

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 880

By: Easley of the Senate

and

Rice of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to energy, environment and taxation; amending 17 O.S. 2001, Section 190.6, which relates to the Joint Electric Utility Task Force; updating statutory language; authorizing the task force chair and vice-chair to appoint advisory council; stating purpose; authorizing meetings; providing for expenses; stating termination; amending 17 O.S. 2001, Section 354, as amended by Section 1 of Enrolled House Bill No. 2536 of the 2nd Session of the 48th Oklahoma Legislature, which relates to the Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund; extending date for maintenance level; amending Section 2 of Enrolled House Bill No. 2536 of the 2nd Session of the 48th Oklahoma Legislature, which relates to the revolving fund for the Oklahoma State Regents for Higher Education; transferring location of fund; providing legislative intent for use of certain accounts; making certain deposits not part of certain appropriations; amending 52 O.S. 2001, Sections 701 and 703, which relate to the Commission on Marginally Producing Oil and Gas Wells; modifying powers and duties of Commission; prohibiting Commission from utilizing funds for certain purposes; stating exceptions; and amending 68 O.S. 2001, Section 1357, as last amended by Section 1 of Enrolled Senate Bill No. 1282 of the 2nd Session of the 48th Oklahoma Legislature, which relates to sales tax exemptions; providing exemption for sales of electricity used in certain oil dewatering projects commencing on or after certain date; requiring classification by the Corporation Commission; and declaring an emergency.

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

SECTION 1. AMENDATORY 17 O.S. 2001, Section 190.6, is amended to read as follows:

Section 190.6 A. There is hereby created the Joint Electric Utility Task Force which shall be composed of fourteen (14) members of the Oklahoma Legislature, seven each to be selected by the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The chair of the task force shall be the chair of the Senate Energy, Environmental Resources and Regulatory Affairs Committee and the vice-chair of the task force shall be the chair of the House Energy, Environment and Natural Resources Committee.

B. The chair or vice-chair shall record the members present at each meeting of the task force. If any member is absent from two consecutive meetings, the position of such member may be declared vacant and the position reappointed by the original appointing authority.

C. A majority of the members serving on the task force shall constitute a quorum. The task force shall meet at such times and places as it deems necessary to perform its duties as specified herein. Meetings shall be at the call of the chair.

D. The task force may appoint advisory councils made up of representatives of various utility companies, regulatory agencies, industrial and residential consumers or any other persons as needed to advise the task force in any matter they deem to be appropriate and necessary.

E. Members of the task force shall be reimbursed by their appointing authorities for necessary travel expenses incurred in the performance of their duties in accordance with Section 456 of Title 74 of the Oklahoma Statutes. Advisory council members appointed pursuant to this section shall not be authorized to claim travel expenses.

F. The Senate and the House of Representatives shall provide such staff support as is required by the task force and shall be authorized to employ any legal counsel, independent consultants, or

other persons as necessary and approved by the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

G. ~~The duties of the task force shall be to direct and oversee the studies as provided for in Sections 190.4 and 190.5 of this title and may include, but shall not be limited to, any duties previously authorized by Enrolled Senate Joint Resolution No. 29 of the 1st Session of the 45th Oklahoma Legislature and Senate Concurrent Resolution No. 37 of the 2nd Session of the 45th Oklahoma Legislature~~ as directed by the Legislature and any other duties required to carry out the provisions and directives of ~~this act~~ the Electric Restructuring Act of 1997. The task force may make final recommendations to the Governor and the Legislature. The Legislature shall review any reports developed by the Joint Electric Utility Task Force. Final authority relating to the implementation of any recommended statutory revisions shall reside with the Legislature.

H. The task force shall remain in effect and operate as herein directed until its termination which shall be no later than January 1, ~~2003~~ 2005. The task force may elect, by majority vote, to terminate its operations at an earlier date if it deems such action appropriate.

I. The chair and vice-chair of the task force may appoint an advisory council, as authorized by subsection D of this section, which may include task force members, staff or other interested parties, for the purpose of studying the state and regional effects of new electric generating facility construction, upgrading, enhancement and new construction of electric transmission facilities, and the environmental, social and economic impacts of Oklahoma and the region's expanding electricity marketplace. The advisory council may initiate meetings with legislators or staff from other states or any other federal, state or local public officials engaged in any activity related to the purpose of this

study. Any expenses incurred by the advisory council in performance of their duties shall be approved by the chair and vice-chair of the task force and the President Pro Tempore of the Senate and the Speaker of the House of Representatives. Legislative members and staff of the advisory council may be authorized to travel as necessary with approval by the President Pro Tempore of the Senate and the Speaker of the House of Representatives, as provided by subsection E of this section. The advisory council appointed pursuant to this subsection shall remain in effect until terminated by the chair and vice-chair of the task force or until the termination of the task force.

SECTION 2. AMENDATORY 17 O.S. 2001, Section 354, as amended by Section 1 of Enrolled House Bill No. 2536 of the 2nd Session of the 48th Oklahoma Legislature, is amended to read as follows:

Section 354. A. Except as otherwise provided by this section, there shall be an assessment of one cent (\$0.01) per gallon upon the sale of each gallon of motor fuel, diesel fuel and blending materials used or consumed in this state. The assessment imposed pursuant to the provisions of this section shall be for the purposes of providing revenue to:

1. The Oklahoma Corporation Commission Revolving Fund pursuant to paragraph 1 of subsection C of this section;

2. The Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund pursuant to paragraphs 2, 3 and 4 of subsection C of this section;

3. The State Transportation Fund pursuant to subparagraph c of paragraph 5 of subsection C of this section;

4. The Corporation Commission pursuant to subparagraph a of paragraph 5 of subsection C of this section;

5. The Environmental Trust Revolving Fund pursuant to subparagraph b of paragraph 5 of subsection C of this section; and

6. The Higher Education Facilities Revolving Fund pursuant to paragraphs 2 and 3 of subsection C of this section.

The assessment shall be imposed at the time of the sale of the motor fuel, diesel fuel and blending materials and shall be precollected and remitted to the Oklahoma Tax Commission in accordance with Section 500.1 et seq. of Title 68 of the Oklahoma Statutes and as provided by Section 355 of this title.

B. 1. Exempt from the assessment imposed pursuant to subsection A of this section are:

- a. the state government,
- b. the federal government,
- c. class I and class II railroads, and
- d. sales for exportation outside of this state by a licensed exporter.

2. Exempt from the assessment imposed for purposes specified in paragraph 3 of subsection A of this section are sales of:

- a. motor fuel, diesel fuel and blending materials used solely and exclusively in district-owned or leased public school buses, FFA and 4-H club trucks for the purposes of legally transporting public school children, or in the operation of vehicles used in driver training,
- b. motor fuels, diesel fuels and blending materials used solely and exclusively to propel motor vehicles on the public roads and highways of this state when leased or owned and being operated for the sole benefit of a county, city, town, volunteer fire department with a state certification and rating, rural electric cooperative, rural water and sewer district, rural ambulance service district, or federally recognized Indian tribe as specified by Section 500.10 of Title 68 of the Oklahoma Statutes,

- c. motor fuel, diesel fuel and blending materials to counties and cities and towns,
- d. diesel fuel for off-road purposes specified by Section 500.10 of Title 68 of the Oklahoma Statutes,
- e. motor fuel, diesel fuel and blending materials used for agricultural purposes specified by Section 500.10 of Title 68 of the Oklahoma Statutes, and
- f. motor fuel, diesel fuel and blending materials used in aircraft or in aircraft engines pursuant to Section 500.10 of Title 68 of the Oklahoma Statutes.

C. The assessment imposed by subsection A of this section shall be distributed in the following manner:

1. The first One Million Dollars (\$1,000,000.00) collected during each fiscal year shall be deposited into the Oklahoma Corporation Commission Revolving Fund created in Section 180.7 of this title;

2. From July 1, 2002, until June 30, 2004, fifty percent (50%) of all revenue from the assessment received over the amount required by paragraph 1 of this subsection shall be deposited in the Higher Education Facilities Revolving Fund and fifty percent (50%) of all revenue from the assessment received over the amount required by paragraph 1 of this subsection shall be deposited in the Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund created in Section 353 of this title;

3. From July 1, 2004, until the total amount deposited since July 1, 2002, in the Higher Education Facilities Revolving Fund totals Thirty-eight Million Dollars (\$38,000,000.00) twenty-five percent (25%) of all revenue from the assessment received over the amount required by paragraph 1 of this subsection shall be deposited in the Higher Education Facilities Revolving Fund and seventy-five percent (75%) of all revenue from the assessment received over the amount required by paragraph 1 of this subsection shall be deposited

in the Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund created in Section 353 of this title;

4. After the total amount deposited in the Higher Education Facilities Revolving Fund totals Thirty-eight Million Dollars (\$38,000,000.00), any revenue from the assessment received over the amount required in paragraph 1 of this subsection, shall be deposited in the Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund created in Section 353 of this title in amounts necessary to maintain the maintenance level of the Indemnity Fund pursuant to subsection D of this section; and

5. The balance of any revenue from the assessment remaining above the amount required in paragraphs 1 through 4 of this subsection shall be deposited as follows:

- a. the first One Million Dollars (\$1,000,000.00) collected during each fiscal year shall be deposited in the Corporation Commission Storage Tank Regulation Revolving Fund for the purpose of implementing the provisions of the Oklahoma Storage Tank Regulation Act and the rules promulgated thereunder,
- b. the second One Million Dollars (\$1,000,000.00) collected during each fiscal year shall be deposited in the Environmental Trust Revolving Fund created in Section 2-3-403 of Title 27A of the Oklahoma Statutes, to be used solely for the cleanup of abandoned oil and gas processing and refining sites, and
- c. the balance of the monies collected during each fiscal year shall be deposited in the State Transportation Fund and shall be used solely for the purpose of matching Federal-Aid funds for the construction of highways and roads in this state.

D. 1. If at any time the Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund falls below the required

maintenance level on or before December 31, ~~2011~~ 2012, the Administrator shall notify the Tax Commission that the Indemnity Fund has fallen below the required maintenance level and that the assessment is to be deposited into the Indemnity Fund for at least three (3) calendar months pursuant to the provisions of paragraph 2 of this subsection.

2. At least fifteen (15) days prior to the calendar month in which the assessment is to be collected for credit to the Indemnity Fund, the Tax Commission, upon notification by the Administrator that the Indemnity Fund has fallen below the required maintenance level, shall notify the suppliers, licensed importers or other appropriate persons that the assessment is being imposed for purposes of maintaining the Indemnity Fund. The notice shall include a date certain upon which to begin collecting the assessment for credit to the Indemnity Fund and a date certain for ending the assessment for credit to the Indemnity Fund. Upon notice by the Tax Commission that the assessment imposed is for credit to the Indemnity Fund, the supplier, licensed importer or other appropriate person shall also assess, for the specified period required by the Tax Commission, the sales of:

- a. motor fuel, diesel fuel and blending materials used solely and exclusively in district-owned or leased public school buses, FFA and 4-H Club trucks for the purposes of legally transporting public school children or in the operation of vehicles used in driver's training,
- b. motor fuels, diesel fuels and blending materials used solely and exclusively to propel motor vehicles on the public roads and highways of the state when leased or owned and being operated for the sole benefit of a county, city or town, volunteer fire department with a state certification and rating, rural electric

cooperative, rural water and sewer district, rural ambulance service district, or federally recognized Indian tribe as specified by Section 500.10 of Title 68 of the Oklahoma Statutes,

- c. motor fuel, diesel fuel and blending materials to counties and cities and towns,
- d. diesel fuel for off-road purposes specified by Section 500.10 of Title 68 of the Oklahoma Statutes,
- e. motor fuel, diesel fuel and blending materials used for agricultural purposes specified by Section 500.10 of Title 68 of the Oklahoma Statutes, and
- f. motor fuel, diesel fuel and blending materials used in aircraft and aircraft engines pursuant to Section 500.10 of Title 68 of the Oklahoma Statutes.

3. After the collection period required by this subsection has expired, the revenue collected from the assessment shall be again deposited in the Corporation Commission Revolving Fund, the Environmental Trust Revolving Fund, and the State Transportation Fund as provided in subsection C of this section.

SECTION 3. AMENDATORY Section 2 of Enrolled House Bill No. 2536 of the 2nd Session of the 48th Oklahoma Legislature, is amended to read as follows:

Section 2. A. There is hereby created in the State Treasury a revolving fund for the ~~Department of Central Services~~ Oklahoma State Regents for Higher Education to be designated the "Higher Education Facilities 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 Central Services~~ Oklahoma State Regents for Higher Education from the assessment imposed pursuant to Section 354 of Title 17 of the Oklahoma Statutes.

B. There shall be two accounts established in such fund. ~~One~~ It is the intent of the Legislature that one account shall be for

the purpose of transfer and allocation to the University of Oklahoma for funding construction of a weather center on the campus of the University of Oklahoma.—~~One~~ and one account shall be for the purpose of transfer and allocation to Oklahoma State University for funding the purchase of equipment and renovation of facilities on the campus of Oklahoma State University for work on the application of advanced sensor technology for the detection of chemical and biological threats to homeland security. Any monies accruing to the credit of said fund shall be divided equally for deposit into the two accounts provided for herein. No funds deposited into one account shall be transferred into the other account. All monies in each account are hereby appropriated and may be budgeted and expended by the ~~Department~~ Oklahoma State Regents for Higher Education for the purpose of allocation and transfer to the University of Oklahoma and Oklahoma State University as specified herein. The monies deposited into the Higher Education Facilities Revolving Fund shall be in addition to and not a part of the appropriations made by the Legislature pursuant to Section 3 of Article XIII-A of the Oklahoma Constitution.

SECTION 4. AMENDATORY 52 O.S. 2001, Section 701, is amended to read as follows:

Section 701. A. Powers and duties of the Commission on Marginally Producing Oil and Gas Wells shall include, but not be limited to, the following:

1. To define and identify appropriate categories that may be used to characterize marginally producing oil and gas wells;
2. To research and collect information on the number, location, and operational conditions of marginally producing oil and gas wells in the State of Oklahoma;
3. To identify and evaluate the economic and operational factors that may extend the life of marginally producing oil and gas wells;

4. To propose ~~legislative, regulatory and~~ operational remedies that will extend the life of marginally producing oil and gas wells;

5. To collect data and make available to the public any information on the contributions of marginally producing oil and gas wells to the local economies of the State of Oklahoma;

6. To interact with national and regional organizations to ensure recognition of the importance of marginally producing oil and gas wells to the current and future domestic production of oil and gas;

7. To make an annual report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives on those methodologies and procedures that may aid in preserving the life of marginally producing oil and gas wells;

8. To investigate any additional issues that may have any effect on the preservation of marginally producing oil and gas wells; and

9. To promulgate rules to implement the provisions of this act.

B. The Commission is authorized to accept, pursue and apply for grants from any source for purposes consistent with the goals and mandates of the Commission.

SECTION 5. AMENDATORY 52 O.S. 2001, Section 703, is amended to read as follows:

Section 703. A. To fund the activities of the Commission, a fee shall be levied in the amount of two-tenths of one cent (\$0.002) on each barrel of petroleum liquid and one-tenth of one cent (\$0.001) on each ten thousand (10,000) cubic feet of natural gas, including casinghead gas, produced from each well in the State of Oklahoma except for oil and gas production exempt from the payment of gross production tax pursuant to Section 1001 of Title 68 of the Oklahoma Statutes.

B. The fee levied by subsection A of this section shall be deducted from the proceeds of production by the person remitting

gross production tax to the Oklahoma Tax Commission pursuant to Section 1001 et seq. of Title 68 of the Oklahoma Statutes. Such fee shall be remitted to the Oklahoma Tax Commission in the same manner as is provided by law for the payment of gross production tax. However, the fee shall not be required to be paid until the accrued amount due from any person required to remit such fee reaches Twenty-five Dollars (\$25.00), except that any amount accrued for any calendar year shall be paid by January 31st of the following year. To defray the costs of receiving and depositing the fees levied by this section, the Oklahoma Tax Commission shall retain three percent (3%) of the fees received for deposit into the Oklahoma Tax Commission Revolving Fund created pursuant to Section 113 of Title 68 of the Oklahoma Statutes. The remaining monies received by the Oklahoma Tax Commission pursuant to this section shall be deposited in the Commission on Marginally Producing Oil and Gas Wells Revolving Fund created by Section 705 of this title.

C. The Commission on Marginally Producing Oil and Gas Wells shall be responsible for taking appropriate and necessary actions to collect any fee which is not paid or is not properly paid. The Oklahoma Tax Commission shall not be responsible for collecting any fee not remitted to the Oklahoma Tax Commission for deposit into the Commission on Marginally Producing Oil and Gas Wells Revolving Fund. The Oklahoma Tax Commission shall report to the Commission on Marginally Producing Oil and Gas Wells any information it obtains regarding failure of any person to properly pay the fee due, including any documentation it may have of such failure.

D. The Oklahoma Tax Commission shall promulgate rules to establish such procedures and forms necessary for the remittance of the fee levied by this section.

E. The Commission shall be prohibited from utilizing any funds collected through the assessment authorized by this section for the purpose of influencing governmental action or policy, with the

exception of recommending amendments to this act. Provided, however, the Commission shall be authorized to respond to any request for information from the Governor, any members of the Legislature, any public official or state agency.

SECTION 6. AMENDATORY 68 O.S. 2001, Section 1357, as last amended by Section 1 of Enrolled Senate Bill No. 1282 of the 2nd Session of the 48th Oklahoma Legislature, is amended to read as follows:

Section 1357. Exemptions - General.

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

1. Transportation of school pupils to and from elementary schools or high schools in motor or other vehicles;
2. Transportation of persons where the fare of each person does not exceed One Dollar (\$1.00), or local transportation of persons within the corporate limits of a municipality except by taxicabs;
3. Sales for resale to persons engaged in the business of reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made to persons to whom sales tax permits have been issued as provided in 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. 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;

26. Beginning July 1, 2002, 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 nine thousand (9,000) pounds gross take-off weight and less than three hundred thousand (300,000) pounds gross take-off weight 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 an 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 "aircraft repair facility" shall mean any facility which either is an aircraft manufacturer's authorized service facility or a facility which repairs, modifies or replaces aircraft parts in which more than Three Million Dollars (\$3,000,000.00) was invested to establish the new facility or expand an existing facility and which construction was commenced or was in progress on or after July 1, 1999; provided, amounts expended for research and development as defined in Sections 41 and 174 of the Internal Revenue Code with respect to modification of aircraft shall be included as amounts invested to establish a new facility or expand an existing facility for purposes of the investment threshold specified herein; ~~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; and

28. Beginning January 1, 2004, sales of electricity and associated delivery and transmission services, when sold exclusively for use by an oil and gas operator for reservoir dewatering projects and associated operations commencing on or after July 1, 2003, in which the initial water-to-oil ratio is greater than or equal to five-to-one water-to-oil, and such oil and gas development projects have been classified by the Corporation Commission as a reservoir dewatering unit.

SECTION 7. 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.

48-2-3462

MJM

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