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

23. Dues or fees, including free or complimentary dues or fees which have a value equivalent to the charge that could have otherwise been made, to YMCAs, YWCAs or municipally-owned recreation centers for the use of facilities and programs;

24. The first Fifteen Thousand Dollars ($15,000.00) each year from sales of tangible personal property or services to or by a cultural organization established to sponsor and promote educational, charitable and cultural events for disadvantaged children, and which organization is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

25. Sales of tangible personal property or services to museums or other entities which have been accredited by the American Association of Museums. Any person making purchases on behalf of any such museum or other entity shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such museum or other entity and set out the name of such museum or other entity. Any person who wrongfully or erroneously certifies that the purchases are for any such museum or other entity or who otherwise violates the provisions of this paragraph shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or by both such fine and incarceration;

26. Sales of tickets for admission by any museum accredited by the American Association of Museums. In order to be eligible for the exemption provided by this paragraph, an amount equivalent to the amount of the tax which would otherwise be required to be collected pursuant to the provisions of Section 1350 et seq. of this title shall be separately stated on the admission ticket and shall be collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the museum to effect the construction, enlarging or renovation of any facility to be used for entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket;

27. Sales of tangible personal property or services occurring on or after June 1, 1995, to children's homes which are supported or sponsored by one or more churches, members of which serve as trustees of the home;

28. Sales of tangible personal property or services to the organization known as the Disabled American Veterans, Department of Oklahoma, Inc., and subordinate chapters thereof;

29. Sales of tangible personal property or services to youth camps which are supported or sponsored by one or more churches, members of which serve as trustees of the organization;

30. Transfer of tangible personal property made pursuant to Section 3226 of Title 63 of the Oklahoma Statutes by the University Hospitals Trust;

31. Sales of tangible personal property or services to a municipality, county or school district pursuant to a lease or lease-purchase agreement executed between the vendor and a municipality, county or school district. A copy of the lease or lease-purchase agreement shall be retained by the vendor;

32. Sales of tangible personal property or services to any spaceport user, as defined in the Oklahoma Space Industry Development Act;

33. The sale, use, storage, consumption, or distribution in this state, whether by the importer, exporter, or another person, of any satellite or any associated launch vehicle, including components of, and parts and motors for, any such satellite or launch vehicle, imported or caused to be imported into this state for the purpose of export by means of launching into space. This exemption provided by this paragraph shall not be affected by:

a. the destruction in whole or in part of the satellite or launch vehicle,

b. the failure of a launch to occur or be successful, or

c. the absence of any transfer or title to, or possession of, the satellite or launch vehicle after launch;

34. The sale, lease, use, storage, consumption, or distribution in this state of any space facility, space propulsion system or space vehicle, satellite, or station of any kind possessing space flight capacity, including components thereof;

35. The sale, lease, use, storage, consumption, or distribution in this state of tangible personal property, placed on or used

aboard any space facility, space propulsion system or space vehicle, satellite, or station possessing space flight capacity, which is launched into space, irrespective of whether such tangible property is returned to this state for subsequent use, storage, or consumption in any manner;

36. The sale, lease, use, storage, consumption, or distribution in this state of tangible personal property meeting the definition of "section 38 property" as defined in Sections 48(a)(1)(A) and (B)(i) of the Internal Revenue Code of 1986, that is an integral part of and used primarily in support of space flight; however, section 38 property used in support of space flight shall not include general office equipment, any boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States government, or any other property not specifically suited to supporting space activity. The term "in support of space flight", for purposes of this paragraph, means the altering, monitoring, controlling, regulating, adjusting, servicing, or repairing of any space facility, space propulsion systems or space vehicle, satellite, or station possessing space flight capacity, including the components thereof;

37. The purchase or lease of machinery and equipment for use at a fixed location in this state, which is used exclusively in the manufacturing, processing, compounding, or producing of any space facility, space propulsion system or space vehicle, satellite, or station of any kind possessing space flight capacity. Provided, the exemption provided for in this paragraph shall not be allowed unless the purchaser or lessee signs an affidavit stating that the item or items to be exempted are for the exclusive use designated herein. Any person furnishing a false affidavit to the vendor for the purpose of evading payment of any tax imposed by Section 1354 of this title shall be subject to the penalties provided by law. As

used in this paragraph, "machinery and equipment" means "section 38 property" as defined in Sections 48(a)(1)(A) and (B)(i) of the Internal Revenue Code of 1986, which is used as an integral part of the manufacturing, processing, compounding, or producing of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph;

38. The amount of a surcharge or any other amount which is separately stated on an admission ticket which is imposed, collected and used for the sole purpose of constructing, remodeling or enlarging facilities of a public trust having a municipality or county as its sole beneficiary;

39. Sales of tangible personal property or services which are directly used in or for the benefit of a state park in this state, which are made to an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and which is organized primarily for the purpose of supporting one or more state parks located in this state;

40. The sale, lease or use of parking privileges by an institution of The Oklahoma State System of Higher Education;

41. Sales of tangible personal property or services for use on campus or school construction projects for the benefit of institutions of The Oklahoma State System of Higher Education, private institutions of higher education accredited by the Oklahoma State Regents for Higher Education or any public school or school district when such projects are financed by or through the use of nonprofit entities which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

42. Sales of tangible personal property or services by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section

501(c)(3), in the course of conducting a national championship sports event, but only if all or a portion of the payment in exchange therefor would qualify as the receipt of a qualified sponsorship payment described in Internal Revenue Code, 26 U.S.C., Section 513(i). Sales exempted pursuant to this paragraph shall be exempt from all Oklahoma sales, use, excise and gross receipts taxes;

43. Sales of tangible personal property or services to or by an organization which:

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

b. is affiliated with a comprehensive university within The Oklahoma State System of Higher Education, and

c. has been organized primarily for the purpose of providing education and teacher training and conducting events relating to robotics;

44. The first Fifteen Thousand Dollars ($15,000.00) each year from sales of tangible personal property by youth athletic teams which are part of an athletic organization exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(4), for the purposes of raising funds for the benefit of the team;

45. Sales of tickets for admission to a collegiate athletic event that is held in a facility owned or operated by a municipality or a public trust of which the municipality is the sole beneficiary and that actually determines or is part of a tournament or tournament process for determining a conference tournament championship, a conference championship, or a national championship;

46. Sales of tangible personal property or services to or by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section

501(c)(3) and is operating the Oklahoma City National Memorial and Museum, an affiliate of the National Park System;

47. Sales of tangible personal property or services to organizations which are exempt from federal taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), the memberships of which are limited to honorably discharged veterans, and which furnish financial support to area veterans' organizations to be used for the purpose of constructing a memorial or museum; ~~and~~

48. Sales of tangible personal property or services on or after January 1, 2003, to an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) that is expending monies received from a private foundation grant in conjunction with expenditures of local sales tax revenue to construct a local public library;

49. Sales of tangible personal property or services to a state that borders this state or any political subdivision of that state, but only to the extent that the other state or political subdivision exempts or does not impose a tax on similar sales of items to this state or a political subdivision of this state; and

50. Effective July 1, 2005, sales of tangible personal property or services to the Career Technology Student Organizations under the direction and supervision of the Oklahoma Department of Career and Technology Education.

SECTION 109. REPEALER 68 O.S. 2001, Section 1356, as last amended by Section 1, Chapter 384, O.S.L. 2004 (68 O.S. Supp. 2004, Section 1356), is hereby repealed.

SECTION 110. REPEALER 68 O.S. 2001, Section 1356, as last amended by Section 1, Chapter 518, O.S.L. 2004 (68 O.S. Supp. 2004, Section 1356), is hereby repealed.

SECTION 111. AMENDATORY 68 O.S. 2001, Section 2103, as amended by Section 2, Chapter 555, O.S.L. 2004 (68 O.S. Supp. 2004, Section 2103), is amended to read as follows:

Section 2103. A. 1. Except as otherwise provided in Sections 2101 through 2108 of this title, there shall be levied an excise tax upon the transfer of legal ownership of any vehicle registered in this state and upon the use of any vehicle registered in this state and upon the use of any vehicle registered for the first time in this state. The excise tax for new vehicles shall be levied at three and one-fourth percent (3 1/4%) of the value of each new vehicle. The excise tax for used vehicles shall be as follows:

a. from October 1, 2000, until June 30, 2001, Twenty Dollars ($20.00) on the first One Thousand Dollars ($1,000.00) or less of value of such vehicle, and three and one-fourth percent (3 1/4%) of the remaining value of such vehicle,

b. for the year beginning July 1, 2001, and ending June 30, 2002, Twenty Dollars ($20.00) on the first One Thousand Two Hundred Fifty Dollars ($1,250.00) or less of value of such vehicle, and three and one-fourth percent (3 1/4%) of the remaining value of such vehicle, and

c. for the year beginning July 1, 2002, and all subsequent years, Twenty Dollars ($20.00) on the first One Thousand Five Hundred Dollars ($1,500.00) or less of value of such vehicle, and three and one-fourth percent (3 1/4%) of the remaining value of such vehicle.

2. There shall be levied an excise tax of Ten Dollars ($10.00) for any:

a. truck or truck-tractor registered under the provisions of subsection A of Section 1133 of Title 47 of the

Oklahoma Statutes, for a laden weight or combined laden weight of fifty-four thousand one (54,001) pounds or more,

b. trailer or semitrailer registered under subsection C of Section 1133 of Title 47 of the Oklahoma Statutes, which is primarily designed to transport cargo over the highways of this state and generally recognized as such, and

c. frac tank, as defined by Section 54 of Title 17 of the Oklahoma Statutes, and registered under subsection C of Section 1133 of Title 47 of the Oklahoma Statutes.

Except for frac tanks, the excise tax levied pursuant to this paragraph shall not apply to special mobilized machinery, trailers, or semitrailers manufactured, modified or remanufactured for the purpose of providing services other than transporting cargo over the highways of this state. The excise tax levied pursuant to this paragraph shall also not apply to pickup trucks, vans, or sport utility vehicles.

3. The tax levied pursuant to this section shall be due at the time of the transfer of legal ownership or first registration in this state of such vehicle, and shall be collected by the Oklahoma Tax Commission <u>or Corporation Commission, as applicable</u>, or an appointed motor license agent, at the time of the issuance of a certificate of title for any such vehicle. In the event an excise tax is collected on the transfer of legal ownership or use of the vehicle during any calendar year, then an additional excise tax must be collected upon all subsequent transfers of legal ownership. In computing the motor vehicle excise tax, the amount collected shall be rounded to the nearest dollar. The excise tax levied by this section shall be delinquent from and after the thirtieth day after the legal ownership or possession of any vehicle is obtained. Any person failing or refusing to pay the tax as herein provided on or

before date of delinquency shall pay in addition to the tax a penalty of twenty-five cents ($0.25) per day for each day of delinquency, but such penalty shall in no event exceed the amount of the tax.

B. The excise tax levied in subsection A of this section assessed on all commercial vehicles registered pursuant to Section 1120 of Title 47 of the Oklahoma Statutes shall be in lieu of all sales and use taxes levied pursuant to the Sales Tax Code or the Use Tax Code. The transfer of legal ownership of any motor vehicle as used in this section and the Sales Tax Code and the Use Tax Code shall include the lease, lease purchase or lease finance agreement involving any truck in excess of eight thousand (8,000) pounds combined laden weight or any truck-tractor provided the vehicle is registered in Oklahoma pursuant to Section 1120 of Title 47 of the Oklahoma Statutes or any frac tank, trailer, semitrailer or open commercial vehicle registered pursuant to Section 1133 of Title 47 of the Oklahoma Statutes. The excise tax levied pursuant to this section shall not be subsequently collected at the end of the lease period if the lessee acquires complete legal title of the vehicle.

C. The provisions of this section shall not apply to transfers made without consideration between:

1. Husband and wife;

2. Parent and child; or

3. An individual and an express trust which that individual or the spouse, child or parent of that individual has a right to revoke.

D. 1. There shall be a credit allowed with respect to the excise tax paid for a new vehicle which is a replacement for:

a. a new original vehicle which is stolen from the purchaser/registrant within ninety (90) days of the date of purchase of the original vehicle as certified

by a police report or other documentation as required by the Tax Commission, or

b. a defective new original vehicle returned by the purchaser/registrant to the seller within six (6) months of the date of purchase of the defective new original vehicle as certified by the manufacturer.

2. The credit allowed pursuant to paragraph 1 of this subsection shall be in the amount of the excise tax which was paid for the new original vehicle and shall be applied to the excise tax due on the replacement vehicle. In no event shall the credit be refunded.

E. Despite any other definitions of the terms "new vehicle" and "used vehicle", to the contrary, contained in any other law, the term "new vehicle" as used in this section shall also include any vehicle of the latest manufactured model which is owned or acquired by a licensed used motor vehicle dealer which has not previously been registered in this state and upon which the motor vehicle excise tax as set forth in this section has not been paid. However, upon the sale or transfer by a licensed used motor vehicle dealer located in this state of any such vehicle which is the latest manufactured model, the vehicle shall be considered a used vehicle for purposes of determining excise tax.

SECTION 112. REPEALER 68 O.S. 2001, Section 2103, as amended by Section 27, Chapter 522, O.S.L. 2004 (68 O.S. Supp. 2004, Section 2103), is hereby repealed.

SECTION 113. REPEALER Section 2, Chapter 366, O.S.L. 2004 (68 O.S. Supp. 2004, Section 2368.13), is hereby repealed.

SECTION 114. AMENDATORY 68 O.S. 2001, Section 2890.1, as amended by Section 9, Chapter 447, O.S.L. 2004 (68 O.S. Supp. 2004, Section 2890.1), is amended to read as follows:

Section 2890.1 A. The application for a limit on the fair cash value of homestead property as provided for in Section 8C of Article

X of the Oklahoma Constitution shall be made on or before March 15 or within thirty (30) days from and after receipt by the taxpayer of a notice of valuation increase, whichever is later. The application shall be made upon a form prescribed by the Oklahoma Tax Commission, which shall require the taxpayer to certify as to the amount of gross household income. As used in Section 8C of Article X of the Oklahoma Constitution, "gross household income" shall be as defined in Section 2890 of this title. Upon request of the county assessor, the Oklahoma Tax Commission shall assist in verifying the correctness of the amount of the gross income.

B. For persons who have previously qualified for the limitation on the fair cash value of homestead property as provided for in Section 8C of Article X of the Oklahoma Constitution, no annual application shall be required in order to be subject to the limitation. However:

1. Any such person whose gross household income in any calendar year exceeds ~~Twenty-five Thousand Dollars ($25,000.00)~~ the amount provided for in Section 8C of Article X of the Oklahoma Constitution shall notify the county assessor and the limitation shall not be allowed for the applicable year; and

2. Any such person who makes improvements to the property shall notify the county assessor and the improvements shall be assessed in accordance with law by the county assessor and added to the assessed value of the property as provided in Section 8C of Article X of the Oklahoma Constitution.

C. Any executor or administrator of an estate within which is included a homestead property subject to the limitation of the fair cash value of homestead property as provided for in Section 8C of Article X of the Oklahoma Constitution shall notify the county assessor of the change in status of the homestead property if such property is not the homestead of a person who would be eligible for the limitation of the fair cash value of homestead property.

SECTION 115. REPEALER 68 O.S. 2001, Section 2890.1, as amended by Section 1, Chapter 383, O.S.L. 2004 (68 O.S. Supp. 2004, Section 2890.1), is hereby repealed.

SECTION 116. AMENDATORY 68 O.S. 2001, Section 2902, as last amended by Section 11, Chapter 447, O.S.L. 2004 (68 O.S. Supp. 2004, Section 2902), is amended to read as follows:

Section 2902. A. Except as otherwise provided by subsection H of Section 3658 of this title pursuant to which the exemption authorized by this section may not be claimed, a qualifying manufacturing concern, as defined by Section 6B of Article X of the Oklahoma Constitution, and as further defined herein, shall be exempt from the levy of any ad valorem taxes upon new, expanded or acquired manufacturing facilities, including facilities engaged in research and development, for a period of five (5) years. The provisions of Section 6B of Article X of the Oklahoma Constitution requiring an existing facility to have been unoccupied for a period of twelve (12) months prior to acquisition shall be construed as a qualification for a facility to initially receive an exemption, and shall not be deemed to be a qualification for that facility to continue to receive an exemption in each of the four (4) years following the initial year for which the exemption was granted. Such facilities are hereby classified for the purposes of taxation as provided in Section 22 of Article X of the Oklahoma Constitution.

B. For purposes of this section, the following definitions shall apply:

1. "Manufacturing facilities" shall mean facilities engaged in the mechanical or chemical transformation of materials or substances into new products and shall include:

a. establishments which have received a manufacturer exemption permit pursuant to the provisions of Section 1359.2 of this title,

b. facilities, including repair and replacement parts, primarily engaged in aircraft repair, building and rebuilding whether or not on a factory basis,

c. establishments primarily engaged in computer services and data processing as defined under Industrial Group Numbers 7372 and 7373 of the SIC Manual, latest revision, and which derive at least fifty percent (50%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer, and as defined under Industrial Group Number 7374 of the SIC Manual, latest revision, which derive at least eighty percent (80%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer. Eligibility as a manufacturing facility pursuant to this subparagraph shall be established, subject to review by the Oklahoma Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and such other information as required by the Tax Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers, all sales to the federal government shall be considered to be an out-of-state buyer, or

d. establishments primarily engaged in distribution as defined under Industrial Group Number 4221, 4222, 4225 or 4226 or Major Group Number 50 or 51 of the SIC Manual, latest revision, and which meet the following qualifications:

(1) construction with an initial capital investment of at least Five Million Dollars ($5,000,000.00),

(2) employment of at least one hundred (100) full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission,

(3) payment of wages or salaries to its employees at a wage which equals or exceeds one hundred seventy-five percent (175%) of the federally mandated minimum wage, as certified by the Oklahoma Employment Security Commission, and

(4) commencement of construction prior to December 31, 2006, with construction to be completed within three (3) years from the date of the commencement of construction.

Eligibility as a manufacturing facility pursuant to this subparagraph shall be established, subject to review by the Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and containing such other information as required by the Tax Commission.

Provided, eating and drinking places, as well as other retail establishments, except as otherwise provided in subsection E of this section, shall not qualify as manufacturing facilities for purposes of this section, nor shall centrally assessed properties;

2. For tax years beginning after December 31, 1992, "manufacturing facilities" shall mean those facilities as defined in paragraph 1 of this subsection for which the investment cost of the construction, acquisition or expansion of the manufacturing facility is Two Hundred Fifty Thousand Dollars ($250,000.00) or more;

3. "Facility" and "facilities" shall mean and include the land, buildings, structures, improvements, machinery, fixtures, equipment and other personal property used directly and exclusively in the manufacturing process; and

4. "Research and development" shall mean activities directly related to and conducted for the purpose of discovering, enhancing, increasing or improving future or existing products or processes or productivity.

C. For applications for a five-year exemption submitted after June 6, 2003, the following provisions shall apply:

1. A manufacturing concern shall be entitled to the exemption herein provided for each new manufacturing facility constructed, each existing manufacturing facility acquired and the expansion of existing manufacturing facilities on the same site, as such terms are defined by Section 6B of Article X of the Oklahoma Constitution and by this section; provided, if a facility has initially qualified for an exemption pursuant to the provisions of this section on or after January 1, 1999, and ownership of the facility changes during the five-year period of the exemption, the exemption shall continue in effect for the balance of the five-year period as long as all other qualifications provided in this section are met;

2. Except as otherwise provided in paragraph 5 of this subsection, no manufacturing concern shall receive more than one five-year exemption for any one manufacturing facility unless the expansion which qualifies the manufacturing facility for an additional five-year exemption meets the requirements of paragraph 4 of this subsection and the employment level established for any previous exemption is maintained;

3. Any exemption as to the expansion of an existing manufacturing facility shall be limited to the increase in ad valorem taxes directly attributable to the expansion;

4. Except as provided in paragraphs 5, 6 and 7 of this subsection, all initial applications for any exemption for a new, acquired or expanded manufacturing facility shall be granted only if:

a. (i) for applications approved by a county assessor on or before July 1, 2003, there is a net increase of Two Hundred Fifty Thousand Dollars ($250,000.00) or more in annualized payroll, or a net increase of Two Million Dollars ($2,000,000.00) or more in capital improvements while maintaining or increasing payroll, or

(ii) for applications approved by a county assessor after July 1, 2003, there is a net increase in annualized payroll at the facility of at least Two Hundred Fifty Thousand Dollars ($250,000.00) if the facility is located in a county with a population of fewer than fifty thousand (50,000), according to the most recent federal decennial census, or at least One Million Dollars ($1,000,000.00) if the facility is located in a county with a population of fifty thousand (50,000) or more, according to the most recent federal decennial census.

The ~~Oklahoma~~ Tax Commission shall verify all payroll information through the Oklahoma Employment Security Commission. Payroll shall be verified by the ~~Oklahoma~~ Tax Commission by using the average of the third and fourth quarter Oklahoma Employment Security Commission reports of the calendar year immediately preceding the year for which initial application is made for base-line payroll, and

b. the facility offers, or will offer within one hundred eighty (180) days of the date of employment, a basic health benefits plan to the full-time-equivalent employees of the facility, which is determined by the Department of Commerce to consist of the elements

specified in subparagraph b of paragraph 1 of subsection A of Section 3603 of this title or elements substantially equivalent thereto.

For purposes of this section, calculation of the amount of increased payroll shall be measured from the start of initial construction or expansion to the completion of such construction or expansion or for three (3) years from the start of initial construction or expansion, whichever occurs first. For the facilities of any qualified manufacturing concern the construction or expansion of which began on or after January 1, 1996, and for which an application for the exemption authorized by this section was filed prior to June 6, 2002, the amount of increased payroll shall include payroll for full-time-equivalent employees in this state who are employed by an entity other than the facility which has previously or is currently qualified to receive an exemption pursuant to the provisions of this section and who are leased or otherwise provided to the facility, if such employment did not exist in this state prior to the start of initial construction or expansion of the facility. The manufacturing concern shall submit an affidavit to the Tax Commission, signed by an officer, stating that the construction, acquisition or expansion of the facility will result in a net increase in the annualized payroll as required by this paragraph and that full-time-equivalent employees of the facility are or will be offered a basic health benefits plan as required by this paragraph. If, after the completion of such construction or expansion or after three (3) years from the start of initial construction or expansion, whichever occurs first, the construction, acquisition or expansion has not resulted in a net increase in the amount of annualized payroll, if required, or any other qualification specified in this paragraph has not been met, the manufacturing concern shall pay an amount equal to the amount of

any exemption granted, including penalties and interest thereon, to the Tax Commission for deposit to the Ad Valorem Reimbursement Fund;

5. Any new, acquired or expanded automotive final assembly manufacturing facility which does not meet the requirements of paragraph 4 of this subsection shall be granted an exemption only if all other requirements of this section are met and only if the investment cost of the construction, acquisition or expansion of the manufacturing facility is Three Hundred Million Dollars ($300,000,000.00) or more and the manufacturing facility retains an average employment of one thousand seven hundred fifty (1,750) or more full-time-equivalent employees in the year in which the exemption is initially granted and in each of the four (4) subsequent years only if an average employment of one thousand seven hundred fifty (1,750) or more full-time-equivalent employees is maintained in the subsequent year. Any property installed to replace property damaged by the tornado or natural disaster that occurred May 8, 2003, may continue to receive the exemption provided in this paragraph for the full five-year period based on the value of the previously qualifying assets as of January 1, 2003. The exemption shall continue in effect as long as all other qualifications in this paragraph are met. If the average employment of one thousand seven hundred fifty (1,750) or more full-time-equivalent employees is reduced as a result of temporary layoffs because of a tornado or natural disaster on May 8, 2003, then the average employment requirement shall be waived for year 2003 of the exemption period. Calculation of the number of employees shall be made in the same manner as required under Section 2357.4 of this title for an investment tax credit. As used in this paragraph, "expand" and "expansion" shall mean and include any increase to the size or scope of a facility as well as any renovation, restoration, replacement or remodeling of a facility which permits the manufacturing of a new or redesigned product;

6. Any new, acquired, or expanded computer data processing, data preparation, or information processing services provider classified in Industrial Group Number 7374 of the SIC Manual, latest revision, and U.S. Industry Number 514210 of the North American Industrial Classification System (NAICS) Manual, latest revision, which has made an initial application pursuant to paragraph 4 of this subsection on or after January 1, 2003, and before July 1, 2003, which application has been approved by the county assessor, may apply for additional exemptions under this section for each year in which new, acquired, or expanded capital improvements to the facility are made if:

a. there is a net increase in annualized payroll at the facility of at least Two Hundred Fifty Thousand Dollars ($250,000.00) attributable to the capital improvements or a net increase of Seven Million Dollars ($7,000,000.00) or more in capital improvements while maintaining or increasing payroll, and

b. the facility offers, or will offer within one hundred eighty (180) days of the date of employment of new employees attributable to the capital improvements, a basic health benefits plan to the full-time-equivalent employees of the facility, which is determined by the Department of Commerce to consist of the elements specified in subparagraph b of paragraph 1 of subsection A of Section 3603 of this title or elements substantially equivalent thereto; and

7. An entity engaged in electric power generation by means of wind, as described by the North American Industry Classification System, No. 221119, shall be subject to the requirements for obtaining and maintaining the exemption authorized by this section which were effective as law prior to the amendments contained in

Section 1, Chapter 458, O.S.L. 2003, and shall not be subject to the requirements imposed pursuant to the amendments contained in Section 1, Chapter 458, O.S.L. 2003.

D. The five-year period of exemption from ad valorem taxes for any qualifying manufacturing facility property shall begin on January 1 following the initial qualifying use of the property in the manufacturing process. <u>If a taxpayer fails to claim the exemption for a year in which it was otherwise qualified, the taxpayer may file a claim for exemption for an additional year within two (2) years of the end of the original five-year period.</u>

E. Any person, firm or corporation claiming the exemption herein provided for shall file each year for which exemption is claimed, an application therefor with the county assessor of the county in which the new, expanded or acquired facility is located. The application shall be on a form or forms prescribed by the Tax Commission, and shall be filed on or before March 15, except as provided in Section 2902.1 of this title, of each year in which the facility desires to take the exemption or within thirty (30) days from and after receipt by such person, firm or corporation of notice of valuation increase, whichever is later. In a case where completion of the facility or facilities will occur after January 1 of a given year, a facility may apply to claim the ad valorem tax exemption for that year. If such facility is found to be qualified for exemption, the ad valorem tax exemption provided for herein shall be granted for that entire year and shall apply to the ad valorem valuation as of January 1 of that given year. For applicants which qualify under the provisions of subparagraph b of paragraph 1 of subsection B of this section, the application shall include a copy of the affidavit and any other information required to be filed with the Tax Commission.

F. The application shall be examined by the county assessor and approved or rejected in the same manner as provided by law for

approval or rejection of claims for homestead exemptions. The taxpayer shall have the same right of review by and appeal from the county board of equalization, in the same manner and subject to the same requirements as provided by law for review and appeals concerning homestead exemption claims. Approved applications shall be filed by the county assessor with the Tax Commission no later than June 15, except as provided in Section 2902.1 of this title, of the year in which the facility desires to take the exemption. Incomplete applications and applications filed after June 15 will be declared null and void by the Tax Commission. In the event that a taxpayer qualified to receive an exemption pursuant to the provisions of this section shall make payment of ad valorem taxes in excess of the amount due, the county treasurer shall have the authority to credit the taxpayer's real or personal property tax overpayment against current taxes due. The county treasurer may establish a schedule of up to five (5) years of credit to resolve the overpayment.

G. Nothing herein shall in any manner affect, alter or impair any law relating to the assessment of property, and all property, real or personal, which may be entitled to exemption hereunder shall be valued and assessed as is other like property and as provided by law. The valuation and assessment of property for which an exemption is granted hereunder shall be performed by the Tax Commission.

H. The Tax Commission shall have the authority and duty to prescribe forms and to promulgate rules as may be necessary to carry out and administer the terms and provisions of this section.

SECTION 117. REPEALER 68 O.S. 2001, Section 2902, as last amended by Section 2, Chapter 317, O.S.L. 2004 (68 O.S. Supp. 2004, Section 2902), is hereby repealed.

SECTION 118. AMENDATORY 70 O.S. 2001, Section 17-101, as amended by Section 16, Chapter 536, O.S.L. 2004 (70 O.S. Supp. 2004, Section 17-101), is amended to read as follows:

Section 17-101. The following words and phrases as used in this act, unless a different meaning is clearly required by the context, shall have the following meanings:

(1) "Retirement system" shall mean the Teachers' Retirement System of Oklahoma, as defined in Section 17-102 of this title.

(2) "Public school" shall mean a school district, a state college or university, the State Board of Education, the State Board of Career and Technology Education and any other state educational entity conducted within the state supported wholly or partly by public funds and operating under the authority and supervision of a legally constituted board or agency having authority and responsibility for any function of public education.

(3) "Classified personnel" shall mean any teacher, principal, superintendent, supervisor, administrator, librarian, certified or registered nurse, college professor, or college president whose salary is paid wholly or in part from public funds. An employee of any state department, board, board of regents or board of trustees, who is in a supervisory or an administrative position, the function of which is primarily devoted to public education, shall be considered classified personnel under the meaning of this act, at the discretion of the Board of Trustees of the Teachers' Retirement System. The term "teacher" shall also include instructors and counselors employed by the Department of Corrections and holding valid teaching certificates issued by the State Department of Education. Provided, that a person employed by the Department of Corrections as an instructor or counselor shall have been actively engaged in the teaching profession for a period of not less than three (3) years prior to employment to be eligible to participate in the Oklahoma Teachers' Retirement System. The Department of

Corrections shall contribute the employer's share to the Oklahoma Teachers' Retirement System.

(4) "Nonclassified optional personnel" shall include cooks, janitors, maintenance personnel not in a supervisory capacity, bus drivers, noncertified or nonregistered nurses, noncertified librarians, and clerical employees of the public schools, state colleges, universities or any state department, board, board of regents or board of trustees, the functions of which are primarily devoted to public education and whose salaries are paid wholly or in part from public funds.

(5) "Employer" shall mean the state and any of its designated agents or agencies with responsibility and authority for public education, such as boards of education of elementary and independent school districts, boards of regents, boards of control or any other agency of and within the state by which a person may be employed for service in public education.

(6) "Member" shall mean any teacher or other employee included in the membership of the system as provided in Section 17-103 of this title.

(7) "Board of Trustees" shall mean the board provided for in Section 17-106 of this title to administer the retirement system.

(8) "Service" shall mean service as a classified or nonclassified optional employee in the public school system, or any other service devoted primarily to public education in the state.

(9) "Prior service" shall mean service rendered prior to July 1, 1943.

(10) "Membership service" shall mean service as a member of the classified or nonclassified personnel as defined in paragraphs (3) and (4) of this section.

(11) "Creditable service" shall mean membership service plus any prior service authorized under this title.

(12) “Annuitant” shall mean any person in receipt of a retirement allowance as provided in this title.

(13) “Accumulated contributions” shall mean the sum of all amounts deducted from the compensation of a member and credited to his individual account in the Teacher Savings Fund, together with interest as of June 30, 1968.

(14) “Earnable compensation” shall mean the full rate of the compensation that would be payable to a member if he worked the full normal working time.

(15) “Average salary”:

(a) for those members who joined the System prior to July 1, 1992, shall mean the average of the salaries for the three (3) years on which the highest contributions to the Teachers’ Retirement System was paid not to exceed the maximum contribution level specified in Section 17-116.2 of this title or the maximum compensation level specified in subsection (28) of this section. Provided, no member shall retire with an average salary in excess of Twenty-five Thousand Dollars ($25,000.00) unless the member has made the required election and paid the required contributions on such salary in excess of Twenty-five Thousand Dollars ($25,000.00), and

(b) for those members who join the System after June 30, 1992, shall mean the average of the salaries for five (5) consecutive years on which the highest contribution to the Teachers’ Retirement System was paid. Only salary on which required contributions have been made may be used in computing average salary.

(16) "Annuity" shall mean payments for life derived from the "accumulated contributions" of a member. All annuities shall be payable in equal monthly installments.

(17) "Pension" shall mean payments for life derived from money provided by the employer. All pensions shall be payable in equal monthly installments.

(18) "Monthly retirement allowance" is one-twelfth (1/12) of the annual retirement allowance which shall be payable monthly.

(19) "Retirement Benefit Fund" shall mean the fund from which all retirement benefits shall be paid based on such mortality tables as shall be adopted by the Board of Trustees.

(20) "Actuary" shall mean a person especially skilled through training and experience in financial calculation respecting the expectancy and duration of life.

(21) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality and other tables as shall be adopted by the Board of Trustees.

(22) The masculine pronoun, whenever used, shall include the feminine.

(23) "Actuarially determined cost" shall mean the single sum which is actuarially equivalent in value to a specified pension amount as determined on the basis of mortality and interest assumptions adopted by the Board of Trustees.

(24) "Normal retirement age" means age sixty-two (62) or the age at which the sum of a member's age and number of years of creditable service total eighty (80) <u>or ninety (90), for those who became a member after June 30, 1992, pursuant to Section 17-105 of this title</u>, whichever occurs first.

(25) "Regular annual compensation" means salary plus fringe benefits, excluding the flexible benefit allowance pursuant to Section 26-105 of this title and for purposes pursuant to Section 17-101 et seq. of this title. For purposes of this definition,

regular annual compensation shall include all payments as provided in subsection D of Section 17-116.2 of this title.

(26) "Teacher" means classified personnel and nonclassified optional personnel.

(27) "Active classroom teacher" means a person employed by a school district to teach students specifically identified classes for specifically identified subjects during the course of a semester, and who holds a valid certificate or license issued by and in accordance with the rules and regulations of the State Board of Education.

(28) "Maximum compensation level" shall mean:

(a) Twenty-five Thousand Dollars ($25,000.00) for ~~credited~~ creditable service authorized and performed prior to July 1, 1995, for members not electing a higher maximum compensation level,

(b) Forty Thousand Dollars ($40,000.00) for ~~credited~~ creditable service authorized and performed prior to July 1, 1995, for members electing a maximum compensation level in excess of Twenty-five Thousand Dollars ($25,000.00),

(c) Twenty-seven Thousand Five Hundred Dollars ($27,500.00) for members who, as of June 30, 1995, had elected to have a maximum compensation level not in excess of Twenty-five Thousand Dollars ($25,000.00), and who were employed by an entity or institution within The Oklahoma State System of Higher Education for ~~credited~~ creditable service authorized and performed on or after July 1, 1995, but not later than June 30, 1996, if such member does not elect a higher maximum compensation level for this period as authorized by Section 17-116.2A of this title,

(d) Thirty-two Thousand Five Hundred Dollars ($32,500.00) for members employed by a comprehensive university if the member meets the requirements imposed by Section 17-116.2A of this title and the member elects to impose a higher maximum compensation level for service performed on or after July 1, 1995, but not later than June 30, 1996,

(e) Forty-four Thousand Dollars ($44,000.00) for members who, as of June 30, 1995, had elected to have a maximum compensation level in excess of Twenty-five Thousand Dollars ($25,000.00), and who were employed by an entity or institution within The Oklahoma State System of Higher Education for ~~credited~~ creditable service authorized and performed on or after July 1, 1995, but not later than June 30, 1996, if such member does not elect a higher maximum compensation level for this period as authorized by Section 17-116.2A of this title,

(f) Forty-nine Thousand Dollars ($49,000.00) for members employed by a comprehensive university if the member meets the requirements imposed by Section 17-116.2A of this title and the member elects to impose a higher maximum compensation level for service performed on or after July 1, 1995, but not later than June 30, 1996,

(g) the following amounts for ~~credited~~ creditable service authorized and performed by members employed by a comprehensive university, based upon the election of the member in effect as of June 30, 1995:

1. for members who elected a maximum compensation level not in excess of Twenty-five Thousand Dollars ($25,000.00):

(i) Thirty-two Thousand Five Hundred Dollars ($32,500.00) for service authorized and performed on or after July 1, 1996, but not later than June 30, 1997,

(ii) Thirty-seven Thousand Five Hundred Dollars ($37,500.00) for service authorized and performed on or after July 1, 1997, but not later than June 30, 1998,

(iii) Forty-two Thousand Five Hundred Dollars ($42,500.00) for service authorized and performed on or after July 1, 1998, but not later than June 30, 2000,

(iv) Forty-seven Thousand Five Hundred Dollars ($47,500.00) for service authorized and performed on or after July 1, 2000, but not later than June 30, 2001,

(v) Fifty-two Thousand Five Hundred Dollars ($52,500.00) for service authorized and performed on or after July 1, 2001, but not later than June 30, 2002,

(vi) Fifty-seven Thousand Five Hundred Dollars ($57,500.00) for service authorized and performed on or after July 1, 2002, but not later than June 30, 2003,

(vii) Sixty-two Thousand Five Hundred Dollars ($62,500.00) for service authorized and performed on or after July 1, 2003, but not later than June 30, 2004,

(viii) Sixty-seven Thousand Five Hundred Dollars ($67,500.00) for service authorized and performed on or after July 1, 2004, but not later than June 30, 2005,

(ix) Seventy-two Thousand Five Hundred Dollars ($72,500.00) for service authorized and performed on or after July 1, 2005, but not later than June 30, 2006,

(x) Seventy-seven Thousand Five Hundred Dollars ($77,500.00) for service authorized and performed on or after July 1, 2006, but not later than June 30, 2007,

(xi) the full amount of regular annual compensation for service authorized and performed on or after July 1, 2007, and

2. for members who elected a maximum compensation level in excess of Twenty-five Thousand Dollars ($25,000.00):

(i) Forty-nine Thousand Dollars ($49,000.00) for service authorized and performed on or after July 1, 1996, but not later than June 30, 1997,

(ii) Fifty-four Thousand Dollars ($54,000.00) for service authorized and performed on or after July 1, 1997, but not later than June 30, 1998,

(iii) Fifty-nine Thousand Dollars ($59,000.00) for service authorized and performed on or after July 1, 1998, but not later than June 30, 2000,

(iv) Sixty-four Thousand Dollars ($64,000.00) for service authorized and performed on or after July 1, 2000, but not later than June 30, 2001,

(v) Sixty-nine Thousand Dollars ($69,000.00) for service authorized and performed on or after

July 1, 2001, but not later than June 30, 2002,

(vi) Seventy-four Thousand Dollars ($74,000.00) for service authorized and performed on or after July 1, 2002, but not later than June 30, 2003,

(vii) Seventy-nine Thousand Dollars ($79,000.00) for service authorized and performed on or after July 1, 2003, but not later than June 30, 2004,

(viii) Eighty-four Thousand Dollars ($84,000.00) for service authorized and performed on or after July 1, 2004, but not later than June 30, 2005,

(ix) Eighty-nine Thousand Dollars ($89,000.00) for service authorized and performed on or after July 1, 2005, but not later than June 30, 2006,

(x) Ninety-four Thousand Dollars ($94,000.00) for service authorized and performed on or after July 1, 2006, but not later than June 30, 2007,

(xi) the full amount of regular annual compensation for service authorized and performed on or after July 1, 2007,

(h) the full amount of regular annual compensation of:

1. a member of the retirement system not employed by an entity or institution within The Oklahoma State System of Higher Education for all ~~credited~~ creditable service authorized and performed on or after July 1, 1995,

2. a member of the retirement system first employed on or after July 1, 1995, by an entity or institution within The Oklahoma State System of Higher Education for all ~~credited~~ creditable service authorized and performed on or after July 1, 1995, but not later than June 30, 1996,

3. a member of the retirement system employed by an entity or institution within The Oklahoma State System of Higher Education, other than a comprehensive university, if the member elects to impose a higher maximum compensation level for service performed on or after July 1, 1995, but not later than June 30, 1996, pursuant to subsection B of Section 17-116.2A of this title,

4. a member of the retirement system who is first employed on or after July 1, 1996, by any entity or institution within The Oklahoma State System of Higher Education, including a comprehensive university, for ~~credited~~ creditable service authorized and performed on or after July 1, 1996,

5. a member of the retirement system who, as of July 1, 1996, is subject to a maximum compensation level pursuant to paragraph (g) of this subsection if the member terminates service with a comprehensive university and is subsequently reemployed by a comprehensive university, or

6. a member of the retirement system employed by a comprehensive university for all service performed on and after July 1, 2007.

(29) "Comprehensive university" shall mean:

(a) the University of Oklahoma and all of its constituent agencies, including the University of Oklahoma Health Sciences Center, the University of Oklahoma Law Center and the Geological Survey, and

(b) Oklahoma State University and all of its constituent agencies, including the Oklahoma State University Agricultural Experiment Station, the Oklahoma State University Agricultural Extension Division, the Oklahoma State University College of Veterinary Medicine, the Oklahoma State University ~~College of Osteopathic Medicine~~ Center for Health Sciences, the Technical Branch at Oklahoma City ~~and~~, the Technical Branch at Okmulgee and Oklahoma State University-Tulsa.

SECTION 119. REPEALER 70 O.S. 2001, Section 17-101, as amended by Section 1, Chapter 315, O.S.L. 2004 (70 O.S. Supp. 2004, Section 17-101), is hereby repealed.

SECTION 120. REPEALER 70 O.S. 2001, Section 17-101, as amended by Section 9, Chapter 385, O.S.L. 2004 (70 O.S. Supp. 2004, Section 17-101), is hereby repealed.

SECTION 121. REPEALER 70 O.S. 2001, Section 17-105, as last amended by Section 2, Chapter 315, O.S.L. 2004 (70 O.S. Supp. 2004, Section 17-105), is hereby repealed.

SECTION 122. AMENDATORY 70 O.S. 2001, Section 17-116.2, as last amended by Section 19, Chapter 536, O.S.L. 2004 (70 O.S. Supp. 2004, Section 17-116.2), is amended to read as follows:

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

salary upon which member contributions were made, multiplied by the number of the member's years of creditable service.

A classified member who retired prior to July 1, 1986, shall have his retirement allowance calculated on a minimum average salary of Eleven Thousand Five Hundred Dollars ($11,500.00) or on his current minimum average salary plus Two Thousand Dollars ($2,000.00), whichever is greater. Beginning July 1, 1994, a classified member who retired prior to July 1, 1993, shall have the member's retirement allowance calculated on the member's current minimum average salary plus Five Hundred Fifty Dollars ($550.00). An unclassified member who retired prior to July 1, 1986, shall have his retirement allowance calculated on a minimum average salary of Nine Thousand Five Hundred Dollars ($9,500.00) or on his current minimum average salary plus One Thousand Dollars ($1,000.00), whichever is greater. Beginning July 1, 1994, an unclassified member who retired prior to July 1, 1993, shall have the member's retirement allowance calculated on the member's current minimum average salary plus Two Hundred Seventy-five Dollars ($275.00). Those individuals receiving benefits pursuant to subsection (3) of Section 17-105 of this title whose benefits commenced prior to July 1, 1993, shall receive an increase in benefits of two and one-half percent (2 1/2%). No retirement benefit payments shall be made retroactively.

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

2. Beginning July 1, 1995, a member, who has no service performed on or after July 1, 1995, for an entity or institution within The Oklahoma State System of Higher Education, who retires on or after the member's normal retirement age or whose retirement is

because of disability shall receive an annual allowance for life, payable monthly as follows:

a. if the member becomes a member after June 30, 1995, and was not eligible to become a member prior to July 1, 1995, in an amount equal to two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of creditable service, or

b. if the member became a member or is eligible to become a member prior to July 1, 1995, and elected to have a maximum compensation level in excess of Twenty-five Thousand Dollars ($25,000.00) pursuant to paragraph 1 of subsection C of this section or pursuant to subsection E of this section, or if the member's salary has never exceeded Twenty-five Thousand Dollars ($25,000.00) prior to July 1, 1995, in an amount equal to:

(1) two percent (2%) of the member's average salary upon which member contributions were made not to exceed Forty Thousand Dollars ($40,000.00), multiplied by the number of the member's years of credited service authorized and performed prior to July 1, 1995, plus any years of prior service authorized under this title, plus

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

c. if the member became a member or is eligible to become a member prior to July 1, 1995, and was eligible to elect to have a maximum compensation level in excess

of Twenty-five Thousand Dollars ($25,000.00) and did not elect or elected not to have a maximum compensation level of Forty Thousand Dollars ($40,000.00) pursuant to paragraph 1 of subsection C of this section or pursuant to subsection E of this section, in an amount equal to:

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

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

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

1. Beginning July 1, 1992, through June 30, 1996, six percent (6%) of the regular annual compensation of such member not in excess of Twenty-five Thousand Dollars ($25,000.00) and beginning July 1, 1995, through June 30, 1996, six percent (6%) of the maximum compensation level; and

2. Beginning July 1, 1996, through June 30, 1997, six and one-half percent (6 1/2%) of the regular annual compensation of members, who are not employed by an entity or institution within The Oklahoma State System of Higher Education not in excess of Twenty-five Thousand Dollars ($25,000.00) and beginning July 1, 1996, through June 30, 1997, six and one-half percent (6 1/2%) of the regular annual compensation of members, who are employed by an entity or

institution within The Oklahoma State System of Higher Education, not in excess of Twenty-five Thousand Dollars ($25,000.00);

3. Beginning July 1, 1997, seven percent (7%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member; and

4. All public schools in this state shall treat the employee contributions as being picked-up under the provisions of Section 414 (h) (2) of the Internal Revenue Code of 1986 in determining tax treatment.

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

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

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

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

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

2. After June 30, 1995, in addition to the amount contributed by each member to the retirement system pursuant to subsection B of this section, the total amount contributed by each member to the retirement system shall include, beginning July 1, 1995, through June 30, 1997, seven percent (7%) of the regular annual compensation of each member, who is not employed by an entity or institution within The Oklahoma State System of Higher Education, that is in excess of Twenty-five Thousand Dollars ($25,000.00) and beginning July 1, 1996, through June 30, 1997, seven percent (7%) of the regular annual compensation of each member who is employed by an entity or institution within The Oklahoma State System of Higher Education in excess of Twenty-five Thousand Dollars ($25,000.00), but not in excess of any applicable maximum compensation level of the member.

D. For purposes of Section 17-101 et seq. of this title, regular annual compensation shall include:

1. Salary which accrues on a regular basis in proportion to the service performed, including payments for staff development;

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

3. Group health and disability insurance, group term life insurance, annuities and pension plans, provided on a periodic basis

to all qualified employees of the employer, which qualify as fringe benefits under the United States Internal Revenue Code.

4. Excluded from regular annual compensation are expense reimbursement payments, office, vehicle, housing or other maintenance allowances, the flexible benefit allowance provided pursuant to Section 26-105 of this title, payment for unused vacation and sick leave, any payment made for reason of termination or retirement not specifically provided for in paragraphs 1 through 3 of this subsection, maintenance or other nonmonetary compensation, payment received as an independent contractor or consultant, pursuant to a lawful contract which complies with the requirements of subsection B of Section 6-101.2 of this title, any benefit payments not made pursuant to a valid employment agreement, or any compensation not described in paragraphs 1 through 3 of this subsection.

E. 1. Any member who was a contributing member of the Retirement System between July 1, 1987, and June 30, 1995, who at the time the member was eligible to make an election to increase the maximum compensation level of the member, failed to make an election or chose not to increase the maximum compensation level of the member to Forty Thousand Dollars ($40,000.00), may elect to make back contributions to the Retirement System. The member shall complete a new election form and file with the Board of Trustees, the form and a payment equaling the difference between the amount contributed at the twenty-five-thousand-dollar level and the appropriate contribution on compensation in excess of Twenty-five Thousand Dollars ($25,000.00) up to a maximum of Forty Thousand Dollars ($40,000.00) shall be made prior to the official retirement date of the member. The required payment shall include any contribution required by the employing school district, and shall include interest compounded annually at ten percent (10%) per annum of both employer and employee contributions.

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

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

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

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

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

1. Deductions shall begin with the first payroll period of the school year. In determining the amount earnable by a member in a payroll period, the Board of Trustees shall consider the rate of

annual compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from compensation for any period less than a full period, and to facilitate the making of deductions, it may modify the deduction required of any member by such an amount as shall not exceed one-tenth of one percent (1/10 of 1%) of the annual compensation upon the basis of which such deduction is to be made. Prior to January 1, 1991, any active contributing member who joined the System subsequent to July 1, 1943, may pay the normal cost, which shall mean the single sum which would have been paid under existing statutes at the time the service was performed, plus interest, for years of teaching service in Oklahoma from the date of establishment of the System in 1943 to date of membership, in a lump sum, or in installments equal to establishing one (1) year of creditable service. Effective January 1, 1991, any active contributing member who joined the System subsequent to July 1, 1943, may pay the amount determined by the Board of Trustees pursuant to Section 17-116.8 of this title for years of teaching service in Oklahoma from the date of establishment of the System in 1943 to date of membership, in a lump sum, or in installments equal to establishing one (1) year of creditable service. For purposes of this option, teaching service in Oklahoma shall include the teaching of vocational agricultural courses within Oklahoma for the federal government. Years for which contributions are paid shall count as membership service under this plan. A member may receive credit for not more than five (5) years of teaching service rendered while in the Peace Corps or in the public schools of a territory of the United States or the public schools, American Military Dependent Schools or state colleges or state universities outside this state by paying his or her contributions, plus interest, and membership fees to the retirement system, subject to the regulations of the Board of Trustees, providing he or she is not receiving and is not

eligible to receive retirement credit or benefits from said service in any other public retirement system of this state, or any other state or territory of the United States subject to the following provisions:

a. the member is required to have two (2) years of employed service teaching earned in Oklahoma for each year of Peace Corps, territorial, out-of-state, noncovered in-state or military membership credit granted.

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

2. In addition to the deductions hereinabove provided for, any member who becomes a member of the Armed Forces of the United States of America during any period of national emergency, including World War II, the Korean conflict, the Vietnam conflict or others as may be determined by the Board of Trustees, or whose entrance into or training for the teaching profession was interrupted by his or her entrance into the Armed Forces, and who was or shall have become a member of the Teachers' Retirement System shall be granted the privilege of making up his or her five percent (5%) contributions as provided for in this section until January 1, 1991, for not to exceed five (5) years of service in the Armed Forces by electing to

pay said contributions on the basis of the rate of pay in his or her contract as a teacher at the time his or her service in the Armed Forces commenced or in the case of a teacher who was not teaching prior to entering the Armed Forces, on the basis of the salary of the first year of teaching after being honorably discharged from the Armed Forces. Effective January 1, 1991, the member will receive such service upon payment of the amount determined by the Board of Trustees pursuant to Section 17-116.8 of this title. Such contributions shall be credited in the regular manner, and the period for which said contributions were paid shall be counted as creditable years of service and allocated to the period during which the military service was rendered, except that the period for which contributions were paid must have been continuous and shall be credited in the aggregate, regardless of fiscal year limitations. Notwithstanding any provision herein to the contrary, contributions, benefits and service credit with respect to qualified military service as defined by Section 414(u) of the Internal Revenue Code of 1986, shall be provided in accordance with Section 414(u) of the Internal Revenue Code.

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

H. Effective July 1, 2004, the total creditable service of a member who retires or terminates employment and elects a vested benefit shall include not to exceed one hundred twenty (120) days of unused sick leave accumulated subsequent to August 1, 1959. Twenty (20) days of unused sick leave shall equal one (1) month for purposes of creditable service credit. If the member becomes a member or was eligible to become a member prior to July 1, 1995, the year of credit received in this section shall be treated as service earned prior to July 1, 1995. This subsection shall apply to

members retiring or vesting on or after the effective date of this act and shall not be retroactive.

I. Any member who:

1. Shall be absent from the teaching service because of election to the State Legislature or appointment to the executive branch in an education-related capacity shall be allowed thirty (30) days from the date as of which the person is officially elected or appointed to file an election with the Teachers' Retirement System to retain his or her membership in the Teachers' Retirement System upon payment of the contribution required of other members and employers of said members as provided for in this section and his or her service credits shall continue to be accumulated during such absence, provided he or she is not receiving retirement credits or benefits from said service beginning after July 1, 1992, in other public retirement systems; or

2. Became an employee of the Oklahoma Commission for Teacher Preparation on or subsequent to June 1, 2001, but prior to July 1, 2002, who was previously employed by a participating employer within the Teachers' Retirement System of Oklahoma, may elect to cancel any accumulated service credit accrued within the Oklahoma Public Employees Retirement System on or after June 1, 2001, but prior to July 1, 2002, by filing an election with the Oklahoma Public Employees Retirement System for the cancellation of such service credit. The election shall be irrevocable and shall require the Oklahoma Public Employees Retirement System to transfer all accumulated employer and employee contributions made on behalf of or by the person making such election to the Teachers' Retirement System for such period of time. The Teachers' Retirement System shall compute the employee contributions that would have been made to the System by such employee if the contributions had been computed pursuant to this section. In order to receive the full amount of creditable service for the period of time on or after June

1, 2001, but not later than June 30, 2002, the employee shall be required to pay any difference between the transferred employee contributions and the amount computed by the Teachers' Retirement System. The employee may make payment of any required amount in the manner provided by and subject to the requirements of Section 17-116.8 of this title. After payment of all required employee contributions, the Teachers' Retirement System shall credit the period of time represented by the transferred employee contributions as creditable service within the meaning of Section 17-101 of this title. After the transfer of the employee contributions, the Oklahoma Public Employees Retirement System shall cancel any service credit previously accumulated for the period of time represented by such transferred employee contributions. Any person who makes the election provided for by this paragraph, and who continues employment with the Oklahoma Commission for Teacher Preparation on or after July 1, 2002, shall continue to accrue service credit in the Teachers' Retirement System of Oklahoma. The employer shall make employer contributions according to the requirements of Section 17-108.1 of this title and shall provide for the deduction of employee contributions as required by this section.

J. Any member who shall be absent from the teaching service because of election or appointment as a local, state or national education association officer shall be allowed to retain his or her membership in the Teachers' Retirement System upon payment of the contribution required of other members and employers of said members as provided for in this section and his or her service credits shall continue to be accumulated during such absence. Provided, however, any one such absence shall not exceed eight (8) continuous years. No member who has less than ten (10) years of contributory service on July 1, 1994, may make this election after June 30, 1994. Members contributing to the System on July 1, 1994, may continue to contribute under this subsection until they have completed eight (8)

years allowed by this subsection. The member may file for retirement when otherwise eligible for retirement as provided by Section 17-105 of this title. Conditioned upon receiving a favorable determination letter or private letter ruling from the Internal Revenue Service, the eligible absence and participation continuation in the Teachers' Retirement System of Oklahoma pursuant to this subsection shall be increased to twelve (12) years. The Teachers' Retirement System of Oklahoma shall make any necessary efforts in obtaining an Internal Revenue Service determination letter or private letter ruling concerning such increase.

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

as amended from time to time. Members who retire prior to July 1, 1993, shall have their monthly benefit adjusted to include all services accrued under paragraph (f) of subsection (2) of Section 913 of Title 74 of the Oklahoma Statutes. Provided however, any adjustment of existing retirement benefits caused by reason of inclusion of such service authorized under paragraph (f) of subsection (2) of Section 913 of Title 74 of the Oklahoma Statutes shall not affect any retirement benefit paid prior to July 1, 1993.

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

a. the member is an active member of the Teachers' Retirement System of Oklahoma, and

b. the member provides notice to the Oklahoma Public Employees Retirement System and the Teachers' Retirement System of Oklahoma of the member's election to transfer said service credit. The notice shall include a list of the years to be transferred, and

c. the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system, notwithstanding the years of service sought to be transferred under this subsection.

Members electing to take advantage of the transfer authorized by this subsection who are receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system shall have all service credit with the Oklahoma Public Employees Retirement System canceled which is not transferred to the Teachers' Retirement System of Oklahoma or used as a cash offset in such a transfer pursuant to subparagraph d of paragraph 2 of this subsection. Service credit transferred to the Teachers' Retirement

System of Oklahoma under this subsection shall also be canceled with the Oklahoma Public Employees Retirement System.

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

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

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

product of the calculation in division (2) of this subparagraph, and

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

b. Within thirty (30) days notification of an intent to transfer is received by the receiving system, the receiving system shall determine, according to the system's own rules and regulations, the present value of the member's incremental projected benefits discounted according to the member's age at the time of the transfer. Incremental projected benefits shall be the difference between the projected benefit said member would receive without transferring the service credit and the projected benefit after transfer of service credit computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest, salary projections and

mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation.

c. The sending system shall, within sixty (60) days from the date notification of an intent to transfer is received by the sending system, transfer to the receiving system the amount determined in subparagraph a of this paragraph. Except if the cost as calculated under subparagraph a of this paragraph is greater than the actuarial value of the incremental benefit in the receiving system, as established in subparagraph b of this paragraph, the sending system shall send the receiving system an amount equal to the actuarial value of the incremental projected benefit in the receiving system.

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

(1) pay any difference to receive full credit for the years sought to be transferred, or

(2) receive prorated service credit for only the amount received from the Oklahoma Public Employees Retirement System pursuant to this subsection.

Such an election shall be made in writing, filed with the System prior to receiving the credit provided for

in paragraph 1 of this subsection, and shall be irrevocable.

3. Within sixty (60) days of successfully completing all of the requirements for transfer under this subsection, the sending system shall pay the receiving system any amount due under this subsection. Within sixty (60) days of successfully completing all of the requirements for transfer under this subsection, the member shall pay the receiving system any amount due under this subsection. In the event that the member is unable to pay the transfer fee provided for in this subsection by the due date, the Board of Trustees of the receiving system shall permit the member to amortize the transfer fee over a period not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the Board of Trustees permits an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings each year. Any member who ceases to make payment, terminates, retires or dies before completing the payments provided for in this section shall receive prorated service credit for only those payments made, unless the unpaid balance is paid by said member, his or her estate or successor in interest within six (6) months after said member's death, termination of employment or retirement, provided no retirement benefits shall be payable until the unpaid balance is paid, unless said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance.

4. Years of service transferred pursuant to this subsection shall be used both in determining the member's retirement benefit and in determining the years of service for retirement and/or vesting purposes. Years of service rendered as a member of the Oklahoma Public Employees Retirement System prior to July 1, 1992, if any, shall be deemed to be years of service rendered as a member of the Teachers' Retirement System of Oklahoma prior to July 1,

1992, and shall qualify such person as a member of the Teachers' Retirement System of Oklahoma before July 1, 1992.

5. Notwithstanding the requirements of subsection (5) of Section 917 of Title 74 of the Oklahoma Statutes, members electing to take advantage of the transfer authorized by this subsection who have withdrawn their contributions from the sending system shall remit to the sending system the amount of the accumulated contributions the member has withdrawn plus simple interest of ten percent (10%) per annum prior to making said election or the election shall be deemed invalid and the transfer shall be canceled. If such an election is deemed invalid and the transfer is canceled, the accumulated contribution remitted to the sending system by the member who originally withdrew their contributions shall be returned to the member. The member's rights and obligations regarding any service credit reestablished in the sending system due to a failure to satisfy the requirements of this subsection shall be determined by the sending system in accordance with Section 901 et seq. of Title 74 of the Oklahoma Statutes.

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

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

M. Any member whose regular annual compensation was not determined as provided for by law may pay the member contribution required pursuant to subsection B of this section on such amount not included in the member's regular annual compensation and receive credit for such amount in the calculation of the member's benefit. The employees must pay the employer contributions required pursuant to Section 17-108.1 of this title. Interest at the rate of ten percent (10%) per annum shall be charged to both employee and employer contributions. Provided that the employing district may pay all or any portion of the contributions and interest the member is required to pay. Any payment by the employing district for a prior year obligation shall be considered a current obligation of the employer.

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

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

P. Notwithstanding any requirements of this title to restrict the payment of service purchases, the Board of Trustees shall promulgate such rules as necessary to allow active members of the System to make installment payments for the redeposit of withdrawn accounts or other payments due under the provisions of this title. The rules shall permit the member to amortize the balance due over a period not to exceed sixty (60) months, and shall include interest consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation. Further, the rules shall provide that all payments must be completed prior to the effective retirement date of the member.

Q. 1. A member of the Oklahoma Public Employees Retirement System who becomes a member of the Teachers' Retirement System of Oklahoma because the member has become employed by an entity or institution within The Oklahoma State System of Higher Education, State Board of Education, State Board of ~~Vocational~~ Career and ~~Technical~~ Technology Education, Oklahoma Department of ~~Vocational~~ Career and ~~Technical~~ Technology Education, Oklahoma School of Science and Mathematics, Oklahoma Center for the Advancement of Science and Technology, State Department of Rehabilitation Services, Oklahoma State Regents for Higher Education, Department of Corrections, State Department of Education, Oklahoma Board of Private Vocational Schools, Board of Regents of Oklahoma Colleges, Oklahoma Student Loan Authority, or the Teachers' Retirement System of Oklahoma, may elect to receive credit in the Teachers' Retirement System of Oklahoma for those years of service accumulated by the member in the Oklahoma Public Employees Retirement System pursuant to this subsection. A member shall be eligible to elect to receive credit for such years of service if:

a. the member is an active member of the Teachers' Retirement System of Oklahoma,

b. the member provides notice to the Teachers' Retirement System of Oklahoma and the Oklahoma Public Employees Retirement System of the member's election to transfer such retirement credit. The notice shall include a list of the years to be transferred, and

c. the member is not receiving or eligible to receive retirement credit or benefits from such service in any other public retirement system, notwithstanding the years of service sought to be transferred under this subsection.

Members electing to take advantage of the transfer authorized by this subsection shall have all service credit with the Oklahoma Public Employees Retirement System canceled which is transferred to the Teachers' Retirement System of Oklahoma.

2. For purposes of this subsection, the "sending system" shall mean the Oklahoma Public Employees Retirement System. The "receiving system" shall mean the Teachers' Retirement System of Oklahoma. Within thirty (30) days after notification of an intent to transfer is received by the sending system, the sending system shall, according to its own rules, send to the receiving system all employer and employee contributions made on behalf of the member which were made to the sending system plus an additional amount of earnings based on the actuarial assumed rate of the sending system. Upon receipt of these contributions by the receiving system, the receiving system shall give credit to the transferring member in an amount equal to the years of service accrued in the sending system.

3. If the transferring member's normal retirement date calculation is based upon the sum of the member's age and number of years of credited service totaling eighty (80) in the sending system, then the member shall retain such calculation in the receiving system.

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

R. A former member of the Teachers' Retirement System of Oklahoma who withdrew his or her contributions from the System prior to January 1, 1983, and who had at least ten (10) years of service in the System and purchased that service in the Oklahoma Public Employees Retirement System, may elect to revoke that purchase from the Oklahoma Public Employees Retirement System and to repay the withdrawn contributions to the System in order to be eligible, once such member reaches the normal retirement age, to receive a retirement benefit that is based upon years of service and compensation at the time such member terminated employment. In addition, such former member may elect to transfer service credit accrued in the Oklahoma Public Employees Retirement System to the Teachers' Retirement System of Oklahoma pursuant to subsection L of this section. The election, pursuant to this subsection, shall be made prior to September 1, 2000. The election and the repayment shall be made according to rules promulgated by the Board.

SECTION 123. REPEALER 70 O.S. 2001, Section 17-116.2, as last amended by Section 3, Chapter 315, O.S.L. 2004 (70 O.S. Supp. 2004, Section 17-116.2), is hereby repealed.

SECTION 124. AMENDATORY 70 O.S. 2001, Section 1210.508C, as amended by Section 2, Chapter 197, O.S.L. 2004 (70 O.S. Supp. 2004, Section 1210.508C), is amended to read as follows:

Section 1210.508C A. ~~Beginning with the 2001-2002 school year, each~~ Each student enrolled in kindergarten in a public school in this state shall be screened for reading skills including, but not limited to, phoneme awareness, letter recognition, and oral language skills. Classroom assistants, which may include parents, grandparents, or other volunteers, shall be provided in kindergarten classes to assist with the screening of students if a teacher aide is not already employed to assist in a kindergarten classroom.

B. Students enrolled in first, second and third grade of the public schools of this state shall be assessed at the beginning of each school year and throughout the school year by multiple ongoing assessments for the acquisition of reading skills including, but not limited to, phonemic awareness, phonics, spelling, reading fluency, vocabulary, and comprehension. Except for students who are on an individualized education program in an area related to reading, have limited English proficiency or for whom English is a second language, any student who is assessed and found not to be reading at the appropriate grade level shall be provided a program of reading instruction designed to enable the student to acquire the appropriate grade level reading skills. <u>If a student is found not to be reading at the appropriate grade level and teachers, in collaboration with others, are concerned that undiagnosed health problems may affect the ability of the student to read, the school district may make a recommendation to the parents or legal guardians for a medical evaluation without being liable for the cost of the evaluation or any associated costs.</u>

C. The State Department of Education shall provide to each school district a list of approved comparable reading assessments, which also shall include any such assessments recommended by the Oklahoma Commission for Teacher Preparation and may include any assessments developed and approved by the State Department of Education, to be used for initial identification of students at risk of reading failure and for periodic and post assessments. The sum of the assessments shall measure student acquisition of reading skills including, but not limited to, phonemic awareness, phonics, spelling, reading fluency, vocabulary, and comprehension and shall reflect the required reading competencies adopted by the Board pursuant to subsection A of Section 11-103.6 of this title.

D. The program of reading instruction required in subsection A of this section shall include, but not be limited to:

1. Sufficient additional in-school instructional time for the acquisition of phonemic awareness, phonics, spelling, reading fluency, vocabulary, and comprehension;

2. If necessary, tutorial instruction after regular school hours, on Saturdays and during summer; however, such instruction may not be counted toward the one-hundred-eighty-day school year required in Section 1-109 of this title; and

3. Periodic reassessments to measure the acquisition of reading skills including, but not limited to, phonemic awareness, phonics, spelling, reading fluency, vocabulary, and comprehension, as identified in the student’s program of reading instruction.

E. The program of reading instruction shall continue until the student is determined by the results of approved reading assessments to be reading on grade level.

F. 1. Every school district shall adopt and annually update a district reading sufficiency plan which has had input from school administrators, teachers, and parents and if possible a reading specialist, and which shall be submitted to and approved by the State Board of Education as a part of each district's Comprehensive Local Education Plan. The district reading sufficiency plan shall include a plan for each site which includes an analysis of the data provided by the Oklahoma School Testing Program and other reading assessments utilized as required in this section, and which outlines how each school site will comply with the provisions of the Reading Sufficiency Act.

2. Each school site shall establish a committee, composed of educators, which if possible shall include a certified reading specialist, to develop the required programs of reading instruction. A parent or guardian of the student shall be included in the development of the program of reading instruction for that student.

3. The State Board of Education shall promulgate rules for the implementation and evaluation of the provisions of the Reading

Sufficiency Act. The evaluation shall include, but not be limited to, an analysis of the data required in subsection H of this section.

G. For any third-grade student found not to be reading at grade level as determined by reading assessments administered pursuant to this section, a new program of reading instruction shall be developed and implemented as specified in this section. If possible, a fourth-grade teacher shall be involved in the development of the program of reading instruction. In addition to other requirements of this act, the plan shall include specialized tutoring and may include a recommendation as to whether the student should be retained in the third grade at the close of that year. The parent or guardian of the student shall be included in the retention consideration.

H. On or before October 15 of each year, the State Department of Education shall issue to the Governor and members of the Senate and House of Representatives Education Committees a Reading Report Card for each elementary site which shall include, but is not limited to:

1. The number of students in need of remediation in reading in first, second and third grades;

2. The number of students provided with a program of reading instruction pursuant to this section;

3. The number of students who have successfully completed their program of reading instruction; and

4. An evaluation and narrative interpretation of the report data prepared by the State Department of Education.

I. Copies of the results of the assessments administered shall be made a part of the permanent record of each student.

SECTION 125. REPEALER 70 O.S. 2001, Section 1210.508C, as amended by Section 1, Chapter 175, O.S.L. 2004 (70 O.S. Supp. 2004, Section 1210.508C), is hereby repealed.

SECTION 126. AMENDATORY 74 O.S. 2001, Section 85.5, as last amended by Section 2, Chapter 511, O.S.L. 2004 (74 O.S. Supp. 2004, Section 85.5), is amended to read as follows:

Section 85.5 A. Pursuant to the provisions of Section 85.4 of this title, the State Purchasing Director, under the supervision of the Director of the Department of Central Services, shall have sole and exclusive authority and responsibility for all acquisitions used or consumed by state agencies.

B. The State Purchasing Director, after consultation with the requisitioning state agency, shall have authority to determine the particular brand, model, or other specific classification of each acquisition and to draft or invoke pursuant to the Oklahoma Central Purchasing Act specifications establishing the requirements for all necessary contracts or purchase orders.

C. The Director of the Department of Central Services shall have authority and responsibility to promulgate rules pursuant to provisions of the Oklahoma Central Purchasing Act governing, providing for, prescribing, or authorizing any act, practice, or requirement for which regulatory power is delegated for:

1. The time, manner, authentication, and form of making requisitions for acquisitions;

2. Inspection, analysis, and testing of acquisitions or samples suppliers submit prior to contract award;

3. The form and manner of submission for bids or proposals a supplier submits and the manner of accepting and opening bids or proposals;

4. The conditions under which the Department of Central Services shall require written contracts for acquisitions, the conditions under which acquisitions may be made on an open account basis, and the conditions and manner of negotiating such contracts;

5. Obtaining acquisitions produced by state institutions;

6. Conditions under which any of the rules herein authorized may be waived;

7. The amounts of and deposits on any bond required to be submitted with a bid or contract for the furnishing of acquisitions and the conditions under which such bond shall be required;

8. Storage and storage facilities necessary to accomplish responsibilities of the Director of the Department of Central Services;

9. The manner and conditions of delivery, which shall include the designation of the common carrier of property to be used to transport acquisitions whenever a common carrier is used, and the acceptance, or rejection, including check of quantities, of any acquisitions;

10. The form of any estimate, order, or other document the Director of the Department of Central Services requires;

11. State agency acquisitions not exceeding the acquisition purchase amount requiring competitive bid pursuant to Section 85.7 of this title to ensure competitiveness, fairness, compliance with provisions of all sections of the Oklahoma Central Purchasing Act, and compliance with provisions of Section 3001 et seq. of this title, which relate to the State Use Committee. The rules shall include separate provisions based on acquisition purchase price as follows:

a. state agencies shall make acquisitions not exceeding Two Thousand Five Hundred Dollars ($2,500.00), provided the acquisition process is fair and reasonable and is conducted pursuant to rules authorized pursuant to this section, and

b. state agencies with certified procurement officers and internal purchasing procedures found compliant by the Director of the Department of Central Services pursuant to this section may make acquisitions in

excess of Two Thousand Five Hundred Dollars ($2,500.00) as provided below:

(1) acquisitions with a price exceeding Two Thousand Five Hundred Dollars ($2,500.00) and not exceeding Ten Thousand Dollars ($10,000.00), pursuant to rules authorized by this section, and

(2) acquisitions with a price exceeding Ten Thousand Dollars ($10,000.00) and not exceeding the amount requiring a requisition to the State Purchasing Director, pursuant to Section 85.7 of this title, by telephone, facsimile, invitation to bid, or solicitation by means of electronic commerce, receipt of bids and bid award by the state agency;

12. Training by the State Purchasing Director of state agency procurement officers;

13. Review and audit by the State Purchasing Director of state agency acquisitions;

14. The conditions for increasing acquisition limits for state agencies which have had a prior reduction in acquisition limit by the Director of the Department of Central Services;

15. State agency use of a state purchase card to make acquisitions; and

16. Any other matter or practice which relates to the responsibilities of the Director of the Department of Central Services.

D. The State Purchasing Director shall provide training for state agency purchasing officials and other purchasing staff. The training shall include principles of state procurement practices, basic contracting, provisions of the Oklahoma Central Purchasing Act, rules promulgated pursuant to the Oklahoma Central Purchasing Act, provisions of Section 3001 et seq. of this title, which relate

to the State Use Committee, and any other matters related to state procurement practices. State agency purchasing officials that demonstrate proficiency shall be certified as "certified procurement officers" by the State Purchasing Director and shall be authorized to make acquisitions pursuant to provisions of the Oklahoma Central Purchasing Act and rules authorized by this section. The State Purchasing Director shall assess a fee to state agencies for the training that does not exceed each state agency's pro rata share of the costs the State Purchasing Director incurs to provide the training.

E. The State Purchasing Director shall review state agency acquisitions for the purposes of:

1. Ensuring state agency compliance with provisions of the Oklahoma Central Purchasing Act;

2. Ensuring state agency compliance with rules promulgated by the Department of Central Services pursuant to the Oklahoma Central Purchasing Act;

3. Ensuring state agency compliance with provisions of Section 3001 et seq. of this title pertaining to the State Use Committee;

4. Reporting any acquisition by any state agency found not to be in compliance with those sections or rules to the Director of the Department of Central Services; and

5. Recommending that the Director of the Department of Central Services reduce the acquisition competitive bid limit amount for any state agency found not to be in compliance with the Oklahoma Central Purchasing Act or rules promulgated thereto.

F. When recommended by the State Purchasing Director, based on written findings by the State Purchasing Director, the Director of the Department of Central Services may:

1. Require retraining of state agency procurement officials and other purchasing staff found not to be in compliance with provisions

of the Oklahoma Central Purchasing Act, or rules promulgated pursuant to the Oklahoma Central Purchasing Act;

2. Reduce the acquisition competitive bid limit for any state agency found not to be in compliance with provisions of the Oklahoma Central Purchasing Act or rules promulgated pursuant to the Oklahoma Central Purchasing Act;

3. Transmit written findings by the State Purchasing Director to the State Auditor and Inspector for further investigation, indicating purchasing procedures that do not conform to provisions pursuant to the Oklahoma Central Purchasing Act or rules promulgated pursuant to the Oklahoma Central Purchasing Act;

4. Transmit to the Attorney General or the State Auditor and Inspector for further investigation a report made by the State Purchasing Director that the Director of the Department of Central Services reasonably believes indicates that an action that constitutes a criminal violation pursuant to the Oklahoma Central Purchasing Act or other laws has been taken by any state agency, state agency official, bidder, or supplier; or

5. Increase the state agency acquisition purchase amount requiring competitive bid, not to exceed the acquisition purchase amount requiring competitive bid, pursuant to Section 85.7 of this title.

G. 1. Pursuant to the requirements of the Oklahoma Central Purchasing Act, the State Purchasing Director shall have authority to enter into any statewide, multistate or multigovernmental contract. The state entity designated by law, as specified in Section 1010.3 of Title 56 of the Oklahoma Statutes, shall participate in the purchase of pharmaceuticals available through such multistate or multigovernmental contracts entered into by the State Purchasing Director.

2. The State Purchasing Director may utilize contracts awarded by other governmental agencies, including agencies of the United States of America.

3. The State Purchasing Director may designate contracts described in this subsection for use by state agencies.

H. The State Purchasing Director may develop and test new contracting policies and procedures that hold potential for making the Purchasing Division more effective and efficient.

I. The State Purchasing Director shall endeavor to satisfy state agencies in terms of cost, quality, and timeliness of the delivery of acquisitions by using bidders who have a record of successful past performance, promoting competition, minimizing administrative operating costs, and conducting business with integrity, fairness, and openness.

J. The State Purchasing Director shall undertake the following:

1. The use of electronic commerce pursuant to the Oklahoma Online Bidding Act for solicitation, notification, and other purchasing processes;

2. Monitoring rules promulgated pursuant to the Oklahoma Central Purchasing Act to ensure that the rules, satisfy the interests of the state, are clear and succinct, and encourage efficiency in purchasing processes;

3. A program to identify vendors with poor delivery and performance records;

4. Development of criteria for the use of sealed bid contracting procedures, negotiated contracting procedures, selection of types of contracts, postaward administration of purchase orders and contracts, contract modifications, termination of contracts, and contract pricing;

5. Continual improvement in the quality of the performance of the Purchasing Division through training programs, management

seminars, development of benchmarks and key management indicators, and development of standard provisions, clauses and forms;

6. Development of electronic means of making state agencies aware of office furniture, equipment, machinery, tools, and hardware available for purchase from the surplus property programs; and

7. Development of programs to improve customer relations through training, improved communications, and appointment of technical representatives.

K. The State Purchasing Director shall, in cooperation with the Oklahoma Department of Agriculture, Food, and Forestry, identify the needs of state agencies and institutions for agricultural products grown and produced in Oklahoma.

L. The State Purchasing Director may authorize state agencies to utilize a state purchase card for acquisitions on statewide contracts issued by the State Purchasing Director with no limit on the amount of the transaction. For any other transaction with a state purchase card, the transaction shall not exceed Two Thousand Five Hundred Dollars ($2,500.00).

M. The State Purchasing Director may utilize and authorize state agencies to utilize reverse auctions to obtain acquisitions.

N. Prior to the award of a contract to a supplier, the State Purchasing Director shall verify, pursuant to applicable provisions of law, that the supplier is eligible to do business in the State of Oklahoma by confirming registration with the Secretary of State and franchise tax payment status pursuant to Sections 1203 and 1204 of Title 68 of the Oklahoma Statutes. The provisions of this subsection shall be applicable only if the contract amount is Twenty-five Thousand Dollars ($25,000.00) or greater.

O. As a condition of awarding a contract pursuant to the Oklahoma Central Purchasing Act, the State Purchasing Director shall verify with the Oklahoma Tax Commission that the business entity to which the state contract is to be awarded, whether subject to the

procedures required by Section 85.7 of this title or not, has obtained a sales tax permit pursuant to the provisions of Section 1364 of Title 68 of the Oklahoma Statutes if such entity is required to do so.

P. The State Purchasing Director is hereby authorized to explore and investigate cost savings in energy, resource usage, and maintenance contracts and to identify and negotiate contract solutions including, but not limited to, pilot projects to achieve cost savings for the State of Oklahoma.

Q. The Department of Central Services may finance a new heat and air system for the State Capitol.

R. The Office of State Finance, with input from the State Purchasing Director, shall promulgate payment procedure rules for state agencies to adhere to regarding statewide contracts issued by the State Purchasing Director.

<u>S. The Office of State Finance along with the Department of Central Services, Central Purchasing Division, shall promulgate payment procedure rules for agencies to adhere to regarding statewide contracts issued by the Division.</u>

SECTION 127. REPEALER 74 O.S. 2001, Section 85.5, as last amended by Section 1, Chapter 404, O.S.L. 2004 (74 O.S. Supp. 2004, Section 85.5), is hereby repealed.

SECTION 128. AMENDATORY 74 O.S. 2001, Section 150.27a, as last amended by Section 4, Chapter 143, O.S.L. 2004 (74 O.S. Supp. 2004, Section 150.27a), is amended to read as follows:

Section 150.27a A. There is hereby established within the Oklahoma State Bureau of Investigation the OSBI DNA Offender Database for the purpose of collecting and storing blood or saliva samples, analyzing and typing of the genetic markers contained in or derived from DNA, and maintaining the records and samples of DNA of individuals convicted of violation of Section 7115 of Title 10 of the Oklahoma Statutes or Section 645, subsection B of Section 649,

Section 650, 650.2, 650.4, 650.5, 650.6, 650.7, 650.8, 651, 652, 701.7, 701.8, 711, 716, 741, 759, 798, 799, 800, 801, 832, 885, 888, 891, subsection B of Section 1021, Section 1021.2, 1021.3, 1087, 1088, 1114, 1115, 1116, 1123, 1173, 1192, 1192.1, 1431 or 1435 of Title 21 of the Oklahoma Statutes, and of individuals required to register pursuant to the Sex Offenders Registration Act. The purpose of this database is the detection or exclusion of individuals who are subjects of the investigation or prosecution of sex-related crimes, violent crimes, or other crimes in which biological evidence is recovered, and such information shall be used for no other purpose.

B. Any DNA specimen taken in good faith by the Department of Corrections, its employees or contractors, and submitted to the OSBI may be included, maintained, and kept by the OSBI in a database for criminal investigative purposes despite the specimen having not been taken in strict compliance with the provisions of this section or Section 991a of Title 22 of the Oklahoma Statutes.

C. Upon the request to OSBI by the federal or state authority having custody of the person, any individual who was convicted of violating laws of another state or the federal government, but is currently incarcerated or residing in Oklahoma, shall submit to DNA profiling for entry of the data into the OSBI DNA Offender Database. This provision shall only apply when such federal or state conviction carries a requirement of sex offender registration and/or DNA profiling. The person to be profiled shall pay a fee of One Hundred Fifty Dollars ($150.00) to the OSBI.

~~C.~~ D. The OSBI DNA Offender Database is specifically exempt from any statute requiring disclosure of information to the public. The information contained in the database is privileged from discovery and inadmissible as evidence in any civil court proceeding. The information in the database is confidential and shall not be released to the public. Any person charged with the

custody and dissemination of information from the database shall not divulge or disclose any such information except to federal, state, county or municipal law enforcement or criminal justice agencies. Any person violating the provisions of this section upon conviction shall be deemed guilty of a misdemeanor punishable by imprisonment in the county jail for not more than one (1) year.

~~D.~~ E. The OSBI shall promulgate rules concerning the collection, storing, expungement and dissemination of information and samples for the OSBI DNA Offender Database. The OSBI shall determine the type of equipment, collection procedures, and reporting documentation to be used by the Department of Corrections or a county sheriff's office in submitting DNA samples to the OSBI in accordance with Section 991a of Title 22 of the Oklahoma Statutes. The OSBI shall provide training to designated employees of the Department of Corrections and a county sheriff's office in the proper methods of performing the duties required by this section.

SECTION 129. REPEALER 74 O.S. 2001, Section 150.27a, as last amended by Section 1, Chapter 61, O.S.L. 2004 (74 O.S. Supp. 2004, Section 150.27a), is hereby repealed.

SECTION 130. AMENDATORY 74 O.S. 2001, Section 840-2.27C, as last amended by Section 11, Chapter 312, O.S.L. 2004 (74 O.S. Supp. 2004, Section 840-2.27C), is amended to read as follows:

Section 840-2.27C A. At least sixty (60) days before the scheduled beginning of reduction-in-force separations or as otherwise provided by law, the appointing authority shall post in each office of executive branch agencies affected by the proposed reduction-in-force notice that a reduction-in-force will be conducted in accordance with the Oklahoma Personnel Act and Merit rules. The notice shall not be posted unless approved by the cabinet secretary for the agency conducting the reduction-in-force. If there is no incumbent cabinet secretary for the agency, the

cabinet-secretary-notice-approval requirement shall not be applicable. The approved notice shall be posted in each office affected by the proposed plan for five (5) days. The appointing authority shall provide a copy of the notice to the Administrator. A reduction-in-force shall not be used as a disciplinary action.

B. The reduction-in-force implementation plan and subsequent personnel transactions directly related to the reduction-in-force in executive branch agencies shall be in compliance with rules adopted by the Administrator. The reduction-in-force implementation plan, including the description of and reasons for displacement limits and protections from displacement actions, and severance benefits that will be offered pursuant to Section 840-2.27D of this title shall be posted in each office affected by the plan within five (5) business days after posting of the reduction-in-force notice. The reduction-in-force implementation plan shall:

1. Provide for the appointing authority to determine the specific position or positions to be abolished within specified units, divisions, facilities, agency-wide or any parts thereof;

2. Provide for retention of affected employees based on type of appointment;

3. Require the separation of probationary classified affected employees in affected job family levels, except those affected employees on probationary status after reinstatement from permanent classified status without a break in service, prior to the separation or displacement of any permanent classified affected employee in an affected job family level;

4. Provide for retention of permanent classified affected employees in affected job family levels and those affected employees on probationary status after reinstatement from permanent classified status without a break in service based upon consideration of years of service;

5. Provide for exercise of displacement opportunities by permanent classified affected employees and those affected employees on probationary status after reinstatement from permanent classified status without a break in service if any displacement opportunities exist; and

6. Provide outplacement assistance and employment counseling from the Oklahoma Employment Security Commission and any other outplacement assistance and employment counseling made available by the agency to affected employees regarding the options available pursuant to the State Government Reduction-in-Force and Severance Benefits Act prior to the date that a reduction-in-force is implemented.

C. <u>If an agency implements a reduction-in-force then it shall give a veteran's preference over affected nonveterans who have equal retention points to the affected veteran.</u>

<u>D.</u> The Director of the Office of State Finance shall review the fiscal components of the reduction-in-force implementation plan and within five (5) business days of receipt reject any plan that does not:

1. Demonstrate that funds are available to cover projected costs;

2. Contain an estimate of the number of affected employees likely to participate in the education voucher program established in Section 840-2.27D of this title; and

3. Contain an estimate of the cost savings or reduced expenditures likely to be achieved by the agency.

If the reduction-in-force is conducted pursuant to a reorganization, the fiscal components of the reduction-in-force implementation plan shall contain reasons for the reorganization, which may include, but not be limited to, increased efficiency, improved service delivery, or enhanced quality of service.

~~D.~~ E. The appointing authority may limit displacement of affected employees at the time of a reduction-in-force. Displacement limits shall not be subject to the approval of the Administrator. Any limitation shall be based upon reasonable, written, articulated criteria as certified by the appointing authority. If displacement is limited, the appointing authority shall take action to avoid or minimize any adverse impact on minorities or women.

1. The appointing authority may protect from displacement action up to twenty percent (20%) of projected post-reduction-in-force employees in affected positions within displacement limits; provided, that any fractional number resulting from the final mathematical calculation of the number of those positions shall be rounded to the next higher whole number. The appointing authority must explain why affected employees are being protected.

2. If the affected employee has not held within the last five (5) years a position in the job family level or predecessor class in which the affected employee is otherwise eligible for a displacement opportunity, the appointing authority may determine that the affected employee does not possess the recent relevant experience for the position and deny in writing the displacement opportunity.

3. An affected permanent classified employee may exercise a displacement privilege, if one exists, if the affected employee has received an overall rating of at least "satisfactory", or its equivalent, on the most recent annual service rating. If an affected employee has not been rated in accordance with the time limits established in Section 840-4.17 of this title, the employee shall be deemed to have received an overall rating of at least "satisfactory" or its equivalent on the most recent service rating.

4. An affected employee who exercises a displacement privilege pursuant to this section shall:

a. be required, as a condition of continued employment by the agency, to sign an agreement, in a form to be prescribed by the Administrator of the Office of Personnel Management, acknowledging that the employee had an opportunity to receive severance benefits and affirmatively elected to exercise a displacement privilege and to forego such benefits. An affected employee who signs the agreement required by this subparagraph waives any privilege which might otherwise have been available to the affected employee pursuant to the agreement for the provision of severance benefits, and

b. not have the right to exercise any subsequent right to receive severance benefits from the agency for which the affected employee performs services on the date that the employee exercises a displacement privilege. The provisions of this section shall not prohibit any person from exercising a displacement privilege in, or accepting severance benefits from, more than one agency during employment with the State of Oklahoma or from the agency which the affected employee exercised a displacement privilege in any future reduction-in-force.

~~E.~~ F. An affected employee who does not agree pursuant to Section 840-2.27E of this title to accept severance benefits and who does not have a displacement opportunity or does not accept a displacement opportunity shall be separated by the reduction-in-force and shall not receive any severance benefits that would have otherwise been provided pursuant to Section 840-2.27D of this title.

~~F.~~ G. Permanent classified affected employees and those affected employees on probationary status after reinstatement from permanent classified status without a break in service removed from

a job family level by taking a position in another job family level through displacement or separated after foregoing severance benefits shall be recalled by the agency to the job family level from which removed in inverse order of removal before the agency may appoint other persons to the job family level, from the employment register, by internal action or from Priority Reemployment Consideration Rosters as provided by this section. Upon declination of an offer of reappointment to the job family level from which removed or eighteen (18) months after the date of removal from the job family level, whichever is first, this right to be recalled shall expire.

~~G.~~ H. The names of permanent classified affected employees and those affected employees on probationary status after reinstatement from permanent classified status without a break in service who have been separated pursuant to the State Government Reduction-in-Force and Severance Benefits Act, who apply and meet all requirements for state jobs in the classified service shall be placed on Priority Reemployment Consideration Rosters in accordance with their individual final earned ratings for a maximum of eighteen (18) months after the date of separation. Before any vacant position is filled by any individual eligible for initial appointment from the employment register, individuals on the Priority Reemployment Consideration Rosters shall be given priority consideration for reemployment by any state agency within eighteen (18) months after the date of the reduction-in-force. Upon declination of an offer of reemployment to a job family level having the same or higher pay band than the job family level from which removed, or eighteen (18) months after the date of separation, whichever is first, this priority consideration for reemployment shall expire. If an agency has posted a reduction-in-force plan and implementation schedule, all affected employees in positions covered by the plan and any within the displacement limits established by the appointing

authority of the agency who have been separated shall be eligible for priority reemployment consideration.

~~H.~~ I. If an agency or any part thereof is scheduled to be closed or abolished as a result of legislation or a court order, the affected employees, who would be eligible for Priority Reemployment Consideration after their separation in accordance with subsection ~~G~~ H of this section, may apply and, if qualified and eligible, shall be accorded Priority Reemployment Consideration not to exceed twelve (12) months before the scheduled date of separation. If an agency has posted a reduction-in-force plan and implementation schedule, all affected employees in positions covered by the plan and any within the displacement limits established by the appointing authority of the agency shall be eligible for Priority Reemployment Consideration beginning with the date the schedule is posted, not to exceed twelve (12) months before the scheduled date of separation.

~~I.~~ J. When the Legislature is not in session, the Contingency Review Board may, upon the request of the Governor, direct agencies, boards and commissions to reduce the number of employees working for said agency, board or commission whenever it is deemed necessary and proper. Such reduction shall be made pursuant to reduction-in-force plans as provided in this section.

~~J.~~ K. 1. When the Legislature is not in session, the Contingency Review Board may, upon the request of the Governor, direct and require mandatory furloughs for all state employees whenever it is deemed necessary and proper. The Contingency Review Board shall specify the effective dates for furloughs and shall note any exceptions to state employees affected by same. All classified, unclassified, exempt or nonmerit employees, including those employees of agencies or offices established by statute or the Constitution, shall be affected by such actions.

2. Mandatory furlough means the involuntary temporary reduction of work hours or the placement of an employee on involuntary leave

without pay. Rules governing leave regulations, longevity pay and participation in the State Employees Group Health, Dental, Disability, and Life Insurance program shall not be affected by mandatory furloughs. Furlough, as provided for in this section or by rules adopted by the Administrator of the Office of Personnel Management, shall not be appealable under the provisions of the Oklahoma Personnel Act.

3. Notwithstanding existing laws or provisions to the contrary, members of state boards and commissions shall not receive per diem expenses during periods of mandatory furlough. The Contingency Review Board shall additionally call upon elected officials, members of the judiciary, and other public officers whose salary or emoluments cannot be altered during current terms of office, to voluntarily donate to the General Revenue Fund any portion of their salary which would otherwise have been affected by a mandatory furlough.

~~K.~~ L. All agencies directed by the Contingency Review Board to terminate or furlough employees, shall report the cumulative cost savings achieved by the reductions-in-force or furloughs to the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives on a quarterly basis for one (1) year following the effective date of the action.

~~L.~~ M. The appointing authority of an agency which has an approved reduction-in-force plan pursuant to the State Government Reduction-in-Force and Severance Benefits Act may request the Administrator of the Office of Personnel Management to appoint an interagency advisory task force for the purpose of assisting the agency and its employees with the implementation of the reduction-in-force. The appointing authority of state agencies requested by the Administrator to participate on a task force shall assign appropriate administrative personnel necessary to facilitate the

necessary assistance required for the efficient implementation of the approved reduction-in-force.

SECTION 131. REPEALER 74 O.S. 2001, Section 840-2.27C, as last amended by Section 1, Chapter 277, O.S.L. 2004 (74 O.S. Supp. 2004, Section 840-2.27C), is hereby repealed.

SECTION 132. AMENDATORY 74 O.S. 2001, Section 840-5.5, as last amended by Section 1, Chapter 462, O.S.L. 2004 (74 O.S. Supp. 2004, 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. Director of Driver License Administration,

l. Director of Transportation Division,

m. Director of the Alcohol and Drug Countermeasures Unit,

n. Director of the Oklahoma Highway Safety Office,

o. Civil Rights Administrator,

p. Budget Analyst,

q. Comptroller,

r. Chaplain,

s. Helicopter Mechanic, ~~and~~

t. Director of Safety Compliance, and

u. 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;

provided, any person appointed to a position prescribed in subparagraphs d, e, f or o of this paragraph shall have a right of return to the classified commissioned position without any loss of rights, privileges or benefits immediately upon completion of the duties in the unclassified commissioned position, and any person appointed to a position prescribed in subparagraph i, j, k, l, m or n of this paragraph shall have a right of return to the previously held vacant classified position within the Department of Public Safety without any loss of rights, privileges or benefits immediately upon completion of the duties in the unclassified commissioned position;

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. Department of Mental Health and Substance Abuse Services 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. Administrative Officer,

c. Alternator Claims Auditor,

d. Employees hired to fulfill state compliance agency requirements under Model Tribal Gaming Compacts,

e. Employees of the Budget Division,

f. Employees of the Fiscal and Research Division, and

g. Information Services Division:

(1) Information Services Division Manager,

(2) Network Manager,

(3) Network Technician,

(4) Security Manager,

(5) Contracts/Purchasing Manager,

(6) Operating and Applications Manager,

(7) Project Manager,

(8) Help Desk Manager,

(9) Help Desk Technician,

(10) Quality Assurance Manager,

(11) ISD Analysts,

(12) CORE Manager,

(13) Enterprise System/Database Software Manager,

(14) Data Center Operations and Production Manager,

(15) Voice Communications Manager,

(16) Applications Development Manager,

(17) Projects Manager,

(18) PC's Manager,

(19) Servers Manager, and

(20) Portal Manager;

19. Employees of the Oklahoma Development Finance Authority;

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

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

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

a. positions for which the annual salary is Twenty-four Thousand One Hundred Ninety-three Dollars ($24,193.00) or more, as determined by the Office of Personnel Management, provided no position shall become

unclassified because of any change in salary or grade while it is occupied by a classified employee,

b. positions requiring certification by the State Department of Education, and

c. positions and employees authorized to be in the unclassified service of the state elsewhere in this section or in subsection B of this section;

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

a. the Carl Albert Internship Program Coordinator, and

b. one Administrative Assistant;

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

a. two Deputy Commissioners,

b. Executive Secretary to the Commissioner,

c. Chief of Staff, and

d. two Administrative Assistants;

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

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

a. Associate Director,

b. Secretary to the Associate Director, and

c. Assistant to the Executive Director;

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

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

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

Statutes or as otherwise provided for in Section 3213.2 of Title 63 of the Oklahoma Statutes;

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

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

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

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

a. five assistant directors,

b. two special investigators,

c. one information representative,

d. one federally funded physical evidence technician,

e. four federally funded laboratory analysts,

f. one Data Base Administrator,

g. two Data Processing Branch Managers,

h. four Senior Data Processing Applications Specialists,

i. a total of three positions from the following classes: Senior Data Processing Systems Specialists, Data Processing Applications Specialists, or Data Processing Systems Specialists,

j. one Senior Computer Services Technician, or Computer Services Technician,

k. one Senior Computer Services Coordinator, or Computer Services Coordinator, and

l. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection;

32. The Department of Transportation, the following positions:

a. Director of the Oklahoma Aeronautics Commission,

b. five Department of Transportation Assistant Director positions,

c. eight field division engineer positions, and

d. one pilot position;

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

a. Director of the Investments Division,

b. Assistant Director of the Investments Division,

c. one Administrative Assistant,

d. one Audit Tech position,

e. one Auditor I position,

f. two Accounting Tech I positions,

g. two Administrative Assistant I positions,

h. two Imaging Specialist positions, and

i. one Information Systems Specialist position;

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

a. six Narcotics Agent positions and three Typist Clerk/Spanish transcriptionists, including a Typist Clerk Supervisor/Spanish transcriptionist, provided, authorization for such positions shall be terminated if the federal funding for the positions is discontinued,

b. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection,

c. one fiscal officer,

d. one full-time Programmer, and

e. one full-time Network Engineer;

35. The Military Department of the State of Oklahoma is authorized such unclassified employees within full-time employee limitations to work in any of the Department of Defense directed

youth programs, the State of Oklahoma Juvenile Justice youth programs, those persons reimbursed from Armory Board or Billeting Fund accounts, and skilled trade positions;

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

a. one Oversight Specialist and one Community Development Planner,

b. one State Plan Grant Coordinator, provided authorization for the position shall be terminated when federal support for the position by the United States Department of Education Early Intervention Program is discontinued, and

c. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection;

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

a. one Executive Secretary in addition to the Executive Secretary authorized by paragraph 2 of this subsection,

b. the Director of Central Purchasing,

c. one Alternate Fuels Administrator,

d. one Director of Special Projects,

e. three postauditors,

f. four high-technology contracting officers,

g. one Executive Assistant to the Purchasing Director,

h. one Contracts Manager,

i. one Associate Director,

j. one specialized HiTech/Food Contracting Officer,

k. one State Use Contracting Officer, and

l. one Property Distribution Administrator;

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

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

a. Physical Therapists,

b. Physical Therapist Assistants,

c. Occupational Therapists,

d. Certified Occupational Therapist Aides, and

e. Speech Pathologists;

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

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

a. one Executive Secretary in addition to the Executive Secretary authorized by paragraph 2 of this subsection and one Executive Assistant,

b. eighteen Agricultural Marketing Coordinator III positions,

c. temporary fire suppression personnel, regardless of the number of hours worked, who are employed by the Oklahoma Department of Agriculture, Food, and Forestry during the period of October 1 through May 31 in any fiscal year; provided, however, notwithstanding the provisions of any other section of law, the hours worked by such employees shall not entitle such employees to any benefits received by full-time employees,

d. one Administrator for Human Resources,

e. one Director of Administrative Services,

f. one Water Quality Consumer Complaint Coordinator,

g. one hydrologist position,

h. Public Information Office Director,

i. Market Development Services Director,

j. Legal Services Director,

k. Animal Industry Services Director,

l. Water Quality Services Director,

m. Forestry Services Director,

n. Plant Industry and Consumer Services Director,

o. one Grants Administrator position,

p. Director of Laboratory Services,

q. Chief of Communications,

r. Public Information Manager,

s. Inventory/Supply Officer,

t. five Agriculture Field Inspector positions assigned the responsibility for conducting inspections and audits of agricultural grain storage warehouses. All other Agriculture Field Inspector positions and employees of the Oklahoma Department of Agriculture, Food, and Forestry shall be classified and subject to the provisions of the Merit System of Personnel Administration. On November 1, 2002, all other unclassified Agriculture Field Inspectors shall be given status in the classified service as provided in Section 840-4.2 of this title,

u. Rural Fire Coordinator,

v. Poultry Coordinator,

w. Food Safety Division Director,

x. one Mammal Control Officer,

y. Two Scale Technicians, and

z. Two Plant Protection Specialists;

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

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

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

a. Educational Program Director, and

b. Data Processing Manager;

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

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

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

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

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

50. Acting incumbents employed pursuant to Section 209 of Title 44 or Section 48 of Title 72 of the Oklahoma Statutes who shall not be included in any limitation on full-time equivalency imposed by law on an agency. Permanent classified employees may request a leave of absence from classified status and accept an unclassified appointment and compensation as an acting incumbent with the same agency; provided, the leave shall expire no later than two (2) years from the date of the acting incumbent appointment. An appointing authority may establish unclassified positions and appoint unclassified employees to perform the duties of a permanent classified employee who is on leave of absence from a classified position to serve as an acting incumbent. All unclassified appointments created pursuant to this paragraph shall expire no later than two (2) years from the date of appointment. Classified employees accepting unclassified appointments and compensation pursuant to this paragraph 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 paragraph, 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;

51. The Oklahoma Homeland Security Director and all other positions assigned the responsibilities of working in the Oklahoma Office of Homeland Security; and

52. The following eighteen (18) positions in the State Department of Health:

a. one surveillance supervisor,

b. one surveillance project monitor,

c. two bilingual interviewers,

d. eight senior interviewers, and

e. six interviewers.

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, psychologists, and nurses;

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 133. REPEALER 74 O.S. 2001, Section 840-5.5, as last amended by Section 28, Chapter 418, O.S.L. 2004 (74 O.S. Supp. 2004, Section 840-5.5), is hereby repealed.

SECTION 134. AMENDATORY 74 O.S. 2001, Section 902, as last amended by Section 2, Chapter 539, O.S.L. 2004 (74 O.S. Supp. 2004, Section 902), is amended to read as follows:

Section 902. As used in Section 901 et seq. of this title:

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

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

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

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

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

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

(7) "Beneficiary" means any person named by a member to receive any benefits as provided for by Section 901 et seq. of this title. If there is no beneficiary living at time of member employee's death, the member's estate shall be the beneficiary;

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

(9) "Compensation" means all salary and wages, as defined by the Board of Trustees, including amounts deferred under deferred compensation agreements entered into between a member and a participating employer, but exclusive of payment for overtime, payable to a member of the System for personal services performed for a participating employer but shall not include compensation or reimbursement for traveling, or moving expenses, or any compensation in excess of the maximum compensation level, provided:

(a) For compensation for service prior to January 1, 1988, the maximum compensation level shall be Twenty-five Thousand Dollars ($25,000.00) per annum.

For compensation for service on or after January 1, 1988, through June 30, 1994, the maximum compensation level shall be Forty Thousand Dollars ($40,000.00) per annum.

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

(b) Compensation for retirement purposes shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986 and any amount of non-elective salary reduction under Section 414(h) of the Internal Revenue Code of 1986.

(c) Notwithstanding any provision to the contrary, the compensation taken into account for any employee in determining the contribution or benefit accruals for any plan year is limited to the annual compensation limit under Section 401(a)(17) of the federal Internal Revenue Code.

(d) Current appointed members of the Oklahoma Tax Commission whose salary is constitutionally limited and is less than the highest salary allowed by law for his or her position shall be allowed, within ninety (90) days from the effective date of this act, to make an election to use the highest salary allowed by law for the position to which the member was appointed for the purposes of making contributions and determination of retirement benefits. Such election shall be irrevocable and be in writing. Re-appointment to the same office shall not permit a new election. Members appointed to the Oklahoma Tax Commission after the effective date of this act shall make such election, pursuant to this subparagraph, within ninety (90) days of taking office;

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

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

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

(13) "Eligible employer" means the state and any county, county hospital, city or town, conservation districts, <u>circuit engineering districts</u> and any public or private trust in which a county, city or town participates and is the primary beneficiary is to be an eligible employer for the purpose of this act only, whose employees are covered by Social Security and are not covered by or eligible for another retirement plan authorized under the laws of this state which is in operation on the initial entry date. Emergency medical service districts may join the System upon proper application to the

Board. Provided affiliation by a county hospital shall be in the form of a resolution adopted by the board of control.

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

(b) A class or several classes of employees who are covered by Social Security and are not covered by or eligible for and will not become eligible for another retirement plan authorized under the laws of this state, which is in operation on the effective date, and when the qualifications for employment in such class or classes are set by state law; and when such class or classes of employees are employed by a county or municipal government pursuant to such qualifications; and when the services provided by such employees are of such nature that they qualify for matching by or contributions from state or federal funds administered by an agency of state government which qualifies as a participating employer, then the agency of state government administering the state or federal funds shall be deemed an eligible employer, but only with respect to that class or those classes of employees as defined in this subsection; provided, that the required contributions to the retirement plan may be withheld from the contributions of state or federal funds administered by the state agency and

transmitted to the System on the same basis as the employee and employer contributions are transmitted for the direct employees of the state agency. The retirement or eligibility for retirement under the provisions of law providing pensions for service as a volunteer fire fighter shall not render any person ineligible for participation in the benefits provided for in Section 901 et seq. of this title. An employee of any public or private trust in which a county, city or town participates and is the primary beneficiary shall be deemed to be an eligible employee for the purpose of this act only.

(c) All employees of the George Nigh Rehabilitation Institute who elected to retain membership in the System, pursuant to Section 913.7 of this title, shall continue to be eligible employees for the purposes of this act. The George Nigh Rehabilitation Institute shall be considered a participating employer only for such employees.

(d) A participating employer of the Teachers' Retirement System of Oklahoma, who has one or more employees who have made an election pursuant to enabling legislation to retain membership in the System as a result of change in administration, shall be considered a participating employer of the Oklahoma Public Employees Retirement System only for such employees;

(14) "Employee" means any officer or employee of a participating employer, whose employment is not seasonal or temporary and whose employment requires at least one thousand (1,000) hours of work per year and whose salary or wage is equal to the hourly rate of the monthly minimum wage for state employees. For those eligible employers outlined in Section 910 of this title,

the rate shall be equal to the hourly rate of the monthly minimum wage for that employer. Each employer, whose minimum wage is less than the state's minimum wage, shall inform the System of the minimum wage for that employer. This notification shall be by resolution of the governing body.

(a) Any employee of the county extension agents who is not currently participating in the Teachers' Retirement System of Oklahoma shall be a member of this System.

(b) Eligibility shall not include any employee who is a contributing member of the United States Civil Service Retirement System.

(c) It shall be mandatory for an officer, appointee or employee of the office of district attorney to become a member of this System if he or she is not currently participating in a county retirement system. Provided further, that if an officer, appointee or employee of the office of district attorney is currently participating in such county retirement system, he or she is ineligible for this System as long as he or she is eligible for such county retirement system. Any eligible officer, appointee or employee of the office of district attorney shall be given credit for prior service as defined in this section. The provisions outlined in Section 917 of this title shall apply to those employees who have previously withdrawn their contributions.

(d) Eligibility shall also not include any officer or employee of the Oklahoma Employment Security Commission, except for those officers and employees of the Commission electing to transfer to this System pursuant to the provisions of Section 910.1 of this title or any other class of officers or employees

specifically exempted by the laws of this state, unless there be a consolidation as provided by Section 912 of this title. Employees of the Oklahoma Employment Security Commission who are ineligible for enrollment in the Employment Security Commission Retirement Plan, that was in effect on January 1, 1964, shall become members of this System.

(e) Any employee employed by the Legislative Service Bureau, State Senate or House of Representatives for the full duration of a regular legislative session shall be eligible for membership in the System regardless of classification as a temporary employee and may participate in the System during the regular legislative session at the option of the employee. For purposes of this subparagraph, the determination of whether an employee is employed for the full duration of a regular legislative session shall be made by the Legislative Service Bureau if such employee is employed by the Legislative Service Bureau, the State Senate if such employee is employed by the State Senate, or by the House of Representatives if such employee is employed by the House of Representatives. Each regular legislative session during which the legislative employee or an employee of the Legislative Service Bureau participates full time shall be counted as six (6) months of full-time participating service.

(i) Except as otherwise provided by this subparagraph, once a temporary session employee makes a choice to participate or not, the choice shall be binding for all future legislative sessions during which the employee is employed.

(ii) Notwithstanding the provisions of division (i) of this subparagraph, any employee, who is eligible for membership in the System because of the provisions of this subparagraph and who was employed by the State Senate or House of Representatives after January 1, 1989, may file an election, in a manner specified by the Board, to participate as a member of the System prior to September 1, 1989.

(iii) Notwithstanding the provisions of division (i) of this subparagraph, a temporary legislative session employee who elected to become a member of the System may withdraw from the System effective the day said employee elected to participate in the System upon written request to the Board. Any such request must be received by the Board prior to October 1, 1990. All employee contributions made by the temporary legislative session employee shall be returned to the employee without interest within four (4) months of receipt of the written request.

(iv) A member of the System who did not initially elect to participate as a member of the System pursuant to subparagraph (e) of this paragraph shall be able to acquire service performed as a temporary legislative session employee for periods of service performed prior to the date upon which the person became a member of the System if:

a. the member files an election with the System not later than December 31, 2000, to purchase the prior service; and

b. the member makes payment to the System of the actuarial cost of the service credit pursuant to subsection A of Section 913.5 of this title. The provisions of Section 913.5 of this title shall be applicable to the purchase of the service credit, including the provisions for determining service credit in the event of incomplete payment due to cessation of payments, death, termination of employment or retirement, but the payment may extend for a period not to exceed ninety-six (96) months;

(15) "Entry date" means the date on which an eligible employer joins the System. The first entry date pursuant to Section 901 et seq. of this title shall be January 1, 1964;

(16) "Executive Director" means the managing officer of the System employed by the Board under Section 901 et seq. of this title;

(17) "Federal Internal Revenue Code" means the federal Internal Revenue Code of 1954 or 1986, as amended and as applicable to a governmental plan as in effect on July 1, 1999;

(18) "Final average compensation" means the average annual compensation, including amounts deferred under deferred compensation agreements entered into between a member and a participating employer, up to, but not exceeding the maximum compensation levels as provided in paragraph (9) of this section received during the highest three (3) of the last ten (10) years of participating service immediately preceding retirement or termination of employment. Provided, no member shall retire with a final average compensation unless the member has made the required contributions on such compensation, as defined by the Board of Trustees;

(19) "Fiscal year" means the period commencing July 1 of any year and ending June 30 of the next year. The fiscal year is the plan year for purposes of the federal Internal Revenue Code; however, the calendar year is the limitation year for purposes of Section 415 of the federal Internal Revenue Code;

(20) "Fund" means the Oklahoma Public Employees Retirement Fund as created by Section 901 et seq. of this title;

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

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

(23) "Military service" means service in the Armed Forces of the United States by an honorably discharged person during the following time periods, as reflected on such person's Defense Department Form 214, not to exceed five (5) years for combined participating and/or prior service, as follows:

(a) during the following periods, including the beginning and ending dates, and only for the periods served, from:

(i) April 6, 1917, to November 11, 1918, commonly referred to as World War I,

(ii) September 16, 1940, to December 7, 1941, as a member of the 45th Division,

(iii) December 7, 1941, to December 31, 1946, commonly referred to as World War II,

(iv) June 27, 1950, to January 31, 1955, commonly referred to as the Korean Conflict or the Korean War,

(v) February 28, 1961, to May 7, 1975, commonly referred to as the Vietnam era, except that:

a. for the period from February 28, 1961, to August 4, 1964, military service shall only include service in the Republic of Vietnam during that period, and

b. for purposes of determining eligibility for education and training benefits, such period shall end on December 31, 1976, or

(vi) August 1, 1990, to December 31, 1991, commonly referred to as the Gulf War, the Persian Gulf War, or Operation Desert Storm, but excluding any person who served on active duty for training only, unless discharged from such active duty for a service-connected disability;

(b) during a period of war or combat military operation other than a conflict, war or era listed in subparagraph (a) of this paragraph, beginning on the date of Congressional authorization, Congressional resolution, or Executive Order of the President of the United States, for the use of the Armed Forces of the United States in a war or combat military operation, if such war or combat military operation lasted for a period of ninety (90) days or more, for a person who served, and only for the period served, in the area of responsibility of the war or combat military operation, but excluding a person who served on active duty for training only, unless discharged from such active duty for a service-connected disability, and

provided that the burden of proof of military service during this period shall be with the member, who must present appropriate documentation establishing such service.

An eligible member under this paragraph shall include only those persons who shall have served during the times or in the areas prescribed in this paragraph, and only if such person provides appropriate documentation in such time and manner as required by the System to establish such military service prescribed in this paragraph, or for service pursuant to subdivision a of division (v) of subparagraph (a) of this paragraph those persons who were awarded service medals, as authorized by the United States Department of Defense as reflected in the veteran's Defense Department Form 214, related to the Vietnam Conflict for service prior to August 5, 1964;

(24) "Normal retirement date" means the date on which a member may retire with full retirement benefits as provided in Section 901 et seq. of this title, such date being whichever occurs first:

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

(b) for any person who initially became a member prior to July 1, 1992, the first day of the month coinciding with or following the date at which the sum of a member's age and number of years of credited service total eighty (80); such a normal retirement date will also apply to any person who became a member of the sending system as defined in Section 901 et seq. of this title, prior to July 1, 1992, regardless of whether there were breaks in service after July 1, 1992,

(c) for any person who became a member after June 30, 1992, the first day of the month coinciding with or following the date at which the sum of a member's age

and number of years of credited service total ninety (90),

(d) in addition to subparagraphs (a), (b) and (c) of this paragraph, the first day of the month coinciding with or following a member's completion of at least twenty (20) years of full-time-equivalent employment as:

(i) a correctional or probation and parole officer with the Department of Corrections and at the time of retirement, the member was a correctional or probation and parole officer with the Department of Corrections, or

(ii) a correctional officer, probation and parole officer or fugitive apprehension agent with the Department of Corrections who is in such position on June 30, 2004, or who is hired after June 30, 2004, and who receives a promotion or change in job classification after June 30, 2004, to another position in the Department of Corrections, so long as such officer or agent has at least five (5) years of service as a correctional officer, probation and parole officer or fugitive apprehension agent with the Department, has twenty (20) years of full-time-equivalent employment with the Department and was employed by the Department at the time of retirement, or

(iii) a firefighter with the Oklahoma Military Department either employed for the first time on or after July 1, 2002, or who was employed prior to July 1, 2002, in such position and who makes the election authorized by division ~~(1)~~ (2) of subparagraph b of paragraph ~~(5)~~ (8) of subsection

A of Section 915 of this title and at the time of retirement, the member was a firefighter with the Oklahoma Military Department, and such member has at least twenty (20) years of credited service upon which the two and one-half percent (2 1/2%) multiplier will be used in calculating the retirement benefit,

(e) for those fugitive apprehension agents who retire on or after July 1, 2002, the first day of the month coinciding with or following a member's completion of at least twenty (20) years of full-time-equivalent employment as a fugitive apprehension agent with the Department of Corrections and at the time of retirement, the member was a fugitive apprehension agent with the Department of Corrections, or

(f) for any member who was continuously employed by an entity or institution within The Oklahoma State System of Higher Education and whose initial employment with such entity or institution was prior to July 1, 1992, and who without a break in service of more than thirty (30) days became employed by an employer participating in the Oklahoma Public Employees Retirement System, the first day of the month coinciding with or following the date at which the sum of the member's age and number of years of credited service total eighty (80);

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

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

(27) “Prior service” means the period of employment of a member by an eligible employer prior to the member’s entry date for which credit is granted a member under Section 901 et seq. of this title;

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

(29) “Retirement benefit” means a monthly income with benefits accruing from the first day of the month coinciding with or following retirement and ending on the last day of the month in which death occurs or the actuarial equivalent thereof paid in such manner as specified by the member pursuant to Section 901 et seq. of this title or as otherwise allowed to be paid at the discretion of the Board;

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

(31) “Social Security” means the old-age survivors and disability section of the Federal Social Security Act;

(32) “Total disability” means a physical or mental disability accepted for disability benefits by the Federal Social Security System;

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

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

(35) “Elected service” means the period of service as an elected official; and

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

SECTION 135. REPEALER 74 O.S. 2001, Section 902, as last amended by Section 1, Chapter 325, O.S.L. 2004 (74 O.S. Supp. 2004, Section 902), is hereby repealed.

SECTION 136. AMENDATORY 74 O.S. 2001, Section 913, as last amended by Section 1, Chapter 359, O.S.L. 2004 (74 O.S. Supp. 2004, Section 913), is amended to read as follows:

Section 913. A. Prior service shall be credited as follows:

1. A member shall receive full credit for employment with any participating employer prior to the entry date of his or her employer whether or not continuous and whether or not he or she was employed with a participating employer on such entry date, provided that any member who has retired before the passage of Section 901 et seq. of this title, shall not receive retirement benefits retroactively for such prior service. Provided, that at such time that an employer becomes a participating employer on or after January 1, 1965, and before January 1, 1975, each member and each retirant, upon making proper written application therefor, shall receive prior service credit for service with such employer in the same manner as if such participating employer had been a participating employer on the date first eligible to become a participating employer; and increased benefits attributable to such increased prior service credit shall commence with the next monthly benefit payment due following receipt and approval of such application by the Board of Trustees. No prior service shall be granted, however, for periods of service in which the employee made contributions which he or she subsequently withdrew, unless he or she has complied with the provisions of subsection (5) of Section 917 of this title. The burden of proof regarding prior service

shall be with the member and shall be documented in such manner as the Board may direct;

2. Any member who was employed in an institution of higher learning by a State Board of Regents or who was employed by an Oklahoma school district prior to July 1, 1943, may receive prior service credit under this act for the period of time they were so employed;

3. Any member who served in the Armed Forces of the United States, as defined in paragraph (23) of Section 902 of this title, prior to membership in the Oklahoma Public Employees Retirement System shall be granted prior service credit, not to exceed five (5) years, for those periods of active military service during which he or she was a war veteran. For a member of the System hired on or after July 1, 2003, if the military service credit authorized by this paragraph is used to compute the retirement benefit of the member and the member retires from the System, such military service credit shall not be used to compute the retirement benefit in any other retirement system created pursuant to the Oklahoma Statutes and the member may receive credit for such service only in the retirement system from which the member first retires;

4. An elective state, county, city or town official who is ineligible for membership as a result of any applicable state law or constitutional provision making him or her ineligible solely because of his or her being such an official at the time of his or her eligibility for membership at the time his or her employer becomes a participating employer shall nevertheless not forfeit the prior service credit to which he or she would be entitled except for such ineligibility, provided that he or she either:

a. becomes an employee of a participating employer within four (4) calendar months of the expiration of his or her term of office current at the time of his or her

eligibility except for his or her being an elective state or county official, or

b. within a period of four (4) years after the expiration of his or her term of office current at the time of his or her eligibility except for his or her being an elective state or county official, is elected as a state or county official and thereupon becomes a member of the System, or

c. has completed ten (10) years of credited service as of the date of his or her eligibility for membership except for his or her being an elective state or county official;

5. Beginning July 1, 1965, all employees of the Department of Human Services shall participate in the Oklahoma Public Employees Retirement System to the same extent as other employees of participating employers in such System. Provided, that any employee performing teaching services in the Oklahoma School for the Deaf or the Oklahoma School for the Blind may elect to participate in the Teachers' Retirement System of Oklahoma in lieu of the Oklahoma Public Employees Retirement System; and any other employee at each such institution or any other institution under the jurisdiction of the Department of Human Services, participating in the Teachers' Retirement System of Oklahoma, may elect to continue to participate in such system in lieu of the Oklahoma Public Employees Retirement System. All employees who shall have participated in the Teachers' Retirement System of Oklahoma and not continuing therein shall have the right to withdraw their membership from the Teachers' Retirement System of Oklahoma on the same terms as other members withdrawing from such System before retirement. Provided, all persons employed at the Oklahoma School for the Blind and Oklahoma School for the Deaf on June 30, 1965, who became subject to the Oklahoma Public Employees Retirement System, on July 1, 1965, shall receive credit

for prior service and be eligible for participation, regardless of age;

6. A member employed as a temporary employee by the Legislative Service Bureau or its predecessors, the State Senate or the House of Representatives for the full duration of a regular legislative session prior to the member's eligibility for membership in the System shall receive six (6) months of prior service credit for each such full regular legislative session if the employee is employed by the Legislative Service Bureau or its predecessors, the State Senate or the House of Representatives as either a full-time or temporary employee for a minimum of six (6) full regular legislative sessions beginning January 1, 1983. For purposes of this subsection, the determination of whether an employee is employed for the full duration of a regular legislative session shall be made by the Legislative Service Bureau if such employee is employed by the Legislative Service Bureau, the State Senate if such employee is employed by the State Senate, or by the House of Representatives if such employee is employed by the House of Representatives;

7. A member of the System shall receive prior service credit for any years of service after January 1, 1975, the member had with a participating employer if the member is not receiving or eligible to receive such prior service credit for the same time in any other state or county retirement system authorized by law. To receive the service credit, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title; and

8. Any member who is a state employee and receives temporary total disability benefits during the period of absence with a participating employer due to a work-related injury or illness incurred while engaged in a governmental function for said participating employer pursuant to the Workers' Compensation Act shall receive credit for participating service during said period of absence subject to the following requirements:

a. the member was employed by the participating employer immediately prior to and during the period of absence,

b. the member must notify the System in writing not later than four (4) months after the member's return to his or her job duties with the participating employer, or termination of employment with the participating employer, or termination of the temporary total disability benefits, whichever is earlier, of the member's desire to receive participating service credit for the period of absence,

c. the participating employer must certify to the System in writing the dates during which temporary total disability benefits payments were paid to the member, and

d. the member and the participating employer shall each pay their respective contributions required for the period of absence without interest within sixty (60) days of invoicing by the System, or with interest of seven and one-half percent (7 1/2%) compounded annually if paid after said sixty (60) days.

B. Participating service shall be credited as follows:

1. A member shall receive credit for participating service with a participating employer in accordance with the rules and regulations established by the Board; provided, however, that a member who is not a full-time employee shall receive prorated credit for actual hours worked;

2. Leaves of absence shall not count as a break in continuous employment provided the member leaves his or her accumulated contribution on deposit with the fund; however, the leaves of absence shall not be credited except that involuntary furloughs established by Office of Personnel Management rules shall be credited, as well as involuntary furloughs of employees of a

district attorney conducted in substantial compliance with the rules of the Office of Personnel Management as certified by the District Attorneys Council;

3. Any member who has served in the Armed Forces of the United States, as defined in paragraph (23) of Section 902 of this title, shall be granted participating service for those periods of active military service during which he or she was a war veteran provided this service is immediately preceded by a period of employment with a participating employer and is followed by return to employment as an employee with the same or another participating employer within ninety (90) days immediately following discharge from such military service provided the member leaves his or her accumulated contributions on deposit with the fund;

4. A period of total disability under the System immediately followed by employment with a participating employer, shall not count as a break in continuous employment; provided, that such periods while not employed shall not be credited except that involuntary furloughs established by Office of Personnel Management Rule 6.13, shall be credited;

5. Termination of employment with a participating employer followed by employment with the same or another participating employer within four (4) calendar months shall not constitute a break in continuous employment; provided, that such period while not employed shall not be credited as participating service;

6. Provided, however, that all employee contributions required by this act made by employees prior to June 30, 1977, will entitle the employee to additional years of participating service in accordance with the following schedule.

Employee accumulated contributions:

More than $1.00 up to $500 = 1 year participating service

More than $500 up to $1,000 = 2 years participating service

More than $1,000 up to $1,500 = 3 years participating service

More than $1,500 up to $2,000 = 4 years participating service

More than $2,000 = 5 years participating service

In no event shall the employee be entitled to more than five (5) additional years of participating service as provided hereunder.

Provided further, that upon termination of employment prior to retirement, the accumulated contributions will be credited as above indicated to establish a vested benefit if so elected by any such employee; and

7. The total participating service credit of a member who retires or terminates employment and elects a vested benefit shall include not to exceed one hundred thirty (130) days of unused sick leave accumulated subsequent to August 1, 1959, during the member's employment with any participating employer. Such credit shall be added in terms of whole months. Twenty (20) days of unused sick leave shall equal one (1) month for purposes of participating service credit. If unused sick leave entitles a member to an additional year of service credit, the member's employer shall reimburse the System for the cost of funding the additional reserve. Each participating employer shall provide the System with adequate and timely information necessary to determine additional benefits and its cost under this paragraph. This paragraph shall apply to members retiring or vesting on or after July 1, 1984.

C. In determining the number of years of credited service, a fractional year of six (6) months or more shall be considered as one (1) year, and less than six (6) months shall be disregarded.

D. A member may receive credit for those years of credited service accumulated by the member while a member of the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System, or the Teachers' Retirement System of Oklahoma, if the member is not receiving or eligible to receive retirement credit or benefits from

said service in any other public retirement system. To receive the service credit, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title.

E. A member may receive credit for those years of service accumulated by the member as an elected official if the member is not receiving or eligible to receive retirement credit or benefits from said service in any public retirement system. Prior to January 1, 1991, to receive the service credit, the member shall pay to the Board for each year of service purchased pursuant to this subsection a sum equal to the employee and employer contribution rate that would have been applicable to the member as determined by the Board and interest of not to exceed five percent (5%), and effective January 1, 1991, to receive the service credit, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title.

F. Effective December 12, 1994, and thereafter, a leave of absence on account of a period of qualified military service in the uniformed services of the United States within the meaning of Section 414(u)(5) of the federal Internal Revenue Code, followed by a return to employment with the participating employer within ninety (90) days after completion of the period of service may be eligible for credited service under this System. Notwithstanding any provision of this plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be allowed in accordance with Section 414(u) of the federal Internal Revenue Code.

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

a. the member is an active member of the Oklahoma Public Employees Retirement System, and

b. the member provides notice to the Teachers' Retirement System of Oklahoma and the Oklahoma Public Employees Retirement System of the member's election to transfer said retirement credit. The notice shall include a list of the years to be transferred, and

c. the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system, notwithstanding the years of service sought to be transferred under this subsection.

Members electing to take advantage of the transfer authorized by this subsection who are receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system shall have all service credit with the Teachers' Retirement System of Oklahoma canceled which is not transferred to the Oklahoma Public Employees Retirement System or used as a cash offset in such a transfer pursuant to subparagraph d of paragraph 2 of this subsection. Service credit transferred to the Teachers' Retirement System of Oklahoma under this subsection shall also be canceled with the Oklahoma Public Employees Retirement System.

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

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

(1) for members who have vested with the sending system, determine the present value of the member's earned benefits attributable to the years of service sought to be transferred, discounted according to the member's age at the

time of transfer and computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation but shall not make any projections regarding future salary. For vested employees the sending system shall use the product of this calculation for purposes of determining the transfer fee to be paid by the employee under subparagraph c of this paragraph so long as it is greater than the product of the calculation in this division, and

(2) determine the sum of the employee and employer contributions applicable to the years of service sought to be transferred plus interest consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation. For all nonvested members, and for vested members if the product of this calculation is greater than the product of the calculation in division (1) of this subparagraph, the sending system shall use the product of this calculation for purposes of determining the amount to be transferred by the sending system under subparagraph c of this paragraph and any transfer fee to be paid by the members under subparagraph d of this paragraph.

b. Within thirty (30) days <u>after</u> notification of an intent to transfer is received by the receiving

system, the receiving system shall determine, according to the system's own rules and regulations, the present value of the member's incremental projected benefits discounted according to the member's age at the time of the transfer. Incremental projected benefits shall be the difference between the projected benefit said member would receive without transferring the service credit and the projected benefit after transfer of service credit computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest, salary projections and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation.

c. The sending system shall, within sixty (60) days from the date notification of an intent to transfer is received by the sending system, transfer to the receiving system the amount determined in subparagraph a of this paragraph. Except, if the cost under subparagraph a of this paragraph for the same years of service to the sending system is greater than the actuarial value of the incremental benefit in the receiving system, as established in subparagraph b of this paragraph, the sending system shall send the receiving system an amount equal to the actuarial value of the incremental projected benefit in the receiving system.

d. In order to receive the credit provided for in paragraph 1 of this subsection, if the cost of the actuarial value of the incremental benefit to the

receiving system is greater than the cost as calculated under subparagraph a of this paragraph for the same years of service to the sending system as established in subparagraphs a and b of this paragraph, the employee shall elect to:

(1) pay any difference to receive full credit for the years sought to be transferred, or

(2) receive prorated service credit for only the amount received from the Teachers' Retirement System of Oklahoma pursuant to this subsection.

Such an election shall be made in writing, filed with the System prior to receiving the credit provided for in paragraph 1 of this subsection, and shall be irrevocable.

3. Within sixty (60) days of successfully completing all of the requirements for transfer under this subsection, the sending system shall pay the receiving system any amount due under this subsection. Within sixty (60) days of successfully completing all of the requirements for transfer under this subsection, the member shall pay the receiving system any amount due under this subsection. In the event that the member is unable to pay the transfer fee provided for in this subsection by the due date, the Board of Trustees of the receiving system shall permit the member to amortize the transfer fee over a period not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the Board of Trustees permits an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings each year. Any member who ceases to make payment, terminates, retires or dies before completing the payments provided for in this section shall receive prorated service credit for only those payments made, unless the unpaid balance is paid by said member, his or her estate

or successor in interest within six (6) months after said member's death, termination of employment or retirement, provided no retirement benefits shall be payable until the unpaid balance is paid, unless said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance.

4. Years of service transferred pursuant to this subsection shall be used both in determining the member's retirement benefit and in determining the years of service for retirement and/or vesting purposes. Years of service rendered as a member of the Teachers' Retirement System of Oklahoma prior to July 1, 1992, if any, shall be deemed to be years of service rendered as a member of the Oklahoma Public Employees Retirement System prior to July 1, 1992, and shall qualify such person as a member of the Oklahoma Public Employees Retirement System before July 1, 1992.

5. Notwithstanding the requirements of Section 17-104 of Title 70 of the Oklahoma Statutes, members electing to take advantage of the transfer authorized by this subsection who have withdrawn their contributions from the sending system shall remit to the sending system the amount of the accumulated contributions the member has withdrawn plus simple interest of ten percent (10%) per annum prior to making said election or the election shall be deemed invalid and the transfer shall be canceled. If such an election is deemed invalid and the transfer is canceled, the accumulated contribution remitted to the sending system by the member who originally withdrew their contributions shall be returned to the member. The member's rights and obligations regarding any service credit reestablished in the sending system due to a failure to satisfy the requirements of this subsection shall be determined by the sending system in accordance with Section 17-101 et seq. of Title 70 of the Oklahoma Statutes.

6. If any member fails for any reason to satisfy the requirements of this subsection, the election to transfer retirement

credit shall be void and of no effect, and any retirement credited as a result of this transfer shall be canceled. If such retirement credit is canceled, the years of canceled retirement credit which were unsuccessfully transferred to the receiving system from the sending system shall be reestablished in the sending system. The member's rights and obligations regarding any retirement credit reestablished in the sending system due to a failure to satisfy the requirements of this subsection shall be determined by the sending system in accordance with Section 17-101 et seq. of Title 70 of the Oklahoma Statutes.

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

H. 1. A member of the Teachers' Retirement System of Oklahoma whose last service with the Teachers' Retirement System of Oklahoma was with an entity or institution within The Oklahoma State System of Higher Education, State Board of Education, State Board of Career and Technology Education, Oklahoma Department of Career and Technology Education, Oklahoma School of Science and Mathematics, Oklahoma Center for the Advancement of Science and Technology, State Department of Rehabilitation Services, Oklahoma State Regents for Higher Education, Department of Corrections, State Department of Education, Oklahoma Board of Private Vocational Schools, Board of Regents of Oklahoma Colleges, Oklahoma Student Loan Authority, or the Teachers' Retirement System of Oklahoma, may elect to receive credit for those years of service accumulated by the member in the Teachers' Retirement System of Oklahoma, pursuant to this subsection. A member shall be eligible to elect to transfer credit for such years of service from the Teachers' Retirement System of Oklahoma to the Oklahoma Public Employees Retirement System if:

a. the member is an active member of the Oklahoma Public Employees Retirement System,

b. the member provides notice to the Teachers' Retirement System of Oklahoma and the Oklahoma Public Employees Retirement System of the member's election to transfer such retirement credit. The notice shall include a list of the years to be transferred, and

c. the member is not receiving or eligible to receive retirement credit or benefits from such service in any other public retirement system, notwithstanding the years of service sought to be transferred under this subsection.

Members electing to take advantage of the transfer authorized by this subsection shall have all service credit with the Teachers' Retirement System of Oklahoma canceled which is transferred to the Oklahoma Public Employees Retirement System.

2. For purposes of this subsection, the "sending system" shall mean the Teachers' Retirement System of Oklahoma. The "receiving system" shall mean the Oklahoma Public Employees Retirement System. Within thirty (30) days after notification of an intent to transfer is received by the sending system, the sending system shall, according to its own rules, send to the receiving system all employer and employee contributions made on behalf of the member which were made to the sending system plus an additional amount of earnings based on the actuarial assumed rate of the sending system. Upon receipt of these contributions by the receiving system, the receiving system shall give credit to the transferring member in an amount equal to the years of service accrued in the sending system.

3. If the transferring member’s normal retirement date calculation is based upon the sum of the member’s age and number of years of credited service totaling eighty (80) in the sending system, then the member shall retain such calculation in the receiving system.

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

I. A member of the System in the employment of the Governor, the State Senate or the House of Representatives, on or after July 1, 1999, may make an election prior to December 31, 2000, which shall be irrevocable and on a form prescribed for such purpose by the System, to continue participation in the System upon becoming employed by a participating employer of the Teachers' Retirement System of Oklahoma. The Board shall promulgate all rules necessary to implement the provisions of this subsection.

SECTION 137. REPEALER 74 O.S. 2001, Section 913, as last amended by Section 16, Chapter 275, O.S.L. 2004 (74 O.S. Supp. 2004, Section 913), is hereby repealed.

SECTION 138. AMENDATORY 74 O.S. 2001, Section 915, as last amended by Section 3, Chapter 539, O.S.L. 2004 (74 O.S. Supp. 2004, Section 915), is amended to read as follows:

Section 915. A. (1) Except as otherwise provided in this subsection and as provided for elected officials in Section 913.4 of this title, any member who shall retire on or after the member's normal retirement date shall be entitled to receive an annual retirement benefit equal to two percent (2%) of the member's final average compensation as determined pursuant to paragraph (18) of Section 902 of this title, multiplied by the number of years of credited service that has been credited to the member in accordance with the provisions of Section 913 of this title other than years credited pursuant to paragraph (2) of this ~~section~~ subsection.

(2) Effective January 1, 2004, except as otherwise provided for elected officials in Section 913.4 of this title and except for those members making contributions pursuant to paragraphs (c), (d) and (e) of subsection (1) of Section 919.1 of this title, any member who shall retire ~~on or after the member's normal retirement date~~ shall be entitled to receive an annual retirement benefit equal to

two and one-half percent (2 1/2%) of the member's final average compensation as determined pursuant to paragraph (18) of Section 902 of this title, multiplied by the number of full years of participating service after January 1, 2004, that have been credited to the member in accordance with the provisions of Section 913 of this title and only for those full years of participating service for which contributions have been made pursuant to paragraph (f) of subsection (1) of Section 919.1 of this title. The two and one-half percent (2 1/2%) multiplier shall not apply to purchased service, purchased or granted military service or transferred service. In order to receive the two and one-half percent (2 1/2%) multiplier in computing retirement benefits, an active member shall make an irrevocable written election to pay the contributions pursuant to paragraph (f) of subsection (1) of Section 919.1 of this title. The two and one-half percent (2 1/2%) multiplier pursuant to this paragraph shall not apply to additional years of service credit attributed to sick leave pursuant to paragraph 7 of subsection B of Section 913 of this title and fractional years pursuant to subsection C of Section 913 of this title and shall be attributable only to the participating service credited after the election of the member.

(3) The minimum final average compensation for any person who becomes a member of the System on or after July 1, 1995:

a. and who had twenty (20) or more years of credited service within the System as of the member's retirement date shall be no less than Thirteen Thousand Eight Hundred Dollars ($13,800.00) per annum,

b. and who had at least fifteen (15) but not more than nineteen (19) years of credited service within the System as of the member's retirement date shall be no less than Six Thousand Nine Hundred Dollars ($6,900.00) per annum,

c. and who had less than fifteen (15) years of credited service within the System as of the member's retirement date shall not be eligible for any minimum amount of final average compensation and the member's final average compensation shall be the final average compensation as defined by paragraph (18) of Section 902 of this title,

(4) Provided, further, any member who has elected a vested benefit pursuant to Section 917 of this title shall be entitled to receive benefits as outlined in this section except the percent factor and the member's maximum compensation level in effect the date the member's employment was terminated with a participating employer shall be applicable.

(5) Any member who is a correctional officer or a probation and parole officer employed by the Department of Corrections at the time of retirement and who retires on or before June 30, 2000, shall be entitled to receive an annual retirement benefit equal to two and one-half percent (2 1/2%) of the final average compensation of the member not to exceed Twenty-five Thousand Dollars ($25,000.00) and two percent (2%) of the final average salary in excess of Twenty-five Thousand Dollars ($25,000.00) but not exceeding the maximum compensation level as provided in paragraph (9) of Section 902 of this title, multiplied by the number of years of service as a correctional officer or a probation and parole officer, provided, any years accrued prior to July 1, 1990, as a correctional officer or a probation and parole officer by a member who is employed as a correctional officer or a probation and parole officer on July 1, 1990, shall be calculated for retirement purposes at two and one-quarter percent (2 1/4%) of the final average compensation of the member not to exceed Twenty-five Thousand Dollars ($25,000.00) and two percent (2%) of the final average salary in excess of Twenty-five Thousand Dollars ($25,000.00) but not exceeding the maximum

compensation level as provided in paragraph (9) of Section 902 of this title, multiplied by the number of years of such service and any years in excess of twenty (20) years as such an officer or years credited to the member in accordance with the provisions of Section 913 of this title shall be calculated for retirement purposes at two percent (2%) of the final average compensation of the member multiplied by the number of years of such service. Any person who contributes to the System as a correctional officer or a probation and parole officer as provided in paragraph (c) of subsection (1) of Section 919.1 of this title, on or before June 30, 2000, but who does not make such contributions after June 30, 2000, and who does not qualify for normal retirement under subparagraph (c) of paragraph (24) of Section 902 of this title shall have retirement benefits for each year of full-time-equivalent participating service as a correctional or a probation and parole officer after July 1, 1990, computed on two and one-half percent (2 1/2%) of the final average compensation based upon those years as a correctional officer or a probation and parole officer. Provided, further, any fugitive apprehension agent shall be entitled to receive benefits as outlined in this act for service as a fugitive apprehension agent prior to July 1, 2002, only upon payment to the System of the employee contributions which would have been paid if such fugitive apprehension agent had been covered by this section prior to the effective date of this act, plus interest of not to exceed ten percent (10%) as determined by the Board. The Department of Corrections may make the employee contribution and interest payment on behalf of such member.

(6) Any member who is a correctional officer, a probation and parole officer or a fugitive apprehension agent employed by the Department of Corrections at the time of retirement and who retires on or after July 1, 2002, shall be entitled to receive an annual retirement benefit equal to two and one-half percent (2 1/2%) of the

final average compensation of the member, but not exceeding the maximum compensation level as provided in paragraph (18) of Section 902 of this title, multiplied by the number of years of service as a correctional officer, a probation and parole officer or a fugitive apprehension agent, and any years in excess of twenty (20) years as such an officer or agent, or years credited to the member in accordance with the provisions of Section 913 of this title, shall be calculated for retirement purposes at two percent (2%) of the final average compensation of the member multiplied by the number of years of such service. For purposes of this paragraph, "final average compensation" shall be determined by computing the average annual salary, in the manner prescribed by paragraph (18) of Section 902 of this title, for the highest three (3) years of the last ten (10) years of participating service immediately preceding retirement or termination of employment for all years of service performed by such member, both for years of service performed as a correctional officer, probation and parole officer or fugitive apprehension agent, not in excess of twenty (20) years, and for years of service performed in excess of twenty (20) years, whether as a correctional officer, probation and parole officer, fugitive apprehension agent or other position unless the computation of benefits would result in a lower retirement benefit amount than if final average compensation were to be computed as otherwise provided by this paragraph.

(7) Any member who is a correctional officer, a probation and parole officer or a fugitive apprehension agent who has at least five (5) years of service as a correctional officer, a probation and parole officer or a fugitive apprehension agent who is in such position on June 30, 2004, or who is hired after June 30, 2004, in such position, and who receives a promotion or change in job classification after June 30, 2004, to another position in the Department of Corrections, and who is employed by the Department of Corrections at the time of retirement and who retires on or after

July 1, 2004, shall be entitled to receive an annual retirement benefit equal to two and one-half percent (2 1/2%) of the final average compensation of the member, but not exceeding the maximum compensation level as provided in paragraph (18) of Section 902 of this title, multiplied by the number of years of service with the Department of Corrections and any years in excess of twenty (20) years with the Department or years credited to the member in accordance with the provisions of Section 913 of this title, shall be calculated for retirement purposes at two percent (2%) of the final average compensation of the member multiplied by the number of years of such service. For purposes of this paragraph, "final average compensation" shall be determined by computing the average annual salary, in the manner prescribed by paragraph (18) of Section 902 of this title, for the highest three (3) years of the last ten (10) years of participating service immediately preceding retirement or termination of employment for all years of service performed by such member with the Department.

(8) Any person who contributed to the System as a correctional officer, a probation and parole officer or a fugitive apprehension agent as provided in paragraphs (c) or (d) of subsection (1) of Section 919.1 of this title, and who retires under normal retirement or early retirement on or after January 1, 2004, under paragraph (24) of Section 902 of this title shall have retirement benefits for each year of full-time-equivalent participating service as a correctional officer, a probation and parole officer or a fugitive apprehension agent, computed on two and one-half percent (2 1/2%) of the final average compensation based upon those years as a correctional officer, a probation and parole officer or a fugitive apprehension agent. For purposes of this paragraph, "final average compensation" shall be determined by computing the average annual salary, in the manner prescribed by paragraph (18) of Section 902 of this title, for the highest three (3) years of the last ten (10)

years of participating service immediately preceding retirement or termination of employment for all years of service performed by such member, both for years of service performed as a correctional officer, probation and parole officer or fugitive apprehension agent, not in excess of twenty (20) years, and for years of service performed in excess of twenty (20) years, whether as a correctional officer, probation and parole officer, fugitive apprehension agent or other position unless the computation of benefits would result in a lower retirement benefit amount than if final average compensation were to be computed as otherwise provided by this paragraph.

(9) Any member who is:

a. initially on or after July 1, 2002, employed as a firefighter for the Oklahoma Military Department and who retires on or after the member's normal retirement date shall be entitled to receive an annual retirement benefit equal to two and one-half percent (2 1/2%) of the final average compensation of the member multiplied by the number of years of service in such service,

b. (1) a firefighter who performs firefighting services for the Oklahoma Military Department prior to July 1, 2002, and who makes an election in writing on a form prescribed for this purpose by the System not later than December 31, 2002, shall be entitled to receive a retirement benefit based upon two and one-half percent (2 1/2%) of the final average compensation of the member multiplied by the number of years of service as a firefighter with the Oklahoma Military Department on or after July 1, 2002. The election authorized by this subdivision shall be

irrevocable once the election is filed with the System,

(2) a firefighter who performs firefighting services for the Oklahoma Military Department prior to July 1, 2002, and who makes the election in division (1) of this subparagraph may also make an election in writing on a form prescribed for this purpose by the System not later than December 31, 2002, to receive a retirement benefit based upon two and one-half percent (2 1/2%) of the final average compensation of the member multiplied by the number of years of service as a firefighter with the Oklahoma Military Department prior to July 1, 2002. The election authorized by this subdivision shall be irrevocable once the election is filed with the System. Retirement benefits shall be calculated based upon the two and one-half percent (2 1/2%) multiplier upon payment being made pursuant to Section 913.5 of this title.

(10) Upon death of a retirant, there shall be paid to his beneficiary an amount equal to the excess, if any, of his accumulated contributions over the sum of all retirement benefit payments made.

(11) Such annual retirement benefits shall be paid in equal monthly installments, except that the Board may provide for the payment of retirement benefits which total less than Two Hundred Forty Dollars ($240.00) a year on other than a monthly basis.

(12) Pursuant to the rules established by the Board, a retiree receiving monthly benefits from the System may authorize warrant deductions for any products currently offered to active state employees through the Employees Benefits Council, provided that

product is offered to state retirees as a group and has a minimum participation of five hundred state retirees. The System has no responsibility for the marketing, enrolling or administration of such products, but shall retain a processing fee of two percent (2%) of the gross deductions for the products. Retirement benefit deductions shall be made for membership dues for any statewide association for which payroll deductions are authorized pursuant to subsection B of Section 7.10 of Title 62 of the Oklahoma Statutes for retired members of any state-supported retirement system, upon proper authorization given by the member to the board from which the member or beneficiary is currently receiving retirement benefits.

B. A member shall be considered disabled if such member qualifies for the payment of Social Security disability benefits, or the payment of benefits pursuant to the Railroad Retirement Act of 1974, Section 231 et seq. of Title 45 of the United States Code, and shall be eligible for benefits hereunder upon proof of such disability, provided such member is an active regularly scheduled employee with a participating employer at the time of injury or inception of illness or disease resulting in subsequent certification of eligibility for Social Security disability benefits by reason of such injury, illness or disease, providing such disability is certified by the Social Security Administration within one (1) year after the last date physically on the job and after completion of at least eight (8) years of participating service or combined prior and participating service or resulting in subsequent certification of eligibility of disability by the Railroad Retirement Board providing such certification is made by the Railroad Retirement Board within one (1) year after the last date physically on the job and after completion of at least eight (8) years of participating service or combined prior and participating service. The member shall submit to the Retirement System the Social Security Award Notice or the Railroad Retirement Award Notice

certifying the date of entitlement for disability benefits, as issued by the Social Security Administration, Department of Health and Human Services or the Railroad Retirement Board. Disability benefits shall become effective on the date of entitlement as established by the Social Security Administration or the Railroad Retirement Board, but not before the first day of the month following removal from the payroll, whichever is later, and final approval by the Retirement System. Benefits shall be based upon length of service and compensation as of the date of disability, without actuarial reduction because of commencement prior to the normal retirement date. The only optional form of benefit payment available for disability benefits is Option A as provided for in Section 918 of this title. Option A must be elected in accordance with the provisions of Section 918 of this title. Benefit payments shall cease upon the member's recovery from disability prior to the normal retirement date. Future benefits, if any, shall be paid based upon length of service and compensation as of the date of disability. In the event that disability ceases and the member returns to employment within the System credited service to the date of disability shall be restored, and future benefits shall be determined accordingly.

C. A member who incurred a disability pursuant to subsection B of this section on or after July 1, 1999, and who has retired from the System with an early retirement benefit pending certification from the Social Security Administration or the Railroad Retirement Board shall receive a retirement benefit not less than the disability retirement benefit provided by subsection B of this section once the System receives a Social Security Award Notice or a Railroad Retirement Award Notice pursuant to subsection B of this section and a completed Application for Disability Benefits. In addition, such member shall receive the difference, if any, between the early retirement benefit and the disability benefit from the

date the Social Security Administration or the Railroad Retirement Board establishes disability entitlement.

D. Any actively participating member of the System on or after July 1, 1998, except for those employees provided in subparagraph (e) of paragraph (14) of Section 902 of this title, whose employment is less than full-time, shall have his or her final average compensation calculated on an annualized basis using his or her hourly wage subject to the maximum compensation limits; provided, however, any such member who has at least three (3) years of full-time employment during the last ten (10) years immediately preceding termination or retirement shall not be eligible for the annualization provisions contained herein. The Board of Trustees shall promulgate such administrative rules as are necessary to implement the provisions of this subsection.

SECTION 139. REPEALER 74 O.S. 2001, Section 915, as last amended by Section 24, Chapter 536, O.S.L. 2004 (74 O.S. Supp. 2004, Section 915), is hereby repealed.

SECTION 140. AMENDATORY 74 O.S. 2001, Section 920A, as last amended by Section 27, Chapter 536, O.S.L. 2004 (74 O.S. Supp. 2004, Section 920A), is amended to read as follows:

Section 920A. A. Any county, county hospital, city or town, conservation district<u>, circuit engineering district</u> or any public or private trust in which a county, city or town participates and is the primary beneficiary, which is a participating employer and any eligible employee shall contribute to the System. The total employer and employee contributions shall be based on the allowable annual compensation as defined in paragraph (9) of Section 902 of this title. Except as provided for in this section, the employer shall not pay for the employee any of the employee contribution to the System.

B. For the fiscal year ending June 30, 2005, the total employer and employee contributions shall equal thirteen and one-half percent

(13 1/2%) of the allowable monthly compensation of each member; provided, however, each participating employer listed in this section may set the amount of the employer and employee contribution to equal thirteen and one-half percent (13 1/2%) of the allowable monthly compensation of each member for compensation as provided in paragraph (9) of Section 902 of this title; provided, the employer contribution shall not exceed ten percent (10%) and the employee contribution shall not exceed eight and one-half percent (8 1/2%).

C. The total employer and employee contributions for fiscal years following the fiscal year ending June 30, 2005, shall be as follows:

July 1, 2005 - June 30, 2006	15%
July 1, 2006 - June 30, 2007	16%
July 1, 2007 - June 30, 2008	17%
July 1, 2008 - June 30, 2009	18%
July 1, 2009 - June 30, 2010	19%
July 1, 2010 - June 30, 2011 and each fiscal year thereafter	20%

Such employee and employer contributions shall be based upon the allowable monthly compensation of each member for compensation as provided in paragraph (9) of Section 902 of this title. The maximum employer contribution of ten percent (10%) in subsection B of this section shall increase by one and one-half percent (1.5%) beginning in the fiscal year ending June 30, 2006, and one percent (1%) for each fiscal year thereafter until it reaches sixteen and one-half percent (16.5%). For such years, the employee contribution shall not exceed eight and one-half percent (8 1/2%).

D. For members who make the election pursuant to paragraph (2) of subsection A of Section 915 of this title, the employee contribution shall increase by two and ninety-one one-hundredths percent (2.91%). Such employee contribution increase shall be paid by the employee.

E. Each participating employer pursuant to the provisions of this section may pick up under the provisions of Section 414(h)(2) of the Internal Revenue Code of 1986 and pay the contribution which the member is required by law to make to the System for all compensation earned after December 31, 1989. Although the contributions so picked up are designated as member contributions, such contributions shall be treated as contributions being paid by the participating employer in lieu of contributions by the member in determining tax treatment under the Internal Revenue Code of 1986 and such picked up contributions shall not be includable in the gross income of the member until such amounts are distributed or made available to the member or the beneficiary of the member. The member, by the terms of this System, shall not have any option to choose to receive the contributions so picked up directly and the picked up contributions must be paid by the participating employer to the System.

F. Member contributions which are picked up shall be treated in the same manner and to the same extent as member contributions made prior to the date on which member contributions were picked up by the participating employer. Member contributions so picked up shall be included in gross salary for purposes of determining benefits and contributions under the System.

G. The participating employer shall pay the member contributions from the same source of funds used in paying salary to the member, by effecting an equal cash reduction in gross salary of the member.

SECTION 141. REPEALER 74 O.S. 2001, Section 920A, as last amended by Section 3, Chapter 325, O.S.L. 2004 (74 O.S. Supp. 2004, Section 920A), is hereby repealed.

SECTION 142. AMENDATORY 74 O.S. 2001, Section 1306, as last amended by Section 1, Chapter 405, O.S.L. 2004 (74 O.S. Supp. 2004, Section 1306), is amended to read as follows:

Section 1306. The State and Education Employees Group Insurance Board shall administer and manage the group insurance plans and the flexible benefits plan and, subject to the provisions of the State and Education Employees Group Insurance Act and the State Employees Flexible Benefits Act, shall have the following powers and duties:

1. The preparation of specifications for such insurance plans as the Board may determine to be appropriate;

2. The authority and duty to request bids through the Purchasing Division of the Department of Central Services for a contract to be the claims administrator for all or any part of such insurance and benefit plans as the Board may offer;

3. The determination of the methods of claims administration under such insurance and benefit plans as the Board may offer;

4. The determination of the eligibility of employees and their dependents to participate in each of the Group Insurance Plans and in such other insurance and benefit plans as the Board may offer and the eligibility of employees ~~other than education employees~~ to participate in the Life Insurance Plan provided that evidence of insurability shall not be a requirement in determining an employee's initial eligibility;

5. The determination of the amount of employee payroll deductions and the responsibility of establishing the procedure by which such deduction shall be made;

6. The establishment of a grievance procedure by which a three-member grievance panel shall act as an appeals body for complaints by insured employees regarding the allowance and payment of claims, eligibility, and other matters. Except for grievances settled to the satisfaction of both parties prior to a hearing, any person who requests in writing a hearing before the grievance panel shall receive a hearing before the panel. The grievance procedure provided by this paragraph shall be the exclusive remedy available to insured employees having complaints against the insurer. Such

grievance procedure shall be subject to the Oklahoma Administrative Procedures Act, including provisions thereof for review of agency decisions by the district court. The grievance panel shall schedule a hearing regarding the allowance and payment of claims, eligibility and other matters within sixty (60) days from the date the grievance panel receives a written request for a hearing unless the panel orders a continuance for good cause shown. Upon written request by the insured employee to the grievance panel and received not less than ten (10) days before the hearing date, the grievance panel shall cause a full stenographic record of the proceedings to be made by a competent court reporter at the insured employee's expense;

7. The continuing study of the operation of such insurance and benefit plans as the Board may offer including such matters as gross and net costs, administrative costs, benefits, utilization of benefits, and claims administration;

8. The administration of the Health, Dental and Life Insurance Reserve Fund or Funds, the Flexible Benefits Revolving Fund and the Education Employees Group Insurance Reserve Fund;

9. The auditing of the claims paid pursuant to the provisions of the State and Education Employees Group Insurance Act, the State Employees Flexible Benefits Act and the State Employees Disability Program Act;

10. a. To select and contract with federally qualified Health Maintenance Organizations under the provisions of 42 U.S.C., Section 300e et seq. or with Health Maintenance Organizations licensed by the Department of Health pursuant to Sections 2501 through 2510 of Title 63 of the Oklahoma Statutes for consideration by employees as an alternative to the state self-insured health plan, and to transfer to the HMOs such funds as may be approved for an employee electing HMO alternative services. The Board may also select and

contract with a vendor to offer a point-of-service plan. An HMO may offer coverage through a point-of-service plan, subject to the guidelines established by the Board. However, if the Board chooses to offer a point-of-service plan, then a vendor that offers both an HMO plan and a point-of-service plan may choose to offer only its point-of-service plan in lieu of offering its HMO plan.

b. Benefit plan contracts with the State and Education Employees Group Insurance Board, Health Maintenance Organizations, and other third-party insurance vendors shall provide for a risk adjustment factor for adverse selection that may occur, as determined by the Board, based on generally accepted actuarial principles. The risk adjustment factor shall include all members participating in the plans offered by the State and Education Employees Group Insurance Board. The Oklahoma State Employees Benefits Council shall contract with an actuary to provide the above actuarial services, and shall be reimbursed for these contract expenses by the Board.

c. Effective for the plan year beginning July 1, 1997, and for each year thereafter, in setting health insurance premiums for active employees and for retirees under sixty-five (65) years of age, HMOs, self-insured organizations and prepaid plans shall set the monthly premium for active employees at a maximum of Ninety Dollars ($90.00) less than the monthly premium for retirees under sixty-five (65) years of age;

11. To contract for reinsurance, catastrophic insurance, or any other type of insurance deemed necessary by the Board. Provided,

however, that the Board shall not offer a health plan which is owned or operated by the state and which utilizes a capitated payment plan for providers which uses a primary care physician as a gatekeeper to any specialty care provided by physician-specialists, unless specifically authorized by the Legislature;

12. The Board, pursuant to the provisions of Section 250 et seq. of Title 75 of the Oklahoma Statutes, shall adopt such rules consistent with the provisions of the State and Education Employees Group Insurance Act as it deems necessary to carry out its statutory duties and responsibilities. Emergency Rules adopted by the Board and approved by the Governor which are in effect on the first day of the Regular Session of the Oklahoma Legislature shall not become null and void until January 15 of the subsequent calendar year;

13. The Board shall contract for claims administration services with a private insurance carrier or a company experienced in claims administration of any insurance that the Board may be directed to offer. No contract for claims administration services shall be made unless such contract has been offered for bids through the Purchasing Division of the Department of Central Services. The Board shall contract with a private insurance carrier or other experienced claims administrator to process claims with software that is normally used for its customers;

14. The Board shall contract for utilization review services with a company experienced in utilization review, data base evaluation, market research, and planning and performance of the health insurance plan;

15. The Board shall approve the amount of employee premiums and dependent premiums for such insurance plans as the Board shall offer for ~~each~~ the next plan year no later than the bid submission date for health maintenance organizations set by the Oklahoma State Employees Benefits Council, which ~~for plan year beginning July 1, 2001, shall be set no later than the third Friday of December of the~~

~~previous fiscal year. The next plan year shall begin January 1, 2002, and on January 1 each year thereafter. For plan year beginning January 1, 2002, and for each year thereafter, the submission date~~ shall be set no later than the third Friday of August ~~of the previous year~~. Except as otherwise provided for in Section 1321 of this title, the Board shall not have the authority to adjust the premium rates after approval. The Board shall submit notice of the amount of employee premiums and dependent premiums along with an actuarial projection of the upcoming fiscal year's enrollment, employee contributions, employer contributions, investment earnings, paid claims, internal expenses, external expenses and changes in liabilities to the Director of the Office of State Finance and the Director of the Legislative Service Bureau no later than March 1 of the previous fiscal year.

In setting health insurance premiums for active employees and retirees under sixty-five (65) years of age, the Board shall set the monthly premium for active employees at a maximum of Ninety Dollars ($90.00) less than the monthly premium for retirees under sixty-five (65) years of age;

16. Before December 1 of each year the Board shall submit to the Director of the Office of State Finance a report outlining the financial condition for the previous fiscal year of all insurance plans offered by the Board. The report shall include a complete explanation of all reserve funds and the actuarial projections on the need for such reserves. The report shall include and disclose an estimate of the future trend of medical costs, the impact from HMO enrollment, antiselection, changes in law, and other contingencies that could impact the financial status of the plan. The Director of the Office of State Finance shall make written comment on the report and shall provide such comment, along with the report submitted by the Board, to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives

and the Chair of the Oklahoma State Employees Benefits Council by January 15;

17. The Board shall establish a prescription drug card network;

18. The Board shall have the authority to intercept monies owing to plan participants from other state agencies, when those participants in turn, owe money to the Board. The Board shall be required to adopt rules and regulations ensuring the participants due process of law;

19. The Board is authorized to make available to eligible employees supplemental health care benefit plans to include but not be limited to long-term care, deductible reduction plans and employee co-payment reinsurance. Premiums for said plans shall be actuarially based and the cost for such supplemental plans shall be paid by the employee; ~~and~~

20. There is hereby created as a joint committee of the State Legislature, the Joint Liaison Committee on State and Education Employees Group Insurance Benefits, which Joint Committee shall consist of three members of the Senate to be appointed by the President Pro Tempore thereof and three members of the House of Representatives to be appointed by the Speaker thereof. The Chair and Vice Chair of the Joint Committee shall be appointed from the membership thereof by the President Pro Tempore of the Senate and the Speaker of the House of Representatives, respectively, one of whom shall be a member of the Senate and the other shall be a member of the House of Representatives. At the beginning of the first regular session of each Legislature, starting in 1991, the Chair shall be from the Senate; thereafter the chairship shall alternate every two (2) years between the Senate and the House of Representatives.

The Joint Liaison Committee on State and Education Employees Group Insurance Benefits shall function as a committee of the State Legislature when the Legislature is in session and when the

Legislature is not in session. Each appointed member of said committee shall serve until his or her successor is appointed.

The Joint Liaison Committee on State and Education Employees Group Insurance Benefits shall serve as a liaison with the State and Education Employees Group Insurance Board regarding advice, guidance, policy, management, operations, plans, programs and fiscal needs of said Board. Said Board shall not be bound by any action of the Joint Committee~~.~~; and

21. The State and Education Employees Group Insurance Board shall annually collect its own set of performance measures comparable to the Health Plan Employer Data and Information Set (HEDIS) for the purpose of assessing the quality of its HealthChoice plans and the other services it provides.

SECTION 143. REPEALER 74 O.S. 2001, Section 1306, as last amended by Section 2, Chapter 345, O.S.L. 2004 (74 O.S. Supp. 2004, Section 1306), is hereby repealed.

SECTION 144. AMENDATORY 74 O.S. 2001, Section 1365, as last amended by Section 2, Chapter 405, O.S.L. 2004 (74 O.S. Supp. 2004, Section 1365), is amended to read as follows:

Section 1365. A. The Oklahoma State Employees Benefits Council shall have the following duties, responsibilities and authority with respect to the administration of the plan:

1. To construe and interpret the plan, and decide all questions of eligibility in accordance with this act and the Code;

2. To select those benefits which shall be made available to participants under the plan, according to this act, and other applicable laws and rules;

3. To retain or employ qualified agencies, persons or entities to design, develop, communicate, implement or administer the plan;

4. To prescribe procedures to be followed by participants in making elections and filing claims under the plan;

5. To prepare and distribute information communicating and explaining the plan to participating employers and participants. The State and Education Employees Group Insurance Board, Health Maintenance Organizations, or other third-party insurance vendors may be directly or indirectly involved in the distribution of communicated information to participating state agency employers and state employee participants subject to the following conditions:

a. the Council shall verify all marketing and communications information for factual accuracy prior to distribution,

b. the Board or vendors shall provide timely notice of any marketing, communications, or distribution plans to the Council and shall coordinate the scheduling of any group presentations with the Council, and

c. the Board or vendors shall file a brief summary with the Council outlining the results following any marketing and communications activities;

6. To receive from participating employers and participants such information as shall be necessary for the proper administration of the plan, and any of the benefits offered thereunder;

7. To furnish the participating employers and participants such annual reports with respect to the administration of the plan as are reasonable and appropriate;

8. To keep reports of benefit elections, claims and disbursements for claims under the plan;

9. To appoint an executive director who shall serve at the pleasure of the Council. The executive director shall employ or retain such persons in accordance with this act and the requirements of other applicable law, including but not limited to actuaries and certified public accountants, as he or she deems appropriate to perform such duties as may from time to time be required under this act and to render advice upon request with regard to any matters

arising under the plan subject to the approval of the Council. The executive director shall have not less than seven (7) years of group insurance administration experience on a senior managerial level or not less than three (3) years of flexible benefits experience on a senior managerial level. Any actuary or certified public accountant employed or retained under contract by the Council shall have not less than three (3) years' experience in group insurance or employee benefits administration. The compensation of all persons employed or retained by the Council and all other expenses of the Council shall be paid at such rates and in such amounts as the Council shall approve, subject to the provisions of applicable law;

10. To negotiate for best and final offer through competitive negotiation and contract with federally qualified health maintenance organizations under the provisions of 42 U.S.C., Section 300e et seq. or with Health Maintenance Organizations licensed by the State Department of Health pursuant to Sections 2501 through 2510 of Title 63 of the Oklahoma Statutes for consideration by participants as an alternative to the health plans offered by the Board, and to transfer to the health maintenance organizations such funds as may be approved for a participant electing health maintenance organization alternative services. The Council may also select and contract with a vendor to offer a point-of-service plan. An HMO may offer coverage through a point-of-service plan, subject to the guidelines established by the Council. However, if the Council chooses to offer a point-of-service plan, then a vendor that offers both an HMO plan and a point-of-service plan may choose to offer only its point-of-service plan in lieu of offering its HMO plan.

The Oklahoma State Employees Benefits Council may, however, renegotiate rates with successful bidders after contracts have been awarded if there is an extraordinary circumstance. An extraordinary circumstance shall be limited to insolvency of a participating health maintenance organization or point-of-service plan,

dissolution of a participating health maintenance organization or point-of-service plan or withdrawal of another participating health maintenance organization or point-of-service plan at any time during the calendar year. Nothing in this section of law shall be construed to permit either party to unilaterally alter the terms of the contract;

11. To retain as confidential information the initial Request For Proposal offers as well as any subsequent bid offers made by the health plans prior to final contract awards as a part of the best and final offer negotiations process for the benefit plan;

12. To promulgate administrative rules for the competitive negotiation process;

13. To require vendors offering coverage through the Council, including the Board, to provide such enrollment and claims data as is determined by the Council. The Oklahoma State Employees Benefits Council with the cooperation of the Department of Central Services acting pursuant to Section 85.1 et seq. of this title, shall be authorized to retain as confidential, any proprietary information submitted in response to the Council's Request For Proposal. Provided, however, that any such information requested by the Council from the vendors shall only be subject to the confidentiality provision of this paragraph if it is clearly designated in the Request For Proposal as being protected under this provision. All requested information lacking such a designation in the Request For Proposal shall be subject to Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes. From health maintenance organizations, data provided shall include the current Health Plan Employer Data and Information Set (HEDIS);

14. To purchase any insurance deemed necessary for providing benefits under the plan <u>including indemnity dental plans</u>, provided that the only indemnity <u>health</u> plan selected by the Council shall be the indemnity plan offered by the Board, and to transfer to the

Board such funds as may be approved for a participant electing a benefit plan offered by the Board. All indemnity dental plans, including the one offered by the Oklahoma State and Education Group Insurance Board, must meet or exceed the following requirements:

a. they shall have a statewide provider network,

b. they shall provide benefits which shall reimburse the expense for the following types of dental procedures:

(1) diagnostic,

(2) preventative,

(3) restorative,

(4) endodontic,

(5) periodontic,

(6) prosthodontics,

(7) oral surgery,

(8) dental implants,

(9) dental prosthetics, and

(10) orthodontics, and

c. they shall provide an annual benefit of not less than One Thousand Five Hundred Dollars ($1,500.00) for all services other than orthodontic services, and a lifetime benefit of not less than One Thousand Five Hundred Dollars ($1,500.00) for orthodontic services;

15. To communicate deferred compensation programs as provided in Section 1701 of this title;

16. To assess and collect reasonable fees from the Board, and from such contracted health maintenance organizations and third party insurance vendors to offset the costs of administration as determined by the Council. The Council shall have the authority to transfer income received pursuant to this subsection to the Board for services provided by the Board;

17. To accept, modify or reject elections under the plan in accordance with this act and the Code;

18. To promulgate election and claim forms to be used by participants;

19. To take all steps deemed necessary to properly administer the plan in accordance with this act and the requirements of other applicable law; and

20. To manage, license or sell software developed for and acquired by the Council, whether or not such software is patented or copyrighted. The Council shall have the authority to license and sell such software or any rights to such software without declaring such property to be surplus. All proceeds from any such sale shall be deposited in the Benefits Council Administration Revolving Fund and used to defray the costs of administration.

B. The Council members shall discharge their duties as fiduciaries with respect to the participants and their dependents of the plan, and all fiduciaries shall be subject to the following definitions and provisions:

1. A person or organization is a fiduciary with respect to the Council to the extent that the person or organization:

a. exercises any discretionary authority or discretionary control respecting administration or management of the Council,

b. exercises any authority or control respecting disposition of the assets of the Council,

c. renders advice for a fee or other compensation, direct or indirect, with respect to any participant or dependent benefits, monies or other property of the Council, or has any authority or responsibility to do so, or

d. has any discretionary authority or discretionary responsibility in the administration of the Council;

2. The Council may procure insurance indemnifying the members of the Council from personal loss or accountability from liability

resulting from a member's action or inaction as a member of the Council;

3. Except for a breach of fiduciary obligation, a Council member shall not be individually or personally responsible for any action of the Council;

4. Any person who is a fiduciary with respect to the Council shall be entitled to rely on representations made by participants, participating employers, third party administrators and beneficiaries with respect to age and other personal facts concerning a participant or beneficiaries, unless the fiduciary knows the representations to be false;

5. Each fiduciary shall discharge his or her duties and responsibilities with respect to the Council and the plan solely in the interest of the participants and beneficiaries of the plan according to the terms hereof, for the exclusive purpose of providing benefits to participants and their beneficiaries, with the care, skill, prudence and diligence under the circumstances prevailing from time to time that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims; and

6. The duties and responsibilities allocated to each fiduciary by this act or by the Council shall be the several and not joint responsibility of each, and no fiduciary shall be liable for the act or omission of any other fiduciary unless:

a. by his or her failure to properly administer his or her specific responsibility he or she enabled such other person or organization to commit a breach of fiduciary responsibility, or

b. he or she knowingly participates in, or knowingly undertakes to conceal, an act or omission of another person or organization, knowing such act or omission to be a breach, or

c. having knowledge of the breach of another person or organization, he or she fails to make reasonable efforts under the circumstances to remedy said breach.

SECTION 145. REPEALER 74 O.S. 2001, Section 1365, as last amended by Section 2, Chapter 373, O.S.L. 2004 (74 O.S. Supp. 2004, Section 1365), is hereby repealed.

SECTION 146. Sections 12, 13, 20, 21 and 22 of this act shall become effective July 1, 2005.

SECTION 147. Sections 60 and 61 of this act shall become effective September 1, 2005.

SECTION 148. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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