

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 3286

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AS INTRODUCED

An Act relating to revenue and taxation; amending 47
O.S. 1991, Section 1104, as last amended by Section
1, Chapter 294, O.S.L. 1997 (47 O.S. Supp. 1997,
Section 1104), which relates to apportionment of
motor vehicle fees, taxes, and penalties; modifying
apportionment of motor vehicle fees; amending 68
O.S. 1991, Sections 1355, as last amended by
Section 3, Chapter 337, O.S.L. 1995, and 1357, as
last amended by Section 16, Chapter 294, O.S.L.
1997 (68 O.S. Supp. 1997, Section 1355 and 1357),
which relate to sales tax; modifying exemption from
sales tax for motor vehicles; amending 68 O.S.
1991, Section 2103, as amended by Section 21,
Chapter 294, O.S.L. 1997 (68 O.S. Supp. 1997,
Section 2103), which relates to vehicle excise tax;
reducing excise tax levy; providing an effective
date; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 1104, as last amended by Section 1, Chapter 294, O.S.L. 1997 (47 O.S. Supp. 1997, Section 1104), is amended to read as follows:

Section 1104. A. Unless otherwise provided by law, all fees, taxes and penalties collected or received pursuant to the Oklahoma Vehicle License and Registration Act or Section 1-101 et seq. of this title and the unapportioned monies in the Motor Vehicle Escrow Account after the July 1985 apportionment shall be apportioned and distributed monthly by the Oklahoma Tax Commission as follows:

1. For the fiscal year beginning July 1, 1997, and ending June 30, 1998:

a. the first One Hundred Forty-one Thousand Five Hundred Dollars (\$141,500.00) collected shall be remitted to the State Treasurer to be credited to the Tax Commission Reimbursement Fund created in Section 113 of Title 68 of the Oklahoma Statutes, and

b. the next One Hundred Eighty-three Thousand Five Hundred Dollars (\$183,500.00) collected shall be remitted to the State Treasurer to be credited to the General Revenue Fund;

2. Thirty-five percent (35%) of ~~said~~ the monies shall be apportioned to the various school districts as follows:

a. except as otherwise provided in this subparagraph, each district shall receive the same amount of funds as such district received from the taxes and fees provided in this title in the corresponding month of the preceding year. Any district eligible for funds pursuant to the provisions of this section that was not eligible the preceding year shall receive an

amount equal to the average daily attendance of the applicable year multiplied by the average daily attendance apportionment within such county for each appropriate month. For fiscal year 1995 and thereafter, any district which received less than twenty-five percent (25%) of the average apportionment of ~~said~~ the monies made to school districts in this state based on average daily attendance in fiscal year 1995 shall receive an amount equal to the average daily attendance in the 1994-1995 school year multiplied by the average daily attendance apportionment within the county in which the district is located for each appropriate month, and

- b. any funds remaining unallocated following the allocation provided in subparagraph a of this paragraph shall be apportioned to the various school districts so that each district shall first receive the cumulative total of the monthly apportionments for which it is otherwise eligible under subparagraph a of this paragraph and then an amount based upon the proportion that each district's average daily attendance bears to the total average daily attendance of those districts entitled to receive funds pursuant to this section as certified by the State Department of Education, and
- c. if, for any month, the funds available are insufficient to provide the total allocation required in subparagraph a of this paragraph, each district shall receive a proportionate share of the funds available based upon the proportion of the total revenues that such district received in the corresponding month of the preceding year.

Each district's allocation of funds shall be remitted to the county treasurer of the county wherein the administrative headquarters of the district are located.

No district shall be eligible for the funds herein provided unless ~~said~~ the district makes an ad valorem tax levy of fifteen (15) mills and maintains nine (9) years of instruction and pursuant to the rules of the State Board of Education, are authorized to maintain ten (10) years of instruction. Beginning July 1, 1998, the monies apportioned to the various school districts pursuant to this paragraph shall be in the following amounts:

- (1) beginning July 1, 1998, thirty-seven and fifteen one-hundredths percent (37.15%),
- (2) beginning July 1, 1999, thirty-nine and fifty-nine one-hundredths percent (39.59%),
- (3) beginning July 1, 2000, forty-two and thirty-five one-hundredths percent (42.35%),
- (4) beginning July 1, 2001, forty-five and fifty-two one-hundredths percent (45.52%), and
- (5) beginning July 1, 2002, and thereafter, forty-nine and two-tenths percent (49.2%);

3. Forty-six and sixty-seven one-hundredths percent (46.67%) of ~~said~~ the monies shall be remitted to the State Treasurer to be credited to the General Revenue Fund of the State Treasury. Beginning July 1, 1998, the monies apportioned to the General Revenue Fund pursuant to this paragraph shall be in the following amounts:

- a. beginning July 1, 1998, forty-three and thirty-nine one-hundredths percent (43.39%),
- b. beginning July 1, 1999, thirty-nine and sixty-eight one-hundredths percent (39.68%),
- c. beginning July 1, 2000, thirty-five and forty-seven one-hundredths percent (35.47%),

- d. beginning July 1, 2001, thirty and sixty-four one-hundredths percent (30.64%), and
- e. beginning July 1, 2002, and thereafter, twenty-five and four one-hundredths percent (25.04%);

4. ~~Three-tenths of one percent (3/10 of 1%)~~ (0.3%) of said the monies shall be remitted to the State Treasurer to be credited to the State Transportation Fund. Beginning July 1, 1998, the monies apportioned to the State Transportation Fund pursuant to this paragraph shall be in the following amounts:

- a. beginning July 1, 1998, thirty-two one-hundredths percent (0.32%),
- b. beginning July 1, 1999, thirty-four one-hundredths percent (0.34%),
- c. beginning July 1, 2000, thirty-six one-hundredths percent (0.36%),
- d. beginning July 1, 2001, thirty-nine one-hundredths percent (0.39%), and
- e. beginning July 1, 2002, and thereafter, forty-two one-hundredths percent (0.42%);

5. Seven percent (7%) of ~~said the~~ monies shall be apportioned to the various counties as follows: Forty percent (40%) of such sum shall be distributed to the various counties in that proportion which the county road mileage of each county bears to the entire state road mileage as certified by the Transportation Commission and the remaining sixty percent (60%) of such sum shall be distributed to the various counties on the basis which the population and area of each county bears to the total population and area of the state. The population shall be as shown by the last Federal Census or the most recent annual estimate provided by the United States Bureau of the Census. ~~Said The~~ funds shall be used for the purpose of constructing and maintaining county highways, provided, however, the county treasurer may deposit so much of said the funds in the

sinking fund as may be necessary for the retirement of interest and annual accrual of indebtedness created by the issuance of county or township bonds for road purposes. Such deposits to the sinking fund shall not exceed forty percent (40%) of the funds allocated to a county pursuant to this paragraph. Beginning July 1, 1998, the monies apportioned to the various counties pursuant to this paragraph shall be in the following amounts:

- a. beginning July 1, 1998, seven and forty-three one-hundredths percent (7.43%),
- b. beginning July 1, 1999, seven and ninety-two one-hundredths percent (7.92%),
- c. beginning July 1, 2000, eight and forty-seven one-hundredths percent (8.47%),
- d. beginning July 1, 2001, nine and one-tenth percent (9.1%), and
- e. beginning July 1, 2002, and thereafter, nine and eighty-four one-hundredths percent (9.84%);

6. Two and one-half percent (2.5%) of ~~said~~ the monies shall be remitted to the county treasurers of the respective counties and by them deposited in a separate special revenue fund to be used by the county commissioners for the primary purpose of matching federal funds for the construction of federal aid projects on county roads, or constructing and maintaining county or township highways and permanent bridges of such counties. The distribution of monies apportioned by this paragraph shall be made upon the basis of the current formula based upon road mileage, area and population as related to county road improvement and maintenance costs. Provided, however, the Department of Transportation may update the formula factors from time to time as necessary to account for changing conditions.

Any unencumbered monies remaining in the County Road Fund on ~~the effective date of this act~~ July 1, 1989, shall be distributed to the

various counties within thirty (30) days thereafter; provided, that the Department of Transportation is authorized to withhold from such distribution an amount not to exceed ten percent (10%) of the counties' share of the estimated construction cost of any uncompleted federally aided project utilizing county road funds for the local match. Such funds shall be used to cover any approved overruns on such projects which remain uncompleted on ~~the effective date of this act~~ July 1, 1989. Upon completion and acceptance of ~~said the~~ projects, any monies due the counties will be returned to them by the Department of Transportation within thirty (30) days of completion of final audit. In the event additional county monies are required to complete such projects, the Department of Transportation shall submit an invoice for payment to the counties and the affected counties shall pay such additional amount to the Department of Transportation. All claims against nonfederally aided project resolutions accepted by the Department of Transportation prior to July 1, 1989, must be presented to the Department of Transportation for payment prior to September 1, 1989. Any County Road Fund monies encumbered for nonfederally aided projects which remain under control of the Department of Transportation on September 30, 1989, shall be returned to the county which encumbered ~~said the~~ funds. Beginning July 1, 1998, the monies apportioned to the county treasurers of the respective counties pursuant to this paragraph shall be in the following amounts:

- a. beginning July 1, 1998, two and sixty-five one-hundredths percent (2.65%),
- b. beginning July 1, 1999, two and eighty-three one-hundredths percent (2.83%),
- c. beginning July 1, 2000, three and two one-hundredths percent (3.02%),
- d. beginning July 1, 2001, three and twenty-five one-hundredths percent (3.25%), and

- e. beginning July 1, 2002, and thereafter, three and one-half percent (3.5%);

7. Three and one-half percent (3.5%) of ~~said~~ the monies shall be transmitted by the Tax Commission to the various counties on the basis of a formula to be developed by the Department of Transportation. Such formula shall be similar to that currently used for the distribution of County Bridge Program Funds, but also taking into consideration the effect of terrain and traffic volume as related to county road improvement and maintenance costs. Provided, however, the Department of Transportation may update the formula factors from time to time as necessary to account for changing conditions. ~~Said~~ The funds shall be transmitted to the various county treasurers to be deposited in the county highway fund of their respective counties. Beginning July 1, 1998, the monies apportioned to the various counties pursuant to this paragraph shall be in the following amounts:

- a. beginning July 1, 1998, three and seventy-two one-hundredths percent (3.72%),
- b. beginning July 1, 1999, three and ninety-six one-hundredths percent (3.96%),
- c. beginning July 1, 2000, four and twenty-three one-hundredths percent (4.23%),
- d. beginning July 1, 2001, four and fifty-five one-hundredths percent (4.55%), and
- e. beginning July 1, 2002, and thereafter, four and ninety-two one-hundredths percent (4.92%);

8. a. ~~Eight-tenths of one percent (8/10 of 1%)~~ (0.8%) of ~~said~~ the monies shall be apportioned to the various counties as follows:

- ~~a.~~ (1) each county shall receive the same amount of funds as such county received from the taxes and fees provided for in the 1985 fiscal year,

- ~~b.~~ (2) any funds remaining unallocated following the allocation provided in ~~subparagraph a~~ division (1) of this ~~paragraph~~ subparagraph shall be apportioned to the various counties based upon the proportion that each county's population bears to the total state population, and
- ~~e.~~ (3) if the funds available are insufficient to provide the total allocation required in ~~subparagraph a~~ division (1) of this ~~paragraph~~ subparagraph, each county shall receive a proportionate share of the funds available based upon the proportion of the total revenues that each such county received in the 1985 fiscal year.

Each county's allocation of funds shall be remitted to the various county treasurers to be deposited in the general fund of the county and used for the support of county government.

b. Beginning July 1, 1998, the monies apportioned to the various counties pursuant to subparagraph a of this paragraph shall be in the following amounts:

- (1) beginning July 1, 1998, eighty-five one-hundredths percent (0.85%),
- (2) beginning July 1, 1999, nine-tenths percent (0.9%),
- (3) beginning July 1, 2000, ninety-seven one-hundredths percent (0.97%),
- (4) beginning July 1, 2001, one and four one-hundredths percent (1.04%), and
- (5) beginning July 1, 2002, and thereafter, one and twelve one-hundredths percent (1.12%);

9. Three percent (3%) of ~~said~~ the monies shall be apportioned to the various cities and incorporated towns based upon the proportion that each city or incorporated town's population bears to the total population of all cities and incorporated towns in the state. Such funds shall be remitted to the various county treasurers for allocation to the various cities and incorporated towns. All such funds shall be used for the construction, maintenance, repair, improvement and lighting of streets and alleys. Provided, however, the governing board of any city or town may, with the approval of the county excise board, transfer any surplus funds to the general revenue fund of such city or town whenever an emergency requires such a transfer. Beginning July 1, 1998, the monies apportioned to the various cities and incorporated towns pursuant to this paragraph shall be in the following amounts:

- a. beginning July 1, 1998, three and eighteen one-hundredths percent (3.18%),
- b. beginning July 1, 1999, three and thirty-nine one-hundredths percent (3.39%),
- c. beginning July 1, 2000, three and sixty-three one-hundredths percent (3.63%),
- d. beginning July 1, 2001, three and nine-tenths percent (3.9%), and
- e. beginning July 1, 2002, and thereafter, four and twenty-two one-hundredths percent (4.22%);

10. One and two-tenths percent (1.2%) of ~~said~~ the monies shall be remitted to the State Treasurer to be credited to the Oklahoma Law Enforcement Retirement Fund. Beginning July 1, 1998, the monies apportioned to the Oklahoma Law Enforcement Retirement Fund pursuant to this paragraph shall be in the following amounts:

- a. beginning July 1, 1998, one and twenty-seven one-hundredths percent (1.27%),

- b. beginning July 1, 1999, one and thirty-six one-hundredths percent (1.36%),
- c. beginning July 1, 2000, one and forty-five one-hundredths percent (1.45%),
- d. beginning July 1, 2001, one and fifty-six one-hundredths percent (1.56%), and
- e. beginning July 1, 2002, and thereafter, one and sixty-nine one-hundredths percent (1.69%); and

11. Three one-hundredths ~~of one percent (3/100 of 1%)~~ (0.03%) of ~~said the~~ monies shall be remitted to the State Treasurer to be credited to the Wildlife Conservation Fund. Seventy-five percent (75%) of ~~said the~~ funds shall be used for fish habitat restoration and twenty-five percent (25%) of ~~said the~~ funds shall be used in the fish hatchery system for fish production. Beginning July 1, 1998, the monies apportioned to the Wildlife Conservation Fund pursuant to this paragraph shall be in the following amounts:

- a. beginning July 1, 1998, three one-hundredths percent (0.03%),
- b. beginning July 1, 1999, three one-hundredths percent (0.03%),
- c. beginning July 1, 2000, four one-hundredths percent (0.04%),
- d. beginning July 1, 2001, four one-hundredths percent (0.04%), and
- e. beginning July 1, 2002, and thereafter, four one-hundredths percent (0.04%).

B. Monies allocated to counties by this section may be estimated by the county excise board in the budget for the county as anticipated revenue to the extent of ninety percent (90%) of the previous year's income from such source, provided, not more than fifteen percent (15%) can be encumbered during any month.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 1355, as last amended by Section 3, Chapter 337, O.S.L. 1995 (68 O.S. Supp. 1997, 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:

1. Sale of gasoline, motor fuel, methanol, "M-85" which is a mixture of methanol and gasoline containing at least eighty-five percent (85%) methanol, compressed natural gas, liquefied natural gas, or liquefied petroleum gas on which the Motor Fuel Tax, Gasoline Excise Tax, Special Fuels Tax or the fee in lieu of Special Fuels Tax levied in Article 5, 6, or 7 of this title has been, or will be paid;

2. Sale of motor vehicles or any optional equipment or accessories attached to motor vehicles on which the Oklahoma Motor Vehicle Excise Tax levied in Article 21 of this title has been, or will be paid. However, beginning July 1, 2002, the exemption provided for in this paragraph shall not be applicable, but such sales shall be exempt as provided in paragraph 24 of Section 3 of this act;

3. 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 paragraph shall not operate to increase or repeal the gross production tax levied by the laws of this state;

4. Sale of aircraft on which the tax levied pursuant to the provisions of Sections 6001 through 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;

5. Sales from coin-operated devices on which the fee imposed by Sections 1501 through 1513 of this title has been paid;

6. Leases of twelve (12) months or more of motor vehicles in which the owners of the vehicles have paid the vehicle excise tax levied by Section 2103 of this title;

7. Sales of charity game equipment on which a tax is levied pursuant to the Oklahoma Charity Games Act, Section 401 et seq. of Title 3A of the Oklahoma Statutes; and

8. Sales of cigarettes or tobacco products to:

a. a federally recognized Indian tribe or nation which has entered into a compact with the State of Oklahoma pursuant to the provisions of subsection C of Section 346 of this title or to a licensee of such a tribe or nation, upon which the payment in lieu of taxes required by the compact has been paid, or

b. a federally recognized Indian tribe or nation or to a licensee of such a tribe or nation upon which the tax levied pursuant to the provisions of Section 349 or Section 426 of this title has been paid.

SECTION 3. AMENDATORY 68 O.S. 1991, Section 1357, as last amended by Section 16, Chapter 294, O.S.L. 1997 (68 O.S. Supp. 1997, Section 1357), is amended to read as follows:

Section 1357. Exemption - General.

There are hereby specifically exempted from the tax levied by Section 1350 et seq. of this title:

1. Transportation of school pupils to and from elementary schools or high schools in motor or other vehicles;

2. 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;

3. 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 paragraph 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 Section 1350 et seq. of this title. 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;

4. 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;

5. 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 the purchaser 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;

6. 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 1370.2 of this title, 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 1370.2 of this title, 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;

7. In addition to the exemptions authorized by Section 1357.6 of this title, 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;

8. 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;

9. 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;

10. 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 in the federal food stamp program;

11. Sales of food or food products to or by an organization which:

- a. is exempt from taxation pursuant to the provisions of Section 501(c) (3) of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3), and which provides and delivers prepared meals for home consumption to elderly or homebound persons as part of a program commonly known as "Meals on Wheels" or "Mobile Meals", or
- b. is exempt from taxation pursuant to the provisions of Section 501(c) (3) of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3), and which receives federal funding pursuant to the Older Americans Act of 1965, as amended, for the purpose of providing nutrition programs for the care and benefit of elderly persons;

12. Sales of tangible personal property or services to or by organizations which are exempt from taxation pursuant to the provisions of Section 501(c) (3) of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3), and which are primarily involved in the collection and distribution of food and other household products to other organizations which are exempt from taxation pursuant to the provisions of Section 501(c) (3) of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3), which facilitate the distribution of such products to the needy, except sales made in the course of business for profit or savings, competing with other persons engaged in the same or similar business;

13. Sales of food, food products, or clothing to children's homes which are located on church-owned property and are operated by organizations exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

14. 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 paragraph, "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 paragraph, the cost of the items purchased by the qualified aircraft maintenance or manufacturing facility shall equal or exceed the sum of Two Million Dollars (\$2,000,000.00);

15. Sales of tangible personal property consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility as defined in paragraph 14 of this section. For purposes of this paragraph, 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;

16. Sales of any interstate telecommunications services which:

- a. entitle the subscriber to inward or outward calling respectively between a station associated with an access line in the local telephone system area or a

station directly connected to any interexchange carrier's facilities and telephone or radiotelephone stations in diverse geographical locations specified by the subscriber, or

- b. entitle the subscriber to private communications services which allow exclusive or priority use of a communications channel or group of channels between exchanges;

17. Sales of railroad track spikes manufactured and sold for use in this state in the construction or repair of railroad tracks, switches, sidings and turnouts;

18. Sales of aircraft and aircraft parts provided such sales occur at a qualified aircraft maintenance facility. As used in this paragraph, "qualified aircraft maintenance facility" means a facility operated by an air common carrier at which there were employed at least two thousand (2,000) full-time-equivalent employees in the preceding year as certified by the Oklahoma Employment Security Commission and which is primarily related to the fabrication, repair, alteration, modification, refurbishing, maintenance, building or rebuilding of commercial aircraft or aircraft parts used in air common carriage. For purposes of this paragraph, "air common carrier" shall also include members of an affiliated group as defined by Section 1504 of the Internal Revenue Code, 26 U.S.C., Section 1504;

19. Sales of machinery and equipment purchased and used by persons and establishments primarily engaged in computer services and data processing:

- a. as defined under Industrial Group Numbers 7372 and 7373 of the Standard Industrial Classification (SIC) Manual, latest version, which derive at least fifty percent (50%) of their annual gross revenues from the

sale of a product or service to an out-of-state buyer or consumer, and

- b. as defined under Industrial Group Number 7374 of the SIC Manual, latest version, which derive at least eighty percent (80%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer.

Eligibility for the exemption set out in this paragraph shall be established, subject to review by the Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and such information as required by the Tax Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers or consumers, all sales to the federal government shall be considered to be to an out-of-state buyer or consumer;

20. Sales of prosthetic devices to an individual for use by such individual. For purposes of this paragraph, "prosthetic device" means a device which replaces a missing part of the human body and shall include any supplies physically connected to the device;

21. Sales of tangible personal property or services to a motion picture or television production company to be used or consumed in connection with an eligible production. For purposes of this paragraph, "eligible production" means a television program that will serve as a pilot for or be a segment of an ongoing dramatic or situation comedy series televised on a network or through national syndication or a feature-length motion picture intended for theatrical release or for exhibition on national television by a network or through national syndication;

22. Sales of diesel fuel sold for consumption by commercial vessels, barges and other commercial watercraft; ~~and~~

23. Beginning July 1, 1998, sales of tangible personal property or services to tax-exempt independent nonprofit biomedical research foundations that provide educational programs for Oklahoma science students and teachers and to tax-exempt independent nonprofit community blood banks headquartered in this state; and

24. Beginning July 1, 2002, sales of motor vehicles or any optional equipment or accessories attached to motor vehicles.

SECTION 4. AMENDATORY 68 O.S. 1991, Section 2103, as amended by Section 21, Chapter 294, O.S.L. 1997 (68 O.S. Supp. 1997, Section 2103), is amended to read as follows:

Section 2103. A. 1. Except as otherwise provided in Sections 2101 through 2108 of this title, there is hereby levied an excise tax upon the transfer of legal ownership of any vehicle registered in this state and upon the use of any vehicle registered in this state and upon the use of any vehicle registered for the first time in this state. The excise tax shall be levied at three and one-fourth percent ~~(3-1/4%)~~ (3.25%) of the value of each vehicle, ~~except; for.~~ Beginning July 1, 1998, the excise tax shall be levied as follows:

- a. beginning July 1, 1998, the excise tax shall be two and six-tenths percent (2.6%),
- b. beginning July 1, 1999, the excise tax shall be one and ninety-five one-hundredths percent (1.95%),
- c. beginning July 1, 2000, the excise tax shall be one and three-tenths percent (1.3%),
- d. beginning July 1, 2001, the excise tax shall be sixty-five one-hundredths percent (0.65%), and
- e. beginning July 1, 2002, there shall be no excise tax.

For any truck or truck-tractor registered under the provisions of subsection A of Section 1133 of Title 47 of the Oklahoma Statutes, for a laden weight or combined laden weight of 54,001 pounds or more, and for any trailer or semitrailer registered under subsection

C of Section 1133 of Title 47 of the Oklahoma Statutes, which is primarily designed to transport cargo over the highways of this state and generally recognized as such, the excise tax shall be Ten Dollars (\$10.00). This exception shall not apply to special mobilized machinery, trailers, or semitrailers manufactured, modified or remanufactured for the purpose of providing services other than transporting cargo over the highways of this state. This exception shall also not apply to pickup trucks, vans, or sport utility vehicles.

2. The tax hereby levied shall be due at the time of the transfer of legal ownership or first registration in this state of such vehicle, and shall be collected by the Tax Commission at the time of the issuance of a certificate of title for any such vehicle. In the event an excise tax is collected on the transfer of legal ownership or use of the vehicle during any calendar year, then an additional excise tax must be collected upon all subsequent transfers of legal ownership. The excise tax levied by this section shall be delinquent from and after the thirtieth day after the legal ownership or possession of any vehicle is obtained. Any person failing or refusing to pay the tax as herein provided on or before date of delinquency shall pay in addition to the tax a penalty of twenty-five cents (\$0.25) per day for each day of delinquency, but such penalty shall in no event exceed the amount of the tax.

B. The excise tax levied in subsection A of this section assessed on all commercial vehicles registered pursuant to Section 1120 of Title 47 of the Oklahoma Statutes, as amended, shall be in lieu of all sales and use taxes levied under Articles 13 and 14 of this title. The transfer of legal ownership of any motor vehicle as used in this section and Articles 13 and 14 of this title shall include the lease, lease purchase or lease finance agreement involving any truck in excess of eight thousand (8,000) pounds combined laden weight or any truck-tractor provided the vehicle is

registered in Oklahoma pursuant to Section 1120 of Title 47 of the Oklahoma Statutes or any trailer, semitrailer or open commercial vehicle registered pursuant to Section 1133 of Title 47 of the Oklahoma Statutes, as amended. The excise tax levied herein shall not be subsequently collected at the end of the lease period if the lessee acquires complete legal title of the vehicle.

C. The provisions of this section shall not apply to transfers made without consideration between:

1. Husband and wife;
2. Parent and child; or
3. An individual and an express trust which that individual or the spouse, child or parent of that individual has a right to revoke.

D. 1. There shall be a credit allowed with respect to the excise tax paid for a new vehicle which is a replacement for:

- a. a new original vehicle which is stolen from the purchaser/registant within ninety (90) days of the date of purchase of the original vehicle as certified by a police report or other documentation as required by the Commission, or
- b. a defective new original vehicle returned by the purchaser/registant to the seller within six (6) months of the date of purchase of the defective new original vehicle as certified by the manufacturer.

2. The credit allowed pursuant to paragraph 1 of this subsection shall be in the amount of the excise tax which was paid for the new original vehicle and shall be applied to the excise tax due on the replacement vehicle. In no event shall the credit be refunded.

SECTION 5. This act shall become effective July 1, 1998.

SECTION 6. 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.

46-2-8207

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