

THE HOUSE OF REPRESENTATIVES
Monday, March 5, 2007

Committee Substitute for
House Bill No. 2050

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2050 - By: SHERRER of the House and BURRAGE of the Senate.

An Act relating to court procedure; creating the Oklahoma District Court Improvement Act; providing short title; amending 28 O.S. 2001, Section 86, as amended by Section 2, Chapter 525, O.S.L. 2004 (28 O.S. Supp. 2006, Section 86), which relates to fees paid to jurors; modifying certain fee paid to jurors; modifying persons required to pay fee to the Lengthy Trial Fund; modifying purposes for the Lengthy Trial Fund; modifying exemptions from payment of fee to the Lengthy Trial Fund; amending 28 O.S. 2001, Sections 151, as amended by Section 3, Chapter 192, O.S.L. 2005 and 153, as last amended by Section 18 of Enrolled House Bill No. 2195 of the 1st Session of the 51st Oklahoma Legislature (28 O.S. Supp. 2006, Section 151), which relate to collection of certain fees; modifying procedures for use of credit or debit cards; prohibiting collection of certain fees; authorizing the Administrative Office of the Courts to negotiate certain contracts; amending 38 O.S. 2001, Sections 18, as last amended by Section 1, Chapter 234, O.S.L. 2003, 20.1 and 28, as last amended by Section 42, Chapter 1, O.S.L. 2005 (38 O.S. Supp. 2006, Sections 18 and 28), which relate to jury service; expanding sources for ascertaining names of persons qualified for jury service; modifying oath; modifying mandatory exemption from jury service; modifying discretionary exceptions from jury service; eliminating permanent exclusion from jury service; modifying list of persons who are not qualified to serve as jurors; amending 68 O.S. 2001, Section 205, as last amended by Section 1, Chapter 281, O.S.L. 2006 (68 O.S. Supp. 2006, Section 205), which relates to confidential records and files of the Oklahoma Tax Commission; expanding exceptions; providing for noncodification; providing an effective date; and declaring an emergency.

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

1 SECTION 1. NEW LAW A new section of law not to be codified in the
2 Oklahoma Statutes reads as follows:

3 This act shall be known and may be cited as the “Oklahoma District Court
4 Improvement Act”.

5 SECTION 2. AMENDATORY 28 O.S. 2001, Section 86, as amended by Section
6 2, Chapter 525, O.S.L. 2004 (28 O.S. Supp. 2006, Section 86), is amended to read as
7 follows:

8 Section 86. A. Jurors, whether serving on a petit or grand jury, shall be paid the
9 following fees out of the local court fund:

10 1. For each day’s attendance before any court of record, ~~Twenty Dollars (\$20.00)~~
11 Thirty-five Dollars (\$35.00); and

12 2. For mileage going to and returning from jury service each day, pursuant to the
13 provisions of the State Travel Reimbursement Act.

14 B. The Court Fund Board of the district court may contract for or provide
15 reimbursement for parking for district court jurors to be paid from the Court Fund.
16 Parking so provided to jurors shall be in lieu of any reimbursement to jurors for parking
17 fees.

18 C. The provisions of this section shall not apply to any person who is summoned for
19 jury duty and who is excused from serving pursuant to the provisions of subsection A of
20 Section 28 of Title 38 of the Oklahoma Statutes, beginning on the day the person is
21 excused from service.

1 D. The Supreme Court shall promulgate rules to establish a Lengthy Trial Fund
2 that shall be used to provide full or partial wage replacement or wage supplementation to
3 jurors who serve as petit jurors for more than ten (10) days.

4 1. The court rules shall provide for the selection and appointment of an
5 Administrator for the fund; procedures for the administration of the fund, including
6 payments of salaries of the Administrator and other necessary personnel; procedures for
7 the accounting, auditing and investment of money in the Lengthy Trial Fund; and a
8 report by the Supreme Court on the administration of the Lengthy Trial Fund included
9 in its annual report on the judicial branch, setting forth the money collected for and
10 disbursed from the fund.

11 2. The clerk of the court shall collect from each ~~attorney~~ person who files a civil
12 case, unless otherwise exempted under the provisions of this section, a fee of Ten Dollars
13 (\$10.00) per case to be paid into the Lengthy Trial Fund. A ~~lawyer~~ person will be deemed
14 to have filed a case at the time the first pleading or other filing ~~on which an individual~~
15 ~~lawyer's name appears~~ is submitted to the court for filing and opens a new case. All such
16 fees shall be forwarded to the Administrator of the Lengthy Trial Fund for deposit.

17 3. The Administrator shall use the fees deposited in the Lengthy Trial Fund for any
18 of the following:

19 a. to pay full or partial wage replacement ~~or~~,

20 b. supplementation to jurors whose employers pay less than full regular

21 wages when the period of jury service lasts more than ten (10) days, and

1 c. to pay emergency claims of district court clerks for juror fees.

2 4. The court may pay replacement or supplemental wages of up to Two Hundred
3 Dollars (\$200.00) per day per juror beginning on the eleventh day of jury service. In
4 addition, for any jurors who qualify for payment by serving on a jury for more than ten
5 (10) days, the court may, upon finding that such service posed a significant financial
6 hardship to a juror, even in light of payments made with respect to jury service after the
7 tenth day, award replacement or supplemental wages of up to Fifty Dollars (\$50.00) per
8 day from the fourth to the tenth day of jury service.

9 5. Any juror who is serving or has served on a jury that qualifies for payment from
10 the Lengthy Trial Fund, provided the service commenced on or after the effective date of
11 this act, may submit a request for payment from the Lengthy Trial Fund on a form
12 provided by the Administrator. Payment shall be limited to the difference between the
13 state-paid jury fee and the actual amount of wages a juror earns, up to the maximum
14 level payable, minus any amount the juror actually receives from the employer during
15 the same time period. The form shall disclose the juror's regular wages, the amount the
16 employer will pay during the term of jury service starting on the eleventh day and
17 thereafter, the amount of replacement or supplemental wages requested, and any other
18 information the Administrator deems necessary for proper payment. The juror shall be
19 required to submit verification from the employer as to the wage information provided to
20 the Administrator, including but not limited to the employee's most recent earnings
21 statement or similar document, prior to initiation of payment from the fund. If an

1 individual is self-employed or receives compensation other than wages, the individual
2 may provide a sworn affidavit attesting to his or her approximate gross weekly income,
3 together with such other information as the Administrator may require, in order to verify
4 weekly income.

5 6. The following ~~attorneys and causes of action~~ are exempt from payment of the
6 Lengthy Trial Fund fee:

- 7 a. government attorneys entering appearances in the course of their
8 official duties,
- 9 b. ~~pro se litigants,~~
- 10 e. cases in small claims court or the state equivalent thereof, or
11 ~~e. c.~~ claims seeking social security disability determinations, individual
12 veterans' compensation or disability determinations, recoupment
13 actions for government backed educational loans or mortgages, child
14 custody and support cases, actions brought in forma pauperis, and any
15 other filings designated by rule that involve minimal use of court
16 resources and that customarily are not afforded the opportunity for a
17 trial by jury.

18 SECTION 3. AMENDATORY 28 O.S. 2001, Section 151, as amended by
19 Section 3, Chapter 192, O.S.L. 2005 (28 O.S. Supp. 2006, Section 151), is amended to
20 read as follows:

1 Section 151. A. It shall be the duty of the clerks of the district court and other trial
2 courts of record of this state to charge and collect the fees imposed by this title and other
3 fees, assessments and payments as imposed by the Oklahoma Statutes, fines, costs and
4 assessments imposed by the district courts or appellant courts, and none others, in all
5 cases, except those in which the defendant is charged with a misdemeanor or traffic
6 violation, and except cases under the Small Claims Procedure Act, Section 1751 et seq. of
7 Title 12 of the Oklahoma Statutes.

8 B. 1. Payment for any fee provided for in this title may be made by a nationally
9 recognized credit or debit card issued to the applicant. The court clerk shall ~~publicly post~~
10 ~~and not~~ collect a fee for the acceptance of the nationally recognized credit or debit card.
11 ~~The court fee shall be set by the Supreme Court of Oklahoma each time a fee schedule is~~
12 ~~promulgated by the Supreme Court of Oklahoma, not to exceed five percent (5%) of the~~
13 ~~amount of the payment~~ The court clerk shall absorb any expenses associated with
14 acceptance and verification of the credit or debit card and apportion the expenses among
15 the various cost elements associated with accepting the credit or debit card. Any other
16 costs or maintenance fees accrued for accepting or using credit or debit cards may be paid
17 from the court fund. For purposes of this subsection, "nationally recognized credit card"
18 means any instrument or device, whether known as a credit card, credit plate, charge
19 plate, or by any other name, issued with or without fee by an issuer for the use of the
20 cardholder in obtaining goods, services, or anything else of value and which is accepted
21 by over one thousand merchants in this state. "Debit card" means an identification card

1 or device issued to a person by a business organization which permits such person to
2 obtain access to or activate a consumer banking electronic facility. The court clerk shall
3 determine which nationally recognized credit or debit cards will be accepted as payment
4 for fees. The Administrative Office of the Courts is authorized to negotiate and organize
5 statewide contracts for the acceptance of credit and debit cards and equipment related
6 thereto.

7 2. Written procedures for acceptance or rejection of credit cards shall be established
8 by the Office of the State Auditor and Inspector with approval and direction to court
9 clerks to be issued by the Administrative Office of the Courts.

10 C. Payment for any fee provided for in this title may be made by a personal or
11 business check. The court clerk, at the court clerk's discretion, may:

12 1. Add an amount equal to the amount of the service charge incurred, not to exceed
13 three percent (3%) of the amount of the check as a service charge for the acceptance and
14 verification of the check; or

15 2. Add an amount of no more than Five Dollars (\$5.00) as a service charge for the
16 acceptance and verification of a check. For purposes of this subsection, "personal or
17 business check" shall not mean a money order, cashier's check, or bank certified check.

18 D. The Supreme Court is authorized to institute a cost collection program for
19 collection of fees, fines, costs and assessments provided for in this title.

1 SECTION 4. AMENDATORY 28 O.S. 2001, Section 153, as last amended by
2 Section 18 of Enrolled House Bill No. 2195 of the 1st Session of the 51st Oklahoma
3 Legislature, is amended to read as follows:

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

- 10 1. For each defendant convicted of exceeding the speed
11 limit by at least one (1) mile per hour but not
12 more than ten (10) miles per hour, whether
13 charged individually or conjointly with others \$77.00
- 14 2. For each defendant convicted of a misdemeanor traffic
15 violation other than an offense provided for in
16 paragraph 1 or 5 of this subsection, whether
17 charged individually or conjointly with others \$98.00
- 18 3. For each defendant convicted of a misdemeanor, other
19 than for driving under the influence of alcohol or
20 other intoxicating substance or an offense
21 provided for in paragraph 1 or 2 of this subsection,

- 1 whether charged individually or conjointly with
2 others \$93.00
- 3 4. For each defendant convicted of a felony, other than for
4 driving under the influence of alcohol or other
5 intoxicating substance, whether charged
6 individually or conjointly with others \$103.00
- 7 5. For each defendant convicted of the misdemeanor of
8 driving under the influence of alcohol or other
9 intoxicating substance, whether charged individually
10 or conjointly with others \$433.00
- 11 6. For each defendant convicted of the felony of driving
12 under the influence of alcohol or other
13 intoxicating substance, whether charged
14 individually or conjointly with others \$433.00
- 15 7. For the services of a court reporter at each preliminary
16 hearing and trial held in the case \$20.00
- 17 8. For each time a jury is requested..... \$30.00
- 18 9. A sheriff's fee for serving or endeavoring to serve each
19 writ, warrant, order, process, command, or notice
20 or pursuing any fugitive from justice
21 a. within the county..... \$50.00, or

1 mileage as established
2 by the Oklahoma
3 Statutes, whichever is
4 greater, or
5 b. outside of the county \$50.00, or
6 actual, necessary
7 expenses, whichever is
8 greater

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

12 B. In addition to the amount collected pursuant to paragraphs 2 through 6 of
13 subsection A of this section, the sum of Six Dollars (\$6.00) shall be assessed and credited
14 to the Law Library Fund pursuant to Section 1201 et seq. of Title 20 of the Oklahoma
15 Statutes.

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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 of alcohol or other intoxicating substance; the sum of Twenty-five Dollars (\$25.00) shall
2 be assessed and collected in every felony case for each offense; and the sum of Twenty-
3 five Dollars (\$25.00) shall be assessed and collected in every felony case for each offense
4 for driving under the influence of alcohol or other intoxicating substance.

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

9 E. In addition to the amount collected pursuant to paragraphs 1 through 6 of
10 subsection A of this section, the sum of Ten Dollars (\$10.00) shall be assessed and
11 credited to the Sheriff's Service Fee Account in the county in which the conviction
12 occurred for the purpose of enhancing existing or providing additional courthouse
13 security.

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

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

19 1. A court clerk issuing a misdemeanor warrant is entitled to ten percent (10%) of
20 the sheriff's service fee, provided for in paragraph 9 of subsection A of this section,
21 collected on a warrant referred to the contractor for the misdemeanor warrant

1 notification program governed by Sections 514.4 and 514.5 of Title 19 of the Oklahoma
2 Statutes. This ten-percent sum shall be deposited into the issuing Court Clerk's
3 Revolving Fund, created pursuant to Section 220 of Title 19 of the Oklahoma Statutes, of
4 the court clerk issuing the warrant with the balance of the sheriff's service fee to be
5 deposited into the Sheriff's Service Fee Account, created pursuant to the provisions of
6 Section 514.1 of Title 19 of the Oklahoma Statutes, of the sheriff in the county in which
7 service is made or attempted. Otherwise, the sheriff's service fee, when collected, shall
8 be deposited in its entirety into the Sheriff's Service Fee Account of the sheriff in the
9 county in which service is made or attempted;

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

11 3. The witness fees paid by the district attorney pursuant to the provisions of
12 Section 82 of this title which, if collected by the court clerk, shall be transferred to the
13 district attorney's office in the county where witness attendance was required. Fees
14 transferred pursuant to this paragraph shall be deposited in the district attorney's
15 maintenance and operating expense account;

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

18 5. The following amounts of the fees provided for in paragraphs 2, 3, 5 and 6 of
19 subsection A of this section, when collected, shall be deposited in the Trauma Care
20 Assistance Revolving Fund, created pursuant to the provisions of Section 1-2530.9 of
21 Title 63 of the Oklahoma Statutes:

- 1 a. Ten Dollars (\$10.00) of the Ninety-eight-Dollar fee provided for in
- 2 paragraph 2 of subsection A of this section,
- 3 b. Ten Dollars (\$10.00) of the Ninety-three-Dollar fee provided for in
- 4 paragraph 3 of subsection A of this section,
- 5 c. One Hundred Dollars (\$100.00) of the Four-Hundred-Thirty-three-
- 6 Dollar fee provided for in paragraph 5 of subsection A of this section,
- 7 and
- 8 d. One Hundred Dollars (\$100.00) of the Four-Hundred-Thirty-three-
- 9 Dollar fee provided for in paragraph 6 of subsection A of this section.

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

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

17 J. A court clerk may accept in payment for any fee, fine, or cost for violation of any
18 traffic law a nationally recognized credit card or debit card issued to the applicant. The
19 court clerk shall ~~publicly post and~~ not collect a fee for the acceptance of the ~~nationally~~
20 ~~recognized credit or debit card. The court fee shall be set by the Supreme Court of~~
21 ~~Oklahoma each time a fee schedule is promulgated by the Supreme Court of Oklahoma,~~

1 not to exceed five percent (5%) of the amount of the payment. Any other costs or
2 maintenance fees accrued for accepting or using credit or debit cards may be paid from
3 the court fund The court clerk shall absorb any expenses associated with acceptance and
4 verification of the credit or debit card and shall apportion the expenses among the
5 various cost elements associated with accepting the credit or debit card. For purposes of
6 this paragraph, "nationally recognized credit card" means any instrument or device,
7 whether known as a credit card, credit plate, charge plate, or by any other name, issued
8 with or without fee by an issuer for the use of the cardholder in obtaining goods, services,
9 or anything else of value and which is accepted by over one thousand (1,000) merchants
10 in this state. "Debit card" means an identification card or device issued to a person by a
11 business organization which permits such person to obtain access to or activate a
12 consumer banking electronic facility. The court clerk shall determine which nationally
13 recognized credit cards will be accepted as payment for fees; provided, the court clerk
14 must ensure that no loss of state revenue will occur by the use of such cards.

15 K. The Administrative Office of the Courts is authorized to negotiate and organize
16 statewide contacts for the acceptance of credit and debit cards and equipment related
17 thereto.

18 L. Upon receipt of payment of fines and costs for offenses charged prior to July 1,
19 1992, the court clerk shall apportion and pay Thirteen Dollars (\$13.00) per conviction to
20 the court fund.

1 SECTION 5. AMENDATORY 38 O.S. 2001, Section 18, as last amended by
2 Section 1, Chapter 234, O.S.L. 2003 (38 O.S. Supp. 2006, Section 18), is amended to read
3 as follows:

4 Section 18. For the purpose of ascertaining names of all persons qualified for jury
5 service:

6 1. The Commissioner of Public Safety shall cause to be provided to the
7 Administrative Director of the Courts, not later than the first day of October of each
8 year, a list by county of residence of persons who reside in the county, who are eighteen
9 (18) years of age or older, and who are holders of a current driver license or a current
10 identification license issued by the Department of Public Safety. The list shall contain
11 the name, date of birth, and mailing address of each person listed. The list shall be used
12 exclusively for jury selection purposes. The Administrative Director of the Courts and
13 the court clerk shall not copy or permit any person to copy the list or any portion thereof
14 for purposes other than jury selection;

15 2. The Administrator of the Oklahoma Tax Commission shall cause to be provided
16 to the Administrative Director of the Courts, not later than the first day of October of
17 each year, a list of individuals who filed personal state income tax returns for the
18 previous calendar year. The list shall contain the name and mailing address of each
19 person listed. The list shall be used exclusively for jury selection purposes. The
20 Administrative Director of the Courts and the court clerk shall not copy or permit any
21 person to copy the list or any portion thereof for purposes other than jury selection;

1 I, the undersigned, do solemnly swear or affirm that I am a citizen of the United
2 States and a resident of the State of Oklahoma, County of _____. I further swear or
3 affirm that I am eighteen years of age or older.

4 I further swear or affirm that I have not been convicted of a felony for which a
5 period of time equal to the original judgment and sentence has not expired, or for which I
6 have not been pardoned. I further swear or affirm that I am not now adjudicated as
7 being mentally incompetent and that I am not ~~mentally-retarded~~ deficient in mind.

8 _____
9 (Signature or mark of general jury panel member)

10 _____
11 (Signature of court clerk) (Date)

12 B. The oath or affirmation provided for in subsection A of this section shall be
13 administered by the chief judge of the district court or, during ~~his~~ the absence or
14 disability of the chief judge, by some other judge assigned to the district court in the
15 county, and once subscribed to, shall be maintained in the office of the court clerk as a
16 judicial record.

17 SECTION 7. AMENDATORY 38 O.S. 2001, Section 28, as last amended by
18 Section 42, Chapter 1, O.S.L. 2005 (38 O.S. Supp. 2005, Section 28), is amended to read
19 as follows:

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

4 B. All citizens of the United States, residing in this state, having the qualifications
5 of electors of this state, are competent jurors to serve on all grand and petit juries within
6 their counties; provided, that persons over ~~seventy (70)~~ seventy-two (72) years of age and
7 persons who have served as a grand or petit juror during the last two (2) immediately
8 preceding calendar years shall not be compelled to serve as jurors in this state ~~and the~~.

9 C. The court may excuse or discharge any juror drawn and summoned as a grand
10 or petit juror if:

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

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

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

19 ~~After two (2) years, a person excused from jury service shall become eligible once~~
20 ~~again for qualification as a juror unless the person was excused from service~~
21 ~~permanently. A person is excused from jury service permanently only when the deciding~~

1 judge determines that the underlying grounds for being excused are of a permanent
2 nature; or

3 3. The court in its discretion finds good cause to excuse the juror.

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

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

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

7 3. Sheriffs or deputy sheriffs for criminal cases only;

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

9 5. Licensed attorneys engaged in the practice of law;

10 6. Persons who have been convicted of any felony or who have served a term of
11 imprisonment in any penitentiary, state or federal, for the commission of a felony;

12 provided, any such citizen convicted, who has been fully restored to his or her civil rights,
13 shall be eligible to serve as a juror; and

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

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

18 SECTION 8. AMENDATORY 68 O.S. 2001, Section 205, as last amended by
19 Section 1, Chapter 281, O.S.L. 2006 (68 O.S. Supp. 2006, Section 205), is amended to
20 read as follows:

1 Section 205. A. The records and files of the Oklahoma Tax Commission concerning
2 the administration of the Uniform Tax Procedure Code or of any state tax law shall be
3 considered confidential and privileged, except as otherwise provided for by law, and
4 neither the Tax Commission nor any employee engaged in the administration of the Tax
5 Commission or charged with the custody of any such records or files nor any person who
6 may have secured information from the Tax Commission shall disclose any information
7 obtained from the records or files or from any examination or inspection of the premises
8 or property of any person.

9 B. Except as provided in paragraph 26 of subsection C of this section, neither the
10 Tax Commission nor any employee engaged in the administration of the Tax Commission
11 or charged with the custody of any such records or files shall be required by any court of
12 this state to produce any of the records or files for the inspection of any person or for use
13 in any action or proceeding, except when the records or files or the facts shown thereby
14 are directly involved in an action or proceeding pursuant to the provisions of the Uniform
15 Tax Procedure Code or of the state tax law, or when the determination of the action or
16 proceeding will affect the validity or the amount of the claim of the state pursuant to any
17 state tax law, or when the information contained in the records or files constitutes
18 evidence of violation of the provisions of the Uniform Tax Procedure Code or of any state
19 tax law.

20 C. The provisions of this section shall not prevent the Tax Commission from
21 disclosing the following information and no liability whatsoever, civil or criminal, shall

1 attach to any member of the Tax Commission or any employee thereof for any error or
2 omission in the disclosure of such information:

3 1. The delivery to a taxpayer or a duly authorized representative of the taxpayer of
4 a copy of any report or any other paper filed by the taxpayer pursuant to the provisions of
5 the Uniform Tax Procedure Code or of any state tax law;

6 2. The exchange of information that is not protected by the federal Privacy
7 Protection Act, 42 U.S.C., Section 2000aa et seq., pursuant to reciprocal agreements
8 entered into by the Tax Commission and other state agencies or agencies of the federal
9 government;

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

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

14 5. The disclosing of information or evidence to the Oklahoma State Bureau of
15 Investigation, Attorney General, Oklahoma State Bureau of Narcotics and Dangerous
16 Drugs Control, any district attorney, or agent of any federal law enforcement agency
17 when the information or evidence is to be used by such officials to investigate or
18 prosecute violations of the criminal provisions of the Uniform Tax Procedure Code or of
19 any state tax law or of any federal crime committed against this state. Any information
20 disclosed to the Oklahoma State Bureau of Investigation, Attorney General, Oklahoma
21 State Bureau of Narcotics and Dangerous Drugs Control, any district attorney, or agent

1 of any federal law enforcement agency shall be kept confidential by such person and not
2 be disclosed except when presented to a court in a prosecution for violation of the tax
3 laws of this state or except as specifically authorized by law, and a violation by the
4 Oklahoma State Bureau of Investigation, Attorney General, Oklahoma State Bureau of
5 Narcotics and Dangerous Drugs Control, district attorney, or agent of any federal law
6 enforcement agency by otherwise releasing the information shall be a felony;

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

10 7. The furnishing, at the discretion of the Tax Commission, of any information
11 disclosed by its records or files to any official person or body of this state, any other state,
12 the United States, or foreign country who is concerned with the administration or
13 assessment of any similar tax in this state, any other state or the United States. The
14 provisions of this paragraph shall include the furnishing of information by the Tax
15 Commission to a county assessor to determine the amount of gross household income
16 pursuant to the provisions of Section 8C of Article X of the Oklahoma Constitution or
17 Section 2890 of this title. The Tax Commission shall promulgate rules to give guidance
18 to the county assessors regarding the type of information which may be used by the
19 county assessors in determining the amount of gross household income pursuant to
20 Section 8C of Article X of the Oklahoma Constitution or Section 2890 of this title. The

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1 provisions of this paragraph shall also include the furnishing of information to the State
2 Treasurer for the purpose of administration of the Uniform Unclaimed Property Act;

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

5 9. The furnishing of information requested by any member of the general public
6 and stated in the sworn lists or schedules of taxable property of public service
7 corporations organized, existing, or doing business in this state which are submitted to
8 and certified by the State Board of Equalization pursuant to the provisions of Section
9 2858 of this title and Section 21 of Article X of the Oklahoma Constitution, provided such
10 information would be a public record if filed pursuant to Sections 2838 and 2839 of this
11 title on behalf of a corporation other than a public service corporation;

12 10. The furnishing of information requested by any member of the general public
13 and stated in the findings of the Tax Commission as to the adjustment and equalization
14 of the valuation of real and personal property of the counties of the state, which are
15 submitted to and certified by the State Board of Equalization pursuant to the provisions
16 of Section 2865 of this title and Section 21 of Article X of the Oklahoma Constitution;

17 11. The furnishing of information to an Oklahoma wholesaler of low-point beer,
18 licensed under the provisions of Section 163.1 et seq. of Title 37 of the Oklahoma
19 Statutes, of the licensed retailers authorized by law to purchase low-point beer in this
20 state or the furnishing of information to a licensed Oklahoma wholesaler of shipments by
21 licensed manufacturers into this state;

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

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

13 14. The furnishing of information upon written request by any member of the
14 general public as to the outstanding and unpaid amount due and owing by any taxpayer
15 of this state for any delinquent tax, together with penalty and interest, for which a tax
16 warrant or a certificate of indebtedness has been filed pursuant to law;

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

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

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

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

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

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

15 21. The disclosure of information directly involved in the resolution of the protest
16 by a taxpayer to an assessment of tax or additional tax or the resolution of a claim for
17 refund filed by a taxpayer, including the disclosure of the pendency of an administrative
18 proceeding involving such protest or claim, to a person called by the Tax Commission as
19 an expert witness or as a witness whose area of knowledge or expertise specifically
20 addresses the issue addressed in the protest or claim for refund. Such disclosure to a

1 witness shall be limited to information pertaining to the specific knowledge of that
2 witness as to the transaction or relationship between taxpayer and witness;

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

8 23. The furnishing of information regarding incentive payments made pursuant to
9 the provisions of Sections 3601 through 3609 of this title or incentive payments made
10 pursuant to the provisions of Sections 3501 through 3508 of this title;

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

18 25. The furnishing of information as to the amount of state revenue affected by the
19 issuance or granting of any tax permit, license, exemption, deduction, credit or other tax
20 preference by the Tax Commission as provided for by law. Such information shall be
21 limited to the type of permit, license, exemption, deduction, credit or other tax preference

1 issued or granted, the date and duration of such permit, license, exemption, deduction,
2 credit or other tax preference and the amount of such revenue. The provisions of this
3 paragraph shall not authorize the disclosure of the name of the person issued such
4 permit, license, exemption, deduction, credit or other tax preference, or the name of the
5 business entity authorized to engage in business pursuant to the permit, license,
6 exemption, deduction, credit or other tax preference;

7 26. The examination of records and files of a person or entity by the Oklahoma
8 State Bureau of Narcotics and Dangerous Drugs Control pursuant to a court order by a
9 magistrate in whose territorial jurisdiction the person or entity resides, or where the Tax
10 Commission records and files are physically located. Such an order may only be issued
11 upon a sworn application by an agent of the Oklahoma State Bureau of Narcotics and
12 Dangerous Drugs Control, certifying that the person or entity whose records and files are
13 to be examined is the target of an ongoing investigation of a felony violation of the
14 Uniform Controlled Dangerous Substances Act and that information resulting from such
15 an examination would likely be relevant to that investigation. Any records or
16 information obtained pursuant to such an order may only be used by the Oklahoma State
17 Bureau of Narcotics and Dangerous Drugs Control in the investigation and prosecution
18 of a felony violation of the Uniform Controlled Dangerous Substances Act. Any such
19 order issued pursuant to this paragraph, along with the underlying application, shall be
20 sealed and not disclosed to the person or entity whose records were examined, for a
21 period of ninety (90) days. The issuing magistrate may grant extensions of such period

1 upon a showing of good cause in furtherance of the investigation. Upon the expiration of
2 ninety (90) days and any extensions granted by the magistrate, a copy of the application
3 and order shall be served upon the person or entity whose records were examined, along
4 with a copy of the records or information actually provided by the Tax Commission; ~~or~~

5 27. The disclosure of information, as prescribed by this paragraph, which is related
6 to the proposed or actual usage of tax credits pursuant to Section 2357.7 of this title, the
7 Small Business Capital Formation Incentive Act or the Rural Venture Capital Formation
8 Incentive Act. Unless the context clearly requires otherwise, the terms used in this
9 paragraph shall have the same meaning as defined by Section 2357.7, 2357.61 or 2357.72
10 of this title. The disclosure of information authorized by this paragraph shall include:

- 11 a. the legal name of any qualified venture capital company, qualified
12 small business capital company, or qualified rural small business
13 capital company,
- 14 b. the identity or legal name of any person or entity that is a shareholder
15 or partner of a qualified venture capital company, qualified small
16 business capital company, or qualified rural small business capital
17 company,
- 18 c. the identity or legal name of any Oklahoma business venture,
19 Oklahoma small business venture, or Oklahoma rural small business
20 venture in which a qualified investment has been made by a capital
21 company, or

1 d. the amount of funds invested in a qualified venture capital company,
2 the amount of qualified investments in a qualified small business
3 capital company or qualified rural small business capital company and
4 the amount of investments made by a qualified venture capital
5 company, qualified small business capital company, or qualified rural
6 small business capital company; or

7 28. The disclosure of information required in order to comply with the provisions of
8 Section 18 of Title 38 of the Oklahoma Statutes.

9 D. The Tax Commission shall cause to be prepared and made available for public
10 inspection in the office of the Tax Commission in such manner as it may determine an
11 annual list containing the name and post office address of each person, whether
12 individual, corporate, or otherwise, making and filing an income tax return with the Tax
13 Commission.

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

17 E. The Tax Commission shall prepare or cause to be prepared a report on all
18 provisions of state tax law that reduce state revenue through exclusions, deductions,
19 credits, exemptions, deferrals or other preferential tax treatments. The report shall be
20 prepared not later than October 1 of each even-numbered year and shall be submitted to
21 the Governor, the President Pro Tempore of the Senate and the Speaker of the House of

1 Representatives. The Tax Commission may prepare and submit supplements to the
2 report at other times of the year if additional or updated information relevant to the
3 report becomes available. The report shall include, for the previous fiscal year, the Tax
4 Commission's best estimate of the amount of state revenue that would have been
5 collected but for the existence of each such exclusion, deduction, credit, exemption,
6 deferral or other preferential tax treatment allowed by law. The Tax Commission may
7 request the assistance of other state agencies as may be needed to prepare the report.
8 The Tax Commission is authorized to require any recipient of a tax incentive or tax
9 expenditure to report to the Tax Commission such information as requested so that the
10 Tax Commission may provide the information to the Incentive Review Committee or
11 fulfill its obligations as required by this subsection. The Tax Commission may require
12 this information to be submitted in an electronic format. The Tax Commission may
13 disallow any claim of a person for a tax incentive due to its failure to file a report as
14 required under the authority of this subsection. The Tax Commission may consult with
15 the Incentive Review Committee to develop a reporting system to obtain the information
16 requested in a manner that is the least burdensome on the taxpayer.

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

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

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

12 SECTION 9. This act shall become effective July 1, 2007.

13 SECTION 10. It being immediately necessary for the preservation of the public
14 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
15 this act shall take effect and be in full force from and after its passage and approval.

16 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY,
17 dated 03-01-07 - DO PASS, As Amended and Coauthored.

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