

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

CONFERENCE COMMITTEE
SUBSTITUTE FOR ENGROSSED
HOUSE BILL NO. 1203

By: Pope (Clay), Balkman,
Miller (Doug), Nance and
Tyler of the House

and

Monson of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 37 O.S. 1991, Sections 518, as last amended by Section 2 of Enrolled Senate Bill No. 501 of the 1st Session of the 48th Oklahoma Legislature and 578, as amended by Section 20, Chapter 361, O.S.L. 1994 (37 O.S. Supp. 2000, Section 578), which relate to the Oklahoma Alcoholic Beverage Control Act; providing for an administrative fee for certain licenses; specifying renewal fee for certain license; providing for distribution of revenues generated from the mixed beverage gross receipts tax; specifying minimum bond for mixed beverage permit holders; amending 47 O.S. 1991, Sections 1110, as last amended by Section 1 of Enrolled Senate Bill No. 526 of the 1st Session of the 48th Oklahoma Legislature and 1111, as last amended by Section 4, Chapter 289, O.S.L. 1998 (47 O.S. Supp. 2000, Section 1111), which relate to certificates of title; increasing time period for a secured party to return the lien entry form and lien filing fee; eliminating the vehicle inspection requirement for a rebuilt title; authorizing the Oklahoma Tax Commission to issue certain temporary permits for certain vehicles; stating the permits will be honored by certain members; stating purpose for such permits; defining term; setting forth permit period and fee; providing for apportionment of fee; requiring separate permit for each vehicle; limiting weight registration of permits; providing for issuance of permits; amending 47 O.S. 1991, Sections 1120, as last amended by Section 3, Chapter 232, O.S.L. 1999 and 1124.1, as amended by Section 4, Chapter 294, O.S.L. 1997 (47 O.S. Supp. 2000, Sections 1120 and 1124.1), which relate to proportional registration of vehicles; allowing the use of an estimated mileage chart in certain situations; allowing the Tax Commission to enter into certain agreements relating to self-issue temporary permits or authorizations; amending 68 O.S. 1991, Sections 230, as last amended by Section 2, Chapter 407, O.S.L. 1999, 231, as last amended by Section 3, Chapter 407, O.S.L. 1999 and 234, as last amended by

Section 4, Chapter 407, O.S.L. 1999 (68 O.S. Supp. 2000, Sections 230, 231 and 234), which relate to uniform tax procedures; modifying certain filing requirement by the Oklahoma Tax Commission; amending 68 O.S. 1991, Section 812, as last amended by Section 4, Chapter 334, O.S.L. 1996 (68 O.S. Supp. 2000, Section 812), which relates to estate tax reporting requirements; modifying provisions related to amount released by financial institutions without certain notification; modifying amounts available for release; modifying amounts available for release to certain entities; amending 68 O.S. 1991, Section 1010, as last amended by Section 12, Chapter 278, O.S.L. 1994 (68 O.S. Supp. 2000, Section 1010), which relates to gross production tax reports; apportioning gross production tax penalties to the General Revenue Fund; amending 68 O.S. 1991, Sections 1356, as last amended by Section 37 of Enrolled House Bill No. 1965 of the 1st Session of the 48th Oklahoma Legislature and 1357, as last amended by Section 2, Chapter 337, O.S.L. 2000 (68 O.S. Supp. 2000, Section 1357), which relates to sales tax exemptions; exempting from sales tax sales to certain organizations conducting a national sports championship and sales of materials and supplies to owners of certain ships, motor vessels or barges; amending 68 O.S. 1991, Section 2358, as last amended by Section 12 of Enrolled House Bill No. 1231 of the 1st Session of the 48th Oklahoma Legislature, which relates to income tax adjustments; making certain income tax deduction apply to corporate and individual taxpayers; amending 68 O.S. 1991, Sections 2817, as last amended by Section 1, Chapter 255, O.S.L. 2000, 2820, 2823, as last amended by Section 3, Chapter 326, O.S.L. 1994, 2860, as amended by Section 13, Chapter 57, O.S.L. 1995, 2881, as last amended by Section 2, Chapter 337, O.S.L. 1997 and 2902, as last amended by Section 1 of Enrolled Senate Bill No. 101 of the 1st Session of the 48th Oklahoma Legislature (68 O.S. Supp. 2000, Sections 2817, 2860, 2881 and 2823), which relate to ad valorem tax; modifying the calculation of the use value of buffer strips; modifying duties of the county assessor; requiring physical inspections of personal property; modifying date for certification of certain assessed valuations; modifying time limit to file written complaint; clarifying calculation of increased payroll for purposes of the manufacturing ad valorem tax exemption; requiring State Auditor and Inspector to prescribe certain form; amending 29 O.S. 1991, Section 3-310, as last amended by Section 2, Chapter 216, O.S.L. 1998 (29 O.S. Supp. 2000, Section 3-310), which relates to income tax checkoff for the Oklahoma Wildlife Diversity Program; modifying income tax return form relating to donation from tax refund; amending 56 O.S. 1991, Section 59.1, which relates to the income tax checkoff for the Oklahoma Indigent Health Care Fund; modifying income tax return form relating to donation from tax refund; amending Section 2, Chapter 245, O.S.L. 1995, as amended by Section 6, Chapter 210, O.S.L. 1998, and as renumbered by Section 9, Chapter 210, O.S.L. 1998 (63 O.S. Supp. 2000, Section 1-558), which relates to income tax checkoff for the Oklahoma Breast Cancer

Act; modifying income tax return form relating to donation from tax refund; amending Section 4, Chapter 279, O.S.L. 2000 (63 O.S. Supp. 2000, Section 2220.4), which relates to donation to the Oklahoma Organ Donor Education and Awareness Program Fund; modifying income tax return relating to donation to the Fund; amending Section 1, Chapter 25, O.S.L. 2000 (68 O.S. Supp. 2000, Section 2368.1), which relates to income tax checkoff for the Oklahoma City National Memorial Foundation; modifying income tax return form relating to donation from tax refund; amending Section 37, Chapter 278, O.S.L. 1994 (72 O.S. Supp. 2000, Section 63.19), which relates to income tax checkoff for the Oklahoma Department of Veterans Affairs Equipment and Capital Improvement Program; modifying income tax return form relating to donation from tax refund; repealing 37 O.S. 1991, Section 518, as last amended by Section 1 of Enrolled Senate Bill No. 2 of the 1st Session of the 48th Oklahoma Legislature, which is a duplicate section which relates to liquor licenses; repealing 68 O.S. 1991, Section 1356, as last amended by Section 1 of Enrolled Senate Bill No. 8 of the 1st Session of the 48th Oklahoma Legislature, which is a duplicate section which relates to sales tax exemptions; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 37 O.S. 1991, Section 518, as last amended by Section 2 of Enrolled Senate Bill No. 501 of the 1st Session of the 48th Oklahoma Legislature, is amended to read as follows:

Section 518. ~~The~~ A. Except as otherwise provided in this section, the licenses issued by the Alcoholic Beverage Laws Enforcement Commission, and the annual fees therefor, shall be as follows:

1. Brewer License \$1,250.00
2. Distiller License \$3,125.00
3. Winemaker License \$625.00
4. Oklahoma Winemaker License \$75.00
5. Rectifier License \$3,125.00

6.	Wholesaler License	\$3,500.00
7.	Class B Wholesaler License	\$625.00
8.	The following package store license fees shall be determined by the latest Federal Decennial Census:	
	a. Package Store License for cities and towns from 200 to 2,500 population.....	\$305.00
	b. Package Store License for cities and towns from 2,501 to 5,000 population.....	\$605.00
	c. Package Store License for cities and towns over 5,000 population.....	\$905.00
9.	Mixed Beverage License	\$1,505.00
		<u>\$1,005.00</u>
		(initial license)
		\$1,405.00
		<u>\$905.00</u>
		(renewal)
10.	Mixed Beverage/Caterer Combination License	\$1,250.00
11.	Beer and Wine License	\$500.00
		(initial license)
		\$450.00
		(renewal)
12.	Bottle Club License	\$1,000.00
		(initial license)
		\$900.00
		(renewal)
13.	Caterer License	\$1,005.00
		(initial license)
		\$905.00
		(renewal)

B. Notwithstanding the provisions of subsection A of this section:

1. The license fee for a mixed beverage or bottle club license for those service organizations or fraternal beneficiary societies which are exempt under Section 501(c)(19), (8) and (10) of the Internal Revenue Code shall be Five Hundred Dollars (\$500.00) per year;

2. The fees provided for in subsection A of this subsection for a brewer license and for a Class B wholesaler license shall be reduced by seventy-five percent (75%) if the applicant therefor is also the holder of a license to manufacture or wholesale any low-point beer as provided for in this title; and

3. The renewal fee for an airline/railroad beverage license held by a railroad described in Section 24301 of Title 49 of the United States Code, 49 U.S.C., Section 24301, shall be One Hundred Dollars (\$100.00).

C. An applicant may apply for and receive both a beer and wine license and a caterer license.

D. All licenses, except as otherwise provided, shall be valid for one (1) year from date of issuance unless revoked or surrendered. Provided, all employee licenses issued on or after September 1, 1993, shall be valid for two (2) years.

E. The holder of a license, issued by the ABLE Commission, for a bottle club located in a county of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized, may exchange the bottle club license for a mixed beverage license or a beer and wine license and operate the licensed premises as a mixed beverage establishment or a beer and wine establishment subject to the provisions of the Oklahoma Alcoholic Beverage Control Act, ~~Section 501 et seq. of this title.~~ There shall be no additional fee for such exchange and the mixed beverage license or beer and wine license issued shall expire

one (1) year from the date of issuance of the original bottle club license.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 576.1 of Title 37, unless there is created a duplication in numbering, reads as follows:

All revenues generated from the gross receipts tax levied pursuant to Section 576 of Title 37 of the Oklahoma Statutes shall be paid to the State Treasurer and placed to the credit of the General Revenue Fund of the State of Oklahoma.

SECTION 3. AMENDATORY 37 O.S. 1991, Section 578, as amended by Section 20, Chapter 361, O.S.L. 1994 (37 O.S. Supp. 2000, Section 578), is amended to read as follows:

Section 578. A. Every holder of a mixed beverage, beer and wine, caterer or special event license issued by the Alcoholic Beverage Laws Enforcement Commission, as a condition precedent to the issuance of a mixed beverage tax permit, shall furnish to the Oklahoma Tax Commission a bond from a surety company chartered or authorized to do business in this state, cash bond, certificates of deposits, certificates of savings or U.S. Treasury bond, or an assignment of negotiable stocks or bonds, as the Tax Commission may deem necessary to secure payment of the gross receipts tax levied upon gross receipts of the licensees.

B. Any surety bond furnished under this section shall be a continuing instrument and shall constitute a new and separate obligation in the sum stated therein for each calendar year or a portion thereof while such bond is in force. Such bond shall remain in effect until the surety or sureties are released and discharged by the Tax Commission.

C. The Tax Commission, or its duly authorized agent, shall fix the amount of such bond or other security for each licensee for each place of business after considering the estimated gross receipts tax liability of such licensee. Such bond shall be no less than an

amount equal to the average estimated quarterly gross receipts tax liability and no greater than an amount equal to three times the amount of the average estimated quarterly gross receipts tax liability. Effective July 1, 2001, the minimum bond required for a new permit holder shall be not less than One Thousand Five Hundred Dollars (\$1,500.00).

D. Notwithstanding the provisions of subsection C of this section, if the permit holder has held the permit for at least four (4) years and is not delinquent in the payment of mixed beverage taxes, the Tax Commission shall not require any increase in the bond so long as the permit holder remains current in the payment of such taxes.

E. Any bond or other security shall be such as will protect this state against failure of the taxpayer or licensee to pay the tax levied by Section 576 of this title. The forfeiture or cancellation of such bond or security, for any reason whatsoever, shall automatically revoke the mixed beverage tax permit issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act.

SECTION 4. AMENDATORY 47 O.S. 1991, Section 1110, as last amended by Section 1 of Enrolled Senate Bill No. 526 of the 1st Session of the 48th Oklahoma Legislature, is amended to read as follows:

Section 1110. A. 1. Except for a security interest in vehicles held by a dealer for sale or lease, and a vehicle being registered in this state which was previously registered in another state and which title contains the name of a secured party on the face of the other state certificate or title, a security interest in a vehicle as to which a certificate of title may be properly issued by the Oklahoma Tax Commission shall be perfected only when a lien entry form, and the existing certificate of title, if any, or application for a certificate of title and manufacturer's

certificate of origin containing the name and address of the secured party and the date of the security agreement and the required fee are delivered to the Tax Commission or to a motor license agent. As used in this section, the term "dealer" shall be defined as provided in Section 1-112 of this title and the term "security interest" shall be defined as provided in paragraph (37) of Section 1-201 of Title 12A of the Oklahoma Statutes. When a vehicle title is presented to a motor license agent for transferring or registering and the documents reflect a lien holder, the motor license agent shall perfect the lien pursuant to subsection G of Section 1105 of this title. For the purposes of this section, the term "vehicle" shall not include special mobilized machinery, machinery used in highway construction or road material construction and rubber-tired road construction vehicles including rubber-tired cranes. The filing and duration of perfection of a security interest, pursuant to the provisions of Title 12A of the Oklahoma Statutes, including, but not limited to, Section 1-9-311 of Title 12A of the Oklahoma Statutes, shall not be applicable to perfection of security interests in vehicles as to which a certificate of title may be properly issued by the Tax Commission, except as to vehicles held by a dealer for sale or lease and except as provided in subsection D of this section. In all other respects Title 12A of the Oklahoma Statutes shall be applicable to such security interests in vehicles as to which a certificate of title may be properly issued by the Tax Commission.

2. Whenever a person creates a security interest in a vehicle, the person shall surrender to the secured party the certificate of title or the signed application for a new certificate of title, on the form prescribed by the Tax Commission, and the manufacturer's certificate of origin. The secured party shall deliver the lien entry form and the required lien filing fee within ~~twenty (20)~~ twenty-five (25) days as provided hereafter with certificate of

title or the application for certificate of title and the manufacturer's certificate of origin to the Tax Commission or to a motor license agent. If the lien entry form, the lien filing fee and the certificate of title or application for certificate of title and the manufacturer's certificate of origin are delivered to the Tax Commission or to a motor license agent within ~~twenty (20)~~ twenty-five (25) days after the date of the lien entry form, perfection of the security interest shall begin from the date of the execution of the lien entry form, but otherwise, perfection of the security interest shall begin from the date of the delivery to the Tax Commission or to a motor license agent.

3. a. For each security interest recorded on a certificate of title, or manufacturer's certificate of origin, such person shall pay a fee of Ten Dollars (\$10.00), which shall be in addition to other fees provided for in the Oklahoma Vehicle License and Registration Act. Upon the receipt of the lien entry form and the required fees with either the certificate of title or an application for certificate of title and manufacturer's certificate of origin, a motor license agent shall, by placement of a clearly distinguishing mark, record the date and number shown in a conspicuous place, on each of these instruments. Of the ten-dollar fee, the motor license agent shall retain Two Dollars (\$2.00) for recording the security interest lien.
- b. It shall be unlawful for any person to solicit, accept or receive any gratuity or compensation for acting as a messenger and for acting as the agent or representative of another person in applying for the recording of a security interest or for the registration of a motor vehicle and obtaining the

license plates or for the issuance of a certificate of title therefor unless the Tax Commission has appointed and approved the person to perform such acts; and before acting as a messenger, any such person shall furnish to the Tax Commission a surety bond in such amount as the Tax Commission shall determine appropriate.

4. The certificate of title or the application for certificate of title and manufacturer's certificate of origin with the record of the date of receipt clearly marked thereon shall be returned to the debtor together with a notice that the debtor is required to register and pay all additional fees and taxes due within thirty (30) days from the date of purchase of the vehicle.

5. Any person creating a security interest in a vehicle that has been previously registered in the debtor's name and on which all taxes due the state have been paid shall surrender the certificate of ownership to the secured party. The secured party shall have the duty to record the security interest as provided in this section and shall, at the same time, obtain a new certificate of title which shall show the secured interest on the face of the certificate of title.

6. The lien entry form with the date and assigned number thereof clearly marked thereon shall be returned to the secured party. If the lien entry form is received and authenticated, as herein provided, by a motor license agent, the agent shall make a report thereof to the Tax Commission upon the forms and in the manner as may be prescribed by the Tax Commission.

7. The Tax Commission shall have the duty to record the lien upon the face of the certificate of title issued at the time of registering and paying all fees and taxes due on the vehicle.

B. 1. A secured party shall, within seven (7) business days after the satisfaction of the security interest, furnish directly or

by mail a release of a security interest to the Tax Commission and mail a copy thereof to the last-known address of the debtor. If the security interest has been satisfied by payment from a licensed used motor vehicle dealer to whom the motor vehicle has been transferred, the secured party shall also, within seven (7) business days after such satisfaction, mail an additional copy of the release to the dealer. If the secured party fails to furnish the release as required, the secured party shall be liable to the debtor for a penalty of One Hundred Dollars (\$100.00) and, in addition, any loss caused to the debtor by such failure.

2. Upon release of a security interest the owner may obtain a new certificate of title omitting reference to the security interest, by submitting to the Tax Commission or to a motor license agent:

- a. a release signed by the secured party, an application for new certificate of title and the proper fees, or
- b. by submitting to the Tax Commission or the motor license agent an affidavit, supported by such documentation as the Tax Commission may require, by the owner on a form prescribed by the Tax Commission stating that the security interest has been satisfied and stating the reasons why a release cannot be obtained, an application for a new certificate of title and the proper fees.

Upon receiving such affidavit that the security interest has been satisfied, the Tax Commission shall issue a new certificate of title eliminating the satisfied security interest and the name and address of the secured parties who have been paid and satisfied. The Tax Commission shall accept a release of a security interest in any form that identifies the debtor, the secured party, and the vehicle, and contains the signature of the secured party. The Tax Commission

shall not require any particular form for the release of a security interest.

The words "security interest" when used in the Oklahoma Vehicle License and Registration Act do not include liens dependent upon possession.

C. The Tax Commission shall file and index certificates of title so that at all times it will be possible to trace a certificate of title to the vehicle designated therein, identify the lien entry form, and the names and addresses of secured parties, or their assignees, so that all or any part of such information may be made readily available to those who make legitimate inquiry of the Tax Commission as to the existence or nonexistence of security interest in the vehicle.

D. 1. Any security interest in a vehicle properly perfected prior to July 1, 1979, may be continued as to its effectiveness or duration as provided by Sections 1-9-501 and 1-9-515 of Title 12A of the Oklahoma Statutes, or may be terminated, assigned or released as provided by Sections 1-9-512, 1-9-513 and 1-9-514 of Title 12A of the Oklahoma Statutes, as fully as if this section had not been enacted, or, at the option of the secured party, may also be perfected under this section, and, if so perfected, the time of perfection under this section shall be the date the security interest was originally perfected under the prior law.

2. Upon request of the secured party, the debtor or any other holder of the certificate of title shall surrender the certificate of title to the secured party and shall do such other acts as may be required to perfect the security interest under this section.

E. The priority of a valid security interest in a manufactured home, including without limitation a mobile home or sectional home, perfected pursuant to this section, shall not be affected by reason of the manufactured home becoming a fixture or otherwise being permanently attached to real property after the date of perfection

of the security interest. A security interest in a manufactured home perfected pursuant to this section shall have priority over a conflicting interest of a mortgagee or other lien encumbrancer, or the owner of the real property upon which the manufactured home became affixed or otherwise permanently attached. The holder of the security interest in the manufactured home, upon default, may remove the manufactured home from such real property. The holder of the security interest in the manufactured home shall reimburse the owner of the real property who is not the debtor and who has not otherwise agreed to access the real property for the cost of repair of any physical injury to the real property, but shall not be liable for any diminution in value to the real property caused by the removal of the manufactured home, trespass, or any other damages caused by the removal. The debtor shall notify the holder of the security interest in the manufactured home of the street address, if any, and the legal description of the real property upon which the manufactured home is affixed or otherwise permanently attached and shall sign such other documents, including any appropriate mortgage, as may reasonably be requested by the holder of such security interest.

F. In the case of motor vehicles or trailers, notwithstanding any other provision of law, a transaction does not create a sale or security interest merely because it provides that the rental price is permitted or required to be adjusted under the agreement either upward or downward by reference to the amount realized upon sale or other disposition of the motor vehicle or trailer.

SECTION 5. AMENDATORY 47 O.S. 1991, Section 1111, as last amended by Section 4, Chapter 289, O.S.L. 1998 (47 O.S. Supp. 2000, Section 1111), is amended to read as follows:

Section 1111. A. As used in this section:

1. "Loss" means the cost, in dollars, to repair or replace a vehicle which has been damaged by collision or other occurrence.

The amount paid by an insurer to a holder of the certificate of title for repair of a damaged vehicle shall be prima facie evidence of the amount of the loss. The amount paid by an insurer to a holder of the certificate of title for replacement of a damaged vehicle less the resale value of the damaged vehicle shall be prima facie evidence of the amount of the loss;

2. "Fair market value" means the value of a vehicle as listed in the current National Auto Dealers Association guidebook or other similar guidebook or the actual cash value, whichever is greater;

3. "Resale value" means the amount, in dollars, paid to the holder of a certificate of title by a willing buyer for a vehicle damaged by collision or other occurrence or recovered from theft;

4. "Total loss" means a loss which is equal to the fair market value of the vehicle immediately prior to the damage to or theft of the vehicle; and

5. "Vehicle" means a vehicle, as defined in paragraph 29 of Section 1102 of this title manufactured within the last seven (7) model years.

B. Any insurance company that pays a total loss on a claim for any vehicle including, but not limited to, a flood-damaged vehicle or recovered-theft vehicle, any junk dealer who receives a motor vehicle which is to be used for junk or for parts, or any other person permanently dismantling or junking a vehicle shall receive the certificate of title from the current holder of the certificate of title, shall detach the license plate from the vehicle, and shall return the license plate and the certificate of title to the Oklahoma Tax Commission or a motor license agent within thirty (30) days from receipt of the certificate. The Tax Commission shall cancel the certificate of title to the vehicle used for junk or parts and shall preserve the vehicle identification numbers on the certificate of title in the computer files for at least five (5) years. The Tax Commission shall transfer ownership of a stolen

vehicle, not recovered from theft at the time of transfer, by salvage title to the insurer. The Tax Commission shall transfer ownership of a vehicle damaged by flooding or other occurrence to the insurer by an original title, salvage title, or junked title, as may be appropriate, based upon an estimate of the amount of loss submitted by the insurer. All license plates surrendered to the Tax Commission shall be destroyed.

C. 1. If an insurance company pays a claim for a loss which is less than a total loss but the cost of repairing the vehicle for safe operation on the highway exceeds sixty percent (60%) of the fair market value of the vehicle, or if any vehicle not insured is damaged to the extent that the cost of repair for safe operation on the highway exceeds sixty percent (60%) of the fair market value of the vehicle, any holder of the certificate of title for the vehicle shall return the certificate of title to the Oklahoma Tax Commission or a motor license agent within thirty (30) days from receipt of payment for the loss.

2. Upon receipt of the certificate, the Tax Commission or motor license agent shall issue a salvage title for the vehicle. The title for any vehicle damaged by flooding shall be stamped with the words "Flood Damaged", and for any such vehicle which was recovered from a theft, the salvage title or rebuilt title shall be stamped with the words "Recovered Theft". A licensed dealer subject to the provisions of the Automotive Dismantlers and Parts Recycler Act, Section 591.1 et seq. of this title, shall not be required to pay registration fees, excise taxes, back taxes, or penalties on a vehicle as a prerequisite to obtaining a salvage title.

3. If the actual documented cost of repairing the vehicle for safe operation on the highway does not exceed sixty percent (60%) of the fair market value of the vehicle as defined in this section, the certificate of title shall be reissued to the holder and the vehicle shall not be subject to inspection as required under this section.

The actual documented cost of repairing the vehicle pursuant to this paragraph shall be certified by the insurance company paying the loss.

D. If a motor vehicle with a salvage title is placed in operative condition, application shall be made to the Tax Commission or a motor license agent for a rebuilt title. A visual inspection of the vehicle and examination of the vehicle identification numbers shall be conducted prior to the issuance of a rebuilt title. At the time of issuance, the salvage title shall be returned to the Tax Commission by the owner, or by the motor license agent if the motor license agent issues the rebuilt title. A visual inspection shall also be made of any out-of-state vehicle to be registered and titled in this state if the vehicle is within the class of vehicles for which a rebuilt title is required and a similar inspection has not been conducted by another state. The certificate of title for the rebuilt vehicle shall be stamped with the words, "This Rebuilt Vehicle Has Been Inspected By The Appropriate State Official".

E. 1. The visual inspections and examination of vehicle identification numbers shall include, but not be limited to:

- a. comparison of the vehicle identification numbers with the number recorded on the ownership records,
- b. inspection of the vehicle identification numbers and the VIN plate to detect possible alteration or other fraud,
- c. interpretation of the vehicle identification number recorded on the ownership documents to assure that it accurately describes the motor vehicle in question, and
- d. inspection of the odometer of the vehicle to detect rollback or alteration.

2. All vehicle damage shall be repaired before the examination is conducted. The following paperwork shall be presented to the

motor license agent: the salvage title and original receipts for all parts placed on the vehicle. Components such as doors, motor, and transmission shall indicate the serial number or the vehicle identification number (VIN) of the auto the part was purchased from or removed from.

~~3. The motor license agent shall require documentation that the inspection required by Section 851 et seq. of this title has been performed on the vehicle within thirty (30) days of the motor license agent's inspection. The inspection shall not be required for any motor vehicle registered pursuant to the provisions of Section 1120 of this title or any trailer or semitrailer registered pursuant to the provisions of Section 1133 of this title.~~

F. The visual inspection and vehicle identification numbers examination shall be performed by a motor license agent at the location designated by the motor license agent. If the location of the inspection is not the place of business of the rebuilder, the motor license agent shall issue a permit authorizing the applicant to operate the vehicle upon the public streets, roads, and highways in route to and from the designated location for the inspection. The inspection and examination shall be performed within ten (10) working days after the owner of the vehicle requests the inspection and examination. Requests shall be made by completing the request form prescribed and provided by the Oklahoma Tax Commission.

G. Inspection and examination of a rebuilt vehicle shall be performed by a person employed by a motor license agent.

H. The fee for the examination by the motor license agent shall be Twenty-five Dollars (\$25.00), which shall be paid at the time of issuance of the certificate of title for the rebuilt vehicle. The motor license agent shall retain Five Dollars (\$5.00) and shall remit Twenty Dollars (\$20.00) to the Oklahoma Tax Commission which shall retain Ten Dollars (\$10.00) and transmit Ten Dollars (\$10.00) to the State Treasurer for deposit in the Department of Public

Safety Revolving Fund. The motor license agent and its employees and agents may not be sued for and shall not be liable for any damages allegedly arising out of the inspection of a vehicle or any acts or omissions in the performance of the inspection. The motor license agent may be held liable for any damages to the vehicle caused by the negligent acts or omissions in the performance of the inspection. Any person may be liable for any damages to a vehicle caused by the intentional acts or omissions in the performance of the inspection.

I. The rebuilt title and any subsequent transfers of such title shall also reflect that the vehicle was a salvage vehicle, flood-damaged vehicle or recovered-theft vehicle, if applicable, and also shall include the salvage date.

J. Any title for a motor vehicle issued pursuant to the laws of any other state which reflects that such vehicle is a salvage vehicle, a rebuilt vehicle or a junked vehicle or has any other brand or classification notation by that state shall be retained on the new title issued by the Oklahoma Tax Commission unless the actual documented cost of repairing the vehicle for safe operation on the highway does not exceed sixty percent (60%) of the fair market value of the vehicle as provided by this section.

K. When the insurance company pays a loss on a vehicle which is registered at the time of mishap, accident, burning, or flooding, the appropriate certificate of title shall be issued without the payment of additional registration fees or excise taxes, upon the submission of a police report or insurance adjuster's report and a declaration by the insurer that the vehicle is held for sale to a dealer. If the owner of the vehicle or other insured retains ownership of the damaged vehicle, the Oklahoma Tax Commission shall notify the owner or insured of the requirements of this section.

L. Any insurance company that pays a claim for a loss where the cost of repairing the vehicle for safe operation on the highway

exceeds sixty percent (60%) of the market value of the vehicle or pays a claim for a flood-damaged vehicle as defined in Section 1105 of this title shall notify, in writing, the holder of the certificate of title of the requirements of this section and shall notify the Oklahoma Tax Commission of the payment of such claim. The insurance company shall also send a copy of the notification to the holder of the title. The Oklahoma Tax Commission shall provide notice to the owner of the vehicle in writing requiring the owner to surrender the title along with the fee to the Tax Commission or one of its motor license agents within thirty (30) days from the receipt of notice for the issuance of the appropriate title based on the amount of loss. The Tax Commission shall reissue the appropriate title with the words "Flood Damaged" on the face of the title in the case of a flood-damaged vehicle; provided, no insurance company shall pay a claim for less than the amount to which the holder of the certificate of title is rightfully entitled in order to avoid compliance with this section.

M. Except as provided for in subsection N of this section, any person, firm, corporation, or other legal entity convicted of violating any provision of this section shall be guilty of a misdemeanor and shall be punished by a fine of not less than Three Hundred Dollars (\$300.00) or by incarceration in the county jail for not more than six (6) months, or by both the fine and incarceration.

N. Any owner of a titled vehicle who has knowledge that the title is not the proper type for the vehicle and, with intent to misrepresent the vehicle, fails to make the appropriate title changes, shall be guilty of a misdemeanor. Any person who has knowledge that the title is not the proper type for the vehicle, and with intent to misrepresent the vehicle, buys or receives any vehicle for which the appropriate title changes have not been made as required by this act shall be guilty of a misdemeanor. Any person found guilty in accordance with the provisions of this

subsection shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) for the first offense or Five Thousand Dollars (\$5,000.00) for the second or subsequent offense, or by imprisonment in the county jail for a term not exceeding six (6) months, or by both such fine and imprisonment.

O. Any owner of a salvage or junked vehicle shall submit the certificate of title to the Oklahoma Tax Commission or motor license agent for issuance of an appropriate title. Any holder of a certificate of title issued by this state, to a vehicle which no longer exists, shall surrender the certificate of title to the Oklahoma Tax Commission for cancellation. The vehicle identification number on the canceled certificate of title shall be preserved in the computer of the Oklahoma Tax Commission for at least five (5) years.

Nothing in this section shall be construed to prevent the transfer of ownership of a vehicle by assignment of the title to a used car dealer, wholesale used car dealer, or a licensed automotive dismantler or parts recycler.

SECTION 6. AMENDATORY 47 O.S. 1991, Section 1120, as last amended by Section 3, Chapter 232, O.S.L. 1999 (47 O.S. Supp. 2000, Section 1120), is amended to read as follows:

Section 1120. A. The Oklahoma Tax Commission may, when in the interest of the State of Oklahoma and its residents, enter into the International Registration Plan or other compacts or agreements with other states to permit motor vehicle registration and license taxes on any truck, bus, or truck-tractor on a proportional basis commensurate with the use of Oklahoma highways. Proportional registration under such plans may be permitted for vehicles engaged in interstate commerce or combined interstate and intrastate commerce.

B. The Tax Commission shall require that such proportional registration be based on the percentage of miles actually operated

by such vehicles or fleets of vehicles in the State of Oklahoma in the preceding year in proportion to the total fleet miles operated both within and without Oklahoma. If mileage data is not available for the preceding ~~calendar~~ fiscal year, the Tax Commission may accept the latest twelve-month period available. Such percentage figure, so determined by the Tax Commission, shall be the Oklahoma mileage factor. In computing the taxes under the foregoing formula, the Tax Commission shall first compute the license fees for the entire fleet and then multiply the amount by the Oklahoma mileage factor on a dollar basis.

C. Upon receipt of the Oklahoma license and registration tax, which shall be paid by cash and/or certified funds, as computed under the provisions of the Oklahoma Vehicle License and Registration Act, the Tax Commission shall register all such fleet vehicles, and shall issue a license plate or decal for each of such vehicles identifying it as part of an interstate fleet. The Tax Commission may, upon satisfactory review of the payment history of an applicant, waive the requirement for payment in cash or certified funds.

D. Vehicles so registered on a prorated basis shall be considered fully licensed in Oklahoma and shall be exempt from all further registration or license fees under the provisions of the Oklahoma Vehicle License and Registration Act; provided that such fleet vehicles are proportionally licensed in some other state, territory or possession of the United States or some foreign province, state or country with which the Tax Commission has entered into a prorationing compact or agreement.

If a vehicle is permanently withdrawn from a proportionally registered fleet and a replacement vehicle is added to the fleet in the same calendar quarter, the replacement vehicle shall be considered fully registered as provided in Section 1133 of this title and Section 14-109 of this title, if the replacement vehicle

is registered for a weight equal to or less than the vehicle permanently withdrawn, or if additional registration fees are paid when the replacement vehicle is registered for a weight greater than the vehicle withdrawn. If a vehicle is permanently withdrawn from a proportionally registered fleet and is not replaced by another vehicle in the same calendar quarter, credit shall be allowed as otherwise provided in this section.

E. Vehicles subsequently added to a proportionally registered fleet after commencement of the registration year shall be proportionally registered by applying the mileage percentage used in the original application for such fleet for such registration period to the regular registration fees due with respect to such vehicle for the remainder of the registration year.

F. If a vehicle is permanently withdrawn from a proportionally registered fleet because it has been destroyed, sold or otherwise completely removed from service, credit shall be allowed. Such credit shall be a sum equal to the amount paid with respect to such vehicle when it was first proportionally registered in the registration year, reduced by one-fourth (1/4) for each calendar quarter or fraction thereof elapsing since the beginning of the registration year. The credit may be applied against subsequent additions to the fleet to be prorated or for other additional registration fees assessed. In no event shall credit be allowed for fees beyond such registration year, nor shall any such amount be subject to refund. Provided, further, that vehicles removed from a prorated fleet or sold to a nonprorated fleet for operation in Oklahoma shall be registered in Oklahoma for the remaining portion of the year.

G. Mileage proportions for interstate fleets not operated in this state during the preceding year will be determined by the Tax Commission on the basis of the operations of the fleet the preceding year in other states plus the estimated operation in Oklahoma, or,

if no operations were conducted the previous year ~~in this state~~, a full statement of the proposed method of operation. In the absence of a full statement of the proposed method of operation, the Tax Commission shall require the applicant to utilize an estimated mileage chart provided by the Commission.

H. The records of total mileage operated in all states upon which the application is made for a period of three (3) years following the year upon which the application is based shall be preserved. Upon request of the Tax Commission, such records shall be made available for audit as to accuracy of computation and payments. The Tax Commission may enter into agreements with agencies of other states administering motor vehicle registration laws for joint audits of any such records.

I. The Tax Commission may enter into compacts or agreements with other states or other countries or subdivisions of such countries allowing reciprocal privileges to vehicles based in such other states and operating in interstate commerce if the vehicles are properly registered therein.

J. Interchanged vehicles properly registered in another state may be granted reciprocal privileges when engaged in a continuous movement in interstate commerce, but must register in this state if used in intrastate commerce.

K. In addition to those taxes or fees imposed by the Oklahoma Vehicle License and Registration Act, the same or substantially the same type or category of tax or fee may be imposed upon an out-of-state resident as is imposed upon residents of Oklahoma for the same or substantially similar use of a vehicle in such other state in the amount, or approximate total amount, of any fee or tax, including property, motor fuel, excise, sales, use or mileage tax required by the laws of such other state to be paid by a resident of this state making the same or similar use of a like vehicle in such state.

The Tax Commission shall have the authority to promulgate rules which provide procedures for implementation of comparable regulatory fees and taxes for vehicles used in this state by residents of other states.

Any revenue derived from this subsection shall be apportioned in the same manner as provided in Section 1104 of this title.

It is the intention of the Legislature that the motor vehicle registration and licensing fees assessed against residents of other states operating similar vehicles in Oklahoma be comparably the same as the motor vehicle registration and licensing fees assessed against residents of Oklahoma operating a similar vehicle for a similar purpose in such other state; and that the Tax Commission diligently monitor the motor vehicle registration and licensing fees assessed against residents of Oklahoma by other states and to provide for uniform treatment of Oklahoma residents operating vehicles in other states and for residents of other states operating vehicles in Oklahoma.

L. The provisions of this section shall not apply to tour bus operations issued permits pursuant to Section 1171 of this title.

M. Until December 1, 2000, the Tax Commission may allow fleet vehicles to be registered on a staggered system, on a quarterly basis, if the registrant submits its application through electronic means. Effective December 1, 2000, applicants registering fleet vehicles through electronic means may choose their initial monthly period of registration.

SECTION 7. AMENDATORY 47 O.S. 1991, Section 1124.1, as amended by Section 4, Chapter 294, O.S.L. 1997 (47 O.S. Supp. 2000, Section 1124.1), is amended to read as follows:

Section 1124.1 The Oklahoma Tax Commission is authorized to issue temporary permits or authorization for any vehicle to be proportionally registered in this state or which is currently proportionally registered in this state under the provisions of the

International Registration Plan. Such temporary permit or authorization shall authorize a vehicle to be driven on the public roads of this state pending completion by the Commission of an application for proportional registration of such vehicle. The temporary permit or authorization shall be recognized in lieu of registration in this state. The temporary permit or authorization shall clearly indicate the time and date of issuance, the reason for the issuance, and the date of expiration, which shall ~~not exceed~~ be forty-five (45) days, including the day of issuance. The Commission may enter into reciprocal agreements with other states for recognition of temporary permits or authorizations.

The Commission may assign the temporary permits or authorization to owners or operators of vehicles subject to proportional registration and such owners or operators may issue the temporary permits or authorization as needed for the operation of vehicles that will be operated as a fleet of proportionally registered vehicles. Owners or operators shall be accountable for all temporary permits or authorization assigned to them by the Commission and shall be subject to audit by the Commission.

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

The phrase "currently proportionally registered", as used in this section, shall be defined as any prorate account for which a properly completed original application has been received by the Tax

Commission and all corresponding and assessed fees have been paid in full.

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

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

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

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

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

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1124.2 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Tax Commission shall be authorized to issue permits, commonly known as "hunters permits", for any vehicles to be proportionally registered pursuant to the provisions of Section 1120 of Title 47 of the Oklahoma Statutes. This temporary registration shall be honored by all member jurisdictions of the International Registration Plan.

B. The permit authorized by this section shall be issued in a manner that will allow an owner-operator, not operating as a lessor, to move an empty vehicle from one lessee-carrier fleet to another without violating general registration laws. As used in this section, "owner-operator" shall have the same meaning as set forth in the International Registration Plan.

C. The permit authorized by this section shall be valid for a period of forty-five (45) days, including the day of issuance. A fee in the amount of Twenty-five Dollars (\$25.00) shall be charged for the issuance of the permit. All fees collected from the issuance of the permits shall be apportioned pursuant to Section 1104 of Title 47 of the Oklahoma Statutes.

D. A separate permit shall be required for each proportionally registered power unit and trailer and shall not be issued for a registered gross weight in excess of the empty weight of such vehicle or trailer.

E. The permits authorized by this section may be obtained from the Tax Commission, any motor license agent, or any person or corporation located within or without the state if the Tax Commission has entered into an agreement for transmission of these permits with such person or corporation upon determination that an agreement shall be in the best interest of the state.

SECTION 9. AMENDATORY 68 O.S. 1991, Section 230, as last amended by Section 2, Chapter 407, O.S.L. 1999 (68 O.S. Supp. 2000, Section 230), is amended to read as follows:

Section 230. The Oklahoma Tax Commission may issue to the county clerk of any county of the state a certificate certifying that the person therein named is indebted to the state for a specified state tax in the amount stated. The county clerk shall immediately record and index such certificate using the name of the delinquent taxpayer, the amount certified as being due, a short name of the tax, and the date and time of the filing for record. Such recording shall have the same force and effect as a judgment and shall constitute and be evidence and notice of the state's lien upon the title to any interest in any real property of the taxpayer named in such certificate. Such lien shall be in addition to any and all other liens existing in favor of the state to secure the payment of such unpaid tax, penalty, interest and costs, and such lien shall be paramount and superior to all other liens of whatsoever kind or character attaching to any of said property subsequent to the date of such recording and shall be in addition to any lien provided by Section 234 of this title. Such lien is hereby released and extinguished upon the payment of the tax, penalty, interest and costs, or, except as otherwise provided herein, upon the expiration of ten (10) years after the date upon which such certificate was recorded and indexed by the county clerk; provided, the Tax Commission may, prior to the release and extinguishment of such lien, reissue the certificate of indebtedness ~~one time~~ to the county clerk. A certificate so reissued shall continue the lien until payment of the tax, penalty, interest and costs, or upon the expiration of ten (10) years after the date upon which the certificate was re-recorded and indexed by the county clerk. All active liens evidenced by a certificate of indebtedness filed with a county clerk's office prior to November 1, 1989, shall be released and extinguished if the certificate of indebtedness is not refiled prior to November 1, 2001.

SECTION 10. AMENDATORY 68 O.S. 1991, Section 231, as last amended by Section 3, Chapter 407, O.S.L. 1999 (68 O.S. Supp. 2000, Section 231), is amended to read as follows:

Section 231. A. If any tax, imposed or levied by any state tax law, or any portion of such tax, is not paid before the same becomes delinquent, the Oklahoma Tax Commission may immediately issue a warrant under its official seal. A tax warrant directed to the sheriff of any county of the state shall command the sheriff to levy upon and sell without any appraisal or valuation any real or personal property of the taxpayer found within the county for the payment of the delinquent tax, interest and penalties, and the cost of executing the warrant, and to return such warrant to the Tax Commission, and to pay to it any monies collected by virtue thereof, by a time to be therein specified, not more than sixty (60) days from the date of the warrant.

B. The Tax Commission shall, immediately upon issuance of the warrant, file with the county clerk of the county for which the warrant was issued a copy thereof, and thereupon the county clerk shall record and index such warrant in the same manner as judgments using the name of the taxpayer named in the warrant, a short name for the tax, the amount of the tax or portion thereof, and interest and penalties for which the warrant was issued, and the date and time when such copy was filed. The filing of the warrant in the office of the county clerk of the county, shall constitute and be evidence and notice of the state's lien upon any interest in any real property of the taxpayer against whom such warrant is issued, until such tax, penalty and interest accruing thereon is paid. Such lien shall be in addition to any and all other liens existing in favor of the state to secure the payment of the unpaid tax, penalty, interest and costs, and such lien shall be paramount and superior to all other liens of whatsoever kind or character, attaching to any of said property subsequent to the date and time of such filing and

shall be in addition to any lien provided by Section 234 of this title. The Tax Commission shall, immediately upon issuance of the warrant, mail, by regular mail, a copy of the warrant to the last-known address of the delinquent taxpayer. Such lien is hereby released and extinguished upon the payment of such tax, penalty, interest and costs, or, except as otherwise provided herein, upon the expiration of ten (10) years after the date upon which the warrant was filed with the county clerk; provided, the Tax Commission may, prior to the release and extinguishment of such lien, refile the warrant ~~one-time~~ in the office of the county clerk. A warrant so refiled shall continue the lien until payment of the tax, penalty, interest and costs, or upon the expiration of ten (10) years after the date upon which the warrant was refiled and indexed by the county clerk. All active liens evidenced by a warrant filed with a county clerk's office prior to November 1, 1989, shall be released and extinguished if the warrant is not refiled prior to November 1, 2001.

C. Except as otherwise provided in subsection D of this section, the Tax Commission shall forward the filed warrant to the sheriff of the county in which the warrant was filed. Upon receipt of the warrant, such sheriff shall thereupon proceed to execute the tax warrant in the same manner prescribed by law for executions against property upon judgment of a court of record; and such sheriff shall execute and deliver to the purchaser a bill of sale or deed, as the case may be.

D. The Tax Commission shall not direct or forward to the sheriff of any county any tax warrant issued pursuant to collection by the Tax Commission. The Tax Commission shall promulgate rules pertaining to tax warrants issued under this section.

E. The Tax Commission may levy upon and sell without any appraisal or valuation any real or personal property of any taxpayer identified by a filed tax warrant. The Tax Commission may

execute the tax warrant in the same manner prescribed by law for executions against property upon judgment of a court of record and may execute and deliver to the purchaser a bill of sale or deed, as the case may be.

F. Any purchaser, other than the State of Oklahoma, shall be entitled, upon application to the court having jurisdiction of the property, to have confirmation, the procedure for which shall be the same as is now provided for the confirmation of a sale of property under execution, of such sale prior to the issuance of a bill of sale or deed. The State of Oklahoma shall be authorized to make bids at any such sale to the amount of tax, penalty and costs accrued. In the event such bid is successful, the sheriff shall issue proper muniment of title to the Tax Commission which shall hold such title for the use and benefit of the State of Oklahoma; and any taxpayer, or transferee of such taxpayer, shall have the right, at any time within one (1) year from the date of such sale, to redeem such property, upon the payment of all taxes, penalties and costs accrued to the date of redemption. Such applicant shall not be entitled to a credit upon such taxes, penalties and costs, by reason of revenue that might have accrued to the State of Oklahoma or other purchaser under sale, prior to such redemption. After the expiration of the period of redemption herein provided, the Tax Commission acting for the State of Oklahoma may sell such property at public auction, upon giving thirty (30) days' notice, published in a newspaper of general circulation in the county where such property is located, to the highest and best bidder for cash; and upon a sale had thereof, or when a redemption is made, the Tax Commission, for and on behalf of the State of Oklahoma, shall issue its bill of sale or quit claim deed, as the case may be, to the successful bidder or to the redemptioner. Such muniment of title shall be executed by the Tax Commission, and attested by its secretary, with the seal of the Tax Commission affixed. The sheriff

shall be entitled to the same fee for services in executing the warrant, as the sheriff would be entitled to receive if he or she were executing an execution issued by the court clerk of the county upon a judgment of a court of record.

G. If any sheriff shall refuse or neglect to levy upon and sell any real or personal property of any taxpayer as directed by any warrant issued by the Tax Commission, or shall refuse or neglect, on demand, to pay over to the Tax Commission, its agents or attorneys, all monies collected or received under any warrant issued by the Tax Commission, at any time after collecting or receiving the same, such sheriff or other officer shall, upon motion of the Tax Commission in court, and after thirty (30) days' notice thereof, in writing, be amerced in the amount for which any such warrant was issued by the Tax Commission, together with all penalties and costs and with an additional penalty of ten percent (10%) thereon, to and for the use of the State of Oklahoma. Every surety of any sheriff or officer shall be made a party to the judgment rendered as aforesaid against the sheriff or other officer.

H. The Tax Commission may expend funds from the Oklahoma Tax Commission Fund in the State Treasury to reimburse the sheriff for travel and administrative costs actually and necessarily incurred while performing duties required by this section. Such costs shall be assessed against the delinquent taxpayer, shall be added to the amount necessary to satisfy the tax warrant, and upon collection thereof shall be deposited in the Oklahoma Tax Commission Fund.

I. A tax warrant issued and filed under authority of this section shall:

1. Constitute and be evidence and notice of the state's lien upon real property; and

2. Not be subject to the provisions of any dormancy statute which would limit the enforceability, effect or operation of the lien, except as otherwise provided in this section.

J. After July 1, 1993, the Tax Commission shall not issue any certificates of indebtedness pursuant to the provisions of Section 230 of this title.

K. When a tax warrant has been issued and filed as provided in this section, the Tax Commission shall have all of the remedies and may take all of the proceedings thereon for the collection thereof which may be had or taken upon a judgment of the district court.

SECTION 11. AMENDATORY 68 O.S. 1991, Section 234, as last amended by Section 4, Chapter 407, O.S.L. 1999 (68 O.S. Supp. 2000, Section 234), is amended to read as follows:

Section 234. A. All taxes, interest and penalties imposed by the provisions of Section 201 et seq. of this title, or any state tax law, are hereby declared to constitute a lien in favor of the state upon all franchises, property, and rights to property, whether real or personal, then belonging to or thereafter acquired by the person owing the tax, whether such property is employed by such person in the prosecution of business, or is in the hands of an assignee, trustee or receiver for the benefit of creditors, from the date the taxes are due and payable under the provisions of the state tax laws levying such taxes. The lien shall be in addition to any lien accrued by the filing of a tax warrant or tax certificate as provided by Sections 230 and 231 of this title. The lien shall be prior, superior and paramount to all other liens, claims, or encumbrances on the property of whatsoever kind or character, except those of any bona fide mortgagee, pledgee, judgment creditor, or purchaser, whose right shall have attached prior to the date of the filing and indexing in the office of the county clerk in the county in which the property is located, of the notice of the lien of the state under a tax certificate as provided by Section 230 of this title, or under a tax warrant as provided by Section 231 of this title, and who have filed or recorded the mortgages and conveyances in the office of the county clerk of the county in which the

property is located. Such taxes, penalties and interest shall at all times, constitute a prior, superior and paramount claim as against the claims of unsecured creditors. The lien of the state shall continue until the amount of the tax and penalty due and owing, and interest subsequently accruing thereon, is paid, or, except as otherwise provided herein, upon the expiration of ten (10) years after the date of the filing and indexing in the office of the county clerk in the county in which the property is located, of the notice of the lien of the state under a tax certificate as provided by Section 230 of this title, or under a tax warrant as provided by Section 231 of this title; provided, the Oklahoma Tax Commission may, prior to the expiration of the ten-year period provided for herein, refile the notice of the lien ~~one-time~~ with the county clerk. A notice so refiled shall continue the lien until payment of the tax, penalty, interest and costs, or upon the expiration of ten (10) years after the date upon which the notice was refiled. All active liens evidenced by a notice of lien filed with a county clerk's office prior to November 1, 1989, shall be released and extinguished if the notice of lien is not refiled prior to November 1, 2001.

B. In any action affecting the title to real estate or the ownership or right to possession of personal property, the State of Oklahoma may be made a party defendant, for the purpose of determining its lien upon the property involved therein only in cases where notice of the lien of the state has been filed and indexed as provided in Sections 230 and 231 of this title. In any such action, service of summons upon the Oklahoma Tax Commission, by serving any member thereof, shall be sufficient service and binding upon the State of Oklahoma. In all such actions or suits, the complaint or pleading shall include the name and address of the taxpayer whose liability created the lien and the identifying number evidencing the lien.

SECTION 12. AMENDATORY 68 O.S. 1991, Section 812, as last amended by Section 4, Chapter 334, O.S.L. 1996 (68 O.S. Supp. 2000, Section 812), is amended to read as follows:

Section 812. A. 1. When the president or managing officer of a safe deposit company, trust company, bank, or other financial institution operating in this state, or person or persons, holding securities or assets of a decedent who was a resident of this state receives actual notice, from the person or persons entitled or claiming to be entitled to the securities or assets, from a source deemed reliable by the safe deposit company, trust company, bank, or other financial institution or from the Oklahoma Tax Commission, of the death of the decedent, such safe deposit company, trust company, bank, or other financial institution operating in this state, or person or persons, holding securities or assets of a such decedent shall not deliver or transfer the same except as provided for in subsection (d) of Section 811 of this title, to the beneficiary or joint survivor, executor, administrator, or legal representatives of the decedent, or upon their order or request, unless notice of the time and place of such intended transfer be served upon the Oklahoma Tax Commission at least ten (10) days prior to ~~the~~ said transfer or delivery. No such safe deposit company, trust company, bank, or other financial institution, person or persons, shall deliver or transfer any securities or assets of the estate of a decedent except as provided for in subsection (d) of Section 811 of this title, without retaining a sufficient portion or amount thereof to pay any tax which may thereafter be assessed on account of the transfer of such securities or assets pursuant to the provisions of Section 801 et seq. of this title, unless the Oklahoma Tax Commission consents to such delivery or transfer in writing, and it shall be lawful for the Oklahoma Tax Commission, personally or by representative, to examine the securities or assets at the time of such delivery or transfer. Failure to serve such notice of transfer and to retain a

sufficient portion of the amount to pay the tax provided for in this section, after having received actual notice of the death of the owner of any such securities or assets, shall render such safe deposit company, trust company, bank, or other financial institution, person or persons, liable for the payment of the tax.

2. In all cases, regardless of the aggregate amount of deposits of money in ~~any~~ such safe deposit company, trust company, bank, or other financial institution:

a. to the credit of the decedent and any other person or persons not the spouse or a lineal descendant of the decedent, as joint tenants, or

b. to the credit of the decedent individually, with any other person or persons not the spouse or lineal descendant of the decedent as payable-on-death beneficiary or beneficiaries,

not more than ~~Two Thousand Five Hundred Dollars (\$2,500.00)~~ Five Thousand Dollars (\$5,000.00) or ninety percent (90%) of the amount of deposits of money, whichever is greater, may be released or paid out by such institutions without notifying the Oklahoma Tax Commission.

3. From deposits of money in ~~any~~ such safe deposit company, trust company, bank, or other financial institution:

a. to the credit of the decedent and ~~a~~ one or more lineal ~~descendant~~ descendants as joint tenants, or

b. to the credit of the decedent individually with one or more lineal descendants as payable-on-death beneficiary or beneficiaries,

not more than Ten Thousand Dollars (\$10,000.00) may be released or paid out by such institutions without notifying the Oklahoma Tax Commission, and a combined total of not more than One Hundred Seventy-five Thousand Dollars (\$175,000.00) in the aggregate or ninety percent (90%) of the deposits, whichever is greater,

including any previous release of money to such person or persons after decedent's death, may be released or paid out by such institutions ten (10) days after receipt of notification in writing to the Oklahoma Tax Commission.

4. Any funds held:

a. jointly ~~as a beneficiary with~~ by the decedent and the surviving spouse only, or

b. by the decedent individually with the surviving spouse as the only payable-on-death beneficiary,

without limit, may be released or paid out by such institutions without notifying the Tax Commission.

B. No safe deposit company, trust company, bank, or other financial institution, or an officer thereof, or person or persons holding securities or assets of a decedent, shall be held liable for the wrongful release of deposits within the limits of this section.

C. The restrictions of this section shall not be applicable to oil and gas producing monies, received after date of death, whether from royalties, working interests, overriding royalties or otherwise.

D. 1. This section shall not be applicable to deposit accounts and safe deposit boxes held by a trust other than a grantor trust. The restrictions of this section shall apply to a grantor trust upon the death of a grantor.

2. For purposes of this subsection, a "grantor trust" means a trust for which the grantor is the trustee or a co-trustee and the right to revoke the trust is retained by the grantor or a nonadverse party, or both. A grantor trust includes a trust where a husband and wife are the grantors and the husband or wife is the trustee or a co-trustee and either the husband or wife or a nonadverse party, or both, retain the right to revoke the trust.

3. a. In all cases, regardless of the aggregate amount of deposits of money in ~~any~~ such safe deposit company,

trust company, bank, or other financial institution to the credit of decedent's grantor trust, upon request of the trustee of the grantor trust, not more than ~~Two Thousand Five Hundred Dollars (\$2,500.00)~~ Five Thousand Dollars (\$5,000.00) or ninety percent (90%) of the amount of deposits of money, whichever is greater, may be released or paid out by such institution to a person or persons not the spouse or a lineal descendant of the decedent without notifying the Oklahoma Tax Commission.

b. From deposits of money in ~~any~~ such safe deposit company, trust company, bank, or other financial institution to the credit of decedent's grantor trust, upon request of the trustee of the grantor trust as authorized under the terms of the grantor trust, not more than Ten Thousand Dollars (\$10,000.00) in the aggregate may be released or paid out by such institutions to one or more lineal descendants of the decedent without notifying the Oklahoma Tax Commission and a combined total of not more than One Hundred Seventy-five Thousand Dollars (\$175,000.00) in the aggregate or ninety percent (90%) of the deposits, whichever is greater, including any previous distributions to such person or persons after decedent's death, may be released or paid out to ~~a~~ one or more lineal ~~descendant~~ descendants of the decedent ten (10) days after receipt of notification in writing to the Oklahoma Tax Commission.

c. Any funds held to the credit of the decedent's grantor trust, if paid out or released by the trustee of the grantor trust as authorized under the terms of the grantor trust, to the surviving spouse of decedent,

may be released or paid out without notifying the Oklahoma Tax Commission.

SECTION 13. AMENDATORY 68 O.S. 1991, Section 1010, as last amended by Section 12, Chapter 278, O.S.L. 1994 (68 O.S. Supp. 2000, Section 1010), is amended to read as follows:

Section 1010. A. The tax provided for in ~~this article~~ Section 1001 et seq. of this title shall be paid to the Oklahoma Tax Commission.

B. Except as otherwise provided in subsection G of this section, every person responsible for paying or remitting the tax levied by ~~this article~~ Section 1001 et seq. of this title on the production from any lease shall file with the Tax Commission a monthly report on each ~~said~~ lease, regardless of sales or purchases of production from ~~said~~ the lease during the report period, under oath, on forms prescribed by the Tax Commission, giving, with other information required, the following:

1. The Tax Commission assigned production unit number, subnumber and merge number, or, with the consent of the Tax Commission, the full description of the property by lease name, subdivision of quarter section, section, township, and range, from which ~~said~~ the oil or gas was produced, or both, as may be required by the Tax Commission;

2. The Tax Commission assigned company reporting numbers of the producer and purchaser, or with the consent of the Tax Commission, the company name;

3. The gross amount of asphalt, ores bearing lead, zinc, jack, gold, silver or copper, oil or gas produced or purchased, or, in the event of no production or no sale or purchase during the report period, zero gross amount shall be reported;

4. The kind of mineral, oil, gas, or casinghead gas produced or purchased;

5. The total value of the mineral oil, gas, or casinghead gas, at the time and place of production, including any and all premiums paid for the sale thereof, at the price paid, if purchased at the time of production;

6. If requested by the Tax Commission, the prevailing market price of oil not sold at the time of production; and

7. The amount of royalty payable on the production from ~~said~~ the lease, if the royalty is claimed to be exempt from taxation by law, and the facts on which such claim of exemption is based and such other information pertaining to ~~said~~ the claim as the Tax Commission may require.

Each report required by the provisions of this section shall be filed on separate forms as to product and county.

C. No person shall engage in the mining or production within this state of asphalt or ores bearing lead, zinc, jack, gold, silver, or copper, oil or gas, prior to obtaining from the Tax Commission a Tax Commission assigned producer reporting number and a Tax Commission assigned production unit number, subnumber and merge number for each producing lease. No person shall engage in the purchase of asphalt, ores bearing lead, zinc, jack, gold, silver or copper, oil or gas from a producing lease prior to obtaining from the Tax Commission a Tax Commission assigned purchaser reporting number and the Tax Commission assigned production unit number, subnumber and merge number, of the lease from which ~~said~~ the production is to be purchased.

1. Every producer and purchaser shall make application, upon forms prescribed by the Tax Commission, for a Tax Commission assigned producer or purchaser reporting number prior to producing or purchasing production. Every producer shall obtain, by making application upon forms prescribed by the Tax Commission, a Tax Commission assigned production unit number, subnumber and merge

number for each lease from which lease production will be sold or disposed before disposing of production from any lease in the state.

Provided, however, the Tax Commission shall not approve any application for a Tax Commission assigned producer or purchaser reporting number without proper confirmation that the applicant has posted the requisite surety documents with the Corporation Commission pursuant to Section 318.1 of Title 52 of the Oklahoma Statutes.

2. Every producer or purchaser shall notify the Tax Commission within thirty (30) days of any changes of any producing lease in the state as may be required by the Tax Commission.

3. Gross production tax reports from either the purchaser or producer shall become due on the first day of each calendar month on all products subject to the tax levied by ~~this article~~ Section 1001 et seq. of this title produced in and saved during the preceding monthly period. If such reports are not received by the Tax Commission on or before the tenth day of the second calendar month following the month of production, the reports shall become delinquent. Any requested or required amended report or any requested information submitted in response to written demand for information which is not received by the Tax Commission on or before thirty (30) days after the mailing of the request or demand by the Tax Commission or any of its employees shall be delinquent.

D. Every person required to file such forms or reports or who has been requested to file an amended report to provide information by written demand, or who has purchased oil or gas from a lease prior to being authorized by the Tax Commission to purchase production from such lease, will be subject to and may be assessed the following penalties for each delinquency:

1. Five Dollars (\$5.00) per day for each Tax Commission assigned production unit number or subnumber or merge number or product code, upon which a form, report, amended report, or for

which requested information in response to written demand is delinquent and for each day from the date a purchaser buys production from a lease from which it is not authorized to purchase to the date the Tax Commission approves the purchaser to buy from such lease; provided, such penalty shall not be assessed for an amount in excess of One Thousand Five Hundred Dollars (\$1,500.00). ~~Said~~ The penalties may be waived by the Tax Commission or its designee for good cause shown; and

2. If within twelve (12) months after a previous assessment of penalties as provided for by this section a subsequent delinquency occurs, penalties may be assessed at the rate of Ten Dollars (\$10.00) per day for each Tax Commission assigned production unit number or subnumber or merge number, or product code; provided such penalty shall not be assessed for an amount in excess of One Thousand Five Hundred Dollars (\$1,500.00). ~~Said~~ The penalty thereon may be waived, in whole or in part, by the Tax Commission, for good cause shown.

The penalties prescribed herein shall be in addition to other penalties assessable by the Tax Commission pursuant to the laws of this state. The penalties prescribed by this section may be collected and shall be apportioned ~~in the same manner as gross production tax~~ to the General Revenue Fund.

E. Gross production tax forms reports, amended reports, or requested information in response to written demands which are received by the Tax Commission on or after the time fixed for delinquency, but which were mailed prior to the time fixed for delinquency, shall be deemed to have been received by the Tax Commission before becoming delinquent. Postmark or registry or certified receipt showing deposit in the U.S. mails shall be conclusive evidence of the date of mailing. Provided all remittances due under such reports or amended reports must be

received by the Tax Commission on or before the date specified by law regardless of when mailed.

F. In the event a person required to remit the tax levied by the provisions of ~~this article~~ Section 1001 et seq. of this title becomes delinquent in reporting or remitting ~~said~~ the tax, or upon a determination by the Tax Commission that the state may lose tax revenues due to the difficulty of collecting same, the Tax Commission may require any person required to remit ~~said~~ the tax to furnish a sufficient cash deposit, bond, or other security in an amount as will protect ~~said~~ the tax revenues of this state.

G. In lieu of monthly reporting, a royalty owner taking gas in kind for the royalty owner's own consumption who is responsible for remitting the tax levied by ~~this article~~ Section 1001 et seq. of this title may file semiannual reports and remit taxes due thereunder to the Tax Commission on or before the first day of January and July of each year for the preceding six-month period. If not received on or before the last day of such month, the report and tax shall be delinquent.

SECTION 14. AMENDATORY 68 O.S. 1991, Section 1356, as last amended by Section 37 of Enrolled House Bill No. 1965 of the 1st Session of the 48th Oklahoma Legislature, is amended to read as follows:

Section 1356. Exemptions - Governmental and nonprofit entities.

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

1. Sale of tangible personal property or services to the United States government or to the State of Oklahoma, any political subdivision of this state or any agency of a political subdivision of this state; provided, all sales to contractors in connection with the performance of any contract with the United States government, State of Oklahoma or any of its political subdivisions shall not be

exempted from the tax levied by ~~this article~~ Section 1350 et seq. of this title, except as hereinafter provided;

2. Sales of property to agents appointed by or under contract with agencies or instrumentalities of the United States government if ownership and possession of such property transfers immediately to the United States government;

3. Sales of property to agents appointed by or under contract with a political subdivision of this state if the sale of such property is associated with the development of a qualified federal facility, as provided in the Oklahoma Federal Facilities Development Act, and if ownership and possession of such property transfers immediately to the political subdivision or the state;

4. Sales made directly by county, district or state fair authorities of this state, upon the premises of the fair authority, for the sole benefit of the fair authority;

5. Sale of food in cafeterias or lunch rooms of elementary schools, high schools, colleges or universities which are operated primarily for teachers and pupils and are not operated primarily for the public or for profit;

6. Dues paid to fraternal, religious, civic, charitable or educational societies or organizations by regular members thereof, provided, such societies or organizations operate under what is commonly termed the lodge plan or system, and provided such societies or organizations do not operate for a profit which inures to the benefit of any individual member or members thereof to the exclusion of other members and dues paid monthly or annually to privately owned scientific and educational libraries by members sharing the use of services rendered by such libraries with students interested in the study of geology, petroleum engineering or related subjects;

7. Sale of tangible personal property or services to or by churches, except sales made in the course of business for profit or

savings, competing with other persons engaged in the same or a similar business;

8. The amount of proceeds received from the sale of admission tickets which is separately stated on the ticket of admission for the repayment of money borrowed by any accredited state-supported college or university or any public trust of which a county in this state is the beneficiary, for the purpose of constructing or enlarging any facility to be used for the staging of an athletic event, a theatrical production, or any other form of entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket. Such facilities include, but are not limited to, athletic fields, athletic stadiums, field houses, amphitheaters and theaters. To be eligible for this sales tax exemption, the amount separately stated on the admission ticket shall be a surcharge which is imposed, collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the college or university to effect the capital improvements hereinbefore described;

9. Sales of tangible personal property or services to the council organizations or similar state supervisory organizations of the Boy Scouts of America, Girl Scouts of U.S.A. and the Campfire Boys and Girls shall be exempt from sales tax;

10. Sale of tangible personal property or services to any county, municipality, rural water district, public school district, the institutions of The Oklahoma State System of Higher Education, the Grand River Dam Authority, the Northeast Oklahoma Public Facilities Authority, the Oklahoma Municipal Power Authority, City of Tulsa-Rogers County Port Authority, Muskogee City-County Port Authority, the Oklahoma Department of Veterans Affairs, or to any person with whom any of the above-named subdivisions or agencies of this state has duly entered into a public contract pursuant to law, necessary for carrying out such public contract or to any

subcontractor to such a public contract. Any person making purchases on behalf of such subdivision or agency of this state shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such subdivision or agency of this state and set out the name of such public subdivision or agency. Any person who wrongfully or erroneously certifies that purchases are for any of the above-named subdivisions or agencies of this state or who otherwise violates this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both;

11. Sales of tangible personal property or services to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3), including materials, supplies, and equipment used in the construction and improvement of buildings and other structures owned by the institutions and operated for educational purposes.

Any person, firm, agency or entity making purchases on behalf of any institution, agency or subdivision in this state, shall certify in writing, on the copy of the invoice or sales ticket the nature of the purchases, and violation of this paragraph shall be a misdemeanor as set forth in paragraph 10 of this section;

12. Tuition and educational fees paid to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes

of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3);

13. Sales of tangible personal property made by:

- a. a public school,
- b. a private school offering instruction for grade levels kindergarten through twelfth grade,
- c. a public school district,
- d. a public or private school board,
- e. a public or private school student group or organization,
- f. a parent-teacher association or organization, or
- g. public or private school personnel for purposes of raising funds for the benefit of a public or private school, public school district, public or private school board or public or private school student group or organization.

The exemption provided by this paragraph for sales made by a public or private school shall be limited to those public or private schools accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs. Sale of tangible personal property in this paragraph shall include sale of admission tickets and concessions at athletic events;

14. Sales of tangible personal property by:

- a. local 4-H clubs,
- b. county, regional or state 4-H councils,
- c. county, regional or state 4-H committees,
- d. 4-H leader associations,
- e. county, regional or state 4-H foundations, and
- f. authorized 4-H camps and training centers.

The exemption provided by this paragraph shall be limited to sales for the purpose of raising funds for the benefit of such organizations. Sale of tangible personal property exempted by this paragraph shall include sale of admission tickets;

15. The first Seventy-five Thousand Dollars (\$75,000.00) each year from sale of tickets and concessions at athletic events by each organization exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(4);

16. Items or services which are subsequently given away by the Oklahoma Tourism and Recreation Department as promotional items pursuant to Section 1834 of Title 74 of the Oklahoma Statutes;

17. Sales of tangible personal property or services to fire departments organized pursuant to Section 592 of Title 18 of the Oklahoma Statutes which items are to be used for the purposes of the fire department. Any person making purchases on behalf of any such fire department shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such fire department and set out the name of such fire department. Any person who wrongfully or erroneously certifies that the purchases are for any such fire department or who otherwise violates the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or both;

18. Complimentary or free tickets for admission to places of amusement, sports, entertainment, exhibition, display or other recreational events or activities which are issued through a box office or other entity which is operated by a state institution of higher education with institutional employees or by a municipality with municipal employees;

19. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property by fire departments

organized pursuant to Titles 11, 18, or 19 of the Oklahoma Statutes for the purposes of raising funds for the benefit of the fire department. Fire departments selling tangible personal property for the purposes of raising funds shall be limited to no more than six (6) days each year to raise such funds in order to receive the exemption granted by this paragraph;

20. Sales of tangible personal property or services to any Boys & Girls Clubs of America affiliate in this state which is not affiliated with the Salvation Army and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3);

21. Sales of tangible personal property or services to any organization, which takes court-adjudicated juveniles for purposes of rehabilitation, and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3), provided that at least fifty percent (50%) of the juveniles served by such organization are court adjudicated and the organization receives state funds in an amount less than ten percent (10%) of the annual budget of the organization;

22. Sales of tangible personal property or services to:

- a. any federally qualified community health center as defined in Section 254c of Title 42 of the United States Code,
- b. any migrant health center as defined in Section 254b of Title 42 of the United States Code,
- c. any clinic receiving disbursements of state monies from the Indigent Health Care Revolving Fund pursuant to the provisions of Section 66 of Title 56 of the Oklahoma Statutes, and
- d. any community based health center which meets all of the following criteria:

- (1) provides primary care services at no cost to the recipient, and
- (2) is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

23. Dues or fees, including free or complimentary dues or fees which have a value equivalent to the charge that could have otherwise been made, to YMCAs, YWCAs or municipally-owned recreation centers for the use of facilities and programs;

24. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property or services to or by a cultural organization established to sponsor and promote educational, charitable and cultural events for disadvantaged children, and which organization is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

25. Sales of tangible personal property or services to museums or other entities which have been accredited by the American Association of Museums. Any person making purchases on behalf of any such museum or other entity shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such museum or other entity and set out the name of such museum or other entity. Any person who wrongfully or erroneously certifies that the purchases are for any such museum or other entity or who otherwise violates the provisions of this paragraph shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or by both such fine and incarceration;

26. Sales of tickets for admission by any museum accredited by the American Association of Museums. In order to be eligible for

the exemption provided by this paragraph, an amount equivalent to the amount of the tax which would otherwise be required to be collected pursuant to the provisions of Section 1350 et seq. of this title shall be separately stated on the admission ticket and shall be collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the museum to effect the construction, enlarging or renovation of any facility to be used for entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket;

27. Sales of tangible personal property or services occurring on or after June 1, 1995, to children's homes which are supported or sponsored by one or more churches, members of which serve as trustees of the home;

28. Sales of tangible personal property or services to the organization known as the Disabled American Veterans, Department of Oklahoma, Inc., and subordinate chapters thereof;

29. Sales of tangible personal property or services to youth camps which are supported or sponsored by one or more churches, members of which serve as trustees of the organization;

30. Transfer of tangible personal property made pursuant to Section 3226 of Title 63 of the Oklahoma Statutes by the University Hospitals Trust;

31. Sales of tangible personal property or services to a municipality, county or school district pursuant to a lease or lease-purchase agreement executed between the vendor and a municipality, county or school district. A copy of the lease or lease-purchase agreement shall be retained by the vendor;

32. Sales of tangible personal property or services to any spaceport user, as defined in the Oklahoma Space Industry Development Act;

33. The sale, use, storage, consumption, or distribution in this state, whether by the importer, exporter, or another person, of

any satellite or any associated launch vehicle, including components of, and parts and motors for, any such satellite or launch vehicle, imported or caused to be imported into this state for the purpose of export by means of launching into space. This exemption provided by this paragraph shall not be affected by:

- a. the destruction in whole or in part of the satellite or launch vehicle,
- b. the failure of a launch to occur or be successful, or
- c. the absence of any transfer or title to, or possession of, the satellite or launch vehicle after launch;

34. The sale, lease, use, storage, consumption, or distribution in this state of any space facility, space propulsion system or space vehicle, satellite, or station of any kind possessing space flight capacity, including components thereof;

35. The sale, lease, use, storage, consumption, or distribution in this state of tangible personal property, placed on or used aboard any space facility, space propulsion system or space vehicle, satellite, or station possessing space flight capacity, which is launched into space, irrespective of whether such tangible property is returned to this state for subsequent use, storage, or consumption in any manner;

36. The sale, lease, use, storage, consumption, or distribution in this state of tangible personal property meeting the definition of "section 38 property" as defined in Sections 48(a)(1)(A) and (B)(i) of the Internal Revenue Code of 1986, that is an integral part of and used primarily in support of space flight; however, section 38 property used in support of space flight shall not include general office equipment, any boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States government, or any other property not specifically suited to supporting space activity. The term "in support of space

flight", for purposes of this paragraph, means the altering, monitoring, controlling, regulating, adjusting, servicing, or repairing of any space facility, space propulsion systems or space vehicle, satellite, or station possessing space flight capacity, including the components thereof;

37. The purchase or lease of machinery and equipment for use at a fixed location in this state, which is used exclusively in the manufacturing, processing, compounding, or producing of any space facility, space propulsion system or space vehicle, satellite, or station of any kind possessing space flight capacity. Provided, the exemption provided for in this paragraph shall not be allowed unless the purchaser or lessee signs an affidavit stating that the item or items to be exempted are for the exclusive use designated herein. Any person furnishing a false affidavit to the vendor for the purpose of evading payment of any tax imposed by Section 1354 of this title shall be subject to the penalties provided by law. As used in this paragraph, "machinery and equipment" means "section 38 property" as defined in Sections 48(a)(1)(A) and (B)(i) of the Internal Revenue Code of 1986, which is used as an integral part of the manufacturing, processing, compounding, or producing of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph;

38. The amount of a surcharge or any other amount which is separately stated on an admission ticket which is imposed, collected and used for the sole purpose of constructing, remodeling or enlarging facilities of a public trust having a municipality or county as its sole beneficiary;

39. Sales of tangible personal property or services which are directly used in or for the benefit of a state park in this state, which are made to an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,

Section 501(c) (3) and which is organized primarily for the purpose of supporting one or more state parks located in this state;

40. The sale, lease or use of parking privileges by an institution of The Oklahoma State System of Higher Education; ~~and~~

41. Sales of tangible personal property or services for use on campus construction projects for the benefit of institutions of The Oklahoma State System of Higher Education or private institutions of higher education accredited by the Oklahoma State Regents for Higher Education when such projects are financed by or through the use of nonprofit entities which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3); and

42. Sales of tangible personal property or services by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3), in the course of conducting a national championship sports event, but only if all or a portion of the payment in exchange therefor would qualify as the receipt of a qualified sponsorship payment described in Internal Revenue Code, 26 U.S.C., Section 513(i). Sales exempted pursuant to this paragraph shall be exempt from all Oklahoma sales, use, excise and gross receipts taxes.

SECTION 15. AMENDATORY 68 O.S. 1991, Section 1357, as last amended by Section 2, Chapter 337, O.S.L. 2000 (68 O.S. Supp. 2000, Section 1357), is amended to read as follows:

Section 1357. 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 Section 1350 et seq. of this title. 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 salespersons 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, and the servicing of any advertising devices;

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, and associated delivery or transmission services, 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, or any equipment or supplies used in the preparation of the 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 tangible personal property or services 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 documentary, special, music video, or a television program that will serve as a pilot for or be

a segment of an ongoing dramatic or situation comedy series filmed or taped for network or national or regional syndication or a feature-length motion picture intended for theatrical release or for network or national or regional syndication or broadcast. The provisions of this paragraph shall apply to sales occurring on or after July 1, 1996;

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

23. 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;

24. Effective May 6, 1992, sales of wireless telecommunications equipment to a vendor who subsequently transfers the equipment at no charge or for a discounted charge to a consumer as part of a promotional package or as an inducement to commence or continue a contract for wireless telecommunications services;

25. Effective January 1, 1991, leases of rail transportation cars to haul coal to coal-fired plants located in this state which generate electric power; ~~and~~

26. Beginning July 1, 2000, sales of aircraft engine repairs, modification, and replacement parts, sales of aircraft frame repairs and modification, aircraft interior modification, and paint, and sales of services employed in the repair, modification and replacement of parts of aircraft engines, aircraft frame and interior repair and modification, and paint. The exemption provided by this paragraph shall be limited to aircraft repairs, modification, and replacement parts for aircraft weighing more than twelve thousand five hundred (12,500) pounds and less than one hundred thousand (100,000) pounds and which aircraft are brought into this state exclusively for such repairs or modification. The

exemption provided by this paragraph shall be limited to repairs or modifications made by a new or expanded aircraft repair facility. As used in this paragraph, the term "aircraft" shall have the same meaning as such term is defined in Section 6001 of this title. The term "new or expanded aircraft repair facility" shall mean any new or expanded facility which repairs, modifies or replaces aircraft parts in which more than Four Million Dollars (\$4,000,000.00) was invested to establish the new facility or expand an existing facility and which construction was commenced or was in progress on or after January 1, 1999; and

27. Sales of materials and supplies to the owner or operator of a ship, motor vessel or barge that is used in interstate or international commerce if the materials and supplies:

- a. are loaded on the ship, motor vessel or barge and used in the maintenance and operation of the ship, motor vessel or barge, or
- b. enter into and become component parts of the ship, motor vessel or barge.

SECTION 16. AMENDATORY 68 O.S. 1991, Section 2358, as last amended by Section 12 of Enrolled House Bill No. 1231 of the 1st Session of the 48th Oklahoma Legislature, 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

such 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, 26 U.S.C., Section 172, as modified by the Oklahoma Income Tax Act, Section 2351 et seq. of this title, 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;

provided, for net operating losses incurred for tax years beginning after December 31, 1992, and before December 31, 1993, the loss carryback shall be for a period of three (3) years; for tax years beginning after December 31, 1993, and before December 31, 1994, the carryback period shall be two (2) years; for tax years beginning after December 31, 1994, and before December 31, 1995, the carryback period shall be one (1) year; and for tax years beginning after December 31, 1995, no net operating loss carryback shall be allowable. For tax years beginning after December 31, 1992, the net operating loss carryforward shall not exceed fifteen (15) years.

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; interest income from investments held to generate working capital for a unitary business enterprise shall be included in apportionable income; 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.

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. Provided, for corporations whose property for purposes of the tax imposed by Section 2355 of this title has an initial investment cost equaling or exceeding Two Hundred Million Dollars (\$200,000,000.00) and such investment is made on or after July 1, 1997, or for corporations which expand their property or facilities in this state and such expansion has an investment cost equaling or exceeding Two Hundred Million Dollars (\$200,000,000.00) over a period not to exceed three (3) years, and such expansion is commenced on or after January 1, 2000, the three factors shall be apportioned with property and payroll, each comprising twenty-five percent (25%) of the apportionment factor and sales comprising fifty percent (50%) of the apportionment factor. The apportionment factors shall be computed as follows:

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, salespersons' 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 Oklahoma 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 railroad employees, 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 salespersons, 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 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 apportionment of the 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 apportionment to the net income of the enterprise must attribute to Oklahoma only a reasonable portion thereof.

6. For calendar years 1997 and 1998, the owner of a new or expanded agricultural commodity processing facility in this state may exclude from Oklahoma taxable income, or in the case of an individual, the Oklahoma adjusted gross income, fifteen percent (15%) of the investment by the owner in the new or expanded agricultural commodity processing facility. For calendar year 1999, and all subsequent years, the percentage, not to exceed fifteen percent (15%), available to the owner of a new or expanded agricultural commodity processing facility in this state claiming the exemption shall be adjusted annually so that the total estimated reduction in tax liability does not exceed One Million Dollars (\$1,000,000.00) annually. The Tax Commission shall promulgate rules for determining the percentage of the investment which each eligible taxpayer may exclude. The exclusion provided by this paragraph shall be taken in the taxable year when the investment is made. In the event the total reduction in tax liability authorized by this

paragraph exceeds One Million Dollars (\$1,000,000.00) in any calendar year, the Tax Commission shall permit any excess over One Million Dollars (\$1,000,000.00) and shall factor such excess into the percentage for subsequent years. Any amount of the exemption permitted to be excluded pursuant to the provisions of this paragraph but not used in any year may be carried forward as an exemption from income pursuant to the provisions of this paragraph for a period not exceeding six (6) years following the year in which the investment was originally made.

For purposes of this paragraph:

- a. "Agricultural commodity processing facility" means building, structures, fixtures and improvements used or operated primarily for the processing or production of marketable products from agricultural commodities. The term shall also mean a dairy operation that requires a depreciable investment of at least Two Hundred Fifty Thousand Dollars (\$250,000.00) and which produces milk from dairy cows. The term does not include a facility that provides only, and nothing more than, storage, cleaning, drying or transportation of agricultural commodities, and
- b. "Facility" means each part of the facility which is used in a process primarily for:
 - (1) the processing of agricultural commodities, including receiving or storing agricultural commodities, or the production of milk at a dairy operation,
 - (2) transporting the agricultural commodities or product before, during or after the processing, or
 - (3) packaging or otherwise preparing the product for sale or shipment.

7. Despite any provision to the contrary in paragraph 3 of this subsection, for taxable years beginning after December 31, 1999, in the case of a taxpayer which has a farming loss, such farming loss shall be considered a net operating loss carryback in accordance with and to the extent of the Internal Revenue Code, 26 U.S.C., Section 172(b)(G). However, the amount of the net operating loss carryback shall not exceed the lesser of:

- a. Sixty Thousand Dollars (\$60,000.00), or
- b. the loss properly shown on Schedule F of the Internal Revenue Service Form 1040 reduced by one-half (1/2) of the income from all other sources other than reflected on Schedule F.

8. In taxable years beginning after December 31, 1995, all qualified wages equal to the federal income tax credit set forth in 26 U.S.C.A., Section 45A, shall be deducted from taxable income. The deduction allowed pursuant to this paragraph shall only be permitted for the tax years in which the federal tax credit pursuant to 26 U.S.C.A., Section 45A, is allowed. For purposes of this paragraph, "qualified wages" means those wages used to calculate the federal credit pursuant to 26 U.S.C.A., Section 45A.

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, 26 U.S.C., Section 1361 et seq., 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, 26 U.S.C., Section 168, 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, 26

U.S.C., Section 1 et seq., 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 such assets.

Notwithstanding any other provisions of the Oklahoma Income Tax Act, Section 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 such 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, such 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 and 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 taxpayer 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 the central visual acuity of the individual does not exceed 20/200 in the better eye with correcting lenses, or if the visual acuity of the individual 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. 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.

Provided, for taxable years beginning after December 31, 1999, amounts included in the calculation of federal adjusted gross income pursuant to the

conversion of a traditional individual retirement account to a Roth individual retirement account shall be excluded from federal adjusted gross income for purposes of the income thresholds provided in this subparagraph.

- d. For taxable years beginning after December 31, 1990, and beginning before January 1, 1992, there shall be allowed a one-time additional exemption of Four Hundred Dollars (\$400.00) for each taxpayer or spouse who is a member of the National Guard or any reserve unit of the Armed Forces of the United States and who was at any time during such taxable year deployed in active service during a time of war or conflict with an enemy of the United States.

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 and part-year 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. To the extent itemized deductions include

allowable moving expense, proration of moving expense shall not be required or permitted but allowable moving expense shall be fully deductible for those taxpayers moving within or into Oklahoma and no part of moving expense shall be deductible for those taxpayers moving without or out of Oklahoma. All other itemized or standard deductions and personal exemptions shall be subject to proration as provided by law.

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 or her 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 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 Tax 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;
- b. absence from the State of Oklahoma while on active duty; or

c. 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 if the extension is granted pursuant to subparagraph (a) of this paragraph, return to the State of Oklahoma if the extension is granted pursuant to subparagraph (b) of this paragraph or be discharged from such hospital if the extension is granted pursuant to subparagraph (c) of this paragraph; 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 the Internal Revenue 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 the 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 Section 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 Section 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, 26 U.S.C., Section 86.

11. For taxable years beginning after December 31, 1994, lump-sum distributions from employer plans of deferred compensation, which are not qualified plans within the meaning of Section 401(a) of the Internal Revenue Code, 26 U.S.C., Section 401(a), and which are deposited in and accounted for within a separate bank account or brokerage account in a financial institution within this state, shall be excluded from taxable income in the same manner as a qualifying rollover contribution to an individual retirement account

within the meaning of Section 408 of the Internal Revenue Code, 26 U.S.C., Section 408. Amounts withdrawn from such bank or brokerage account, including any earnings thereon, shall be included in taxable income when withdrawn in the same manner as withdrawals from individual retirement accounts within the meaning of Section 408 of the Internal Revenue Code.

12. In taxable years beginning after December 31, 1995, contributions made to and interest received from a medical savings account established pursuant to Sections 2621 through 2623 of Title 63 of the Oklahoma Statutes shall be exempt from taxable income.

13. For taxable years beginning after December 31, 1996, the Oklahoma adjusted gross income of any individual taxpayer who is a swine or poultry producer may be further adjusted for the deduction for depreciation allowed for new construction or expansion costs which may be computed using the same depreciation method elected for federal income tax purposes except that the useful life shall be seven (7) years for purposes of this paragraph. If depreciation is allowed as a deduction in determining the adjusted gross income of an individual, any depreciation calculated and claimed pursuant to this section shall in no event be a duplication of any depreciation allowed or permitted on the federal income tax return of the individual.

14. a. In taxable years beginning after December 31, 1995, nonrecurring adoption expenses paid by a resident individual taxpayer in connection with:
- (1) the adoption of a minor, or
 - (2) a proposed adoption of a minor which did not result in a decreed adoption,
- may be deducted from the Oklahoma adjusted gross income.

- b. The deductions for adoptions and proposed adoptions authorized by this paragraph shall not exceed Ten Thousand Dollars (\$10,000.00) per calendar year.
- c. The Tax Commission shall promulgate rules to implement the provisions of this paragraph which shall contain a specific list of nonrecurring adoption expenses which may be presumed to qualify for the deduction. The Tax Commission shall prescribe necessary requirements for verification.
- d. "Nonrecurring adoption expenses" means adoption fees, court costs, medical expenses, attorney fees and expenses which are directly related to the legal process of adoption of a child including, but not limited to, costs relating to the adoption study, health and psychological examinations, transportation and reasonable costs of lodging and food for the child or adoptive parents which are incurred to complete the adoption process and are not reimbursed by other sources. The term "nonrecurring adoption expenses" shall not include attorney fees incurred for the purpose of litigating a contested adoption, from and after the point of the initiation of the contest, costs associated with physical remodeling, renovation and alteration of the adoptive parents' home or property, except for a special needs child as authorized by the court.

15. In taxable years beginning after December 31, 1996, retirement benefits not to exceed the amounts specified in this paragraph, which are received by an individual sixty-five (65) years of age or older and whose Oklahoma adjusted gross income is Twenty-five Thousand Dollars (\$25,000.00) or less if the filing status is single, head of household, or married filing separate, or Fifty

Thousand Dollars (\$50,000.00) or less if the filing status is married filing joint or qualifying widow, shall be exempt from taxable income. For purposes of this paragraph, "retirement benefits" means the total distributions or withdrawals from the following:

- a. an employee pension benefit plan which satisfies the requirements of Section 401 of the Internal Revenue Code, 26 U.S.C., Section 401,
- b. an eligible deferred compensation plan that satisfies the requirements of Section 457 of the Internal Revenue Code, 26 U.S.C., Section 457,
- c. an individual retirement account, annuity or trust or simplified employee pension that satisfies the requirements of Section 408 of the Internal Revenue Code, 26 U.S.C., Section 408,
- d. an employee annuity subject to the provisions of Section 403(a) or (b) of the Internal Revenue Code, 26 U.S.C., Section 403(a) or (b),
- e. United States Retirement Bonds which satisfy the requirements of Section 86 of the Internal Revenue Code, 26 U.S.C., Section 86, or
- f. lump-sum distributions from a retirement plan which satisfies the requirements of Section 402(e) of the Internal Revenue Code, 26 U.S.C., Section 402(e).

The amount of the exemption provided by this paragraph shall be limited to One Thousand One Hundred Dollars (\$1,100.00) for the 1997 tax year; Two Thousand Two Hundred Dollars (\$2,200.00) for the 1998 tax year; Three Thousand Three Hundred Dollars (\$3,300.00) for the 1999 tax year; Four Thousand Four Hundred Dollars (\$4,400.00) for the 2000 tax year; and Five Thousand Five Hundred Dollars (\$5,500.00) for all subsequent tax years. Any individual who claims the exemption provided for in paragraph 9 of this subsection shall

not be permitted to claim a combined total exemption pursuant to this paragraph and paragraph 9 of this subsection in an amount exceeding Five Thousand Five Hundred Dollars (\$5,500.00).

16. In taxable years beginning after December 31, 1998, interest received from an account established pursuant to the Oklahoma College Savings Plan Act shall be exempt from taxable income until the taxable year that such interest is withdrawn from the account, pursuant to a qualified withdrawal, withdrawals identified in paragraphs b and c of subsection 8 of Section 3970.3 of Title 70 of the Oklahoma Statutes, or a nonqualified withdrawal as enumerated in the Oklahoma College Savings Plan Act and by rules, policies, and guidelines set forth by the Board of Trustees of the Oklahoma College Savings Plan.

17. In taxable years beginning after December 31, 1999, for an individual engaged in production agriculture who has filed a Schedule F form with the taxpayer's federal income tax return for such taxable year, there shall be excluded from taxable income any amount which was included as federal taxable income or federal adjusted gross income and which consists of the discharge of an obligation by a creditor of the taxpayer incurred to finance the production of agricultural products.

~~18. In taxable years beginning after December 31, 1995, all qualified wages equal to the federal income tax credit set forth in 26 U.S.C.A., Section 45A, shall be deducted from taxable income. The deduction allowed pursuant to this paragraph shall only be permitted for the tax years in which the federal tax credit pursuant to 26 U.S.C.A., Section 45A, is allowed. For purposes of this paragraph, "qualified wages" means those wages used to calculate the federal credit pursuant to 26 U.S.C.A., Section 45A.~~

~~19.~~ In taxable years beginning December 31, 2000, an amount equal to one hundred percent (100%) of the amount of any scholarship or stipend received from participation in the Oklahoma Police Corps

Program, as established in Section 3 of this act shall be exempt from taxable income.

SECTION 17. AMENDATORY 68 O.S. 1991, Section 2817, as last amended by Section 1, Chapter 255, O.S.L. 2000 (68 O.S. Supp. 2000, Section 2817), is amended to read as follows:

Section 2817. A. All taxable personal property, except intangible personal property, personal property exempt from ad valorem taxation, or household personal property, shall be listed and assessed each year at its fair cash value, estimated at the price it would bring at a fair voluntary sale, as of January 1.

The fair cash value of household personal property shall be valued at ten percent (10%) of the appraised value of the improvement to the residential real property within which such personal property is located as of January 1 each year. The assessment of household personal property as provided by this section may be altered by the taxpayer listing such property at its actual fair cash value. For purposes of establishing the value of household personal property, pursuant to the requirement of Section 8 of Article X of the Oklahoma Constitution, the percentage of value prescribed by this section for the household personal property shall be presumed to constitute the fair cash value of the personal property.

All unmanufactured farm products shall be assessed and valued as of the preceding May 31. Every person, firm, company, association, or corporation, in making the assessment, shall assess all unmanufactured farm products owned by the person, firm, company, association or corporation on the preceding May 31, at its fair cash value on that date instead of January 1.

Stocks of goods, wares and merchandise shall be assessed at the value of the average amount on hand during the preceding year, or the average amount on hand during the part of the preceding year the stock of goods, wares or merchandise was at its January 1 location.

B. All taxable real property shall be assessed annually as of January 1, at its fair cash value, estimated at the price it would bring at a fair voluntary sale for:

1. The highest and best use for which the property was actually used during the preceding calendar year; or

2. The highest and best use for which the property was last classified for use if not actually used during the preceding calendar year.

The Ad Valorem Division of the Tax Commission shall be responsible for the promulgation of rules which shall be followed by each county assessor of the state, for the purposes of providing for the equitable use valuation of locally assessed real property in this state. Agricultural land and nonresidential improvements necessary or convenient for agricultural purposes shall be assessed for ad valorem taxation based upon the highest and best use for which the property was actually used, or was previously classified for use, during the calendar year next preceding January 1 on which the assessment is made.

C. The use value of agricultural land shall be based on the income capitalization approach using cash rent. The rental income shall be calculated using the direct capitalization method based upon factors including, but not limited to:

1. Soil types, as depicted on soil maps published by the Natural Resources Conservation Service of the United States Department of Agriculture;

2. Soil productivity indices approved by the Ad Valorem Division of the Tax Commission;

3. The specific agricultural purpose of the soil based on use categories approved by the Ad Valorem Division of the Tax Commission; and

4. A capitalization rate to be determined annually by the Ad Valorem Division of the Tax Commission based on the sum of the

average first mortgage interest rate charged by the Federal Land Bank for the immediately preceding five (5) years, weighted with the prevailing rate or rates for additional loans or equity, and the effective tax rate.

The final use value will be calculated using the soil productivity indices and the agricultural use classification as defined by rules promulgated by the State Board of Equalization. This subsection shall not be construed in a manner which is inconsistent with the duties, powers and authority of the Board as to valuation of the counties as fixed and defined by Section 21 of Article X of the Oklahoma Constitution.

However, in calculating the use value of buffer strips as defined in Section ~~2~~ 2817.2 of this ~~act~~ title, ~~primary~~ exclusive consideration shall be based on income production from such buffer strips, not including federal or state subsidies, when valued as required by subsection C of Section ~~2~~ 2817.2 of this ~~act~~ title.

D. The use value of nonresidential improvements on agricultural land shall be based on the cost approach to value estimation using currently updated cost manuals published by the Marshall and Swift Company or similar cost manuals approved by the Ad Valorem Division of the Tax Commission. The use value estimates for the nonresidential improvements shall take obsolescence and depreciation into consideration in addition to necessary adjustments for local variations in the cost of labor and materials. This section shall not be construed in a manner which is inconsistent with the duties, powers and authority of the Board as to equalization of valuation of the counties as determined and defined by Section 21 of Article X of the Oklahoma Constitution.

The use value of facilities used for poultry production shall be determined according to the following procedures:

1. The Ad Valorem Division of the Tax Commission is hereby directed to develop a standard system of valuation of both real and

personal property of such facilities, which shall be used by all county assessors in this state, under which valuation based on the following shall be presumed to be the fair cash value of the property:

- a. for real property, a ten-year depreciation schedule, at the end of which the residual value is twenty percent (20%) of the value of the facility during its first year of operation, and
- b. for personal property, a five-year depreciation schedule, at the end of which the residual value is zero;

2. Such facilities shall be valued only in comparison to other facilities used exclusively for poultry production. Such a facility which is no longer used for poultry production shall be deemed to have no productive use;

3. During the first year such a facility is placed on the tax rolls, its fair cash value shall be presumed to be the lesser of the actual purchase price or the actual documented cost of construction; and

4. For the purpose of determining the valuation of nonresidential improvements used for poultry production, the provisions of this subsection shall be applicable and such improvements shall not be considered to be commercial property.

E. The transfer of real property without a change in its use classification shall not require a reassessment thereof based exclusively upon the sale value of the property. However, if the county assessor determines:

1. That by reason of the transfer of a property there is a change in the actual use or classification of the property; or

2. That by reason of the amount of the sales consideration it is obvious that the use classification prior to the transfer of the

property is not commensurate with and would not justify the amount of the sales consideration of the property;

then the assessor shall, in either event, reassess the property for the new use classification for which the property is being used, or, the highest and best use classification for which the property may, by reason of the transfer, be classified for use.

F. When the term "fair cash value" or the language "fair cash value, estimated at the price it would bring at a fair voluntary sale" is used in the Ad Valorem Tax Code, in connection with and in relation to the assessment of real property, it is defined to mean and shall be given the meaning ascribed and assigned to it in this section and when the term or language is used in the Code in connection with the assessment of personal property it shall be given its ordinary or literal meaning.

G. Where any real property is zoned for a use by a proper zoning authority, and the use of the property has not been changed, the use and not zoning shall determine assessment. Any reassessment required shall be effective January 1 following the change in use. Taxable real property need not be listed annually with the county assessor.

H. If any real property shall become taxable after January 1 of any year, the county assessor shall assess the same and place it upon the tax rolls for the next ensuing year. When any building is constructed upon land after January 1 of any year, the value of the building shall be added by the county assessor to the assessed valuation of the land upon which the building is constructed at the fair cash value thereof for the next ensuing year. However, the building shall be deemed to have a value for assessment purposes of the fair cash value of the materials used in such building only, until the building and the land on which the building is located shall have been conveyed to a bona fide purchaser or shall have been occupied or used for any purpose other than as a sales office by the

owner thereof, or shall have been leased, whichever event shall first occur. The county assessor shall continue to assess the building based upon the fair market value of the materials used therein until the building and land upon which the building is located shall have been conveyed to a bona fide purchaser or is occupied or used for any purpose other than as a sales office by the owner thereof, or is leased, whichever event shall first occur. However, the fair cash value of a lot in any platted addition or a subdivision in a city, town or county zoned for residential, commercial, industrial or other use shall be deemed to be the total purchase price paid by the developer of the addition or subdivision for the land comprising the platted addition or subdivision divided by the number of lots contained in the addition or subdivision until the lot with building or buildings located thereon shall have been conveyed to a bona fide purchaser or shall have been occupied other than as a sales office by the owner thereof, or shall have been leased, whichever event shall first occur. The cost of any land or improvements to any real property required to be dedicated to public use, including, but not limited to, streets, curbs, gutters, sidewalks, storm or sanitary sewers, utilities, detention or retention ponds, easements, parks or reserves shall not be utilized by the county assessor in the valuation of any real property for assessment purposes.

I. In case improvements on land or personal property located therein or thereon are destroyed by fire, lightning, storm, winds, floodwaters, overflow of streams or other cause, or the value of land is impaired, damaged or destroyed by fire, lightning, storm, winds, floodwaters, overflow of streams or other cause, after January 1 and before the adjournment of the county board of equalization during any year, the county board of equalization, in cooperation with the county assessor, shall determine the amount of damage, and shall make an order directing the assessment of the

property for that year at the fair cash value of the property, as defined herein, taking into account the damage occasioned by fire, lightning, storm, winds, floodwaters, overflow of streams or other cause.

SECTION 18. AMENDATORY 68 O.S. 1991, Section 2820, is amended to read as follows:

Section 2820. A. Each county assessor shall conduct a comprehensive program for the individual visual inspection of all taxable ~~real~~ property within his respective county. Each assessor shall thereafter maintain an active and systematic program of visual inspection on a continuous basis and shall establish an inspection schedule which will result in the individual visual inspection of all taxable ~~real~~ property within the county at least once each four (4) years.

B. The first cycle of visual inspections for ~~real~~ property shall begin upon January 1, 1991, as prescribed by Section 2481.1 of Title 68 of the Oklahoma Statutes, and shall end upon December 31, 1994. Thereafter, each succeeding four-year cycle for visual inspections shall begin upon January 1 of the year following the fourth year of the preceding cycle and shall end upon December 31 of the applicable four-year cycle. The county assessor shall utilize the standard parcel identification system required by law to assign each parcel of real property a unique identification code or number. The code or number shall be used to ensure that the inspection sequence for real property results in a visual inspection of each parcel at least once each four (4) years. Each successor of the county assessor shall use the same cycle as used by the assessor's predecessor in office for visual inspections of ~~real~~ property.

C. Prior to the beginning of the first visual inspection cycle and each subsequent visual inspection cycle, the county assessor shall develop a plan that details the number of real property parcels to be inspected in each year of the cycle by use category,

geographic area or other basis, the resources and budget proposed to complete the inspections and the valuation methodology to be used in determining the fair cash value of the real property and improvements thereon. The plan shall be adequate to ensure the visual inspection of all parcels of real property within the county at least once each four (4) years. The plan shall also be adequate to ensure that the information collected from the visual inspection of real property each year is sufficient to establish a representative sample from each use category in order to conduct the proper valuation of all taxable property within each use category by means of an accepted standard for mass appraisal practice. The county assessor shall submit the proposed plan to the Oklahoma Tax Commission by the first working day in October preceding the beginning of the four-year cycle. The Oklahoma Tax Commission shall either approve the plan if the plan and resources are adequate to complete the cycle and if the plan will result in a representative sample from each use category in order to value all taxable property each year or shall correct and modify the plan in order to establish a program for visual inspection that will be completed by the end of the cycle and that will provide a representative sample from each use category in order to value all taxable property each year. An approved plan shall be made for each county as of the beginning date of each cycle and a copy of such plan shall be filed with the Oklahoma Tax Commission.

D. Each year the county assessor shall submit a progress report to the Oklahoma Tax Commission indicating the number of real property parcels inspected by use category, geographic area or other basis, the resources and budget expended in the last completed fiscal year and the valuation methodology used to determine fair cash values of the real property and improvements. The Oklahoma Tax Commission shall correct and modify any visual inspection plan during the four-year cycle if progress reports indicate that

inspection of real property parcels will not be completed or will be performed in violation of legal requirements for such inspections. The county assessor shall be required to complete the four-year cycle in accordance with such plan as corrected and modified.

E. Each county assessor shall prepare and submit to the Oklahoma Tax Commission a detailed report of the progress made in the visual inspection program in his county to the date of the report and it shall be made a matter of public record. Such report shall be submitted upon forms supplied by the Oklahoma Tax Commission and shall consist of such information as the Oklahoma Tax Commission requires. The progress report shall be submitted not later than October 15 each year or the first working day thereafter. Based in part on all such county progress reports, the Oklahoma Tax Commission shall prepare its own report from all sources and transmit a copy of its own report to the Legislature and the State Board of Equalization.

SECTION 19. AMENDATORY 68 O.S. 1991, Section 2823, as last amended by Section 3, Chapter 326, O.S.L. 1994 (68 O.S. Supp. 2000, Section 2823), is amended to read as follows:

Section 2823. A. For ~~the each~~ fiscal year ~~beginning July 1, 1992, and each year thereafter,~~ the cost of the comprehensive program of visual inspections for real property and the cost of physical inspections of personal property shall be paid by appropriate warrants from those who receive the revenues of the mill rates levied on the property of the county as prescribed by this section. The county assessor shall prepare a budget for the comprehensive program of visual inspections for real property and the cost of physical inspections of personal property and file such budget with the county excise board or county budget board.

B. The county excise board or county budget board shall apportion such cost among the various recipients of revenues from the mill rates levied, including the county, all cities and towns,

all school districts, all sinking funds of such recipients, and all jurisdictions specified in subsection D of this section, in the ratio which each recipient's total tax collection authorized from its mill rates levied for the preceding year bears to the total tax collection authorized of all recipients from all their mill rates levied for the preceding year. The cost shall include only those expenses directly attributable to the visual inspection program and those expenses directly attributable to physical inspections of personal property and shall not include any expenses of the office of the county assessor which, in the judgment of the county excise board or county budget board, are expenses of county assessor's office which would exist in the absence of such program or in the absence of physical inspection of personal property. Expenses that are attributable both to the visual inspection program and physical inspection of personal property, and which would exist in the absence of such program or inspection, including but not limited to salaries, employee benefits, office supplies and equipment, may be prorated; provided, no portion of the salary of the county assessor shall be included in such costs.

C. Upon receipt of the billing statement provided for in subsections D and E of this section by each such recipient, the mill rates to be established by the board for each such recipient for the current year shall include and be based upon such amounts and shall constitute an appropriation of such amounts to the county assessor for expenditure for the expenses of administering the visual inspection program each year. In the case of a sinking fund of a recipient, if, after approving its budget, the governing body of a recipient notifies the board in writing that there are no funds appropriated to pay the amount of the billing statement for such sinking fund, such notice shall constitute conclusive evidence of a financial obligation of the recipient as it relates to such sinking fund. The board may seek a judgment for the amount of such

obligation and court costs in the district court of the county in which the board is located.

D. The county assessor shall render a statement to each of the jurisdictions within the county which receive revenue from an ad valorem mill rate. Such statement shall include the following information:

1. The current fiscal year in which the charge has been incorporated in the jurisdiction's budget;

2. All jurisdictions receiving statements from the county assessor, the mill rate for each in the previous year, and the proportion of each to the combined mill rates of all jurisdictions within the county for the previous year. The proportions specified in this paragraph should equal a total of one hundred percent (100%);

3. The charge for the entity receiving the statement as well as the charge for each jurisdiction of the county based upon the proportions specified in paragraph 2 of this subsection. The total of all current year charges for all county jurisdictions should equal the total visual inspection program budget for the current fiscal year;

4. The amount of the total budget for the office of the county assessor and the percentage that visual inspection program expenses are of such total budget; and

5. A copy of the County Budget Visual Inspection Account and a brief description of the areas to be visually inspected for the current fiscal year, consistent with the plan on file with the Oklahoma Tax Commission pursuant to Section 2820 of this title.

E. In any county wherein any jurisdiction's budget and mill rates are not subject to review and approval by the county excise board, the county assessor shall nevertheless include any such jurisdiction in the calculations required under subsection A of this section. The county assessor shall also render a billing statement

to any such jurisdiction showing the charge for the current fiscal year due from the jurisdiction. Such billing statement shall also show all the information specified in subsection D of this section. Such billing statement shall clearly indicate that the charge payable by the jurisdiction is due and payable by December 31 of the current fiscal year.

SECTION 20. AMENDATORY 68 O.S. 1991, Section 2860, as amended by Section 13, Chapter 57, O.S.L. 1995 (68 O.S. Supp. 2000, Section 2860), is amended to read as follows:

Section 2860. A. The State Board of Equalization, after having assessed all property of railroads, air carriers and public service corporations in this state according to the provisions of the Ad Valorem Tax Code, shall cause the assessed valuations to be certified by the State Auditor and Inspector to the county assessors of each county in which any portion of the property of any such railroad, air carrier or public service corporation may be located. Such certificates of assessment shall show the various portions of the property of such corporations located and taxable in each county, and in every city, town, school district or other municipal subdivision thereof, and shall include a full statement of all property of such corporations located in each of the said several subdivisions, together with the assessed value thereof. Said valuations shall be certified by the State Auditor and Inspector to the assessors of the several counties wherein such property is located on or before ~~the third Monday of June~~ July 31 of each year.

B. The county assessor shall enter on his assessment roll in its appropriate place the assessed valuation of each railroad, air carrier and public service corporation, and at the proper time, place such assessment on the proper tax roll of his county, subject to the levies as provided by law.

SECTION 21. AMENDATORY 68 O.S. 1991, Section 2881, as last amended by Section 2, Chapter 337, O.S.L. 1997 (68 O.S. Supp. 2000, Section 2881), is amended to read as follows:

Section 2881. A. The secretary of the State Board of Equalization shall notify all railroads, air carriers and public service corporations of the ad valorem tax assessments rendered by the State Board, including the valuation, assessment ratio and total amount of assessment. The notice, which shall clearly be marked with the date upon which it was prepared, shall be mailed within one (1) working day of such date. The taxpayer shall have ~~thirty (30)~~ twenty (20) calendar days from the date of the notice in which to file, with the Clerk of the Court of Tax Review, a written complaint on a form prescribed by the Tax Commission, specifying grievances with the pertinent facts in relation thereto in ordinary and concise language, without repetition, and in such manner as to enable a person of common understanding to know what is intended. The complaint shall include the amount of Oklahoma assessed valuation protested and the grounds for the protest. The taxpayer shall be required to send a copy of the complaint to the Tax Commission.

B. If the taxpayer fails to file a written complaint within the ~~thirty~~ twenty-day period provided for in this section, then the assessed valuation stated in the notice, without further action of the State Board of Equalization, shall become final and absolute at the expiration of ~~thirty (30)~~ twenty (20) days from the date the notice is mailed to the taxpayer.

C. After the filing of a complaint provided for in subsection A of this section, the State Board of Equalization shall have thirty (30) days within which to file an answer. The Court of Tax Review shall set a date of hearing, conduct such hearing, render its decision, and notify in writing the taxpayer and the State Board of Equalization of its decision within sixty (60) days of the date of the scheduling conference. The Court of Tax Review shall be

authorized and empowered to take evidence pertinent to the complaint, and for that purpose may compel the attendance of witnesses and the production of books, records and papers by subpoena, and to confirm, correct or adjust the valuation, as required by law.

D. The State Board of Equalization shall notify, in writing and by certified mail, the Attorney General and all affected school districts and other recipients of ad valorem tax revenue of the complaint provided for by this section within ten (10) days of the filing of the complaint.

E. The Attorney General may appear in all actions to enforce the valuation and assessment of property by the State Board of Equalization and the collection of ad valorem tax which is the subject of the complaint filed pursuant to this section.

F. Either the State Board of Equalization or the party filing a complaint pursuant to this section may appeal the decision of the Court of Tax Review by filing a notice of intent to appeal with the Clerk of the Court of Tax Review within thirty (30) calendar days of the date the final decision is sent to the parties. Appeal shall be brought in the Oklahoma Supreme Court in the same manner as provided for other appeals from the Court of Tax Review. The Supreme Court shall give precedence to such appeals and affirm the decision of the Court of Tax Review if supported by competent evidence. If the Oklahoma Supreme Court assigns the appeal to the Court of Civil Appeals, the Oklahoma Court of Civil Appeals shall give precedence to the appeal and affirm the decision of the Court of Tax Review if supported by competent evidence.

G. In all instances where the notice of assessed valuation certified by the State Board of Equalization has been permitted to become final, such notice shall have the same force and be subject to the same law as a judgment not subject to further appeal.

SECTION 22. AMENDATORY 68 O.S. 1991, Section 2902, as last amended by Section 1 of Enrolled Senate Bill No. 101 of the 1st Session of the 48th Oklahoma Legislature, is amended to read as follows:

Section 2902. A. A qualifying manufacturing concern, as defined by Section 6B of Article X of the Oklahoma Constitution, and as further defined herein, shall be exempt from the levy of any ad valorem taxes upon new, expanded or acquired manufacturing facilities, including facilities engaged in research and development, for a period of five (5) years. Such facilities are hereby classified for the purposes of taxation as provided in Section 22 of Article X of the Oklahoma Constitution.

B. For purposes of this section, the following definitions shall apply:

1. "Manufacturing facilities" shall mean facilities engaged in the mechanical or chemical transformation of materials or substances into new products and shall include:

- a. establishments which have received a manufacturer exemption permit pursuant to the provisions of Section 1359.2 of this title,
- b. facilities, including repair and replacement parts, primarily engaged in aircraft repair, building and rebuilding whether or not on a factory basis,
- c. establishments primarily engaged in computer services and data processing as defined under Industrial Group Numbers 7372 and 7373 of the SIC Manual, latest revision, and which derive at least fifty percent (50%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer, and as defined under Industrial Group Number 7374 of the SIC Manual, latest revision, which derive at least eighty percent (80%) of their annual gross

revenues from the sale of a product or service to an out-of-state buyer or consumer. Eligibility as a manufacturing facility pursuant to this subparagraph shall be established, subject to review by the Oklahoma Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and such other information as required by the Tax Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers, all sales to the federal government shall be considered to be an out-of-state buyer, or

- d. establishments primarily engaged in distribution as defined under Industrial Group Number 4221, 4222, 4225 or 4226 or Major Group Number 50 or 51 of the SIC Manual, latest revision, and which were constructed with an initial capital investment of at least Five Million Dollars (\$5,000,000.00) and which employ at least one hundred (100) full-time-equivalent employees, as certified by the Employment Security Commission. Eligibility as a manufacturing facility pursuant to this subparagraph shall be established, subject to review by the Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and such other information as required by the Tax Commission. The exemption provided for in this subparagraph shall apply only to an establishment for which construction of the facility has commenced prior to December 31, 2001.

Provided, eating and drinking places, as well as other retail establishments, except as otherwise provided in subsection E of this

section, shall not qualify as manufacturing facilities for purposes of this section, nor shall centrally assessed properties;

2. For tax years beginning after December 31, 1992, "manufacturing facilities" shall mean those facilities as defined in paragraph 1 of this subsection for which the investment cost of the construction, acquisition or expansion of the manufacturing facility is Two Hundred Fifty Thousand Dollars (\$250,000.00) or more;

3. "Facility" and "facilities" shall mean and include the land, buildings, structures, improvements, machinery, fixtures, equipment and other personal property used directly and exclusively in the manufacturing process; and

4. "Research and development" shall mean activities directly related to and conducted for the purpose of discovering, enhancing, increasing or improving future or existing products or processes or productivity.

C. For applications for a five-year exemption submitted after December 31, 1993, the following provisions shall apply:

1. A manufacturing concern shall be entitled to the exemption herein provided for each new manufacturing facility constructed, each existing manufacturing facility acquired and the expansion of existing manufacturing facilities on the same site, as such terms are defined by Section 6B of Article X of the Oklahoma Constitution and by this section;

2. Except as otherwise provided in paragraphs 5 and 6 of this subsection, no manufacturing concern shall receive more than one five-year exemption for any one manufacturing facility unless the expansion which qualifies the manufacturing facility for an additional five-year exemption meets the requirements of paragraph 4 of this subsection, provided the employment level established for any previous exemption is maintained;

3. Any exemption as to the expansion of an existing manufacturing facility shall be limited to the increase in ad valorem taxes directly attributable to the expansion;

4. Except as provided in paragraphs 5 and 6 of this subsection, all initial applications for any exemption for a new, acquired or expanded manufacturing facility shall be granted only if:

- a. there is a net increase of Two Hundred Fifty Thousand Dollars (\$250,000.00) or more in annualized payroll, or a net increase of Two Million Dollars (\$2,000,000.00) or more in capital improvements while maintaining or increasing payroll. The Oklahoma Tax Commission shall verify all payroll information through the Oklahoma Employment Security Commission. Payroll shall be verified by the Oklahoma Tax Commission by using the average of the third and fourth quarter Oklahoma Employment Security Commission reports of the calendar year immediately preceding the year for which initial application is made for base-line payroll, and
- b. the facility offers, or will offer within one hundred eighty (180) days of the date of employment, a basic health benefits plan to the full-time-equivalent employees of the facility, which is determined by the Department of Commerce to consist of the elements specified in subparagraph b of paragraph 1 of subsection A of Section 3603 of this title or elements substantially equivalent thereto.

For purposes of this section, calculation of the amount of increased payroll shall be measured from the start of initial construction or expansion to the completion of such construction or expansion or for three (3) years from the start of initial construction or expansion, whichever occurs first. The amount of increased payroll shall

include payroll for full-time-equivalent employees in this state who are employed by an entity other than the facility which has previously or is currently qualified to receive an exemption pursuant to the provisions of this section and who are leased or otherwise provided to the facility, if such employment did not exist in this state prior to the start of initial construction or expansion of the facility. The manufacturing concern shall submit an affidavit to the Tax Commission, signed by an officer, stating that the construction, acquisition or expansion of the facility will result in a net increase in the annualized payroll as required by this paragraph and that full-time-equivalent employees of the facility are or will be offered a basic health benefits plan as required by this paragraph. If, after the completion of such construction or expansion or after three (3) years from the start of initial construction or expansion, whichever occurs first, the construction, acquisition or expansion has not resulted in a net increase in the amount of annualized payroll, if required, or any other qualification specified in this paragraph has not been met, the manufacturing concern shall pay an amount equal to the amount of any exemption granted, including penalties and interest thereon, to the county treasurer, who shall cause such amount to be remitted to the Tax Commission for deposit to the Ad Valorem Reimbursement Fund; provided, for facilities having previously qualified for an exemption under this section, if the total amount of capital improvements made to the facility during any five-year period is at least Ten Million Dollars (\$10,000,000.00), the requirements for a net increase in the amount of annualized payroll or for maintaining payroll and the requirements for increasing or maintaining payroll for previous years shall be deemed to have been met for purposes of this section for the entire five-year period of the exemption and payment to the county treasurer shall not be required. In such

event, the facility shall continue to receive the exemption for the entire original five-year period;

5. Any new, acquired or expanded automotive final assembly manufacturing facility which does not meet the requirements of paragraph 4 of this subsection shall be granted an exemption only if all other requirements of this section are met and only if the investment cost of the construction, acquisition or expansion of the manufacturing facility is Three Hundred Million Dollars (\$300,000,000.00) or more and the manufacturing facility retains an average employment of one thousand seven hundred fifty (1,750) or more full-time-equivalent employees in the year in which the exemption is initially granted and in each of the four (4) subsequent years only if an average employment of one thousand seven hundred fifty (1,750) or more full-time-equivalent employees is maintained in the subsequent year. Calculation of the number of employees shall be made in the same manner as required under Section 2357.4 of this title for an investment tax credit. As used in this paragraph, "expand" and "expansion" shall mean and include any increase to the size or scope of a facility as well as any renovation, restoration, replacement or remodeling of a facility which permits the manufacturing of a new or redesigned product; and

6. Any new, acquired or expanded manufacturing facility which does not meet the requirements of subparagraph a of paragraph 4 of this subsection shall be granted an exemption only if all other requirements of this section are met and only if:

- a. the investment cost of the construction, acquisition or expansion of the manufacturing facility is Two Hundred Million Dollars (\$200,000,000.00) or more and such investment is made on or after July 1, 1997, and
- b. the manufacturing facility retains employment of five hundred (500) or more full-time-equivalent employees in the year in which the exemption provided by this

paragraph is granted and in each of the four (4) subsequent years only if employment of five hundred (500) or more full-time-equivalent employees is maintained in the subsequent year. Calculation of the number of employees shall be made in the same manner as required under Section 2357.4 of this title for an investment tax credit.

As used in this paragraph, "expand" and "expansion" shall mean and include any increase to the size or scope of a facility as well as any renovation, restoration, replacement or remodeling of a facility which permits the manufacturing of a new or redesigned product or a technological enhancement of the manufacturing process.

D. The five-year period of exemption from ad valorem taxes for any qualifying manufacturing facility property shall begin on January 1 following the initial qualifying use of the property in the manufacturing process.

E. 1. As used in this subsection:

a. "manufacturing facility" means:

- (1) an establishment primarily engaged in distribution as defined under Industrial Group Number 5141 of the SIC Manual, latest revision, and which employs at least one hundred (100) full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, or
- (2) a facility or establishment primarily engaged in property operation of a retail shopping center as defined under Industrial Group Number 6512 of the SIC Manual, latest revision, and which the tenants of such facility or establishment, in the year immediately preceding the natural disaster, collected and remitted more than fifty percent (50%) of the total municipal sales tax revenue of

the municipality in which the facility or establishment is located, and

- b. "natural disaster" means the tornado or similar cyclonic winds occurring on May 3, 1999;

2. The five-year exemption provided for in this section shall apply to any manufacturing facility as defined in paragraph 1 of this subsection which facility has been damaged or destroyed by the natural disaster occurring on May 3, 1999. In order to qualify for this exemption:

- a. the existing facility shall be repaired or rebuilt no later than May 3, 2001, to the same or similar condition as the facility existed prior to the damage or destruction, or the existing facility may be expanded,
- b. the facility as defined in division (1) of subparagraph a of paragraph 1 of this subsection shall maintain at least ninety percent (90%) of the average level of full-time-equivalent employees in the year the facility begins operation after the occurrence of the natural disaster as compared to the year immediately before the natural disaster occurred. The tenants of the facility as defined in division (2) of subparagraph a of paragraph 1 of this subsection shall maintain at least seventy percent (70%) of the average level of full-time-equivalent employees in the year the facility begins operation after the occurrence of the natural disaster as compared to the year immediately before the natural disaster occurred. The facility shall submit an affidavit to the Oklahoma Tax Commission, signed by an officer, setting forth the average level of full-time-equivalent employees in the year before the natural disaster and the year the

facility reopened for business following the natural disaster. The number of full-time-equivalent employees shall be certified by the Oklahoma Employment Security Commission, and

c. the exemption shall be claimed no later than March 15, 2001.

F. Any person, firm or corporation claiming the exemption herein provided for shall file each year for which exemption is claimed, an application therefor with the county assessor of the county in which the new, expanded or acquired facility is located. The application shall be on a form or forms prescribed by the Tax Commission, and shall be filed before March 15, except as provided in Section 2902.1 of this title, of each year in which the facility desires to take the exemption or within thirty (30) days from and after receipt by such person, firm or corporation of notice of valuation increase, whichever is later. In a case where completion of the facility or facilities will occur after January 1 of a given year, a facility may apply to claim the ad valorem tax exemption for that year. If such facility is found to be qualified for exemption, the ad valorem tax exemption provided for herein shall be granted for that entire year and shall apply to the ad valorem valuation as of January 1 of that given year. For applicants which qualify under the provisions of subparagraph b of paragraph 1 of subsection B of this section, the application shall include a copy of the affidavit and any other information required to be filed with the Tax Commission.

G. The application shall be examined by the county assessor and approved or rejected in the same manner as provided by law for approval or rejection of claims for homestead exemptions. The taxpayer shall have the same right of review by and appeal from the county board of equalization, in the same manner and subject to the same requirements as provided by law for review and appeals

concerning homestead exemption claims. Approved applications shall be filed by the county assessor with the Tax Commission no later than June 15, except as provided in Section 2902.1 of this title, of the year in which the facility desires to take the exemption. Incomplete applications and applications filed after June 15 will be declared null and void by the Tax Commission. In the event that a taxpayer qualified to receive an exemption pursuant to the provisions of this section shall make payment of ad valorem taxes in excess of the amount due, the county treasurer shall have the authority to credit the taxpayer's real or personal property tax overpayment against current taxes due. The county treasurer may establish a schedule of up to five (5) years of credit to resolve the overpayment.

H. Nothing herein shall in any manner affect, alter or impair any law relating to the assessment of property, and all property, real or personal, which may be entitled to exemption hereunder shall be valued and assessed as is other like property and as provided by law. The valuation and assessment of property for which an exemption is granted hereunder shall be performed by the Tax Commission.

I. The Tax Commission shall have the authority and duty to prescribe forms and to promulgate rules as may be necessary to carry out and administer the terms and provisions of this section.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 212.3 of Title 74, unless there is created a duplication in numbering, reads as follows:

The State Auditor and Inspector shall prescribe and require the statewide use of a form for joint school district millage certifications.

SECTION 24. AMENDATORY 29 O.S. 1991, Section 3-310, as last amended by Section 2, Chapter 216, O.S.L. 1998 (29 O.S. Supp. 2000, Section 3-310), is amended to read as follows:

Section 3-310. A. ~~Each~~ The Oklahoma Tax Commission shall include on each state individual income tax return form for tax years beginning after December 31, 2001, and each state corporate tax return form for tax years ~~commencing~~ beginning after December 31, ~~1995 shall contain a designation as follows or shall contain similar wording as space allows on the tax return form:~~

~~Oklahoma Wildlife Diversity Program. Check if you wish to donate from your tax refund: ()\$2, ()\$5, or () \$___ 2001, an opportunity for the taxpayer to donate from a tax refund for the benefit of the Oklahoma Wildlife Diversity Program.~~

B. For purposes of this section, "nongame wildlife" means any species of wildlife not legally classified as a game species or furbearer by statute or by rule adopted pursuant to statute.

C. Except as otherwise provided for in this section, all monies generated pursuant to subsection A of this section shall be paid to the State Treasurer and placed to the credit of the Wildlife Diversity Fund.

D. There is hereby created in the State Treasury a revolving fund for the Oklahoma Wildlife Conservation Commission to be designated the "Wildlife Diversity Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received under the provisions of paragraph 2 of subsection C of this section by the Oklahoma Wildlife Conservation Commission. The Oklahoma Wildlife Conservation Commission is hereby authorized to invest all or part of the monies of said fund in any investment permitted by a written investment policy adopted by the Wildlife Conservation Commission; provided, all investments shall be made in accordance with the Oklahoma Uniform Prudent Investor Act. Any interest or dividends accruing from such investments shall be deposited in the Wildlife Diversity Fund. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma

Wildlife Conservation Commission for the purpose of preserving, protecting, perpetuating and enhancing nongame wildlife in this state. Any monies withdrawn from said fund by the Oklahoma Wildlife Conservation Commission for investment pursuant to this section shall be deemed to be for the purpose of preserving, protecting, perpetuating and enhancing nongame wildlife in this state.

Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

E. If a taxpayer makes a donation pursuant to subsection A of this section in error, such taxpayer may file a claim for refund at any time within three (3) years from the due date of the tax return. Such claims shall be filed pursuant to the provisions of Section 2373 of Title 68 of the Oklahoma Statutes and, if allowed, shall be paid pursuant to the provisions of said section. Prior to the apportionment set forth in subsection C of this section, an amount equal to the total amount of refunds made pursuant to this subsection during any one (1) year shall be deducted from the total donations received pursuant to this section during the following year and such amount deducted shall be paid to the State Treasurer and placed to the credit of the Income Tax Withholding Refund Account.

SECTION 25. AMENDATORY 56 O.S. 1991, Section 59.1, is amended to read as follows:

Section 59.1 A. ~~Each~~ The Oklahoma Tax Commission shall include on each state individual income tax return form for tax years ~~commencing~~ beginning after December 31, ~~1985~~ 2001, ~~shall contain a designation as follows or shall contain similar wording as space allows on the tax return form:~~

~~Oklahoma Indigent Health Care Fund. Check if you wish to donate () from your tax refund:~~

~~() \$2.00 () \$5.00 () \$_____~~ an opportunity for the taxpayer to donate from a tax refund for the benefit of the Oklahoma Indigent Health Care Fund.

B. There is hereby created in the State Treasury a revolving fund for the Department of Human Services, to be designated the "Indigent Health Care Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department of Human Services from:

1. Any state monies appropriated for the purpose of implementing the provisions of the Oklahoma Indigent Health Care Act; and

2. Any monies collected pursuant to this section or any other monies available to the Department of Human Services to implement the provisions of the Oklahoma Indigent Health Care Act.

C. All monies accruing to the credit of ~~said~~ the fund are hereby appropriated and shall be budgeted and expended directly to eligible clinics by the Department for the purpose of implementing the Oklahoma Indigent Health Care Act. Expenditures from ~~said~~ the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 26. AMENDATORY Section 2, Chapter 245, O.S.L. 1995, as amended by Section 6, Chapter 210, O.S.L. 1998, and as renumbered by Section 9, Chapter 210, O.S.L. 1998 (63 O.S. Supp. 2000, Section 1-558), is amended to read as follows:

Section 1-558. A. ~~Each~~ The Oklahoma Tax Commission shall include on each state individual income tax return form for tax years ~~commencing~~ beginning after December 31, ~~1994~~ 2001, and each state corporate tax return form for tax years ~~commencing~~ beginning after December 31, ~~1994~~ 2001, ~~shall contain a designation as~~

~~follows, or contain similar wording as space allows on the tax return form:~~

~~Oklahoma Breast Cancer Act. Check if you wish to donate from your tax refund: () \$2.00, () \$5.00 or () \$_____ an opportunity for the taxpayer to donate from a tax refund for the benefit of the Oklahoma Breast Cancer Act.~~

B. The monies generated from donations made pursuant to subsection A of this section shall be used by the State Department of Health for the purposes specified in the Oklahoma Breast Cancer Act.

C. All monies generated pursuant to subsection A of this section shall be paid to the State Treasurer and placed to the credit of the Breast Cancer Act Revolving Fund.

SECTION 27. AMENDATORY Section 4, Chapter 279, O.S.L. 2000 (63 O.S. Supp. 2000, Section 2220.4), is amended to read as follows:

Section 2220.4 A. Each individual taxpayer required to file a state income tax return who desires to contribute to the Oklahoma Organ Donor Education and Awareness Program Fund, as created in Section ~~3~~ 2220.3 of this ~~act~~ title, may designate the contribution on the appropriate income tax form. The contribution may not increase or decrease the income or liability of the taxpayer and may be made by reducing the income tax refund of a taxpayer by the amount designated or by accepting additional payment from the taxpayer by the amount designated, whichever is appropriate.

B. 1. ~~Each~~ The Oklahoma Tax Commission shall include on each state individual income tax return form for tax years ~~commencing~~ beginning after December 31, 2000 2001, shall contain a designation for a contribution to an opportunity for the taxpayer to donate for the benefit of the Oklahoma Organ Donor Education and Awareness Program Fund. The instructions accompanying the income tax form shall be provided to the Oklahoma Tax Commission by the State

Department of Health and shall contain a description of the purpose for which the Oklahoma Organ Donor Education and Awareness Program Revolving Fund was established and information on the use of monies from the income tax contribution.

2. Taxpayers who are entitled to refunds shall have the refunds reduced by the amount designated ~~pursuant to the provisions of paragraph 1 of this subsection~~ by the taxpayer. The Oklahoma Tax Commission shall annually determine the total amount designated plus the amount received in excess payments and shall report the total amount to the Office of the State Treasurer. The State Treasurer shall credit the total amount to the Oklahoma Organ Donor Education and Awareness Program Fund created in Section ~~3~~ 2220.3 of this ~~act~~ title at the earliest possible time.

C. The incremental cost of administration of contributions shall be paid out of the fund to the Oklahoma Tax Commission from amounts received pursuant to this section before funds are expended for the purposes of the fund.

SECTION 28. AMENDATORY Section 1, Chapter 25, O.S.L. 2000 (68 O.S. Supp. 2000, Section 2368.1), is amended to read as follows:

Section 2368.1 A. ~~Each~~ The Oklahoma Tax Commission shall include on each state individual income tax return form for tax years ~~commencing~~ beginning after December 31, ~~1999~~ 2001, and each state corporate tax return form for tax years ~~commencing~~ beginning after December 31, ~~2000~~ 2001, ~~shall contain a designation as follows, or contain similar wording as space allows on the tax return form:~~

~~Oklahoma City National Memorial Foundation. Check if you wish to donate from your tax refund to remember the victims of the April 19, 1995, bombing of the Alfred P. Murrah Federal Building () \$2.00, () \$5.00, () \$_____ an opportunity for the taxpayer to~~

donate from a tax refund for the benefit of the Oklahoma City National Memorial Foundation.

B. The monies generated from donations made pursuant to subsection A of this section shall be collected by the Oklahoma Tax Commission and placed to the credit of the Oklahoma City National Memorial Foundation to help defray the expense to construct and maintain the national memorial created to honor the victims of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City.

SECTION 29. AMENDATORY Section 37, Chapter 278, O.S.L. 1994 (72 O.S. Supp. 2000, Section 63.19), is amended to read as follows:

Section 63.19 A. ~~Each~~ The Oklahoma Tax Commission shall include on each state individual income tax return form for tax years ~~commencing~~ beginning after December 31, ~~1993~~ 2001, and each state corporate tax return form for tax years ~~commencing~~ beginning after December 31, ~~1993~~ 2001, ~~shall contain a designation as follows, or shall contain similar wording as space allows on the tax return form:~~

~~Oklahoma Department of Veterans Affairs Equipment and Capital Improvement Program. Check if you wish to donate from your tax refund () \$2.00, () \$5.00, or () \$_____ an opportunity for the taxpayer to donate from a tax refund for the benefit of the Oklahoma Department of Veterans Affairs Equipment and Capital Improvement Program.~~

B. The monies generated from donations made pursuant to subsection A of this section shall be used by the Oklahoma Department of Veterans Affairs to purchase equipment and develop capital improvement projects and to acquire properties for expanding or improving existing projects, or for future projects to include site acquisition, architectural plan development and construction.

C. Except as otherwise provided for in this section, all monies generated pursuant to subsection A of this section shall be paid to

the State Treasurer and placed to the credit of the Capital Improvement Program Revolving Fund.

D. There is hereby created in the State Treasury a revolving fund for the Oklahoma Department of Veterans Affairs to be designated "Capital Improvement Program Revolving Fund." The fund shall be a continuing fund not subject to fiscal year limitations and shall consist of all monies received pursuant to the provisions of this section. The Oklahoma Department of Veterans Affairs is hereby authorized to invest all or part of the monies of the fund in securities and any interest or dividends accruing from the investments and any monies generated at the time of redemption of the investments shall be deposited in the Capital Improvement Program Revolving Fund. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Department of Veterans Affairs for the purposes stated in subsection B of this section. Any monies withdrawn from the fund by the Oklahoma Department of Veterans Affairs for investment pursuant to this section shall be deemed to be for the purpose of equipment purchases or enhancing the veterans capital improvement programs of the State of Oklahoma. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

E. If a taxpayer makes a donation pursuant to subsection A of this section in error, the taxpayer may file a claim for refund at any time within three (3) years from the due date of the tax return. Such claims shall be filed pursuant to the provisions of Section 2373 of Title 68 of the Oklahoma Statutes and, if allowed, shall be paid pursuant to the provisions of said section. Prior to the apportionment set forth in subsection C of this section, an amount equal to the total amount of refunds made pursuant to this subsection during any one (1) year shall be deducted during the

following year, and the amount deducted shall be paid to the State Treasurer and placed to the credit of the Income Tax Withholding Refund Account.

SECTION 30. REPEALER 37 O.S. 1991, Section 518, as last amended by Section 1 of Enrolled Senate Bill No. 2 of the 1st Session of the 48th Oklahoma Legislature, is hereby repealed.

SECTION 31. REPEALER 68 O.S. 1991, Section 1356, as last amended by Section 1 of Enrolled Senate Bill No. 8 of the 1st Session of the 48th Oklahoma Legislature, is hereby repealed.

SECTION 32. Sections 1 through 13 and 15 through 30 of this act shall become effective July 1, 2001.

SECTION 33. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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