(1ST EXTRAORDINARY SESSION)
ENROLLED SENATE
BILL NO. 1

BY: FISHER, BROWN, COLE, LEFTWICH, CAIN, WEEDN, DICKERSON, MICKLE, WILKERSON and HERBERT of the SENATE

and

JOHNSON (Glen), BENSON, HAMILTON (James), McCORKELL, RICE, APPLE, CAMPBELL, COLEMAN, FALLIN, FERGUSON, GATES, GLOVER, GRAVES, HAMILTON (Jeff), HEATON, HENSHAW, HOLT, HUDSON, KOUBA, LARASON, MADDUX (Elmer), SEIKEL, STEIDLEY, SULLIVAN, VAUGHN (Ray), VEITCH, VOSKUHL, WEAVER, WEESE and WORTHEN of the HOUSE

AN ACT RELATING TO AIRCRAFT AND AIRPORTS, PUBLIC BUILDINGS AND PUBLIC WORKS AND REVENUE AND TAXATION; AMENDING 68 O.S. 1981, SECTIONS 1355, AS LAST AMENDED BY SECTION 1, CHAPTER 113, O.S.L. 1990, 1357, AS LAST AMENDED BY SECTION 4 OF ENROLLED HOUSE BILL NO. 1001 OF THE 1ST EXTRAORDINARY SESSION OF THE 43RD OKLAHOMA LEGISLATURE, SECTIONS 2 AND 3, CHAPTER 190, O.S.L. 1988, AS AMENDED BY SECTIONS 15 AND 16, CHAPTER 281, O.S.L. 1988, SECTIONS 2357.4, AS LAST AMENDED BY SECTION 10, CHAPTER 228, O.S.L. 1987 AND 2358, AS LAST AMENDED BY SECTION 39, CHAPTER 249, O.S.L. 1989, SECTION 5, CHAPTER 162, O.S.L. 1988, AS AMENDED BY SECTION 73, CHAPTER 346, O.S.L. 1989 AND SECTION 4, CHAPTER 138, O.S.L. 1984, AS LAST AMENDED BY SECTION 8, CHAPTER 41, O.S.L. 1986 (68 O.S. SUPP. 1990, SECTIONS 1355, 1357.1, 1404.2,

2357.4, 2358, 2805 AND 6003), WHICH RELATE TO SALES, USE, INCOME, AD VALOREM AND AIRCRAFT EXCISE TAXES; REQUIRING AIRCRAFT MANUFACTURER PAY REGISTRATION FEE ON CERTAIN AIRCRAFT AND PERSONAL PROPERTY TO OKLAHOMA TAX COMMISSION TO BE REMITTED TO COUNTY FOR CERTAIN PURPOSES; REQUIRING FEE BE APPORTIONED IN SAME MANNER AS APPORTIONMENT OF AD VALOREM TAXES; DEFINING TERM TO BE USED IN CERTAIN CALCULATION; REQUIRING CERTAIN REPORTS BE SUBMITTED TO TAX COMMISSION; PROVIDING PENALTY; MODIFYING CERTAIN SALES TAX EXEMPTION; EXEMPTING CERTAIN CONTRACTS FROM COMPETITIVE BIDDING; EXEMPTING FROM SALES TAX SALES OF CERTAIN EQUIPMENT AND SERVICES USED IN AIRCRAFT MAINTENANCE OR MANUFACTURING FACILITY, DEFINING TERM AND PROVIDING QUALIFICATION; EXEMPTING FROM SALES TAX CERTAIN SALES OF TANGIBLE PERSONAL PROPERTY USED IN AIRCRAFT MAINTENANCE OR MANUFACTURING FACILITY AND CONSTRUING CERTAIN LANGUAGE; EXEMPTING FROM SALES TAX SALES OF CERTAIN REPAIR EQUIPMENT AND SUBSTANCES USED BY AN AIRCRAFT MAINTENANCE FACILITY WHICH MEETS CERTAIN CRITERIA AND MAKING EXEMPTION NULL AND VOID UNLESS CERTAIN CONDITION IS MET; CONFORMING LANGUAGE; PROVIDING FOR SALES TAX AND USE TAX REFUNDS FOR QUALIFIED PURCHASERS OF CERTAIN EQUIPMENT AND SERVICES AND TANGIBLE PERSONAL PROPERTY; PROVIDING FOR SEPARATE ACCOUNTS FOR REFUNDS, FOR LIMITS ON REFUNDS AND FOR INTEREST ACCRUAL AND INTEREST RATE DETERMINATION; REQUIRING CERTAIN DOCUMENTATION BE FILED WITH TAX COMMISSION; STATING CRITERIA FOR ELIGIBILITY FOR REFUNDS; REQUIRING CERTAIN CERTIFICATION BE FILED WITH TAX

COMMISSION; EXTENDING CERTAIN INCOME TAX CREDIT AND ADDING ELIGIBLE FACILITIES; ALLOWING CERTAIN OPTION FOR DETERMINING OKLAHOMA TAXABLE INCOME FOR COMMERCIAL AIRLINE OPERATING AIRCRAFT MAINTENANCE FACILITY, DEFINING TERMS AND MAKING OPTION NULL AND VOID UNLESS CERTAIN CONDITION IS MET; CLARIFYING LANGUAGE; EXEMPTING CERTAIN AIRCRAFT WITH CERTAIN SELLING PRICE FROM AIRCRAFT EXCISE TAX; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 256.2 of Title 3, unless there is created a duplication in numbering, reads as follows:

A. Each manufacturer of aircraft shall pay a registration fee of Two Hundred Fifty Dollars ($250.00) on each aircraft in the process of manufacture, whether or not on a factory basis, including assembly and subassembly, and the personal property used or consumed therein, which, when completed, shall be the subject of a Federal Aviation Administration-approved type certificate. Such fee shall be paid by the manufacturer to the Oklahoma Tax Commission. The Tax Commission shall remit such fee to the county treasurer of the county in which the manufacturing facility is located to be apportioned in the same manner that ad valorem taxes are apportioned.

B. In calculating the number of aircraft in the process of manufacture, "personal property used or consumed therein" shall include personal property which:

1. Is or is to be used or consumed as part of an aircraft in the process of manufacture; and

2. Is held by the manufacturer or by a supplier physically located in this state who has entered into a contract with the manufacturer for the provision of such personal property.

C. The manufacturer shall submit to the Tax Commission and to the county assessor of the county in which the manufacturing facility is located a report which provides documentation of the personal property, the value thereof and the Oklahoma supplier thereof which is or is to be used or consumed in the process of manufacture for each aircraft registered pursuant to the provisions of this section. Each such Oklahoma supplier shall also submit to the Tax Commission and to the county assessor of the county in which the supplier is located a report which provides documentation of any personal property, the value thereof and the manufacturer thereof which is used or consumed in the process of manufacture for each aircraft registered pursuant to the provisions of this section. Such reports shall contain any further information which may be

required by the Tax Commission or the county assessor to enforce the provisions of this section and the Ad Valorem Tax Code, Section 2801 et seq. of Title 68 of the Oklahoma Statutes.

D. Any manufacturer or supplier who willfully violates the provisions of this section shall be guilty of a misdemeanor and shall be punishable by a fine not exceeding Five Thousand Dollars ($5,000.00). In addition to such penalty a manufacturer or supplier convicted of a violation of this section shall not be eligible to pay the registration fee as provided by this section and shall be subject to the provisions of the Ad Valorem Tax Code, Section 2801 et seq. of Title 68 of the Oklahoma Statutes.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 103.3 of Title 61, unless there is created a duplication in numbering, reads as follows:

For purposes of the provisions of subsection (g) of Section 176 of Title 60 of the Oklahoma Statutes and the provisions of the Public Competitive Bidding Act of 1974, Section 101 et seq. of Title 61 of the Oklahoma Statutes, contracts for construction, labor, equipment, material or repairs for an aircraft maintenance or manufacturing facility, whose total cost of construction exceeds the sum of One Hundred Fifty Million Dollars ($150,000,000.00) and which employs at least one thousand (1,000) full-time-equivalent employees upon completion of the facility, shall not be considered to be public construction contracts and shall not be required to be open for competitive bidding.

SECTION 3. AMENDATORY 68 O.S. 1981, Section 1355, as last amended by Section 1, Chapter 113, O.S.L. 1990 (68 O.S. Supp. 1990, 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 this article:

(A) Sale of gasoline or motor fuel on which the Motor Fuel Tax, Gasoline Excise Tax, or Special Fuels Tax levied in Article 5, 6, or 7 of this title has been, or will be paid;

(B) Sale of motor vehicles or any optional equipment or accessories attached to motor vehicles on which the Oklahoma Motor Vehicle Excise Tax levied in Article 21 of this title has been, or will be paid;

(C) Sale of crude petroleum or natural or casinghead gas and other products subject to gross production tax pursuant to the provisions of Articles 10 and 11 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 subsection shall not operate to increase or repeal the gross production tax levied by the laws of this state;

(D) Sale of aircraft on which the tax levied pursuant to the provisions of Sections 6001 through 6004 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. Provided that the provisions of this paragraph shall not become operative until July 1, 1984;

(E) Sales from coin-operated devices on which the fee imposed by Sections 1501 through 1513 of this title has been paid; and

(F) Leases of twenty-four (24) 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. Provided any such lease exempt from the tax levied pursuant to the provisions of this article which is terminated prior to the expiration of the original term shall be subject to the tax levied by this article in an amount equal to the amount of tax which would have been due without the exemption plus a penalty of twenty percent (20%) of the principal amount of tax which would have been due; provided, however, the

penalty provided by this subsection shall not apply if the original lessee acquires title to the leased vehicle within the original term of the lease.

SECTION 4. AMENDATORY 68 O.S. 1981, Section 1357, as last amended by Section 4 of Enrolled House Bill No. 1001 of the 1st Extraordinary Session of the 43rd Oklahoma Legislature, is amended to read as follows:

Section 1357. Exemption - General.

There are hereby specifically exempted from the tax levied by this article:

(A) Transportation of school pupils to and from elementary schools or high schools in motor or other vehicles;

(B) Transportation of persons where the fare of each person does not exceed One Dollar ($1.00), or local transportation of persons within the corporate limits of a municipality except by taxicabs;

(C) Sales for resale to persons engaged in the business of reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made to persons to whom sales tax permits have been issued as provided in this article. This exemption shall not apply to the sales of articles made to persons holding permits when such persons purchase items for their use and which they are not regularly engaged in the business of reselling; neither shall this exemption apply to sales of tangible personal property to peddlers, solicitors and other salesmen who do not have an established place of business and a sales tax permit. The exemption provided by this subsection shall apply to sales of motor fuel or diesel fuel to a Group Five vendor, but the use of such motor fuel or diesel fuel by the Group Five vendor shall not be exempt from the tax levied by this article. The purchase of motor fuel or diesel fuel is exempt from sales tax when the motor fuel is for shipment outside this state and consumed by a common carrier by rail in the conduct of its business. The sales tax shall apply to the purchase of motor fuel or diesel fuel in Oklahoma by a common carrier by rail when such motor fuel is purchased for fueling, within this state, of any locomotive or other motorized flanged wheel equipment;

(D) Sales of advertising space in newspapers and periodicals and billboard advertising service, and any advertising through the electronic media, including radio, television and cable television;

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

(F) Sale of natural or artificial gas and electricity when sold exclusively for residential use after December 31, 1980. Provided, nothing herein shall be construed as limiting or prohibiting cities and towns, and counties levying a tax pursuant to the provisions of Section 5 of Enrolled House Bill No. 1001 of the 1st Extraordinary Session of the 43rd Oklahoma Legislature, from levying and collecting taxes on the sale of natural or artificial gas and electricity. Provided further, any sales tax levied by a city or town, or a county levying a tax pursuant to the provisions of

Section 5 of Enrolled House Bill No. 1001 of the 1st Extraordinary Session of the 43rd Oklahoma Legislature, on natural or artificial gas and electricity shall be in effect regardless of ordinance or contractual provisions referring to previously imposed state sales tax on such items;

(G) Sales of medicines or drugs prescribed for the treatment of human beings by a person licensed to prescribe the medicines or drugs. Provided, this exemption shall not apply to proprietary or patent medicines as defined by Section 353.1 of Title 59 of the Oklahoma Statutes;

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

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

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

(K) Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment to a new or expanding business. In order to qualify for the exemption provided for by this subsection, the sale of said items shall equal or exceed the sum of Two Million Dollars ($2,000,000.00). For purposes of this subsection, qualified purchaser means any new or expanding business which adds at least one hundred (100) new full-time-equivalent employees, as certified by the Employment Security Commission. Only sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment made within thirty-six (36) months of the effective date of this act shall be eligible for the exemption provided by this subsection;

(L) Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment for use in a qualified aircraft maintenance or manufacturing facility. For purposes of this subsection, "qualified aircraft maintenance or manufacturing facility" means a new or expanding facility primarily engaged in aircraft repair, building or rebuilding whether or not on a factory basis, whose total cost of construction exceeds the sum of Five Million Dollars ($5,000,000.00) and which employs at least two hundred fifty (250) new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, upon completion of the facility. In order to qualify for the exemption provided for by this subsection, the cost of said items purchased by the qualified aircraft maintenance or manufacturing facility shall equal or exceed the sum of Two Million Dollars ($2,000,000.00);

(M) Sales of tangible personal property consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility as defined in subsection (L) of this section. For purposes of this subsection, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a qualified aircraft maintenance or manufacturing facility for construction or expansion

of such a facility shall be considered sales made to a qualified aircraft maintenance or manufacturing facility; and

(N) Effective July 1, 1993, and thereafter, sales of repair machinery, repair equipment and repair parts, and fuel, oil, lubricants and other substances used for the operation and maintenance of such repair machinery, repair equipment and repair parts, all of which are to be used directly within a nongovernmental aircraft maintenance facility which is primarily engaged in aircraft repair, building or rebuilding whether or not on a factory basis and:

1. Which has been certified by the Oklahoma Employment Security Commission as employing at least two thousand (2,000) full-time-equivalent employees; or

2. Whose total cost of construction exceeds the sum of Five Million Dollars ($5,000,000.00) and which employs at least two hundred fifty (250) new full-time-equivalent employees and which is owned or leased by an aircraft manufacturing facility which employs at least two thousand (2,000) full-time-equivalent employees in this state as certified by the Oklahoma Employment Security Commission.

Provided, the provisions of this subsection shall be null and void unless and until there are two (2) or more such facilities located in this state.

SECTION 5. AMENDATORY Section 2, Chapter 190, O.S.L. 1988, as amended by Section 15, Chapter 281, O.S.L. 1988 (68 O.S. Supp. 1990, Section 1357.1), is amended to read as follows:

Section 1357.1 A. In order to administer the exemption for sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto to a qualified purchaser as provided by subsection (K) of Section 1357 of this title, there shall be made a sales tax refund for state and local sales taxes paid by a qualified purchaser for the purchase of said items.

B. The Oklahoma Tax Commission shall transfer each month from sales tax collected the amount which the Commission estimates to be necessary to make the sales tax refund provided by this section to an account designated as the Commission determines. The authority for the account authorized by this subsection shall cease to have the force and effect of law upon December 31, 1993.

C. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local sales taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified purchaser of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto upon the principal amount of any refund made to such purchaser for purposes of administering the exemption provided by subsection (K) of Section 1357 of this title shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-months Treasury Bill of the United States government as of the first working day of the month and such interest shall accrue upon any amount transferred during the month and upon the amounts previously transferred to the account together with interest previously accrued upon such amounts.

D. The qualified purchaser of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto shall file, not later than December 31, 1991, with the Oklahoma Tax Commission the following documentation for any refund claimed:

1. Invoices indicating the amount of state and local sales tax paid;

2. Affidavit of each vendor that state and local sales tax billed to the purchaser has not been audited, rebated, or refunded to the purchaser but rather the sales tax charged has been collected by the vendor and remitted to the Oklahoma Tax Commission; and

3. All additional documentation required to be submitted pursuant to rules promulgated by the Oklahoma Tax Commission.

E. Only sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment may qualify for the refund established by this section, provided the total cost of said equipment equals or exceeds the sum of Two Million Dollars ($2,000,000.00) and occurs within thirty-six (36) months of the effective date of this act.

F. The qualified purchaser shall file, not later than June 1, 1993, with the Oklahoma Tax Commission a certification issued by the Employment Security Commission in order to qualify for the refund authorized by this section.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1357.4 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. In order to administer the exemption for sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto to a qualified purchaser as provided by subsection (L) of Section 1357 of Title 68 of the Oklahoma Statutes, as amended by Section 4 of this act, there shall be made a sales tax refund for state and local sales taxes paid by a qualified purchaser for the purchase of said items.

B. The Oklahoma Tax Commission shall transfer each month from sales tax collected the amount which the Commission estimates to be necessary to make the sales tax refund provided by this section to an account designated as the Commission determines.

C. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local sales taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified purchaser of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto upon the principal amount of any refund made to such purchaser for purposes of administering the exemption provided by subsection (L) of Section 1357 of Title 68 of the Oklahoma Statutes, as amended by Section 4 of this act, shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-months Treasury Bill of the United States government as of the first working day of the month and such interest shall accrue upon any amount transferred during the month and upon the amounts previously transferred to the account together with interest previously accrued upon such amounts.

D. The qualified purchaser of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto shall file, within thirty-six (36) months of the date of purchase, with the Oklahoma Tax Commission, the following documentation for any refund claimed:

1. Invoices indicating the amount of state and local sales tax paid;

2. Affidavit of each vendor that state and local sales tax billed to the purchaser has not been audited, rebated, or refunded

to the purchaser but rather the sales tax charged has been collected by the vendor and remitted to the Oklahoma Tax Commission; and

3. All additional documentation required to be submitted pursuant to rules promulgated by the Oklahoma Tax Commission.

E. Only sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment may qualify for the refund established by this section, provided the total cost of said equipment equals or exceeds the sum of Two Million Dollars ($2,000,000.00) and occurs after the effective date of this act.

F. The qualified purchaser shall file, within sixty (60) months of the date of the first purchase, with the Oklahoma Tax Commission a certification issued by the Oklahoma Employment Security Commission in order to qualify for the refund authorized by this section.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1357.5 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. In order to administer the exemption for sales to a qualified aircraft maintenance or manufacturing facility as provided by subsection (M) of Section 1357 of Title 68 of the Oklahoma Statutes, as amended by Section 4 of this act, there shall be made a sales tax refund for state and local sales taxes paid by a qualified purchaser for tangible personal property purchased to be consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility, as defined in subsection (L) of Section 1357 of Title 68 of the Oklahoma Statutes, as amended by Section 4 of this act, in the state from the account created by this section.

B. The Oklahoma Tax Commission shall transfer each month from sales tax collected the amount which the Commission estimates to be necessary to make the sales tax refund provided by this section to an account designated as the Commission determines.

C. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local sales taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified aircraft maintenance or manufacturing facility upon the principal amount of any refund made to such facility for purposes of administering the exemption provided by subsection (M) of Section 1357 of Title 68 of the Oklahoma Statutes, as amended by Section 4 of this act, shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-month Treasury Bill of the United States government as of the first working day of the month in which the transfer is made. The interest rate so determined shall accrue upon the amount transferred to the account. In each subsequent month, the Commission shall determine the interest rate paid for a three-month Treasury Bill of the United States government as of the first working day of the month and such interest rate shall accrue upon any amount transferred during the month and upon the amounts previously transferred to the account together with interest previously accrued upon such amounts.

D. For purposes of this section, state and local sales taxes paid by a contractor or subcontractor for tangible personal property purchased by that contractor or subcontractor to be consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility pursuant to a contract with a qualified facility shall, upon proper showing, be refunded to the qualified facility.

E. The qualified purchaser shall file, within thirty-six (36) months of the date of purchase, with the Oklahoma Tax Commission the following documentation for any refund claimed:

1. Invoices indicating the amount of state and local sales tax billed;

2. Affidavit of each vendor that state and local sales tax billed has not been audited, rebated, or refunded to the qualified purchaser but rather the sales tax charged has been collected by the vendor and remitted to the Oklahoma Tax Commission; and

3. All additional documentation required to be submitted pursuant to rules promulgated by the Oklahoma Tax Commission.

F. In the event that state and local sales tax was paid by a contractor or subcontractor, the qualified purchaser shall file with the Oklahoma Tax Commission all documentation required in subsection E of this section but in lieu of the affidavit of each vendor the qualified facility shall file, for any refund claimed, an affidavit from the contractor or subcontractor stating that the sales tax refund of the qualified purchaser is based on state and local sales tax paid by the contractor or subcontractor on tangible personal property purchased to be consumed or incorporated in the construction or expansion of a qualified aircraft maintenance facility and that the amount of state and local sales tax claimed was paid to the vendor and no credit, refund, or rebate has been claimed by the contractor or subcontractor.

G. Only sales of tangible personal property made after the effective date of this act, shall be eligible for the refund established by this section.

H. The qualified purchaser shall file, within sixty (60) months of the date of the first purchase, with the Oklahoma Tax Commission a certification issued by the Oklahoma Employment Security Commission in order to qualify for the refund authorized by this section.

SECTION 8. AMENDATORY Section 3, Chapter 190, O.S.L. 1988, as amended by Section 16, Chapter 281, O.S.L. 1988 (68 O.S. Supp. 1990, Section 1404.2), is amended to read as follows:

Section 1404.2 A. In order to administer the exemption for sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto to a qualified purchaser as provided by subsection (K) of Section 1357 of this title as applicable to the use tax imposed by law, there shall be made a use tax refund for state and local taxes paid by a qualified purchaser for the purchase of such items.

B. The Oklahoma Tax Commission shall transfer each month from use tax collected the amount which the Commission estimates to be necessary to make the use tax refund provided by this section to an account designated as the Commission determines.

C. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local use taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified purchaser of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto upon the principal amount of any refund made to such purchaser for purposes of administering the exemption provided by subsection (K) of Section 1357 of this title shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-months Treasury Bill of the United States government as of the first working day of the month and such

interest rate shall accrue upon any amount transferred during the month and upon the amounts previously transferred to the account together with interest previously accrued upon such amounts.

D. The qualified purchaser of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto shall file with the Oklahoma Tax Commission the following documentation for any refund claimed:

1. Affidavit of the purchaser that the amount of use tax claimed has been remitted to the State of Oklahoma and that no refund of the use tax paid has previously been requested;

2. In cases where the purchaser remitted the use tax to its vendor, invoices indicating the amount of state and local use tax paid and affidavit of each vendor that state and local use tax billed to the purchaser has not been audited, rebated, or refunded to the purchaser but rather the use tax charged has been collected by the vendor and remitted to the Oklahoma Tax Commission; and

3. All additional documentation required to be submitted pursuant to rules promulgated by the Oklahoma Tax Commission.

E. Only sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment may qualify for the refund established by this section, provided the total cost of said equipment equals or exceeds the sum of Two Million Dollars ($2,000,000.00) and occurs within thirty-six (36) months of the effective date of this act.

F. The qualified purchaser shall file, not later than June 1, 1993, with the Oklahoma Tax Commission a certification issued by the Employment Security Commission in order to qualify for the refund authorized by this section.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1404.3 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. In order to administer the exemption for sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto to a qualified purchaser as provided by subsection (L) of Section 1357 of Title 68 of the Oklahoma Statutes, as amended by Section 4 of this act, as applicable to the use tax imposed by law, there shall be made a use tax refund for state and local taxes paid by a qualified purchaser for the purchase of such items.

B. The Oklahoma Tax Commission shall transfer each month from use tax collected the amount which the Commission estimates to be necessary to make the use tax refund provided by this section to an account designated as the Commission determines.

C. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local use taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified purchaser of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto upon the principal amount of any refund made to such purchaser for purposes of administering the exemption provided by subsection (L) of Section 1357 of Title 68 of the Oklahoma Statutes, as amended by Section 4 of this act, shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-months Treasury Bill of the United States government as of the first working day of the month and such interest rate shall accrue upon any amount transferred during the month and upon the

amounts previously transferred to the account together with interest previously accrued upon such amounts.

D. The qualified purchaser of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto shall file, within thirty-six (36) months of the date of purchase, with the Oklahoma Tax Commission the following documentation for any refund claimed:

1. Affidavit of the purchaser that the amount of use tax claimed has been remitted to the State of Oklahoma and that no refund of the use tax paid has previously been requested;

2. In cases where the purchaser remitted the use tax to its vendor, invoices indicating the amount of state and local use tax paid and affidavit of each vendor that state and local use tax billed to the purchaser has not been audited, rebated, or refunded to the purchaser but rather the use tax charged has been collected by the vendor and remitted to the Oklahoma Tax Commission; and

3. All additional documentation required to be submitted pursuant to rules promulgated by the Oklahoma Tax Commission.

E. Only sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment may qualify for the refund established by this section, provided the total cost of said equipment equals or exceeds the sum of Two Million Dollars ($2,000,000.00) and occurs after the effective date of this act.

F. The qualified purchaser shall file, within sixty (60) months of the date of the first purchase, with the Oklahoma Tax Commission a certification issued by the Oklahoma Employment Security Commission in order to qualify for the refund authorized by this section.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1404.4 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. In order to administer the exemption for sales to a qualified aircraft maintenance or manufacturing facility as provided by subsection (M) of Section 1357 of Title 68 of the Oklahoma Statutes, as amended by Section 4 of this act, as applicable to the use tax imposed by law, there shall be made a use tax refund for state and local taxes paid by a qualified purchaser for tangible personal property purchased to be consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility in the state from the account created by this section.

B. The Oklahoma Tax Commission shall transfer each month from use tax collected the amount which the Commission estimates to be necessary to make the use tax refund provided by this section to an account designated as the Commission determines.

C. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local use taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified aircraft maintenance or manufacturing facility upon the principal amount of any refund made to such facility for purposes of administering the exemption provided by subsection (M) of Section 1357 of Title 68 of the Oklahoma Statutes, as amended by Section 4 of this act, shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-month Treasury Bill of the United States government as of the first working day of the month in which the transfer is made. The interest rate so determined shall accrue

upon the amount transferred to the account. In each subsequent month, the Commission shall determine the interest rate paid for a three-month Treasury Bill of the United States government as of the first working day of the month and such interest rate shall accrue upon any amount transferred during the month and upon the amounts previously transferred to the account together with interest previously accrued upon such amounts.

D. For purposes of this section, state and local use taxes paid by a contractor or subcontractor for tangible personal property purchased by that contractor or subcontractor to be consumed or incorporated in the construction of a qualified aircraft maintenance or manufacturing facility pursuant to a contract with a qualified facility shall, upon proper showing, be refunded to the qualified facility.

E. The qualified facility shall file, within thirty-six (36) months of the date of purchase, with the Oklahoma Tax Commission the following documentation for any refund claimed:

1. Invoices indicating the amount of state and local use tax billed;

2. Affidavit of each vendor that state and local use tax billed has not been audited, rebated, or refunded to the qualified facility but rather the use tax charged has been collected by the vendor and remitted to the Oklahoma Tax Commission; and

3. All additional documentation required to be submitted pursuant to rules promulgated by the Oklahoma Tax Commission.

F. In the event that state and local use tax was paid by a contractor or subcontractor, the qualified purchaser shall file with the Oklahoma Tax Commission all documentation required in subsection E of this section but in lieu of the affidavit of each vendor the qualified facility shall file, for any refund claimed, an affidavit from the contractor or subcontractor stating that the use tax refund of the qualified purchaser is based on state and local use tax, paid by the contractor or subcontractor on tangible personal property purchased to be consumed or incorporated in the construction of a qualified aircraft maintenance or manufacturing facility and that the amount of the state and local use tax claimed was paid to the vendor and no credit, refund, or rebate has been claimed by the contractor or subcontractor.

G. Only sales of tangible personal property made after the effective date of this act shall be eligible for the refund established by this section.

H. The qualified facility shall file, within sixty (60) months of the date of the first purchase, with the Oklahoma Tax Commission, a certification issued by the Oklahoma Employment Security Commission in order to qualify for the refund authorized by this section.

SECTION 11. AMENDATORY 68 O.S. 1981, Section 2357.4, as last amended by Section 10, Chapter 228, O.S.L. 1987 (68 O.S. Supp. 1990, Section 2357.4), is amended to read as follows:

Section 2357.4 A. For taxable years beginning after December 31, 1987, and ending before January 1, 2003, there shall be allowed a credit against the tax imposed by Section 2355 of this title for investment in qualified depreciable property placed in service during those years for use in a manufacturing or processing facility or a qualified aircraft maintenance or manufacturing facility as defined in subsection (L) of Section 1357 of this title, as amended by Section 4 of this act, in this state or for a net increase in the number of full-time-equivalent employees engaged in manufacturing, processing or aircraft maintenance in this state including employees engaged in support services.

B. The credit provided for in subsection A of this section, if based upon investment in qualified depreciable property, shall not be allowed unless the investment in qualified depreciable property

is at least Fifty Thousand Dollars ($50,000.00) and shall not be allowed if such investment causes a decrease in the number of full-time-equivalent employees. Qualified property shall be limited to machinery, fixtures, equipment, buildings or substantial improvements thereto, placed in service in this state during the taxable year. The taxable years for which the credit may be allowed if based upon investment in qualified depreciable property shall be measured from the year in which the qualified property is placed in service. If the credit provided for in subsection A of this section is calculated on the basis of one percent (1%) of the cost of the qualified property, the credit shall be allowed in each of the four (4) subsequent years. If the qualified property on which a credit has previously been allowed is acquired from a related party, the date such property is placed in service by the transferor shall be considered to be the date such property is placed in service by the transferee, for purposes of determining the aggregate number of years for which credit may be allowed.

C. The credit provided for in subsection A of this section, if based upon an increase in the number of full-time-equivalent employees, shall be allowed in each of the four (4) subsequent years only if the level of new employees is maintained in the subsequent year. In calculating the credit by the number of new employees, only those employees whose paid wages or salary were at least Seven Thousand Dollars ($7,000.00) during each year the credit is claimed shall be included in the calculation. The number of new employees shall be determined by comparing the monthly average number of full-time employees subject to Oklahoma income tax withholding for the final quarter of the taxable year with the corresponding period of the prior taxable year, as substantiated by such reports as may be required by the Tax Commission.

D. The credit allowed by subsection A of this section shall be the greater amount of either one percent (1%) of the cost of the qualified property in the year the property is placed in service or Five Hundred Dollars ($500.00) for each new employee. No credit shall be allowed in any taxable year for a net increase in the number of full-time-equivalent employees if such increase is a result of an investment in qualified depreciable property for which an income tax credit has been allowed as authorized by this section.

E. Any credits allowed but not used in any taxable year may be carried over in order to each of the four (4) years following the year of qualification and to the extent not used in those years in order to each of the five (5) years following the initial five-year period.

F. The Oklahoma Tax Commission, on or before January 31 of each year, shall submit a report regarding the credit authorized by this section to both houses of the Oklahoma Legislature. Such report shall summarize the total amount of credits claimed and likely to be claimed and allowed under this section.

SECTION 12. AMENDATORY 68 O.S. 1981, Section 2358, as last amended by Section 39, Chapter 249, O.S.L. 1989 (68 O.S. Supp. 1990, Section 2358), is amended to read as follows:

Section 2358. For all tax years beginning after December 31, 1981, taxable income and adjusted gross income shall be adjusted to arrive at Oklahoma taxable income and Oklahoma adjusted gross income as required by this section.

A. The taxable income of any taxpayer shall be adjusted to arrive at Oklahoma taxable income for corporations and Oklahoma adjusted gross income for individuals, as follows:

1. There shall be added interest income on obligations of any state or political subdivision thereto which is not otherwise exempted pursuant to other laws of this state, to the extent that said interest is not included in taxable income and adjusted gross income.

2. There shall be deducted amounts included in such income that the state is prohibited from taxing because of the provisions of the Federal Constitution, the State Constitution, federal laws or laws of Oklahoma.

3. The amount of any federal net operating loss deduction shall be adjusted as follows:

a. For carryovers and carrybacks to taxable years beginning before January 1, 1981, the amount of any net operating loss deduction allowed to a taxpayer for federal income tax purposes shall be reduced to an amount which is the same portion thereof as the loss from sources within this state, as determined pursuant to this section and Section 2362 of this title, for the taxable year in which such loss is sustained is of the total loss for such year;

b. For carryovers and carrybacks to taxable years beginning after December 31, 1980, the amount of any net operating loss deduction allowed for the taxable year shall be an amount equal to the aggregate of the Oklahoma net operating loss carryovers and carrybacks to such year. Oklahoma net operating losses shall be separately determined by reference to Section 172 of the Internal Revenue Code as modified by the Oklahoma Income Tax Act and shall be allowed without regard to the existence of a federal net operating loss. The years to which such losses may be carried shall be determined by reference to Section 172 of the Internal Revenue Code, except that losses which are not actually utilized shall not reduce the carryover.

4. Items of the following nature shall be allocated as indicated. Allowable deductions attributable to items separately allocable in subparagraphs a, b and c of this paragraph, whether or not such items of income were actually received, shall be allocated on the same basis as those items:

a. Income from real and tangible personal property, such as rents, oil and mining production or royalties, and gains or losses from sales of such property, shall be allocated in accordance with the situs of such property;

b. Income from intangible personal property, such as interest, dividends, patent or copyright royalties, and gains or losses from sales of such property, shall be allocated in accordance with the domiciliary situs of the taxpayer, except that:

(1) where such property has acquired a nonunitary business or commercial situs apart from the domicile of the taxpayer such income shall be allocated in accordance with such business or commercial situs; a resident trust or resident estate shall be treated as having a separate commercial or business situs insofar as undistributed income is concerned, but shall not be treated as having a separate commercial or business situs insofar as distributed income is concerned,

(2) income from such property which is required to be allocated pursuant to the provisions of paragraph 5 of this subsection shall be allocated as herein provided;

c. Net income or loss from a business activity which is not a part of business carried on within or without the state of a unitary character shall be separately

allocated to the state in which such activity is conducted;

d. In the case of a manufacturing or processing enterprise the business of which in Oklahoma consists solely of marketing its products by:

(1) sales having a situs without this state, shipped directly to a point from without the state to a purchaser within the state, commonly known as interstate sales,

(2) sales of the product stored in public warehouses within the state pursuant to "in transit" tariffs, as prescribed and allowed by the Interstate Commerce Commission, to a purchaser within the state,

(3) sales of the product stored in public warehouses within the state where the shipment to such warehouses is not covered by "in transit" tariffs, as prescribed and allowed by the Interstate Commerce Commission, to a purchaser within or without the state;

The Oklahoma net income shall, at the option of the taxpayer, be that portion of the total net income of the taxpayer for federal income tax purposes derived from the manufacture and/or processing and sales everywhere as determined by the ratio of the sales defined in this section made to the purchaser within the state to the total sales everywhere. The term public warehouse as used in this subparagraph means a licensed public warehouse, the principal business of which is warehousing merchandise for the public;

e. In the case of insurance companies, Oklahoma taxable income shall be taxable income of the taxpayer for federal tax purposes, as adjusted for the adjustments provided pursuant to the provisions of paragraphs 1 and 2 of this subsection, apportioned as follows:

(1) except as otherwise provided by division (2) of this subparagraph, taxable income of an insurance company for a taxable year shall be apportioned to this state by multiplying such income by a fraction, the numerator of which is the direct premiums written for insurance on property or risks in this state, and the denominator of which is the direct premiums written for insurance on property or risks everywhere. For purposes of this subsection, the term direct premiums written means the total amount of direct premiums written, assessments and annuity considerations as reported for the taxable year on the annual statement filed by the company with the Oklahoma Insurance Commissioner in the form approved by the National Association of Insurance Commissioners, or such other form as may be prescribed in lieu thereof,

(2) if the principal source of premiums written by an insurance company consists of premiums for reinsurance accepted by it, the taxable income of such company shall be apportioned to this state by multiplying such income by a fraction, the numerator of which is the sum of (a) direct premiums written for insurance on property or risks in this state, plus (b) premiums written for reinsurance accepted in respect of property or risks in this state, and the denominator of which is the sum of (c) direct premiums written

for insurance on property or risks everywhere, plus (d) premiums written for reinsurance accepted in respect of property or risks everywhere. For purposes of this paragraph, premiums written for reinsurance accepted in respect of property or risks in this state, whether or not otherwise determinable, may at the election of the company be determined on the basis of the proportion which premiums written for insurance accepted from companies commercially domiciled in Oklahoma bears to premiums written for reinsurance accepted from all sources, or alternatively in the proportion which the sum of the direct premiums written for insurance on property or risks in this state by each ceding company from which reinsurance is accepted bears to the sum of the total direct premiums written by each such ceding company for the taxable year.

f. In the case of a commercial airline that operates an aircraft maintenance facility in this state, as described in subsection (N) of Section 1357 of this title, as amended by Section 4 of this act, for tax years beginning after December 31, 1993, the Oklahoma taxable income of the enterprise shall be, at the option of the taxpayer, determined by multiplying the federal taxable income of the taxpayer, as adjusted by the provisions of this section, by a fraction; provided, the provisions of this subparagraph shall be null and void unless and until there are two (2) or more such facilities located in this state. The numerator of the fraction shall be the air miles traveled in the State of Oklahoma and the denominator shall be the total air miles traveled. "Air miles traveled in the State of Oklahoma" shall mean the number of miles completed from the point where an aircraft leaves a landing area, terminal, airport or heliport in the State of Oklahoma to the point where it crosses the border of this state and the number of miles computed from the point where an aircraft crosses the border of this state to the point where it comes to rest at a landing area, terminal, airport or heliport in the State of Oklahoma.

5. The net income or loss remaining after the separate allocation in paragraph 4 of this subsection, being that which is derived from a unitary business enterprise, shall be apportioned to this state on the basis of the arithmetical average of three factors consisting of property, payroll and sales or gross revenue enumerated as subparagraphs a, b and c of this paragraph. Net income or loss as used in this paragraph includes that derived from patent or copyright royalties, purchase discounts, and interest on accounts receivable relating to or arising from a business activity, the income from which is apportioned pursuant to this subsection, including the sale or other disposition of such property and any other property used in the unitary enterprise. Deductions used in computing such net income or loss shall not include taxes based on or measured by income.

a. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's

real and tangible personal property everywhere owned or rented and used during the tax period.

(1) Property, the income from which is separately allocated in paragraph 4 of this subsection, shall not be included in determining this fraction. The numerator of the fraction shall include a portion of the investment in transportation and other equipment having no fixed situs, such as rolling stock, buses, trucks and trailers, including machinery and equipment carried thereon, airplanes, salesmen's automobiles and other similar equipment, in the proportion that miles traveled in Oklahoma by such equipment bears to total miles traveled,

(2) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer, less any annual rental rate received by the taxpayer from subrentals,

(3) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the Tax Commission may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property;

b. The payroll factor is a fraction, the numerator of which is the total compensation for services rendered in the state during the tax period, and the denominator of which is the total compensation for services rendered everywhere during the tax period. Compensation as used in this subsection means those paid-for services to the extent related to the unitary business but does not include officers' salaries, wages and other compensation.

(1) In the case of a transportation enterprise, the numerator of the fraction shall include a portion of such expenditure in connection with employees operating equipment over a fixed route, such as trainmen, airline pilots, or bus drivers, in this state only a part of the time, in the proportion that mileage traveled in Oklahoma bears to total mileage traveled by such employees,

(2) In any case the numerator of the fraction shall include a portion of such expenditures in connection with itinerant employees, such as traveling salesmen, in this state only a part of the time, in the proportion that time spent in Oklahoma bears to total time spent in furtherance of the enterprise by such employees;

c. The sales factor is a fraction, the numerator of which is the total sales or gross revenue of the taxpayer in this state during the tax period, and the denominator of which is the total sales or gross revenue of the taxpayer everywhere during the tax period. Sales as used in this subsection does not include sales or gross revenue which are separately allocated in paragraph 4 of this subsection.

(1) Sales of tangible personal property have a situs in this state if the property is delivered or shipped to a purchaser other than the United States Government, within this state regardless

of the FOB point or other conditions of the sale; or the property is shipped from an office, store, warehouse, factory or other place of storage in this state and (a) the purchaser is the United States Government or (b) the taxpayer is not doing business in the state of the destination of the shipment.

(2) In the case of a railroad or interurban railway enterprise, the numerator of the fraction shall not be less than the allocation of revenues to this state as shown in its annual report to the Oklahoma Corporation Commission.

(3) In the case of an airline, truck or bus enterprise or freight car, tank car, refrigerator car or other railroad equipment enterprise, the numerator of the fraction shall include a portion of revenue from interstate transportation in the proportion that interstate mileage traveled in Oklahoma bears to total interstate mileage traveled.

(4) In the case of an oil, gasoline or gas pipeline enterprise, the numerator of the fraction shall be either the total of traffic units of the enterprise within Oklahoma or the revenue allocated to Oklahoma based upon miles moved, at the option of the taxpayer, and the denominator of which shall be the total of traffic units of the enterprise or the revenue of the enterprise everywhere as appropriate to the numerator. A "traffic unit" is hereby defined as the transportation for a distance of one (1) mile of one (1) barrel of oil, one (1) gallon of gasoline or one thousand (1,000) cubic feet of natural or casinghead gas, as the case may be.

(5) In the case of a telephone or telegraph or other communication enterprise, the numerator of the fraction shall include that portion of the interstate revenue as is allocated pursuant to the accounting procedures prescribed by the Federal Communications Commission; provided that in respect to each corporation or business entity required by the Federal Communications Commission to keep its books and records in accordance with a uniform system of accounts prescribed by such Commission, the intrastate net income shall be determined separately in the manner provided by such uniform system of accounts and only the interstate income shall be subject to allocation pursuant to the provisions of this subsection. Provided, further, that the gross revenue factors shall be those as are determined pursuant to the accounting procedures prescribed by the Federal Communications Commission.

In any case where the use of the arithmetical average of three factors prescribed in this paragraph attributes to Oklahoma a portion of net income of the enterprise out of all appropriate proportion to the property owned and/or business transacted within this state, because of the fact that one or more of the factors so prescribed are not employed to any appreciable extent in furtherance of the enterprise; or because one or more factors not so prescribed are employed to a considerable extent in furtherance of the enterprise; or because of other reasons, the Tax Commission is empowered to permit, after a showing by

taxpayer that an excessive portion of net income has been attributed to Oklahoma, or require, when in its judgment an insufficient portion of net income has been attributed to Oklahoma, the elimination, substitution, or use of additional factors, or reduction or increase in the weight of such prescribed factors.

Provided, however, that any such variance from such prescribed factors which has the effect of increasing the portion of net income attributable to Oklahoma must not be inherently arbitrary, and application of the recomputed final arithmetical average ratio to the net income of the enterprise must attribute to Oklahoma only a reasonable portion thereof.

B. The taxable income of any corporation shall be further adjusted to arrive at Oklahoma taxable income, except those corporations electing treatment as provided in subchapter S of the Internal Revenue Code and Section 2365 of this title, deductions pursuant to the provisions of the Accelerated Cost Recovery System as defined and allowed in the Economic Recovery Tax Act of 1981, Public Law 97-34, for depreciation of assets placed into service after December 31, 1981, shall not be allowed in calculating Oklahoma taxable income. Such corporations shall be allowed a deduction for depreciation of assets placed into service after December 31, 1981, in accordance with provisions of the Internal Revenue Code in effect immediately prior to the enactment of the Accelerated Cost Recovery System. The Oklahoma tax basis for all such assets placed into service after December 31, 1981, calculated in this section shall be retained and utilized for all Oklahoma income tax purposes through the final disposition of said assets.

Notwithstanding any other provisions of the Oklahoma Income Tax Act, Sections 2351 et seq. of this title or of the Internal Revenue Code to the contrary, this subsection shall control calculation of depreciation of assets placed into service after December 31, 1981, and before January 1, 1983.

For assets placed in service and held by a corporation in which accelerated cost recovery system was previously disallowed, an adjustment to taxable income is required in the first taxable year beginning after December 31, 1982, to reconcile the basis of said assets to the basis allowed in the Internal Revenue Code. The purpose of this adjustment is to equalize the basis and allowance for depreciation accounts between that reported to the Internal Revenue Service and that reported to Oklahoma.

C. 1. For taxable years beginning after December 31, 1987, the taxable income of any corporation shall be further adjusted to arrive at Oklahoma taxable income for transfers of technology to qualified small businesses located in Oklahoma. Such transferor corporation shall be allowed an exemption from taxable income of an amount equal to the amount of royalty payment received as a result of such transfer; provided, however, said amount shall not exceed ten percent (10%) of the amount of gross proceeds received by such transferor corporation as a result of the technology transfer. Such exemption shall be allowed for a period not to exceed ten (10) years from the date of receipt of the first royalty payment accruing from such transfer. No exemption may be claimed for transfers of technology to qualified small businesses made prior to January 1, 1988.

2. For purposes of this subsection:

a. "Qualified small business" means an entity, whether organized as a corporation, partnership, or proprietorship, organized for profit with its principal place of business located within this state and which meets the following criteria:

(1) Capitalization of not more than Two Hundred Fifty Thousand Dollars ($250,000.00),

(2) Having at least fifty percent (50%) of its employees or assets located in Oklahoma at the time of the transfer, and

(3) Not a subsidiary or affiliate of the transferor corporation;

b. "Technology" means a proprietary process, formula, pattern, device or compilation of scientific or technical information which is not in the public domain;

c. "Transferor corporation" means a corporation which is the exclusive and undisputed owner of the technology at the time the transfer is made; and

d. "Gross proceeds" means the total amount of consideration for the transfer of technology, whether the consideration is in money or otherwise.

D. The Oklahoma adjusted gross income of any individual taxpayers shall be further adjusted as follows to arrive at Oklahoma taxable income:

1. a. In the case of individuals, there shall be added or deducted, as the case may be, the difference necessary to allow personal exemptions of One Thousand Dollars ($1,000.00) in lieu of the personal exemptions allowed by the Internal Revenue Code.

b. There shall be allowed an additional exemption of One Thousand Dollars ($1,000.00) for each taxpayer or spouse who is blind at the close of the tax year. For purposes of this subparagraph, an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200, but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty (20) degrees.

c. For taxable years beginning after December 31, 1987, there shall be allowed an additional exemption of One Thousand Dollars ($1,000.00) for each taxpayer or spouse who is sixty-five (65) years of age or older at the close of the tax year based upon the filing status and federal adjusted gross income of the taxpayer. Taxpayers with the following filing status may claim this exemption if the federal adjusted gross income does not exceed:

(1) Twenty-five Thousand Dollars ($25,000.00) if married and filing jointly;

(2) Twelve Thousand Five Hundred Dollars ($12,500.00) if married and filing separately;

(3) Fifteen Thousand Dollars ($15,000.00) if single; and

(4) Nineteen Thousand Dollars ($19,000.00) if a qualifying head of household.

2. In the case of individuals who use the standard deduction in determining taxable income, there shall be added or deducted, as the case may be, the difference necessary to allow a standard deduction in lieu of the standard deduction allowed by the Internal Revenue Code, in an amount equal to the larger of fifteen percent (15%) of the Oklahoma adjusted gross income or One Thousand Dollars ($1,000.00), but not to exceed Two Thousand Dollars ($2,000.00), except that in the case of a married individual filing a separate return such deduction shall be the larger of fifteen percent (15%) of such Oklahoma adjusted gross income or Five Hundred Dollars ($500.00), but not to exceed the maximum amount of One Thousand Dollars ($1,000.00).

3. In the case of resident individuals having adjusted gross income from sources both within and without the state, the itemized or standard deductions and personal exemptions shall be reduced to an amount which is the same portion of the total thereof as Oklahoma adjusted gross income is of adjusted gross income.

4. A resident individual with a physical disability constituting a substantial handicap to employment may deduct from Oklahoma adjusted gross income such expenditures to modify a motor vehicle, home or workplace as are necessary to compensate for his handicap. A veteran certified by the Veterans Administration of the federal government as having a service-connected disability shall be conclusively presumed to be an individual with a physical disability constituting a substantial handicap to employment. The Oklahoma Tax Commission shall promulgate rules containing a list of combinations of common disabilities and modifications which may be presumed to qualify for this deduction. The Commission shall prescribe necessary requirements for verification.

5. In any taxable year the first One Thousand Five Hundred Dollars ($1,500.00) received by any person from the United States as salary or compensation in any form, other than retirement benefits, as a member of any component of the Armed Forces of the United States shall be deducted from taxable income. Whenever the filing of a timely income tax return by a member of the Armed Forces of the United States is made impracticable or impossible of accomplishment by reason of:

a. absence from the United States, which term includes only the states and the District of Columbia; or

b. confinement in a hospital within the United States for treatment of wounds, injuries or disease;

the time for filing a return and paying an income tax shall be and is hereby extended without incurring liability for interest or penalties, to the fifteenth day of the third month following the month in which:

(1) Such individual shall return to the United States, or be discharged from such hospital; or

(2) An executor, administrator, or conservator of the estate of the taxpayer is appointed, whichever event occurs the earliest.

Provided, that the Tax Commission may, in its discretion, grant any member of the Armed Forces of the United States an extension of time for filing of income tax returns and payment of income tax without incurring liabilities for interest or penalties. Such extension may be granted only when in the judgment of the Tax Commission a good cause exists therefor and may be for a period in excess of six (6) months. A record of every such extension granted, and the reason therefor, shall be kept.

6. The salary or any other form of compensation, received from the United States by a member of any component of the Armed Forces of the United States, shall be deducted from taxable income during the time in which the person is detained by the enemy in a conflict, is a prisoner of war or is missing in action and not deceased.

7. Notwithstanding anything in the Internal Revenue Code or in the Oklahoma Income Tax Act to the contrary, it is expressly provided that, in the case of resident individuals, amounts received as dividends or distributions of earnings from savings and loan associations or credit unions located in Oklahoma, and interest received on savings accounts and time deposits from such sources or from state and national banks or trust companies located in Oklahoma, shall qualify as dividends for the purpose of the dividend exclusion, and taxable income shall be adjusted accordingly to arrive at Oklahoma taxable income; provided, however, that the dividend, distribution of earnings and/or interest exclusion provided for hereinabove shall not be cumulative to the maximum

dividend exclusion allowed by the Internal Revenue Code. Any dividend exclusion already allowed by said Code and reflected in the taxpayer's Oklahoma taxable income together with exclusion allowed herein shall not exceed the total of One Hundred Dollars ($100.00) per individual or Two Hundred Dollars ($200.00) per couple filing a joint return.

8. a. An individual taxpayer, whether resident or nonresident, may deduct an amount equal to the federal income taxes paid by said taxpayer during the taxable year.

b. Federal taxes as described in subparagraph a of this paragraph shall be deductible by any individual taxpayer, whether resident or nonresident, only to the extent they relate to income subject to taxation pursuant to the provisions of the Oklahoma Income Tax Act. The maximum amount allowable in the preceding paragraph shall be prorated on the ratio of the Oklahoma adjusted gross income to federal adjusted gross income.

c. For the purpose of this paragraph, federal income taxes paid shall mean federal income taxes, surtaxes imposed on incomes or excess profits taxes, as though the taxpayer was on the accrual basis.

d. The provisions of this paragraph shall apply to all taxable years ending after December 31, 1978.

9. Retirement benefits not to exceed Five Thousand Five Hundred Dollars ($5,500.00), which are received by an individual from the civil service of the United States, any component of the Armed Forces of the United States, the Oklahoma Public Employees Retirement System, the Teachers' Retirement System of Oklahoma, the Oklahoma Law Enforcement Retirement System, the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the employee retirement systems created by counties pursuant to Sections 951 et seq. of Title 19 of the Oklahoma Statutes, the Uniform Retirement System for Justices and Judges, the Oklahoma Wildlife Conservation Department Retirement Fund, the Oklahoma Employment Security Commission Retirement Plan, or the employee retirement systems created by municipalities pursuant to Sections 48-101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt from taxable income.

10. In taxable years beginning after December 31, 1984, Social Security benefits received by an individual shall be exempt from taxable income, to the extent such benefits are included in the federal adjusted gross income pursuant to the provisions of Section 86 of the Internal Revenue Code.

SECTION 13. AMENDATORY Section 5, Chapter 162, O.S.L. 1988, as amended by Section 73, Chapter 346, O.S.L. 1989 (68 O.S. Supp. 1990, Section 2805), is amended to read as follows:

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

1. The registration fees and taxes imposed upon aircraft by Section 251 et seq. of Title 3 of the Oklahoma Statutes;

2. Registration fees for motor vehicles as provided in Section 1103 of Title 47 of the Oklahoma Statutes, except as otherwise specifically provided;

3. The fee imposed upon transfers of used vehicles in lieu of the ad valorem tax upon inventories of used motor vehicles by Section 1137.1 of Title 47 of the Oklahoma Statutes;

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

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

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

7. The tax imposed upon gross receipts pursuant to Section 1803 of this title;

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

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

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

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

SECTION 14. AMENDATORY Section 4, Chapter 138, O.S.L. 1984, as last amended by Section 8, Chapter 41, O.S.L. 1986 (68 O.S. Supp. 1990, Section 6003), is amended to read as follows:

Section 6003. The following aircraft shall be exempt from provisions of this article:

(A) aircraft manufactured within this state under an F.A.A. approved certificate and which are owned and in the physical possession of the manufacturer of said aircraft. Said aircraft shall have an aircraft exemption license as provided for in Section 254 of Title 3 of the Oklahoma Statutes;

(B) aircraft owned by dealers and in the dealer's inventory, not including aircraft that are used personally or for business. Said aircraft shall have an aircraft exemption license as provided for in Section 254 of Title 3 of the Oklahoma Statutes;

(C) aircraft of the federal government, any agency thereof, any territory or possession, any state government, agency, or political subdivision thereof;

(D) aircraft transferred from one corporation to another corporation pursuant to corporate reorganization. For the purpose of this section the term reorganization means a statutory merger, consolidation, or acquisition;

(E) aircraft purchased outside this state and brought into the state to be used by commercial airlines;

(F) aircraft transferred in connection with the dissolution or liquidation of a corporation and only if included in a payment in kind to the shareholders;

(G) aircraft transferred to a corporation for the purpose of organizing such corporation. However, the former owners of the aircraft must have control of the corporation in proportion to their interest in the aircraft prior to the transfer;

(H) aircraft transferred to a partnership when the organization of the partnership is by the former owners of the aircraft. However, the former owners of the aircraft must have control of the partnership in proportion to their interest in the aircraft prior to the transfer;

(I) aircraft transferred from a partnership to the members of said partnership and if made in payment in kind in the dissolution of said partnership;

(J) aircraft transferred or conveyed to a partner or other person who after such sale owns a joint interest in the aircraft and on which the sales or use tax levied pursuant to the provisions of this title or the excise tax levied pursuant to the provisions of Section 6002 of this title have previously been paid on the aircraft;

(K) aircraft on which a tax levied pursuant to the provisions of the laws of another state, equal to or in excess of the excise tax levied by Section 6002 of this title, has been paid by the person using the aircraft in this state. Aircraft on which a tax levied pursuant to the laws of another state, in an amount less than

the excise tax levied by Section 6002 of this title, has been paid by the person using the aircraft in this state shall be subject to the levy of the excise tax at a rate equal to the difference between the rate of tax levied by Section 6002 of this title and the rate of tax levied by the other state;

(L) aircraft when legal ownership of such aircraft is obtained by the applicant for a certificate of title by inheritance;

(M) aircraft when legal ownership of such aircraft is obtained by the lienholder or mortgagee under or by foreclosure of a lien or mortgage in the manner provided for by law;

(N) aircraft which is transferred between husband and wife or parent and child where no valuable consideration is given; and

(O) aircraft manufactured in the State of Oklahoma with a selling price in excess of Five Million Dollars ($5,000,000.00).

SECTION 15. Sections 1 and 13 of this act shall become effective January 1, 1992.

SECTION 16. 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.