

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE JOINT
RESOLUTION 37

By: Dunlap

AS INTRODUCED

A Joint Resolution relating to tax reform; ordering a legislative referendum pursuant to the Oklahoma Constitution; creating the Oklahoma Tax Reform Act of 2002; stating intent; providing that individual income taxes, certain estate taxes and franchise taxes cease to be imposed as of certain date; providing for abbreviated tax year for franchise taxes due from certain taxpayers; prorating amount of franchise tax due for such year; providing that certain liability remain and certain taxes remain payable and subject to certain laws; providing for application of certain remedies; defining terms; levying tax upon sales, use or consumption of certain services; specifying rate and services subject to tax; exempting certain services from tax; exempting sales to certain persons from tax; limiting certain authority of political subdivisions; stating purpose and specifying apportionment of certain revenues; applying certain provisions to tax; providing for extension of certain permits; amending 68 O.S. 2001, Sections 802, 804 and 809, which relate to estate taxes; specifying estates to which certain taxes applicable; deleting obsolete language; amending 68 O.S. 2001, 1203, 1204, 1205, 1210 and 1212, which relate to franchise taxes; specifying date upon which franchise taxes cease to be levied; deleting reference and procedures relating to franchise tax; modifying certain reporting requirements; specifying date upon which certain statement due; specifying contents of statement; providing penalty upon failure to file; exempting sales of certain food, beverages, drugs and medicine from state sales tax; amending 68 O.S. 2001, Sections 1370, 1370.1, 1370.2, 1370.2A, 1370.4, 1370.5, 1370.6, 1370.7 and 1370.8, which relate to local sales taxes; providing that certain provision not apply to county sales taxes except by resolution of board of county commissioners; providing exceptions; amending 68 O.S. 2001, Sections 2355, 2368, 2369, 2385.2, 2385.3 and 2385.7, which relate to income taxes; providing that certain taxes cease to be imposed for certain tax years; specifying tax years for which income tax return required to be filed; specifying tax years for which certain other procedures required; specifying tax years for which income taxes must be withheld from wages or winnings; amending 68 O.S. 2001, Section 2701, which relates to municipal taxation; providing that certain provision not apply to municipal sales tax except by municipal ordinance; prohibiting municipality from levying certain tax; amending 68 O.S. 2001, Sections 5011 and

5013, which relate to the Sales Tax Relief Act; modifying qualifications for and amount of rebates for certain years; modifying basis for amount of rebate; modifying mechanism by which rebates paid; repealing 68 O.S. 2001, Sections 2385.25, 2385.26, 2385.27 and 2385.28, which relate to income tax withholding; providing an effective date; providing ballot title; and directing filing.

BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE 2ND SESSION OF THE 48TH OKLAHOMA LEGISLATURE:

SECTION 1. Pursuant to Section 3 of Article V of the Oklahoma Constitution, there is hereby ordered the following legislative referendum which shall be filed with the Secretary of State and addressed to the Governor of the state, who shall submit the same to the people for their approval or rejection at the next General Election.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4101 of Title 68, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Tax Reform Act of 2002".

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4102 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. It is the intent of the people of this state, through approval of the provisions of the Oklahoma Tax Reform Act of 2002, to:

1. Eliminate all individual income taxes, capital gains taxes, state sales taxes on groceries purchased for home consumption, business franchise taxes and estate taxes other than those necessary to "pick up" the federal allowance to states;

2. Impose new sales and use taxes on a broad range of services; and

3. Minimize the direct taxation of and provide additional tax benefits for low-income residents of this state.

B. It is the further intent of the people of the State of Oklahoma that the new tax system will:

1. Provide resources for the funding of essential state governmental services in a manner which will impose the smallest possible financial and administrative burden on taxpayers, both individuals and business entities;

2. Preserve the ability of political subdivisions of this state to collect revenues to finance essential governmental services provided at the local level;

3. Encourage the location, relocation and retention of businesses in this state, along with the jobs and the many other benefits that they provide; and

4. Be consistent with well-established principles of high-quality revenue systems, including reliability, diversification, equity, simplicity and accountability.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4103 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Individual income taxes shall cease to be imposed for wages paid or other income received on or after January 1, 2004, as provided in the Oklahoma Income Tax Code.

B. Except as provided in Section 804 of Title 68 of the Oklahoma Statutes, estate taxes shall cease to be imposed with respect to estates of decedents who die on or after January 1, 2004, as provided in Section 801 et seq. of Title 68 of the Oklahoma Statutes.

C. Franchise taxes shall cease to be imposed effective January 1, 2004, as provided in Section 1201 et seq. of Title 68 of the Oklahoma Statutes. For corporations and other taxpayers whose tax years do not coincide with calendar years, franchise taxes imposed

pursuant to the provisions of Section 1201 et seq. of Title 68 of the Oklahoma Statutes shall be due for an abbreviated tax year which shall end on December 31, 2003. The amount of franchise tax due for the abbreviated year shall be prorated in an amount which is the same proportion of the total thereof as the length of the abbreviated tax year is compared to a twelve-month year.

D. This act shall not release, extinguish or otherwise affect the liability of any person or property for taxes that shall have accrued, or become payable or owing, under any law repealed by this act or with respect to any tax no longer imposed pursuant to the provisions of this act, and which shall have not been paid when this act becomes effective. All such taxes shall remain payable and be subject to the laws levying same to the same extent as if this act had not been enacted, and when collected shall be apportioned or distributed as provided by such laws. All remedies for the collection of unpaid taxes, existing or available when this act becomes effective, shall be available for the collection of taxes due under such prior laws or due under this act, and this act shall not affect any proceeding or action commenced before the effective date hereof, or any proceeding or action pending when this act becomes effective.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4104 of Title 68, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Tax Reform Act of 2002:

1. "Business" means any activity engaged in or caused to be engaged in by any person with the object of gain, benefit, or advantage, either direct or indirect;

2. "Commission" or "Tax Commission" means the Oklahoma Tax Commission;

3. "Consumer" or "user" means a person to whom a taxable service is furnished. "Consumer" or "user" includes all contractors

to whom a taxable service is furnished to be used or consumed in the performance of any contract;

4. "Contractor" means any person who performs any improvement upon real property;

5. "Established place of business" means the location at which any person regularly engages in, conducts, or operates a business in a continuous manner for any length of time, that is open to the public during the hours customary to such business, at which a taxable service is performed, and which is not exempted by law from attachment, execution, or other species of forced sale barring any satisfaction of any delinquent tax liability accrued under any tax law of this state;

6. "Gross receipts" or "gross proceeds" means the total amount of consideration for the sale of any taxable service, whether the consideration is in money or otherwise. "Gross receipts" or "gross proceeds" shall include, but not be limited to:

- a. cash paid,
- b. any amount for which payment is charged, deferred, or otherwise to be made in the future, regardless of the time or manner of payment,
- c. any amount for which credit or a discount is allowed by the vendor,
- d. any amount of deposit paid for transfer of possession, and
- e. any value of a trade-in or other property accepted by the vendor as consideration.

There shall not be any deduction from the gross receipts or gross proceeds on account of cost of any property sold, labor service performed, interest paid, or losses, or of any expenses whatsoever, whether or not the service sold was performed for or at the request of the consumer as part of the sale;

7. "Maintaining a place of business in this state" means and includes having or maintaining in this state, directly or by subsidiary, an office, distribution house, sales house, warehouse, or other physical place of business, or having agents operating in this state, whether the place of business or agent is within this state temporarily or permanently or whether the person or subsidiary is authorized to do business within this state;

8. "Manufacturing" means and includes the activity of converting or conditioning tangible personal property by changing the form, composition, or quality of character of some existing material or materials, by procedures commonly regarded as manufacturing, compounding, processing or assembling, into a material or materials with a different form or use. "Manufacturing" does not include extractive industrial activities such as mining, quarrying, logging, and drilling for oil, gas and water, but may include processes subsequent to extraction if such processes result in a change of the form or use of the material extracted;

9. "Manufacturing operation" means the designing, manufacturing, compounding, processing, assembling, warehousing, or preparing of articles for sale as tangible personal property. A manufacturing operation begins at the point where the materials enter the manufacturing site and ends at the point where a finished product leaves the manufacturing site. "Manufacturing operation" does not include administration, sales, distribution, transportation, site construction, or site maintenance;

10. "Manufacturing site" means a location where a manufacturing operation is conducted, including a location consisting of one or more buildings or structures in an area owned, leased, or controlled by a manufacturer;

11. "Person" means any individual; company; partnership; joint venture; joint agreement; association; mutual or otherwise; limited liability company; corporation; estate; trust; business trust;

receiver or trustee appointed by any state or federal court or otherwise; syndicate; this state; any county, city, municipality, school district, any other political subdivision of the state; or any group or combination acting as a unit, in the plural or singular number;

12. "Point of sale" means the physical location at which a sale of services taxable under the Oklahoma Tax Reform Act of 2002 is made in the course of the vendor's business, to be determined by one of the following:

- a. if the consumer identifies services and pays the sale price, in cash or otherwise, at a place of business maintained by the vendor, the point of sale shall be the location of such place of business, regardless of the place of delivery,
- b. if a consumer orders or requests, by mail or telephonic or telegraphic device, to buy services, the point of sale shall be the place of delivery or performance of the services, regardless of the manner of transportation,
- c. if the sale is made through solicitation at a place other than the place of business of the vendor, either by an employee, representative, or any other agent of the vendor, the point of sale shall be the place where the solicited offer to buy was accepted or approved by the vendor if the consumer does not have a right to accept or reject delivery, and
- d. if the sale is made through solicitation at a place other than the place of business of the vendor, either by an employee, representative, or any other agent of the vendor, and the consumer has a right to accept or reject delivery, the point of sale shall be the place of delivery or performance of the services;

13. "Repairperson" means any person who performs any repair service upon tangible personal property of the consumer, whether or not the repairperson, as a necessary and incidental part of performing the service, incorporates tangible personal property belonging to or purchased by the repairperson into the tangible personal property being repaired;

14. "Sale" means the performance of a service in exchange for a valuable consideration regardless of the manner, method, instrumentality, or device by which the exchange is accomplished in this state;

15. "Services relating to agriculture" means such services as are specified in paragraph 1 of Section 8 of this act with respect to property classified for ad valorem taxation as agricultural property;

16. "Taxable service" means a service subject to the tax levied in the Oklahoma Tax Reform Act of 2002 as specified in Section 6 of this act;

17. "Taxpayer" means any person liable to pay a tax imposed by the Oklahoma Tax Reform Act of 2002;

18. "Tax period" or "taxable period" means the calendar period for which a taxpayer has obtained a permit from the Oklahoma Tax Commission, or a fiscal period for which a taxpayer has obtained a permit from the Tax Commission, if the taxpayer has received permission from the Tax Commission to use a fiscal period in lieu of a calendar period;

19. "Tax remitter" means any person required to collect, report, or remit the tax imposed by the Oklahoma Tax Reform Act of 2002. A tax remitter who fails, for any reason, to collect, report, or remit the tax shall be considered a taxpayer for purposes of assessment, collection, and enforcement of the tax imposed by the Oklahoma Tax Reform Act of 2002; and

20. "Vendor" means:

- a. any person making sales of taxable services in this state,
- b. any person maintaining a place of business in this state and making sales of taxable services, whether at the place of business or elsewhere, to persons within this state,
- c. any person who solicits business by employees, independent contractors, agents, or other representatives or by distribution of catalogs or other advertising matter, and thereby makes sales to persons within this state of taxable services, or
- d. any person, pursuant to an agreement with the person performing or furnishing a taxable service, who has been entrusted with the possession of any property resulting from the performance of the service and has the power to designate who is to obtain title, to physically transfer possession of, or otherwise make sales of the property.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4105 of Title 68, unless there is created a duplication in numbering, reads as follows:

There is hereby levied upon all sales, not otherwise exempted in Sections 8 and 9 of this act and not otherwise subject to the sales tax levied in Section 1354 or the use tax levied in Section 1402 of Title 68 of the Oklahoma Statutes, an excise tax of five and nine-tenths percent (5.9%) of the gross receipts or gross proceeds of each sale of the following:

1. Services provided by general contractors primarily engaged in the construction of industrial buildings and warehouses, nonresidential buildings or residential buildings;

2. Services provided by builders primarily engaged in the construction of buildings for sale on their own account rather than as contractors;

3. Services provided by general contractors primarily engaged in the construction of bridges, viaducts, elevated highways and highway, pedestrian and railway tunnels;

4. Services provided by general and special trade contractors primarily engaged in the construction of roads, streets, alleys, public sidewalks, guardrails, parkways, airports, water and sewer mains, pipelines, communications and power lines and other heavy projects;

5. Services provided by special trade contractors primarily engaged in plumbing, heating, air conditioning and similar work;

6. Services provided by special trade contractors primarily engaged in:

- a. painting and paper hanging,
- b. electrical work,
- c. masonry work, stone setting and other stone work,
- d. applying plain or ornamental plaster,
- e. setting and installing ceramic tile, marble and mosaic, and in mixing marble particles and cement to make terrazzo or similar materials,
- f. carpentry work, or
- g. the installation of asphalt, tile, carpeting, linoleum and resilient flooring and the laying, scraping and finishing of parquet and other hardwood or laminate flooring;

7. Services provided by special trade contractors primarily engaged in:

- a. the installation of roofing, siding and sheet metal work,
- b. concrete work,

- c. water well drilling,
- d. the erection of structural steel and similar products of prestressed or precast concrete,
- e. glass and glazing work,
- f. excavation work and digging foundations,
- g. wrecking and demolition of buildings and other structures,
- h. installation or erection of building equipment or the installation or dismantling of machinery or other industrial equipment, and
- i. construction work other than that specified in this section;

8. Services of furnishing passenger transportation by automobiles not operated on regular schedules or between fixed terminals;

9. Services of warehousing and storage of:

- a. perishable goods under refrigeration,
- b. a general line of goods, or
- c. other products;

10. Services of:

- a. providing two-way radiotelephone communications services, including but not limited to cellular and digital telephone services,
- b. providing paging and beeper services,
- c. leasing telephone lines or other methods of telephone transmission, such as optical fiber lines and microwave or satellite facilities,
- d. furnishing telephone voice and data communications,
- e. furnishing telegraph and other nonvocal message communications services, including but not limited to cablegram, electronic mail and facsimile transmission services,

- f. broadcasting aural programs by radio to the public,
- g. broadcasting visual programs by television to the public,
- h. the dissemination of visual and textual television programs on a subscription or fee basis, including but not limited to cablecasting, and
- i. communications other than those specified in this section;

11. The generation, transmission or distribution of electric energy for sale;

12. The transmission, storage or distribution of natural gas for sale;

13. The manufacture or distribution of other types of gas for sale, including but not limited to mixtures of manufactured gas and natural gas;

14. Electric, gas or other utility services in combination with other services;

15. Services of distributing water for sale for domestic, commercial or industrial use;

16. Services of:

- a. collection and disposal of wastes conducted through a sewerage system,
- b. collection and disposal of refuse by processing or destruction or in the operation of incinerators, waste treatment plants, landfills or other sites for disposal of such materials, and
- c. sanitary services other than those specified in this section;

17. Production or distribution of steam and heated or cooled air for sale;

18. Services of operating water supply systems for the purpose of irrigation;

19. Services provided by:

- a. commercial banks and trust companies chartered under the National Bank Act,
- b. commercial banks and trust companies chartered by a state or territory,
- c. commercial banks which do not operate under federal or state charter,
- d. federally chartered savings institutions,
- e. state chartered savings institutions,
- f. credit unions or other cooperative thrift and loan associations, other than those organized under federal charter, to finance credit needs of their members,
- g. trust companies engaged in fiduciary business, and
- h. establishments primarily engaged in performing functions related to depository banking other than those specified in this section;

20. Services of:

- a. providing loans to or financing retail sales or motor vehicle loans for individuals,
- b. extending credit to business enterprises for relatively short periods,
- c. furnishing intermediate or long-term general and industrial credit,
- d. originating mortgage loans, selling mortgage loans to permanent investors, servicing mortgage loans or providing real estate construction loans, and
- e. arranging loans for others;

21. Services relating to the purchase, sale and brokerage of securities and the origination, underwriting and distributing of issues of securities;

22. Services relating to the buying and selling of commodity contracts on either a spot or future basis for their own account or for the account of others;

23. Services of furnishing space and other facilities to members for the purpose of buying, selling or otherwise trading in stocks, stock options, bonds or commodity contracts;

24. Services of furnishing investment information and advice to companies and individuals concerning securities and commodities on a contract or fee basis;

25. Services to security or commodity holders, brokers or dealers other than those specified in this section;

26. Services of:

- a. underwriting life insurance,
- b. underwriting accident and health insurance, including but not limited to those providing health insurance protection for disability income losses and medical expenses coverage on an indemnity basis,
- c. providing hospital, medical and other health services to subscribers or members in accordance with prearranged agreements or service plans, including but not limited to those providing benefits to subscribers or members in return for specified subscription charges, those providing plans through a contract under which a participating hospital or physician agrees to render the covered services without charging any additional fees or which provide for partial indemnity and service benefits, and separate establishments of health maintenance organizations which provide medical insurance,
- d. underwriting fire, marine and casualty insurance,
- e. underwriting financial responsibility insurance,

- f. underwriting insurance to protect the owner of real estate, or lenders of money thereon, against loss sustained by reason of any defect of title,
- g. managing pension, retirement, health and welfare funds, and
- h. underwriting insurance other than that specified in this section;

27. Services provided by agents primarily representing one or more insurance carriers, or brokers not representing any particular carriers primarily engaged as independent contractors in the sale or placement of insurance contracts with carriers, but not employees of the insurance carriers they represent, including but not limited to independent organizations concerned with insurance services;

28. Services related to the operation of nonresidential buildings, apartment buildings, other dwellings, residential mobile home sites, leasing of railroad property or leasing of other property other than as specified in this section;

29. Services of renting, buying, selling, managing and appraising real estate for others, including but not limited to services provided by real estate agents, real estate appraisers, real estate brokers, manufactured home brokers, real estate buying agents, cemetery management services, condominium managers, cooperative apartment managers, real estate escrow agents and fiduciaries, housing authorities, real estate listing services and managers, real estate auctions, rental and selling agents for real estate and sales, leasing and rental of time-sharing real estate;

30. Services of searching real estate titles;

31. Services of subdividing real property into lots and developing it for resale;

32. Services of:

- a. holding or owning the securities of banks or companies other than banks for the sole purpose of exercising

some degree of control over the activities of the bank or other company whose securities they hold,

- b. issuing shares containing a provision requiring redemption by the company upon request of the security holder,
- c. issuing unit investment trusts or face-amount certificates or other shares not requiring redemption by the company upon request of the security holder,
- d. the management of the funds of trusts and foundations organized for purposes other than religious, educational, charitable or nonprofit research,
- e. investing in oil and gas royalties or leases or fractional interests therein,
- f. owning or leasing franchises, patents and copyrights which the establishment in turn licenses others to use,
- g. closed-end investments in real estate or related mortgage assets operating so they could meet the requirements of the Real Estate Investment Trust Act of 1960, as amended, and
- h. investing other than as specified in this section;

33. Services of providing lodging, or lodging and meals, for the general public, or by membership organizations for the benefit of their members and not open to the general public;

34. Services of renting rooms, with or without board, on a fee basis;

35. Services of operating sporting and recreational camps, including but not limited to boys' and girls' camps and fishing and hunting camps;

36. Services of providing overnight or short-term sites for recreational vehicles, trailers, campers or tents;

37. Laundry, cleaning and garment services, including but not limited to:

- a. operating mechanical laundries with steam or other power,
- b. providing laundry and dry cleaning services,
- c. supplying to commercial establishments or household users, on a rental basis, such laundered items as uniforms, gowns and coats of the type used by doctors, nurses, barbers, beauticians and waitresses, and table linens, bed linens, towels and toweling and similar items,
- d. operating coin-operated or similar self-service laundry and dry cleaning equipment for use on the premises or in apartments, dormitories or similar locations,
- e. dry cleaning or dyeing apparel and household fabrics other than rugs,
- f. cleaning carpets and upholstered furniture at a plant or on customers' premises,
- g. supplying laundered or dry-cleaned industrial work uniforms and related work clothing, including but not limited to protective apparel and clean room apparel, laundered mats and rugs, dust control items and laundered wiping towels, to industrial, commercial or government users, and
- h. furnishing laundry and garment services other than those specified in this section;

38. Services of still or video portrait photography for the general public;

39. Beauty, barber, styling, hairdressing, hair weaving or hair replacement services, including but not limited to services provided by beauty or cosmetology schools;

40. Services of repairing footwear, shining shoes and cleaning and blocking hats;

41. Services of preparing the dead for burial, conducting funerals and cremating the dead;

42. Tax return preparation services;

43. Personal services other than those specified in this section, including but not limited to babysitting, bartering, providing vital records, blood pressure testing, buyers' clubs, car title and tag services, checkroom concessions or services, clothing rental, coin-operated service machine operation, college clearinghouses, comfort station operation, computer photography or portraits, consumer-buying services, costume rental, dating services, debt-counseling services, services provided by depilatory salons, diet counseling and workshops, dress suit rental, electrolysis, escort services, genealogical investigation services, locker rental, services provided by marriage bureaus, services provided at massage parlors, porter services, quilting, rest room operation, scalp treatment services, shopping services, steam baths, services provided by tanning salons, services provided by tattoo parlors, Turkish baths, tuxedo rental, valet parking services, wardrobe services and services provided at wedding chapels;

44. Advertising services, including but not limited to:

- a. preparing advertising and placing such advertising in the mass media for clients on a contract or fee basis,
- b. preparing poster displays and painted and electric displays on billboards, panels, bulletins and frames, principally outdoors,
- c. soliciting advertising on a contract or fee basis for the mass media, and
- d. furnishing advertising services other than those specified in this section;

45. Consumer credit reporting services, mercantile reporting services and adjustment and collection services, including but not limited to the collection or adjustment of claims other than insurance or providing mercantile and consumer credit reporting services;

46. Mailing, reproduction, commercial art and photography and stenographic services, including but not limited to:

- a. furnishing services for direct mail advertising and compiling and selling mailing lists,
- b. reproducing text, drawings, plans, maps or other copy, by blueprinting, photocopying, mimeographing or other methods of duplication,
- c. providing commercial photography services or commercial art or graphic design services for advertising agencies, publishers and other business and industrial users, and
- d. furnishing secretarial, typing, work processing, resume writing and court reporting services;

47. Services to dwellings and other buildings, including but not limited to disinfecting dwellings and other buildings; termite, insect, rodent and other pest control services; and furnishing building cleaning and maintenance services;

48. Equipment rental and leasing services, including but not limited to:

- a. renting or leasing medical equipment,
- b. renting or leasing heavy construction equipment, with or without operators, and
- c. renting or leasing equipment other than that specified in this section;

49. Personnel supply services, including but not limited to providing employment services and supplying temporary or continuous help on a contract or fee basis;

50. Computer programming, data processing and other computer-related services, including but not limited to:

- a. providing computer programming services on a contract or fee basis, including but not limited to computer software design and analysis, modification of custom software and training in the use of custom software,
- b. the design, development and production of prepackaged computer software, including but not limited to the design, development and production of operating, utility and applications programs, preparation of software documentation for the user, installation of software for the user and training the user in the use of the software,
- c. developing or modifying computer software and packaging or bundling the software with purchased computer hardware to create and market an integrated system for specific application, including but not limited to the development or modification of the computer software, the marketing of purchased computer hardware and involvement in all phases of systems development from design through installation,
- d. providing computer processing and data preparation services,
- e. providing on-line information retrieval services on a contract or fee basis,
- f. providing on-site management and operation of computer and data processing facilities on a contract or fee basis,
- g. renting or leasing computers and related data processing equipment on a customer's site, whether or not also providing maintenance or support services,

- h. maintenance and repair of computers and computer peripheral equipment, and
- i. supplying computer-related services other than those specified in this section;

51. Detective, guard and armored car services;

52. Services of monitoring and maintaining security systems devices, including but not limited to burglar and fire alarms;

53. Services of furnishing news, pictures and features and of supplying news reporting services to newspapers and periodicals;

54. Developing film and making photographic prints and enlargements for the trade or for the general public;

55. Business services other than those specified in this section;

56. Motor vehicle and automotive services, including but not limited to:

- a. short- or extended-term rental or leasing of passenger cars, trucks, truck-tractors, semitrailers, utility trailers, recreational vehicles or other motor vehicles, with or without maintenance;
- b. temporary parking of motor vehicles on a contract or fee basis,
- c. repair of motor vehicle tops, bodies and interiors, motor vehicle painting and refinishing and customizing motor vehicles,
- d. installation, repair or sale and installation of motor vehicle exhaust systems,
- e. repairing and retreading motor vehicle tires,
- f. installation, repair or sale and installation of motor vehicle glass,
- g. installation, repair or sale and installation of motor vehicle transmissions,
- h. general motor vehicle repair,

- i. motor vehicle repair other than that specified in this section,
- j. washing, waxing or polishing of motor vehicles, or furnishing facilities for the self-service washing, waxing or polishing of motor vehicles, and
- k. motor vehicle services other than those specified in this section;

57. Repair services, including but not limited to:

- a. repairing, installing or servicing radios, televisions, phonographs, stereo equipment, tape or video recorders, antennas, transmitting and receiving equipment and other audio or video equipment,
- b. servicing and repairing household and commercial electrical refrigerators, air-conditioning and refrigeration equipment,
- c. repairing electrical and electronic household and industrial appliances and equipment,
- d. repairing watches, clocks or jewelry,
- e. furniture reupholstery and repair,
- f. welding,
- g. rewinding armatures and rebuilding or repairing electric motors, and
- h. repair services other than those specified in this section;

58. Services relating to motion pictures, including but not limited to:

- a. production and distribution of theatrical and nontheatrical motion pictures and video tapes or disks for exhibition or sale,
- b. services independent of but allied to motion picture production or distribution, including but not limited to film processing, editing, titling, casting,

- wardrobe and studio property rental, film and tape services, film and tape reproduction, film libraries, delivery services, film purchasing and booking,
- c. commercially operated theatres for the indoor or outdoor exhibition of motion pictures, and
- d. renting recorded video tapes or disks to the general public for personal or household use;

59. Amusement and recreation services, including but not limited to:

- a. operating dance studios, schools, public dance halls or ballrooms,
- b. providing live theatrical presentations and other services allied with live and recorded theatrical presentations, including but not limited to casting and booking, providing scenery, lighting and other equipment and ticket agencies,
- c. providing entertainment other than live theatrical presentations, including but not limited to that provided by bands, orchestras and entertainers,
- d. bowling,
- e. operating and promoting professional and semiprofessional athletic clubs, promoting athletic events and managing professional athletes,
- f. racing activities, including but not limited to racetrack, racing stables and race car operations,
- g. operating health clubs, spas and similar facilities featuring exercise and other active physical fitness conditioning equipment, whether or not on a membership basis,
- h. operating golf courses open to the public on a contract or fee basis,
- i. operating coin-operated amusement devices,

- j. operating amusement parks or kiddie parks,
 - k. operating sports or recreation clubs restricted to use by members or guests, including but not limited to country, golf, tennis, yacht and other sports and recreation clubs, and
 - l. sports, amusement and recreation services other than those specified in this section;
60. Legal services;
61. Services of care of infants or children;
62. Services provided by membership organizations, including but not limited to:
- a. organizations engaged in promoting the business interests of members,
 - b. organizations of professional persons for the advancement of the interests of their profession,
 - c. organizations of workers for the improvement of wages and working conditions,
 - d. organizations engaged in civic, social or fraternal activities, and
 - e. organizations, other than political or religious organizations, other than those specified in this section;
63. Engineering, architectural and surveying services, including but not limited to:
- a. professional engineering services,
 - b. professional architectural services, and
 - c. professional land, water and aerial surveying services;
64. Accounting, auditing, bookkeeping and auditing services;
65. Research, development and testing services, including but not limited to:

- a. commercial physical and biological research and development on a contract or fee basis,
- b. commercial business, marketing, opinion and other economic, sociological and educational research on a contract or fee basis,
- c. noncommercial research into and dissemination of information for public health, education or general welfare, and
- d. testing services;

66. Management and public relations services, including but not limited to:

- a. general or specialized management services,
- b. counsel and assistance to managements of private, nonprofit and public organizations, including but not limited to strategic and organizational planning, financial planning and budgeting, marketing objectives and policies, information systems planning, evaluation and selection, human resource policies and practices planning and production scheduling and control planning,
- c. public relations services,
- d. facilities support management services, including but not limited to private operation of jails and adult correctional facilities and facilities management and support services, and
- e. business consulting services other than those specified in this section; and

67. Services provided by actuaries, writers of advertising copy, announcers, art restorers, cloud seeding, artists, authors, chemists, lecturers, nuclear consultants, entomologists, geologists, ghost writers, inventors, music arrangers, columnists, physicists,

industrial psychologists, commentators, sculptors, songwriters, weather forecasters, weather modifiers and writers.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4106 of Title 68, unless there is created a duplication in numbering, reads as follows:

There is hereby levied and there shall be paid by every person using or otherwise consuming within this state, services subject to the tax levied in Section 6 of this act which are purchased from an out-of-state vendor but are used or consumed in this state, an excise tax on the use or other consumption in this state of such services at the rate of five and nine-tenths percent (5.9%) of the purchase price of such services. The tax in such instances shall be paid at the time of purchase of the services. The tax shall not be levied on services consumed or used in other states.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4107 of Title 68, unless there is created a duplication in numbering, reads as follows:

There are hereby exempted from the tax levied in Section 6 of this act, unless specifically by law subject to such tax, sales of:

1. Services relating to agriculture, including but not limited to:

- a. land breaking, plowing, application of fertilizer, seed bed preparation and other services for improving the soil for crop planting,
- b. crop planting, cultivating and protecting services,
- c. mechanical harvesting, picking and combining of crops, and related activities,
- d. services on crops, subsequent to their harvest, with the intent of preparing them for market or for processing,
- e. ginning cotton,

- f. veterinary services for cattle, horses, hogs, sheep, goats, poultry or exotic livestock as defined in Section 6-290.3 of Title 2 of the Oklahoma Statutes,
 - g. performing services for cattle, horses, hogs, sheep, goats, poultry or exotic livestock as defined in Section 6-290.3 of Title 2 of the Oklahoma Statutes,
 - h. performing services for pets and other animals,
 - i. supplying labor for agricultural production or harvesting,
 - j. farm management services,
 - k. landscape-planning, architectural and counseling services,
 - l. lawn and garden services, and
 - m. ornamental shrub and tree services;
2. Forestry services, including but not limited to:
- a. operation of timber tracts or tree farms for the purpose of selling standing timber,
 - b. growing trees for purposes of reforestation or in gathering forestry products, and
 - c. services related to timber production, wood technology, forestry economics and marketing and other forestry services;
3. Services relating to fishing, hunting and trapping, including but not limited to:
- a. catching or taking of finfish, shellfish and other marine products,
 - b. operating fish hatcheries or preserves, and
 - c. commercial hunting and trapping or the operation of game preserves;
4. Services relating to metal or coal mining or mining and quarrying of nonmetallic minerals;

5. Services relating to oil and gas extraction, including but not limited to:

- a. operating crude petroleum and natural gas field properties, exploration for crude petroleum and natural gas, drilling, completing and equipping wells, operating separators, emulsion breakers, desilting equipment and field gathering lines for crude petroleum and all other activities in the preparation of oil and gas up to the point of shipment from the producing property,
- b. producing liquid hydrocarbons from oil and gas field gases,
- c. drilling wells for oil or gas field operations for others on a contract or fee basis,
- d. performing geophysical, geological and other exploration services for oil and gas on a contract or fee basis, and
- e. performing oil and gas field services other than those specified in this section;

6. Services relating to the manufacture of food and kindred products;

7. Services relating to the manufacture of tobacco products;

8. Services relating to the manufacture of textile mill products;

9. Services relating to the manufacture of apparel and other finished products made from fabrics and similar materials;

10. Services relating to the manufacture of lumber and wood products;

11. Services relating to the manufacture of furniture and fixtures;

12. Services relating to the manufacture of paper and allied products;

13. Printing, publishing and services relating to allied industries;

14. Services relating to the manufacture of chemicals and allied products;

15. Petroleum refining and services relating to related industries;

16. Services relating to the manufacture of rubber and plastics products;

17. Services relating to the manufacture of leather and leather products;

18. Services relating to the manufacture of stone, clay, glass and concrete products;

19. Services relating to primary metal industries;

20. Services relating to the manufacture of fabricated metal products;

21. Services relating to the manufacture of industrial and commercial machinery and computer equipment;

22. Services relating to the manufacture of electronic and other electrical equipment and components;

23. Services relating to the manufacture of transportation equipment, including but not limited to:

- a. motor vehicles and motor vehicle equipment,
- b. truck and bus bodies,
- c. motor vehicle parts and accessories,
- d. truck trailers,
- e. recreational vehicles,
- f. aircraft,
- g. aircraft engines and engine parts,
- h. other aircraft parts and auxiliary equipment,
- i. ship and boat building and repairing,
- j. railroad equipment,
- k. motorcycles, bicycles and parts therefor,

- l. guided missiles and space vehicles, guided missile and space vehicle propulsion units and parts and guided missile and space vehicle parts and auxiliary equipment,
- m. travel trailers and campers,
- n. tanks and tank components, and
- o. transportation equipment other than that specified in this section;

24. Services relating to the manufacture of measuring, analyzing and controlling instruments;

25. Services relating to the manufacture of photographic, medical and optical goods;

26. Services relating to the manufacture of watches and clocks;

27. Services relating to the manufacture of products other than those specified in this section;

28. Railroad transportation services, including but not limited to line-haul railroad passenger and freight operations and furnishing of terminal facilities for rail passenger or freight traffic for line-haul service and the movement of railroad cars between terminal yards, industrial sidings and other local sites;

29. Local and suburban transit and interurban highway passenger transportation services, including but not limited to:

- a. furnishing local and suburban mass passenger transportation over regular routes and on regular schedules, with operations confined principally to a municipality, contiguous municipalities or a municipality and its suburban areas, including furnishing passenger transportation by automobile, bus or rail to, from or between airports or rail terminals, over regular routes and providing bus and rail commuter services,

- b. furnishing other passenger transportation principally within a municipality, contiguous municipalities or a municipality and its suburban areas,
- c. furnishing bus transportation over regular routes and on regular schedules, the operations of which are principally outside a single municipality, outside one group of contiguous municipalities and outside a single municipality and its suburban areas,
- d. furnishing local or intercity bus charter service,
- e. operating buses to transport pupils to and from school, and
- f. operating motor vehicle passenger terminals and maintenance and service facilities;

30. Motor freight transportation and warehousing services, including but not limited to:

- a. furnishing trucking, transfer or trucking and storage services for freight,
- b. delivery of individually addressed letters, parcels and packages, except by means of air transportation or by the United States Postal Service,
- c. warehousing and storage of farm products, and
- d. operation of terminal and joint terminal maintenance facilities for motor freight transportation;

31. Services provided by the United States Postal Service;

32. Water transportation services;

33. Air transportation services;

34. Pipeline services;

35. Transportation services, including but not limited to:

- a. furnishing travel information and acting as agents in arranging tours, transportation, motor vehicle rental and lodging for travelers,

- b. arranging and assembling tours for sale through travel agents,
- c. arranging passenger transportation other than that specified in this section,
- d. furnishing shipping information and acting as agents in arranging transportation for freight and cargo,
- e. renting railroad cars,
- f. packing, crating and otherwise preparing goods for shipping,
- g. inspecting and weighting of goods in connection with transportation or operating fixed facilities for motor vehicle transportation, and
- h. furnishing transportation or services incidental to transportation other than those specified in this section;

36. Services relating to wholesale trade of durable or nondurable goods;

37. Services provided by depository institutions and nondepository credit institutions, including but not limited to:

- a. federal reserve banks and other central reserve depository institutions,
- b. cooperative thrift and loan associations organized under federal charter to finance credit needs of their members,
- c. branches or agencies or foreign banks which specialize in commercial loans,
- d. foreign trade companies operating in the United States under federal or state charter for the purpose of aiding or financing foreign trade, and
- e. federally sponsored credit agencies primarily engaged in guaranteeing, insuring or making loans;

38. Health services, including but not limited to:

- a. services provided by licensed practitioners engaged in the practice of general or specialized medicine and surgery or osteopathic medicine and surgery,
- b. services provided by licensed practitioners engaged in the practice of general or specialized dentistry, including dental surgery,
- c. services provided by licensed practitioners engaged in the practice of chiropractic medicine,
- d. services provided by licensed practitioners engaged in the practice of optometry,
- e. services provided by licensed practitioners engaged in the practice of podiatry,
- f. services provided by licensed practitioners engaged in the practice of health fields other than those specified in this section,
- g. inpatient nursing and rehabilitative services to patients who require continuous health care but not hospitalization,
- h. inpatient nursing and rehabilitative services, but not on a continuous basis,
- i. nursing or health-related care other than as specified in this section,
- j. general medical and surgical services and other services provided by hospitals,
- k. diagnostic medical services and inpatient treatment for the mentally ill,
- l. diagnostic services, treatment and other hospital services for specialized categories of patients other than those specified in this section,
- m. professional analytic or diagnostic services provided to the medical profession or to patients by physician prescription,

- n. services of making to order for the dental profession dentures, artificial teeth and orthodontic appliances,
- o. skilled nursing or medical services provided in the home under the supervision of a physician,
- p. kidney or renal dialysis services,
- q. services related to outpatient care of a specialized nature other than those specified in this section, and
- r. health and allied services other than those specified in this section;

39. Educational services, including but not limited to:

- a. services provided by public and private elementary and secondary schools,
- b. services provided by public and private colleges, universities and professional schools furnishing academic courses and granting academic degrees,
- c. services provided by junior or two-year colleges and technology centers or other technical institutes furnishing academic or academic and technical courses and granting associate academic degrees, certificates or diplomas,
- d. library services,
- e. services provided by establishments primarily engaged in offering courses or training in data processing, computer programming or computer peripheral equipment operation, maintenance and repair,
- f. services provided by establishments primarily engaged in offering courses in business machine operation, office procedures and secretarial and stenographic skills,
- g. services provided by establishments primarily engaged in offering specialized vocational courses other than those specified in this section, and

h. educational services other than those specified in this section;

40. Social services, including but not limited to:

- a. individual and family social, counseling, welfare or referral services,
- b. job training and vocational rehabilitation services for the unemployed, the underemployed, the disabled or persons who have a job market disadvantage because of lack of education, job skills or experience,
- c. residential social and personal care for children, the aged and special categories of persons with some limits on ability for self-care, and
- d. social services other than those specified in this section; and

41. Services provided by membership organizations, including but not limited to:

- a. political organizations, and
- b. religious organizations.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4108 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. There are hereby specifically exempted from the tax levied by Section 6 of this act:

1. Sale of services to the United States government or to this state, 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, this state or any of its political subdivisions shall not be exempted from the tax levied by Section 6 of this act;

2. Sales of services 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 services to out-of-state purchasers or customers;
and

4. Sales of services where taxation of such sales is prohibited by federal law.

B. No person or entity shall be exempted from the tax levied by Section 6 of this act by reason of being exempted from any other tax levied by this state.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4109 of Title 68, unless there is created a duplication in numbering, reads as follows:

No political subdivision of this state shall be authorized to levy a tax on services specified in Section 6 of this act, except as otherwise provided by Section 1351 et seq. or Section 1401 et seq. of Title 68 of the Oklahoma Statutes.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4110 of Title 68, unless there is created a duplication in numbering, reads as follows:

It is hereby declared to be the purpose of the Oklahoma Tax Reform Act of 2002 to provide revenues for the support of the functions of the state government of Oklahoma as were previously provided from the taxes which have ceased to be levied pursuant to the provisions of the Oklahoma Tax Reform Act of 2002, and for this purpose it is hereby expressly provided that revenues derived pursuant to the provisions of the tax levied in Section 6 of this act shall be apportioned as follows:

1. Eighty-seven and two-tenths percent (87.2%) shall be paid to the State Treasurer to be placed to the credit of the General Revenue Fund to be paid out pursuant to direct appropriation by the Legislature;

2. Eight and one-half percent (8.5%) shall be paid to the State Treasurer to be placed to the credit of the Education Reform Revolving Fund of the State Department of Education;

3. Three and thirty-five one-hundredths percent (3.35%) shall be paid to the State Treasurer to be placed to the credit of the Teachers' Retirement System Dedicated Revenue Revolving Fund; provided, when the total deposits to such fund from all sources exceed One Hundred Thirty-six Million Dollars (\$136,000,000.00) in any fiscal year, any funds received in the fiscal year in excess of such amount shall be paid to the State Treasurer to be placed to the credit of the General Revenue Fund; and

4. Ninety-five one-hundredths percent (0.95%) shall be paid to the State Treasurer to be placed to the credit of the Ad Valorem Reimbursement Fund.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4111 of Title 68, unless there is created a duplication in numbering, reads as follows:

The provisions of Sections 1361, 1362, 1363, 1364, 1364.1, 1365, 1367.1, 1368 and 1368.2 of Title 68 of the Oklahoma Statutes relating to duties to pay and collect tax, penalties, remittance procedures, classification of vendors, permits, direct payment permits, due dates for remittance, required filing of reports, vendor retention, bonding and security and notification to vendors, shall be applicable to the tax levied in Section 6 of this act. Any person who holds a valid permit issued pursuant to the provisions of Section 1364 of Title 68 of the Oklahoma Statutes and who is also a vendor required to remit the tax levied in Section 6 of this act may apply to the Oklahoma Tax Commission to have the permit extended to apply to such tax and shall not be required to pay an additional fee therefor for the remainder of the period of time the permit is valid.

SECTION 13. AMENDATORY 68 O.S. 2001, Section 802, is amended to read as follows:

Section 802. A tax, at the rates prescribed in ~~the following section~~ Section 803 of this title is hereby levied upon the transfer of the net estate of every decedent whose date of death is before January 1, 2004, whether in trust or otherwise, to persons, associations, corporations, or bodies politic, of property, real, personal, or mixed, whether tangible or intangible, or any interest therein or income therefrom, by will or the intestate laws of this state, by any order setting apart property and/or granting family allowances pursuant to the probate code, by deed, grant, bargain, sale, or gift made in contemplation of death of the grantor, vendor or donor or intended to take effect in possession or enjoyment at or after such death. Provided, however, that nothing in ~~this article~~ Section 801 et seq. of this title shall be construed as subjecting to payment of such tax the escheat of property to the state for the benefit of its common schools. Such tax shall be imposed upon the value of the net estate and transfers at the rates, under the conditions, and subject to the exemptions and limitations hereinafter prescribed.

The word "transfer", as used in ~~this article~~ Section 801 et seq. of this title, shall be taken to include, but shall not be limited to, the passing of property, or any vested or contingent interest therein, in possession or enjoyment, present or future, by distribution, by statute, descent, devise, bequest, grant, deed, bargain, sale, or gift.

SECTION 14. AMENDATORY 68 O.S. 2001, Section 804, is amended to read as follows:

Section 804. In case the tax levied upon the value of the property of the estate in Oklahoma and transfers by Section 801 et seq. of this title is less than the credit allowed by the federal government on estate tax imposed upon the value of the property of

the estate in Oklahoma, for state estate and inheritance taxes imposed upon the value of the property of the estate in Oklahoma, pursuant to 26 U.S.C. Section 2011, then, in that event, there shall be levied an additional tax which shall be imposed upon the value of the property of the estate in Oklahoma, as of the date of the determination of the Federal Estate Tax, equal to the difference between such credit and the Oklahoma Estate Tax levied upon the value of the property of the estate in Oklahoma and transfers by ~~this Article~~ Section 801 et seq. of this title. The tax levied pursuant to the provisions of this section shall be the only tax levied under Section 801 et seq. of this title upon the estate of a decedent whose date of death was on or after January 1, 2004. Such credit allowed by the federal government shall be the percentage of such credit which is the percentage which the value of the property of the estate in Oklahoma bears to the total value of the estate of the decedent. Such additional tax to absorb the credit shall be determined, assessed, collected and paid pursuant to the provisions of Section 801 et seq. of this title.

SECTION 15. AMENDATORY 68 O.S. 2001, Section 809, is amended to read as follows:

Section 809. A. If any portion of the net estate, as herein determined, in excess of the deductions allowed in Section 808 of this title passes to the father, mother, child, child of husband or wife, adopted child or any lineal descendant of decedent or of such adopted child, there shall be deducted from such net estate the portion of the net estate passing to such person or persons to the extent of and not exceeding a total aggregate exemption in amounts as follows, and the tax shall be paid on the remainder at the rates herein set out:

1. For the estate of a decedent who dies before January 1, 1999, the exemption shall be One Hundred Seventy-five Thousand Dollars (\$175,000.00);

2. For the estate of a decedent who dies on or after January 1, 1999, and before January 1, 2000, the exemption shall be Two Hundred Seventy-five Thousand Dollars (\$275,000.00);

3. For the estate of a decedent who dies on or after January 1, 2000, and before January 1, 2001, the exemption shall be Four Hundred Seventy-five Thousand Dollars (\$475,000.00);

4. For the estate of a decedent who dies on or after January 1, 2001, and before January 1, 2002, the exemption shall be Six Hundred Seventy-five Thousand Dollars (\$675,000.00); and

5. For the estate of a decedent who dies on or after January 1, 2002, and before January 1, 2004, the exemption shall be Seven Hundred Thousand Dollars (\$700,000.00) ÷

~~6. For the estate of a decedent who dies on or after January 1, 2004, and before January 1, 2005, the exemption shall be Eight Hundred Fifty Thousand Dollars (\$850,000.00);~~

~~7. For the estate of a decedent who dies on or after January 1, 2005, and before January 1, 2006, the exemption shall be Nine Hundred Fifty Thousand Dollars (\$950,000.00); and~~

~~8. For the estate of a decedent who dies on or after January 1, 2006, the exemption shall be One Million Dollars (\$1,000,000.00).~~

B. ~~1. In addition to the exemption provided pursuant to subsection A of this section, for the estate of a decedent who dies on or after January 1, 1997, there shall be deducted the value of the assets used in a qualifying family business or farm passing to one or more qualifying heirs of the decedent to the extent of and not exceeding a total aggregate exemption of the amounts specified in this subsection. The additional exemption shall be in an amount as follows:~~

~~a. for the estate of a decedent who dies before January 1, 1999, the exemption shall be Four Hundred Twenty-five Thousand Dollars (\$425,000.00),~~

~~b. for the estate of a decedent who dies on or after January 1, 1999, and before January 1, 2000, the exemption shall be Three Hundred Twenty-five Thousand Dollars (\$325,000.00),~~

~~c. for the estate of a decedent who dies on or after January 1, 2000, and before January 1, 2001, the exemption shall be One Hundred Twenty-five Thousand Dollars (\$125,000.00),~~

~~d. for the estate of a decedent who dies on or after January 1, 2001, no additional exemption shall be allowed.~~

~~2. For the estate of a decedent who dies prior to January 1, 2001, the total exemption allowed pursuant to subsection A of this section and this subsection shall not exceed a total of Six Hundred Thousand Dollars (\$600,000.00) for any estate. For purposes of this subsection:~~

~~a. "assets of a qualifying family business or farm" means real or tangible personal property owned by a qualifying business or farm and used as a farm or for farming purposes, or in a trade or business other than farming,~~

~~b. "qualifying family business or farm" means any interest in a closely held family corporation, sole proprietorship, partnership, limited liability company, or other unincorporated family business engaged in the trade or business of farming or in a trade or business other than farming, where some or all of the assets thereof are held by a decedent or are held collectively by a decedent and one or more qualifying heirs of the decedent, provided the decedent, or at least one qualifying heir of the decedent, was receiving wages from the business or~~

~~farm or was subject to the self employment tax on income earned from the business or farm on the date of the death of the decedent,~~

~~c. "closely held family corporation" means any corporation if at least fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote, and at least fifty percent (50%) of all other classes of stock of the corporation are owned by the decedent and not more than ten (10) qualifying heirs, and~~

~~d. "qualifying heir" means any heir as set forth in subsection A of this section.~~

~~C. In order to qualify for the exemption provided in subsection B of this section, the estate of the decedent shall submit the appropriate tax returns or tax schedules of the qualifying family business or farm for the five (5) taxable years prior to the death of the decedent showing proof of continuous operation of the qualifying family business or farm. The qualifying family business or farm shall also be required to continue the business or farm for a period of five (5) years following the date of death of decedent and shall submit each taxable year the appropriate tax returns or tax schedules to the Oklahoma Tax Commission as proof of continuous operation of the business or farm. If evidence of continuous operation is not submitted, the qualified heirs shall be liable for twenty percent (20%) of the total estate tax which would have been due if the business or farm had not qualified for the exemption provided for in subsection B of this section for each year evidence of continuous operation is not submitted.~~

~~D. It is declared to be intended by this section that where a portion of the net estate passes to any of the parties named herein, no greater amount shall be deducted from the net estate than passes to such person or persons combined and that the exemption shall in~~

no event exceed the amounts specified in this section, regardless of the amount of the estate that may pass to any or all of such person or persons; provided, that when the property comprising the estate of the decedent consists of property within and property without the state, only the percentage of the exemptions and deductions enumerated in this section, and in Section 808 of this title, shall be allowed as the ratio of the value of the estate within this state bears to the value of the entire estate.

SECTION 16. AMENDATORY 68 O.S. 2001, Section 1203, is amended to read as follows:

Section 1203. ~~There~~ Until January 1, 2004, there is hereby levied and assessed a franchise or excise tax upon every corporation, association, joint-stock company and business trust organized under the laws of this state, equal to One Dollar and twenty-five cents (\$1.25) for each One Thousand Dollars (\$1,000.00) or fraction thereof of the amount of capital used, invested or employed in the exercise of any power, privilege or right inuring to such organization, within this state; it being the purpose of this section to require the payment to the State of Oklahoma this tax for the right granted by the laws of this state to exist as such organization and enjoy, under the protection of the laws of this state, the powers, rights, privileges and immunities derived from the state by reason of the form of such existence.

SECTION 17. AMENDATORY 68 O.S. 2001, Section 1204, is amended to read as follows:

Section 1204. ~~There~~ Until January 1, 2004, there is hereby levied and assessed upon every corporation, association, joint-stock company and business trust, organized and existing by virtue of the laws of some other state, territory or country, now or hereafter doing business in this state, as hereinbefore defined, a franchise or excise tax equal to One Dollar and twenty-five cents (\$1.25) for each One Thousand Dollars (\$1,000.00) or fraction thereof of the

amount of capital used, invested or employed within this state; it being the purpose of this section to require the payment of a tax by all organizations not organized under the laws of this state, measured by the amount of capital, or its equivalent, used, invested or employed in this state for which such organization receives the benefit and protection of the government and laws of the state.

SECTION 18. AMENDATORY 68 O.S. 2001, Section 1205, is amended to read as follows:

Section 1205. ~~In~~ Until January 1, 2004, in determining the amount of tax to be levied, assessed and collected under the terms of ~~this Article~~ Section 1201 et seq. of this title, the minimum amount shall, in no case, be less than Ten Dollars (\$10.00) nor shall the maximum amount exceed Twenty Thousand Dollars (\$20,000.00).

SECTION 19. AMENDATORY 68 O.S. 2001, Section 1210, is amended to read as follows:

Section 1210. ~~A. In~~ On or before April 1, 2004, and April 1 of each year thereafter, in addition to any other statement required by law, each and every corporation, association or organization, as enumerated in ~~Sections~~ Section 1201, 1203, and 1204 of this title, subject to the provisions of Section 1201 et seq. of this title, ~~either during the period of July 1 to August 31, inclusive, of each year or on or before the date by which an income tax return is required to be filed pursuant to the provisions of subsection C of Section 2368 of this title or pursuant to the provisions of Section 216 of this title, based upon the election by the taxpayer regarding the due date for payment of tax,~~ shall file with the Oklahoma Tax Commission a statement under oath of its president, secretary or managing officer, or managing agent in this state. The statement shall be in such form as the Tax Commission shall prescribe, ~~including balance sheets as at the close of its last preceding~~

~~taxable year for which an income tax return was required to be filed, showing the following:~~

~~1. The amount of its authorized capital stock, interests, certificates, or other evidence of interest or ownership;~~

~~2. The amount thereof then paid up;~~

~~3. The number of units into which the same is divided;~~

~~4. The par value of each unit and the number of such units issued and outstanding;~~

~~5. The location of the office or offices;~~

~~6. The value of all property owned or used in its business and wherever located;~~

~~7. The value of all property owned or used in its business within this state as it existed on the last day of the tax year;~~

~~8. The total amount of all business wherever transacted during the tax year;~~

~~9. The total amount of business transacted within the State of Oklahoma during such year; and~~

~~10. The names of its officers and the residence and post office address of each as the same appear of record on the last day of the tax preceding calendar year, based upon the election by the taxpayer regarding the due date for payment of tax.~~

~~B. If any corporation, association or organization making a return under the provisions of Section 1201 et seq. of this title has no authorized capital, or if any of its shares of stock or other evidences of interest or ownership have no par value, then such corporation, association or organization shall so state in its return, and shall, in addition thereto, state the book value of its shares of stock or other evidences of interest or ownership. It shall also, in making its return, make the showing required of all other corporations, associations and organizations, and each Each foreign corporation shall state the name of its registered agent~~

residing at the capital of the state. The return shall be in such form as the Tax Commission shall prescribe.

~~C. A corporation or organization subject to the tax levied by Section 1203 or Section 1204 of this title for which the computation of capital employed in the state equals or exceeds Sixteen Million Dollars (\$16,000,000.00), shall file a maximum franchise tax return on such form as may be prescribed by the Oklahoma Tax Commission.~~

~~D. A corporation or organization subject to the tax levied by Section 1203 or Section 1204 of this title for which the computation of capital employed in this state is Eight Thousand Dollars (\$8,000.00) or less shall file a minimum franchise tax return on such form as may be prescribed by the Oklahoma Tax Commission.~~

~~E. The Oklahoma Tax Commission shall prescribe a form for use by corporations or organizations subject to the minimum tax and maximum tax imposed by Section 1205 of this title in order for such corporations or organizations to determine if the value of capital employed in this state requires filing either a minimum franchise tax return or maximum franchise tax return. If a corporation or organization is required to file either the minimum or maximum franchise tax return, such return shall not be subject to the requirements of subsection A of this section and the return shall only contain such information as may be prescribed by the Commission. The return shall be in such form as the Tax Commission shall prescribe.~~

SECTION 20. AMENDATORY 68 O.S. 2001, Section 1212, is amended to read as follows:

Section 1212. ~~(a) A.~~ A. If the ~~report herein~~ statement required and the tax levied by Section 1210 of this title is not filed and paid within the time provided ~~under subsection (c) of Section 1208 of this title,~~ the Oklahoma Tax Commission shall levy and collect a penalty for such delinquency in the amount of ten percent (10%) of the tax due. Such penalty shall be collected and apportioned in the

~~same manner as is the tax itself, and the Tax Commission~~ may enter an order directing the suspension of the charter or other instrument of organization, under which the corporation, association or organization may be organized, and the forfeiture of all corporate or other rights inuring thereunder. However, no such order of the Tax Commission shall be issued nor effective as to any corporation, association or organization the charter or certificate of authority of which is issued by the State Banking Board or State Banking Commissioner rather than the Secretary of State and the Tax Commission shall only notify the registered agents or managing officer of the corporation, association, or organization and shall notify the State Banking Board or State Banking Commissioner of the ~~amount of unpaid tax~~ unfiled statement. The State Banking Commissioner shall require the ~~payment of such tax, plus interest and penalty, if any,~~ filing of the statement within a reasonable time.

~~(b)~~ B. Any person who attempts or purports to exercise any of the rights, privileges or powers of any ~~such~~ domestic corporation, association or organization, or who does or attempts to do any business in the state in behalf of any ~~such~~ foreign corporation, association or organization, without having first obtained a license ~~therefor,~~ as provided ~~herein~~ by law, or after any such license so obtained shall have been canceled, forfeited, or expired, shall be guilty of a misdemeanor.

~~(e)~~ C. Each trustee, director or officer of any such corporation, association or organization, whose right to do business within this state shall be so forfeited, shall, as to any and all debts of such corporation, association or organization, which may be created or incurred with ~~his~~ the knowledge, approval and consent of the trustee, director or officer, within this state after ~~such~~ the forfeiture and before the reinstatement of the right of ~~such~~ the corporation to do business, be deemed and held liable thereon in the

same manner and to the same extent as if ~~such~~ the trustees, directors, and officers of ~~such~~ the corporation, association or organization were partners. Any corporation, association or organization, whose right to do business shall be ~~thus~~ forfeited, shall be denied the right to sue or defend in any court of this state, except in a suit to forfeit the charter of ~~such~~ the corporation, association or organization. In any suit against such corporation, association or organization on a cause of action arising before ~~such~~ the forfeiture, no affirmative relief shall be granted to ~~such~~ the corporation, association or organization unless its right to do business in this state shall be reinstated as provided herein. Every contract entered into by or in behalf of ~~such~~ the corporation, association or organization, after ~~such~~ the forfeiture as provided herein, is hereby declared to be voidable.

~~(d)~~ D. Notice of ~~such~~ the suspension and forfeiture shall be forwarded by certified mail, return receipt requested, to the last-known address of the registered agent or managing officer of each corporation, association or organization, and the Tax Commission may cause notice of ~~such~~ the suspension and forfeiture to be published in a newspaper of general circulation in the county in which the general business office of each ~~such~~ corporation, association or organization is located in this state.

~~(e)~~ E. The Tax Commission, ~~shall~~ immediately upon entering an order suspending and forfeiting any ~~such~~ charter or other instrument of organization, shall transmit the name of each ~~such~~ corporation, association or organization named therein to the Secretary of State or the county clerk of the county in which the instrument under which it may be organized is filed, and the Secretary of State or county clerk, as the case may be, shall immediately record the same and such record shall constitute notice to the public. The suspension and forfeiture ~~herein~~ provided for in this section shall become effective immediately upon ~~such~~ the record being made and the

certificate of the Secretary of State or the county clerk shall be prima facie evidence of ~~such~~ the suspension and forfeiture.

~~(f)~~ F. After the issuance of ~~such~~ the order of suspension and forfeiture by the Tax Commission, the charter or other instrument of organization may only be revived and reinstated upon the payment of ~~the accrued fees and penalties~~ and a reinstatement fee in the amount of Fifteen Dollars (\$15.00), and a showing by the corporation, association or organization of a full compliance with the laws of this state. Such payment ~~of accrued fees and penalties~~ must be made prior to the expiration of the time provided in ~~such~~ the charter or other instrument of organization for the life of ~~such~~ the corporation, association or organization.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1357.9 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Beginning January 1, 2004, sales of all eligible food and beverages as defined in the federal Food Stamp Act, 7 U.S.C., Section 2011 et seq., as the act existed on January 1, 2001, and sales of nonprescription drugs and medicines recommended and sold for the relief of pain, ailments, distresses, or disorders of the human body shall be exempt from the tax levied pursuant to Section 1354 of Title 68 of the Oklahoma Statutes.

B. The exemption provided for in subsection A of this section shall not apply to any county or municipal sales tax imposed pursuant to law. However, the exemption may apply upon the approval of a resolution by the board of county commissioners or the approval of an ordinance by the municipality in accordance with law.

C. The term "nonprescription drugs and medicines" shall be defined by rules promulgated by the Oklahoma Tax Commission. The term shall not include cosmetics.

SECTION 22. AMENDATORY 68 O.S. 2001, Section 1370, is amended to read as follows:

Section 1370. A. ~~Any~~ Except as provided in Sections 10 and 21 of this act, any county of this state may levy a sales tax of not to exceed two percent (2%) upon the gross proceeds or gross receipts derived from all sales or services in the county upon which a consumer's sales tax is levied by this state. Before a sales tax may be levied by the county, the imposition of the tax shall first be approved by a majority of the registered voters of the county voting thereon at a special election called by the board of county commissioners or by initiative petition signed by not less than five percent (5%) of the registered voters of the county who were registered at the time of the last general election. However, if a majority of the registered voters of a county voting fail to approve such a tax, the board of county commissioners shall not call another special election for such purpose for six (6) months. Any sales tax approved by the registered voters of a county shall be applicable only when the point of sale is within the territorial limits of such county. Any sales tax levied or any change in the rate of a sales tax levied pursuant to the provisions of this section shall become effective on the first day of the calendar quarter following approval by the voters of the county unless another effective date, which shall also be on the first day of a calendar quarter, is specified in the ordinance or resolution levying the sales tax or changing the rate of sales tax.

B. All ~~items~~ sales that are exempt from the state sales tax levied in Section 1354 of this title or the tax levied in Section 6 of this act shall be exempt from any sales tax levied by a county. However, this subsection shall not apply to any exemption from the state sales tax for eligible food, beverages, nonprescription drugs and medicines as set forth in Section 21 of this act unless the board of county commissioners by resolution provides for such an exemption.

C. Any sales tax which may be levied by a county shall be designated for a particular purpose. Such purposes may include, but are not limited to, economic development, general operations, capital improvements, county roads, weather modification or any other purpose deemed, by a majority vote of the county commissioners, to be necessary to promote safety, security and the general well being of the people. The county shall identify the purpose of the sales tax when it is presented to the voters pursuant to the provisions of subsection A of this section; provided, if any portion of the revenue from a tax levied pursuant to the provisions of this section is to be used for fire departments or fire protection services in the county, the specific fire departments to which revenues from the tax will be allocated and the percentage or amount to be allocated to each fire department shall be specified in the instrument calling for the special election and in the ballot title. The proceeds of any sales tax levied by a county shall be deposited in the general revenue or sales tax revolving fund of the county and shall be used only for the purpose for which such sales tax was designated. If the proceeds of any sales tax levied by a county pursuant to this section are pledged for the purpose of retiring indebtedness incurred for the specific purpose for which the sales tax is imposed, the sales tax shall not be repealed until such time as the indebtedness is retired. However, in no event shall the life of the tax be extended beyond the duration approved by the voters of the county.

D. The life of the tax could be limited or unlimited in duration. The county shall identify the duration of the tax when it is presented to the voters pursuant to the provisions of subsection A of this section.

E. There are hereby created one or more county sales tax revolving funds in each county which levies a sales tax under this section if any or all of the proceeds of such tax are not to be

deposited in the general revenue fund of the county. Each such revolving fund shall be designated for a particular purpose and shall consist of all monies generated by such sales tax which are designated for such purpose. Monies in such funds shall only be expended for the purposes specifically designated as required by this section. A county sales tax revolving fund shall be a continuing fund, not subject to fiscal year limitations.

SECTION 23. AMENDATORY 68 O.S. 2001, Section 1370.1, is amended to read as follows:

Section 1370.1 Notwithstanding the provisions of Section 1370 of this title, any county of this state with a population of more than three hundred thousand (300,000) according to the latest Federal Decennial Census may levy a sales tax of not to exceed one-half of one percent (1/2 of 1%) upon the gross proceeds or gross receipts derived from all sales or services in the county upon which a consumer's sales tax is levied by the state, except as provided in Sections 10 and 21 of this act, subject to the following conditions:

1. The proceeds of such sales tax shall be used solely for the purpose of constructing and equipping county jail facilities or capital improvements for jail facilities only;
2. Before a sales tax may be levied by the county, the imposition of the tax shall first be approved by a majority of the registered voters of the county voting thereon at a special election called by resolution of the board of county commissioners;
3. Such sales tax can only be imposed for a period not to exceed three (3) years; and
4. Any special election called pursuant to this section must be held no later than January 1, 1992.

SECTION 24. AMENDATORY 68 O.S. 2001, Section 1370.2, is amended to read as follows:

Section 1370.2 Notwithstanding the provisions of Section 1370 of this title, any county of this state with a population of more

than three hundred thousand (300,000) according to the latest Federal Decennial Census may levy a sales tax of not to exceed one percent (1%) upon the gross proceeds or gross receipts derived from all sales or services in the county upon which a consumer's sales tax is levied by the state, except as provided in ~~subsection (F)~~ paragraph 6 of Section 1357 of this title and except as provided in Sections 10 and 21 of this act, subject to the following conditions:

1. The proceeds of such sales tax and the interest thereon shall be used solely for the purpose of development of qualified aircraft maintenance or manufacturing facilities and any necessary infrastructure changes or airport improvements directly related to such facilities located within the county to be owned by the county, any municipality within the county or a public trust in which the county or municipality is a beneficiary. However, such municipality or public trust shall hold such title for the use and benefit of the residents of the entire county in which the tax is levied and collected. The acceptance by the municipality or public trust of any title or tax proceeds shall be deemed an acceptance of this requirement. The board of county commissioners of any county that has approved the imposition of a sales tax pursuant to this section may not commence the collection of any such sales tax until a qualified aircraft maintenance or manufacturing facility has signed an agreement to locate such facility within the county. As used in 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 One Hundred Fifty Million Dollars (\$150,000,000.00) and which employs at least one thousand (1,000) new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission upon completion of the facility;

2. Before a sales tax may be levied by the county, the imposition of the tax shall first be approved by a majority of the registered voters of the county voting thereon at a special election called by resolution of the board of county commissioners;

3. The monies collected pursuant to the provisions of this section shall only be expended by the board of county commissioners to finance an amount not to exceed twenty-five percent (25%) of the total cost of construction of the qualified aircraft maintenance or manufacturing facility and any necessary infrastructure changes or airport improvements directly related to such facility; and

4. Such sales tax can only be imposed for a period not to exceed three (3) years.

SECTION 25. AMENDATORY 68 O.S. 2001, Section 1370.2A, is amended to read as follows:

Section 1370.2A Notwithstanding the provisions of Section 1370 of this title, any county of this state with a population of more than three hundred thousand (300,000) according to the latest Federal Decennial Census may levy a sales tax of not to exceed one percent (1%) upon the gross proceeds or gross receipts derived from all sales or services in the county upon which a consumer's sales tax is levied by the state, except as provided in Sections 10 and 21 of this act, subject to the following conditions:

1. The proceeds of such sales tax and the interest thereon shall be used solely for the purpose of acquisition and development of qualified manufacturing facilities, related machinery and equipment and any necessary infrastructure changes or improvements related to such facilities located within the county to be owned by the county, any municipality within the county or a public trust in which the county or municipality is a beneficiary. However, such municipality or public trust shall hold such title for the use and benefit of the residents of the entire county in which the tax is levied and collected. The acceptance by the municipality or public

trust of any title or tax proceeds shall be deemed an acceptance of this requirement. The board of county commissioners of any county that has approved the imposition of a sales tax pursuant to this section may not commence the collection of any such sales tax until a qualified manufacturing facility has signed an agreement to locate such facility within the county. As used in this paragraph, "qualified manufacturing facility" means a new or expanding facility primarily engaged in manufacturing, production and/or assembly of consumer or other products, whether or not on a factory basis, whose total cost of acquisition and construction exceeds the sum of Fifteen Million Dollars (\$15,000,000.00) and which will employ at least one thousand (1,000) new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission within three (3) years after the completion of the facility;

2. Before a sales tax may be levied by the county, the imposition of the tax shall first be approved by a majority of the registered voters of the county voting thereon at a special election called by resolution of the board of county commissioners in the manner provided by law for county elections;

3. The monies collected pursuant to the provisions of this section shall only be expended by the board of county commissioners to finance an amount not to exceed twenty-five percent (25%) of the total cost related to the acquisition and construction of the qualified manufacturing facility, related machinery and equipment and any necessary infrastructure changes or improvements directly related to such facility; and

4. Such sales tax can only be imposed for a period not to exceed three (3) years.

SECTION 26. AMENDATORY 68 O.S. 2001, Section 1370.4, is amended to read as follows:

Section 1370.4 Notwithstanding the provisions of Section 1370 of ~~Title 68 of the Oklahoma Statutes~~ this title, any county of this

state with a population of more than three hundred thousand (300,000) according to the latest Federal Decennial Census may levy a sales tax of not to exceed one percent (1%) upon the gross proceeds or gross receipts derived from all sales or services in the county upon which a consumer's sales tax is levied by the state, except as provided in ~~subsection (F)~~ paragraph 6 of Section 1357 of ~~Title 68 of the Oklahoma Statutes~~ this title and except as provided in Sections 10 and 21 of this act, subject to the following conditions:

1. The proceeds of such sales tax and the interest thereon shall be used solely for the purpose of development of facilities for lease or conveyance to the government of the United States and any necessary infrastructure changes or improvements directly related to such facilities located within the county. The board of county commissioners of any county that has approved the imposition of a sales tax pursuant to this section may not commence the collection of any such sales tax until an agreement to locate such facility within the county is reached;

2. Before a sales tax may be levied by the county, the imposition of the tax shall first be approved by a majority of the registered voters of the county voting thereon at a special election called by resolution of the board of county commissioners;

3. The monies collected pursuant to the provisions of this section shall only be expended by the board of county commissioners to finance the construction of the facility and any necessary infrastructure changes or improvements directly related to such facility; and

4. Such sales tax can only be imposed for a period not to exceed three (3) years.

SECTION 27. AMENDATORY 68 O.S. 2001, Section 1370.5, is amended to read as follows:

Section 1370.5 A. Notwithstanding the provisions of Section 1370 of ~~Title 68 of the Oklahoma Statutes~~ this title, any county of this state with a population of more than three hundred thousand (300,000) according to the latest Federal Decennial Census may levy a sales tax of not to exceed one percent (1%) upon the gross proceeds or gross receipts derived from all sales or services in the county upon which a consumer's sales tax is levied by the state, except as provided in paragraph 6 of Section 1357 of ~~Title 68 of the Oklahoma Statutes~~ this title and except as provided by Sections 10 and 21 of this act, subject to the following conditions:

1. The proceeds of such sales tax shall be used solely for the purpose of funding one or more economic development projects;

2. Before a sales tax may be levied by the county, the imposition of the tax shall first be approved by a majority of the registered voters of the county voting thereon at a special election called by resolution of the board of county commissioners;

3. Such sales tax can only be imposed for a period of not to exceed three (3) years; and

4. Any special election called pursuant to this section must be held no later than March 1, 1994.

B. The board of county commissioners shall create a limited-purpose fund and deposit therein any revenue generated by any sales tax levied pursuant to the provisions of subsection A of this section. The fund shall be placed in an insured or collateralized interest-bearing account and the interest which accrues to the fund shall be retained in the fund. Monies in the limited-purpose fund shall be expended only as accumulated and only for the purpose specifically described in paragraph 1 of subsection A of this section.

C. As used in this section, "economic development project" means any project which the board of county commissioners determines

will promote, enhance or improve economic conditions within the county.

SECTION 28. AMENDATORY 68 O.S. 2001, Section 1370.6, is amended to read as follows:

Section 1370.6 A. Notwithstanding the provisions of Section 1370 of ~~Title 68 of the Oklahoma Statutes~~ this title, any county of this state with a population of more than three hundred thousand (300,000) according to the latest Federal Decennial Census may levy a sales tax of not to exceed one percent (1%) upon the gross proceeds or gross receipts derived from all sales or services in the county upon which a consumer's sales tax is levied by the state, except as provided in paragraph 6 of Section 1357 of ~~Title 68 of the Oklahoma Statutes~~ this title and except as provided in Sections 10 and 21 of this act, subject to the following conditions:

1. The proceeds of such sales tax shall be used solely for the purpose of funding one or more projects for new public improvements;

2. Before a sales tax may be levied by the county, the imposition of the tax shall first be approved by a majority of the registered voters of the county voting thereon at a special election called by resolution of the board of county commissioners;

3. Such sales tax can only be imposed for a period of not to exceed three (3) years; and

4. Any special election called pursuant to this section must be held no later than March 1, 1994.

B. The board of county commissioners shall create a limited-purpose fund and deposit therein any revenue generated by any sales tax levied pursuant to the provisions of subsection A of this section. The fund shall be placed in an insured interest-bearing account and the interest which accrues to the fund shall be retained in the fund. Monies in the limited-purpose fund shall be expended only as accumulated and only for the purpose specifically described in paragraph 1 of subsection A of this section.

C. As used in this section:

1. "Projects for new public improvements" means any new and beneficial change, addition, betterment or enhancement of or upon any real property belonging to a public agency, intended to enhance the value, beauty or utility of said property or to adapt it to new or further purposes; and

2. "Public agency" means the State of Oklahoma and any county, city, public trust or other public entity specifically created by the statutes of the State of Oklahoma or as a result of statutory authorization contained therein.

SECTION 29. AMENDATORY 68 O.S. 2001, Section 1370.7, is amended to read as follows:

Section 1370.7 A. Any combination of cities, towns and counties, by resolution of their governing boards, may jointly create a transportation authority pursuant to the provisions of Section 176 of Title 60 of the Oklahoma Statutes for the purpose of planning, financing and constructing transportation-related projects located within the boundaries of such cities, towns or counties. An authority created pursuant to the provisions of this subsection shall have the powers granted pursuant to the provisions of Section 176 of Title 60 of the Oklahoma Statutes in addition to the powers granted pursuant to the provisions of this section. The combination of cities, towns and counties creating the authority shall be designated the beneficiary of the authority. The boundaries of the authority shall be coterminous with the boundaries of the cities, towns or counties creating the authority.

B. Any transportation authority created pursuant to the provisions of subsection A of this section may levy a sales tax of not to exceed two percent (2%) upon the gross proceeds or gross receipts derived from all sales or services in the cities, towns and counties comprising the authority upon which a consumer's sales tax is levied by this state except as provided in paragraph 6 of Section

1357 of this title and Section 21 of this act. Before a sales tax may be levied by the authority, the imposition of the tax shall first be approved by a majority of the registered voters within the boundaries of each of the cities, towns and counties comprising the authority voting thereon at a special election jointly called by the governing boards of the cities, towns and counties comprising the authority. Provided, if a majority of the registered voters of an authority voting fail to approve such a tax, the governing boards of such cities, towns and counties shall not jointly call another special election for such purpose for at least six (6) months. Any sales tax approved by the registered voters of an authority shall be applicable only when the point of sale is within the boundaries or limits of the authority.

C. All items that are exempt from the state sales tax shall be exempt from any sales tax levied pursuant to the provisions of this section. However, this subsection shall not apply to any exemption from the state sales tax for eligible food, beverages, nonprescription drugs and medicines as set forth in Section 21 of this act unless the authority specifically provides for such an exemption.

D. Any sales tax which may be levied pursuant to the provisions of this section shall be designated for the purposes of planning, financing and constructing transportation-related projects within the boundaries of the authority. The authority shall identify the purpose of the sales tax when it is presented to the voters pursuant to the provisions of this section. The proceeds of any sales tax levied by an authority shall be used only for the purposes for which the sales tax was designated.

E. The authority shall identify the duration of the tax when it is presented to the voters pursuant to the provisions of this section.

F. An authority created pursuant to the provisions of subsection A of this section may utilize the provisions of the Local Development Act, Section 850 et seq. of Title 62 of the Oklahoma Statutes, as it relates to the financing of such transportation-related projects.

G. An authority created pursuant to the provisions of subsection A of this section shall be dissolved:

1. At such time as the planning, financing and constructing of the transportation-related project within the boundaries of the authority is completed; and

2. At such time as the revenue collected from any taxes levied by the authority is sufficient for payment of any and all expenses incurred by the authority in the planning, financing and constructing of a transportation-related project.

H. If the proceeds of any tax levied by an authority pursuant to this section are pledged for the purpose of retiring indebtedness incurred for the specific purpose for which the tax is imposed, the tax shall not be repealed until such time as the indebtedness is retired. In no event shall the life of the tax be extended beyond the duration approved by the voters of the authority.

I. If the revenue collected from any taxes levied by the authority exceeds the amount necessary for payment of any and all expenses incurred by the authority in the planning, financing and constructing of transportation-related projects, the excess funds shall be apportioned to the general funds of the cities, towns and counties comprising the authority in proportion to the population of each city, town and county.

SECTION 30. AMENDATORY 68 O.S. 2001, Section 1370.8, is amended to read as follows:

Section 1370.8 A. Any combination of cities, towns and counties, by resolution of their governing boards, may jointly create a hospital authority pursuant to the provisions of Section

176 of Title 60 of the Oklahoma Statutes for the purpose of planning, financing and constructing hospitals or related medical facilities located within the boundaries of such cities, towns or counties. An authority created pursuant to the provisions of this subsection shall have the powers granted pursuant to the provisions of Section 176 of Title 60 of the Oklahoma Statutes in addition to the powers granted pursuant to the provisions of this section. The combination of cities, towns and counties creating the authority shall be designated the beneficiary of the authority. The boundaries of the authority shall be coterminous with the boundaries of the cities, towns or counties creating the authority.

B. Any hospital authority created pursuant to the provisions of subsection A of this section may levy a sales tax of not to exceed two percent (2%) upon the gross proceeds or gross receipts derived from all sales or services in the cities, towns and counties comprising the authority upon which a consumer's sales tax is levied by this state except as provided in paragraph 6 of Section 1357 of this title and Section 21 of this act. Before a sales tax may be levied by the authority, the imposition of the tax shall first be approved by a majority of the registered voters within the boundaries of each of the cities, towns and counties comprising the authority voting thereon at a special election jointly called by the governing boards of the cities, towns and counties comprising the authority. Provided, if a majority of the registered voters of an authority voting fail to approve such a tax, the governing boards of such cities, towns and counties shall not jointly call another special election for such purpose for at least six (6) months. Any sales tax approved by the registered voters of an authority shall be applicable only when the point of sale is within the boundaries or limits of the authority.

C. All items that are exempt from the state sales tax shall be exempt from any sales tax levied pursuant to the provisions of this

section. However, this subsection shall not apply to any exemption from the state sales tax for eligible food, beverages, nonprescription drugs and medicines as set forth in Section 21 of this act unless the authority specifically provides for such an exemption.

D. Any sales tax which may be levied pursuant to the provisions of this section shall be designated for the purposes of planning, financing and constructing hospitals or related medical facilities within the boundaries of the authority. The authority shall identify the purpose of the sales tax when it is presented to the voters pursuant to the provisions of this section. The proceeds of any sales tax levied by an authority shall be used only for the purposes for which the sales tax was designated.

E. The authority shall identify the duration of the tax when it is presented to the voters pursuant to the provisions of this section.

F. An authority created pursuant to the provisions of subsection A of this section may utilize the provisions of the Local Development Act, Section 850 et seq. of Title 62 of the Oklahoma Statutes, as it relates to the financing of such hospitals or related medical facilities.

G. An authority created pursuant to the provisions of subsection A of this section shall be dissolved:

1. At such time as the planning, financing and constructing of the hospitals or related medical facilities within the boundaries of the authority is completed; and

2. At such time as the revenue collected from any taxes levied by the authority is sufficient for payment of any and all expenses incurred by the authority in the planning, financing and constructing of a hospital or related medical facility.

H. If the proceeds of any tax levied by an authority pursuant to this section are pledged for the purpose of retiring indebtedness

incurred for the specific purpose for which the tax is imposed, the tax shall not be repealed until such time as the indebtedness is retired. In no event shall the life of the tax be extended beyond the duration approved by the voters of the authority.

I. If the revenue collected from any taxes levied by the authority exceeds the amount necessary for payment of any and all expenses incurred by the authority in the planning, financing and constructing of hospitals or related medical facilities, the excess funds shall be apportioned to the general funds of the cities, towns and counties comprising the authority in proportion to the population of each city, town and county.

SECTION 31. AMENDATORY 68 O.S. 2001, Section 2355, is amended to read as follows:

Section 2355. A. Individuals. Except as otherwise provided in Section 4001 of this title, for all taxable years beginning after December 31, 1998, a tax is hereby imposed upon the Oklahoma taxable income of every resident or nonresident individual, ~~which.~~ The tax imposed in this subsection shall not be imposed for tax years beginning on or after January 1, 2004. The tax shall be computed at the option of the taxpayer under one of the two following methods:

1. METHOD 1.

a. Single individuals and married individuals filing separately not deducting federal income tax:

- (1) 1/2% tax on first \$1,000.00 or part thereof,
- (2) 1% tax on next \$1,500.00 or part thereof,
- (3) 2% tax on next \$1,250.00 or part thereof,
- (4) 3% tax on next \$1,150.00 or part thereof,
- (5) 4% tax on next \$1,300.00 or part thereof,
- (6) 5% tax on next \$1,500.00 or part thereof,
- (7) 6% tax on next \$2,300.00 or part thereof, and
- (8) (a) for taxable years beginning after December 31, 1998, and before January 1, 2002, 6.75%

tax on the remainder and for taxable years beginning on or after January 1, 2002, 6.65% tax on the remainder, or

(b) for taxable years beginning after December 31, 1999, for which the State Board of Equalization suspends the provisions of subdivision (a) of this division pursuant to the provisions of Section 4001 of this title, 7% tax on the remainder.

b. Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code not deducting federal income tax:

(1) 1/2% tax on first \$2,000.00 or part thereof,

(2) 1% tax on next \$3,000.00 or part thereof,

(3) 2% tax on next \$2,500.00 or part thereof,

(4) 3% tax on next \$2,300.00 or part thereof,

(5) 4% tax on next \$2,400.00 or part thereof,

(6) 5% tax on next \$2,800.00 or part thereof,

(7) 6% tax on next \$6,000.00 or part thereof, and

(8) (a) for taxable years beginning after December 31, 1998, and before January 1, 2002, 6.75% tax on the remainder and for taxable years beginning on or after January 1, 2002, 6.65% tax on the remainder, or

(b) for taxable years beginning after December 31, 1999, for which the State Board of Equalization suspends the provisions of subdivision (a) of this division pursuant to

the provisions of Section 4001 of this title, 7% tax on the remainder.

2. METHOD 2.

a. Single individuals and married individuals filing separately deducting federal income tax:

- (1) 1/2% tax on first \$1,000.00 or part thereof,
- (2) 1% tax on next \$1,500.00 or part thereof,
- (3) 2% tax on next \$1,250.00 or part thereof,
- (4) 3% tax on next \$1,150.00 or part thereof,
- (5) 4% tax on next \$1,200.00 or part thereof,
- (6) 5% tax on next \$1,400.00 or part thereof,
- (7) 6% tax on next \$1,500.00 or part thereof,
- (8) 7% tax on next \$1,500.00 or part thereof,
- (9) 8% tax on next \$2,000.00 or part thereof,
- (10) 9% tax on next \$3,500.00 or part thereof, and
- (11) 10% tax on the remainder.

b. Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code deducting federal income tax:

- (1) 1/2% tax on the first \$2,000.00 or part thereof,
- (2) 1% tax on the next \$3,000.00 or part thereof,
- (3) 2% tax on the next \$2,500.00 or part thereof,
- (4) 3% tax on the next \$1,400.00 or part thereof,
- (5) 4% tax on the next \$1,500.00 or part thereof,
- (6) 5% tax on the next \$1,600.00 or part thereof,
- (7) 6% tax on the next \$1,250.00 or part thereof,
- (8) 7% tax on the next \$1,750.00 or part thereof,
- (9) 8% tax on the next \$3,000.00 or part thereof,
- (10) 9% tax on the next \$6,000.00 or part thereof, and

(11) 10% tax on the remainder.

B. Nonresident aliens. In lieu of the rates set forth in subsection A above, there shall be imposed on nonresident aliens, as defined in the Internal Revenue Code, a tax of eight percent (8%) instead of thirty percent (30%) as used in the Internal Revenue Code, with respect to the Oklahoma taxable income of such nonresident aliens as determined under the provision of the Oklahoma Income Tax Act. The tax imposed in this subsection shall not be imposed for tax years beginning on or after January 1, 2004.

~~Every~~ Until January 1, 2004, every payer of amounts covered by this subsection shall deduct and withhold from such amounts paid each payee an amount equal to eight percent (8%) thereof. Every payer required to deduct and withhold taxes under this subsection shall for each quarterly period on or before the last day of the month following the close of each such quarterly period, pay over the amount so withheld as taxes to the Tax Commission, and shall file a return with each such payment. Such return shall be in such form as the Tax Commission shall prescribe. Every payer required under this subsection to deduct and withhold a tax from a payee shall, as to the total amounts paid to each payee during the calendar year, furnish to such payee, on or before January 31, of the succeeding year, a written statement showing the name of the payer, the name of the payee and ~~his~~ the payee's social security account number, if any, the total amount paid subject to taxation, and the total amount deducted and withheld as tax and such other information as the Tax Commission may require. Any payer who fails to withhold or pay to the Tax Commission any sums herein required to be withheld or paid shall be personally and individually liable therefor to the State of Oklahoma.

C. Corporations. For all taxable years beginning after December 31, 1989, a tax is hereby imposed upon the Oklahoma taxable income of every corporation doing business within this state or

deriving income from sources within this state in an amount equal to six percent (6%) thereof.

There shall be no additional Oklahoma income tax imposed on accumulated taxable income or on undistributed personal holding company income as those terms are defined in the Internal Revenue Code.

D. Certain foreign corporations. In lieu of the tax imposed in the first paragraph of subsection C of this section, for all taxable years beginning after December 31, 1989, there shall be imposed on foreign corporations, as defined in the Internal Revenue Code, a tax of six percent (6%) instead of thirty percent (30%) as used in the Internal Revenue Code, where such income is received from sources within Oklahoma, in accordance with the provisions of the Internal Revenue Code and the Oklahoma Income Tax Act.

Every payer of amounts covered by this subsection shall deduct and withhold from such amounts paid each payee an amount equal to six percent (6%) thereof. Every payer required to deduct and withhold taxes under this subsection shall for each quarterly period on or before the last day of the month following the close of each such quarterly period, pay over the amount so withheld as taxes to the Tax Commission, and shall file a return with each such payment. Such return shall be in such form as the Tax Commission shall prescribe. Every payer required under this subsection to deduct and withhold a tax from a payee shall, as to the total amounts paid to each payee during the calendar year, furnish to such payee, on or before January 31, of the succeeding year, a written statement showing the name of the payer, the name of the payee and ~~his~~ the payee's social security account number, if any, the total amounts paid subject to taxation, the total amount deducted and withheld as tax and such other information as the Tax Commission may require. Any payer who fails to withhold or pay to the Tax Commission any

sums herein required to be withheld or paid shall be personally and individually liable therefor to the State of Oklahoma.

E. Fiduciaries. A tax is hereby imposed upon the Oklahoma taxable income of every trust and estate at the same rates as are provided in subsection A of this section for single individuals. Fiduciaries are not allowed a deduction for any federal income tax paid.

F. Tax rate tables. For all taxable years beginning after December 31, 1991, in lieu of the tax imposed by subsection A of this section, there is hereby imposed for each taxable year on the taxable income of every individual, whose taxable income for such taxable year does not exceed the ceiling amount, a tax determined under tables, applicable to such taxable year which shall be prescribed by the Tax Commission and which shall be in such form as it determines appropriate. The tax imposed in this subsection shall not be imposed for tax years beginning on or after January 1, 2004. In the table so prescribed, the amounts of the tax shall be computed on the basis of the rates prescribed by subsection A of this section. For purposes of this subsection, the term "ceiling amount" means, with respect to any taxpayer, the amount determined by the Tax Commission for the tax rate category in which such taxpayer falls.

SECTION 32. AMENDATORY 68 O.S. 2001, Section 2368, is amended to read as follows:

Section 2368. A. The For tax years beginning before January 1, 2004, the following individuals shall each make a return stating specifically the taxable income and, where necessary, the adjusted gross income and the adjustments provided in ~~this article~~ Section 2351 et seq. of this title to arrive at Oklahoma taxable income and, where necessary, Oklahoma adjusted gross income~~:-~~:

1. Every resident individual having a gross income, or gross receipts, for the taxable year in an amount sufficient to require

the filing of a federal income tax return, if single, or if married and not living with husband or wife;

2. Every resident individual having a gross income, or gross receipts, for the taxable year in an amount sufficient to require the filing of a federal income tax return, if married and living with husband or wife; and

3. ~~Provided however, every resident individual who does not meet the requirements sufficient to file a federal return, but has Oklahoma withholding, may file a claim for refund for all Oklahoma income taxes withheld and shall not be subject to the provisions of Section 2358 of this title.~~

4. Every nonresident individual having Oklahoma gross income for the taxable year of One Thousand Dollars (\$1,000.00), or over.

Provided, however, every resident individual who does not meet the requirements sufficient to file a federal return, but has Oklahoma withholding, may file a claim for refund for all Oklahoma income taxes withheld and shall not be subject to the provisions of Section 2358 of this title.

B. ~~¶~~ For tax years beginning before January 1, 2004, if a husband and wife, living together, have an aggregate gross income or gross receipts, for such year, in an amount sufficient to require the filing of a federal income tax return:

1. Each shall make a return; or

2. The income of each shall be included in a single joint return, in which case the tax shall be computed on the aggregate net income.

C. If the individual is unable to make his or her own return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such individual.

D. Every partnership shall make a return for each taxable year, stating the taxable income and the adjustments to arrive at Oklahoma

income. The Oklahoma return shall include a schedule showing the distribution to partners of the various items of income as per the federal return and the adjustments required by ~~this article~~ Section 2351 et seq. of this title for Oklahoma. The return shall be signed by one of the partners. If a partnership has elected pursuant to the provisions of Section 761 of the Internal Revenue Code ~~Section 761~~, or any provision comparable thereto, not to file partnership income tax returns, that partnership shall not be required to file an Oklahoma partnership return. The Oklahoma Tax Commission shall promulgate rules ~~and regulations~~ for purposes of partnership returns when multiple partners would otherwise be required to file a nonresident return. The rules ~~and regulations~~ shall provide a specific number of partners in a partnership above which a composite return may be filed. The return shall be in such form as prescribed by the Tax Commission.

E. Every corporation shall make a return for each taxable year stating the taxable income and the adjustments provided in ~~this article~~ Section 2351 et seq. of this title to arrive at Oklahoma taxable income. In addition, corporations electing subchapter S treatment pursuant to the Internal Revenue Code and ~~this article~~ Section 2351 et seq. of this title, shall include a schedule showing the distribution to shareholders of the various items of income as per the federal return and the adjustments for Oklahoma. All corporation returns shall be signed by the president, vice president, or other principal officer and the corporate seal impressed. In cases where receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, such receivers, trustees, or assignees shall make a return for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns made by receivers, trustees, or assignees shall be collected in the

same manner as if collected from the corporations of whose business or property they have custody and control.

F. ~~Every~~ For tax years beginning before January 1, 2004, every resident estate and trust shall make a return for each taxable year stating the taxable income and the adjustments to arrive at Oklahoma taxable income. ~~Every~~ For tax years beginning before January 1, 2004, every nonresident estate or trust having Oklahoma taxable income as provided in Section 2362 ~~of the Oklahoma Income Tax Act, Section 2351 et seq.~~ of this title, shall make a return for each taxable year stating the taxable income and the adjustments to arrive at Oklahoma taxable income. The Oklahoma return shall include a schedule showing the distribution to beneficiaries, if any, of the various items of income as per the federal return and the adjustments for Oklahoma. The fiduciary shall be responsible for making the return and the return shall be signed by the fiduciary, or by one fiduciary if there is more than one. The ~~Oklahoma~~ Tax Commission shall promulgate rules ~~and regulations~~ for purposes of estate and trust returns when multiple returns would otherwise be required of nonresident beneficiaries of estates or trusts. The return shall be in such form as prescribed by the Tax Commission.

G. All returns, except corporate returns, made on the basis of the calendar year shall be made on or before the ~~15th~~ fifteenth day of April following the close of the taxable year. Calendar year corporation returns shall be due on or before the ~~15th~~ fifteenth day of March following the close of the taxable year. All returns, except corporation returns, made on the basis of a fiscal year shall be made on or before the ~~15th~~ fifteenth day of the fourth month following the close of the fiscal year. Fiscal year corporation returns shall be made on or before the ~~15th~~ fifteenth day of the third month following the close of the fiscal year. In the case of complete liquidation, or the dissolution, of a corporation the

return of such corporation shall be made on or before the ~~15th~~ fifteenth day of the fourth month following the month in which the corporation is completely liquidated. A corporation which has terminated its business activities, satisfied or made provision for all of its liabilities or has distributed all of its assets, even though not formally dissolved under state law, is deemed to have completely liquidated for purposes of this subsection.

H. Returns by individuals, fiduciaries, partnerships, corporations or any other person or entity required, or that may hereafter be required to file a return, shall contain or be verified by a written declaration that such return is made under the penalties of perjury and the fact that any individual's name is signed to a filed return shall be prima facie evidence for all purposes that the return was actually signed by ~~him~~ the individual. Provided, the ~~Oklahoma~~ Tax Commission shall promulgate rules ~~and regulations~~ to provide procedures for verification of signatures on returns which are filed electronically.

I. Every return required by ~~this article~~ Section 2351 et seq. of this title shall be in such form as the Tax Commission may, from time to time, prescribe. Each return shall be filed with the Tax Commission and forms shall be furnished by the Tax Commission on application therefor, but failure to secure or receive the form of a return prescribed shall not relieve any taxpayer from the obligation of making and filing any return herein required.

SECTION 33. AMENDATORY 68 O.S. 2001, Section 2369, is amended to read as follows:

Section 2369. A. Except as otherwise provided for in this section, all persons, banks or corporations, in whatever capacity acting, and whether or not otherwise exempted from taxation under ~~this act~~ Section 2351 et seq. of this title, including lessees, mortgagors of real or personal property, fiduciaries, employers and all officers or employees of the state or of any political

subdivision thereof, having the control, receipt, custody, disposal or payment of interest, income from real property and tangible personal property including rents, oil or gas production payments, and mining production payments, salaries, wages, premiums, annuities, compensation, remunerations, emoluments or other fixed or determinable annual or other periodical gains, profits or income, amounting to Seven Hundred Fifty Dollars (\$750.00) or over, paid or payable during any year, to any taxpayer, shall make complete reports thereof, under oath, to the Tax Commission, under such rules ~~and regulations~~, in such form and manner and to such extent, as may be ~~prescribed~~ promulgated by it.

B. Such reports may be required, regardless of amounts, ~~(1) in:~~

1. In case of payments of interest upon bonds, mortgages, deeds of trust, or other similar obligations of corporations, and (2) in;

2. In the case of dividend payments by corporations subject to the tax levied by this act and (3) in Section 2351 et seq. of this title; and

3. In the case of any broker transacting any business, as such, for any individual subject to the provisions of this act Section 2351 et seq. of this title.

The Oklahoma Tax Commission may require such corporations to state the name and address of each shareholder, the number of shares owned by ~~him~~ each shareholder and, in the case of a broker, it may require submission of the names of the customer for whom such broker transacted any business, with such details as to profits, losses or other information as the Tax Commission may require as to each such customer. Any reports required under this subsection shall likewise be rendered under oath, and in accordance with rules ~~and regulations~~ ~~prescribed and adopted~~ promulgated by the Tax Commission.

C. Complete reports shall be required, regardless of amounts and not limited to payments exceeding Seven Hundred Fifty Dollars (\$750.00), for all oil, gas, or mining production payments, paid or

payable during any year, to any person, as defined in Section 202 of this title. The Tax Commission may require any person or corporation making such production payments to report the total production payments made to any person during any calendar year, in addition to any other information necessary to calculate Oklahoma income tax upon such production payments. ~~The Tax Commission may require such reports from any person or corporation making production payments for any time period prior to the effective date of this act based on payment records that such person or corporation is required to maintain by state or federal law.~~ For purposes of this section, the term "production payment" means payments of proceeds generated from mineral interests in this state, including but not limited to, a lease bonus, delay rental, royalty and working interest payment, and overriding royalty interest payment.

D. 1. The Tax Commission, or its duly authorized agent, is authorized and empowered to issue orders to withhold all production payments to any person upon a determination that the person has failed to file a state income tax return as required by law reporting production payment income or has failed to pay state income tax. The order to withhold production payments shall be directed to the person or corporation making production payments and shall apply to all production payments that the person named within such order is entitled to until the return is filed and the income tax, penalty and interest are paid. Release of the order to withhold shall be mailed by the Tax Commission to the person or corporation withholding production payments upon the filing of the return and payment of the tax, penalty and interest by the person named within such order or upon payment of the tax, penalty and interest by the person or corporation withholding the production payment.

2. Upon receipt of the Tax Commission order to withhold production payments, the person or corporation making production payments, within thirty (30) days of receiving such order, shall:

- a. withhold payments for all production of the person named within such order until such order is released by the Tax Commission,
- b. hold in suspense all production payments subject to such order to withhold, and
- c. in the case of established delinquent income tax, upon receiving such order from the Tax Commission of such established delinquency, pay the tax, penalty and interest out of the withheld production payments and receipt such tax payment to the taxpayer in lieu of cash in settlement for such production.

The order to withhold shall apply to production payments in any case where a successor person or corporation is required to make production payments and to production payments of subsequent production of minerals in this state. Any person or corporation that withholds production payments or pays same to the Tax Commission pursuant to such order is hereby relieved of all liability for such acts.

3. The Tax Commission shall mail notice to each delinquent taxpayer at the last-known address reported by the person or corporation making production payments at least twenty (20) days prior to issuance of an order to withhold production payments. The notice shall contain a statement that the taxpayer has failed to file an income tax return as required by law or has failed to pay delinquent income tax. An order to withhold production payments may be issued by the Tax Commission, or its duly authorized agent, for collection of any delinquent income tax, penalty and interest owed by the taxpayer entitled to production payments.

4. Any person or corporation making production payments who refuses or fails to file the reports required by this section, in the manner and at the time prescribed by the Tax Commission, shall be subject to a penalty in the amount of One Hundred Dollars (\$100.00) for each day such report is delinquent. Any person or corporation making production payments who refuses to withhold payments shall be subject to a penalty in the amount of One Hundred Dollars (\$100.00) for each payment made which was ordered to be withheld. All penalties assessed pursuant to this subsection shall be collected and apportioned in the same manner as the state income tax.

SECTION 34. AMENDATORY 68 O.S. 2001, Section 2385.2, is amended to read as follows:

Section 2385.2 A. ~~Every~~ Until January 1, 2004, every employer making payment of wages shall deduct and withhold from the wages paid each employee a tax in an amount determined in accordance with a table fixing graduated rates of tax to be withheld, which table shall be devised by the Oklahoma Tax Commission and fix the rate of such tax to be withheld from each employee as a percentage of the amount of federal income tax withheld under the Internal Revenue Code, and/or a percentage of the amount of salary paid to the employee, giving consideration to the approximate amount of the state tax liability of any such employee, if such employee-taxpayer were to elect to use the standard deduction. Such table shall be published by the ~~Oklahoma~~ Tax Commission and furnished to all employers filing income withholding tax returns as required by law.

B. Whenever the amount to be withheld from the wages of an employee is calculated to total less than twenty-five cents (\$0.25) in any quarterly period of a year, the provisions of subsection A of this section shall not apply.

C. ~~Every~~ Until January 1, 2004, every person, including the government of the United States, a state or a political subdivision

thereof or any instrumentalities of the foregoing, making any payment of winnings which are subject to withholding shall deduct and withhold from such payment a tax in an amount equal to four percent (4%) of such payment.

SECTION 35. AMENDATORY 68 O.S. 2001, Section 2385.3, is amended to read as follows:

Section 2385.3 A. Every employer required to deduct and withhold taxes under Section 2385.2 of this title shall pay over the amount so withheld as taxes to the Oklahoma Tax Commission, and shall file a return in such form as the Tax Commission shall prescribe under the following schedule:

1. Effective January 1, 1999, every employer owing an average of One Hundred Thousand Dollars (\$100,000.00) or more per month in taxes in the previous fiscal year shall pay over the amount so withheld on the same dates as required under the Federal Semiweekly Deposit Schedule for federal withholding taxes. For employers making payments other than by electronic funds transfer, a withholding return shall be filed with each payment. For employers making payments by electronic funds transfer, a withholding return shall not be required to be filed with each payment. A withholding return for payments made by electronic funds transfer shall be filed monthly on or before the fifteenth day of the month following the close of each monthly period;

2. Effective July 1, 1999, every employer owing an average of Ten Thousand Dollars (\$10,000.00) or more per month in taxes in the previous fiscal year shall pay over the amount so withheld on the same dates as required under the Federal Semiweekly Deposit Schedule for federal withholding taxes. For employers making payments other than by electronic funds transfer, a withholding return shall be filed with each payment. For employers making payments by electronic funds transfer, a withholding return shall not be required to be filed with each payment. A withholding return for

payments made by electronic funds transfer shall be filed monthly on or before the fifteenth day of the month following the close of each monthly period;

3. Every employer owing an average of Five Hundred Dollars (\$500.00) or more per quarter in taxes in the previous fiscal year who is not subject to the provisions of paragraph 1 or 2 of this subsection shall pay over the amount so withheld on or before the fifteenth day of each succeeding month and shall file a monthly return together with the payment; and

4. Every employer owing an average of less than Five Hundred Dollars (\$500.00) per quarter in taxes in the previous fiscal year shall pay over the amount so withheld on or before the fifteenth day of the month following the close of each succeeding quarterly period and shall file a quarterly return together with the payment.

B. Every employer required under Section 2385.2 of this title to deduct and withhold a tax from the wages paid an employee shall, as to the total wages paid to each employee during the calendar year, furnish to such employee, on or before January 31 of the succeeding year, a written statement showing the name of the employer, the name of the employee and the employee's social security account number, if any, the total amount of wages subject to taxation, and the total amount deducted and withheld as tax and such other information as the Tax Commission may require. If an employee's employment is terminated before the close of a calendar year, ~~said~~ the written statement must be furnished within thirty (30) days of the date of which the last payment of wages is made.

C. If the Tax Commission, in any case, has justifiable reason to believe that the collection of the tax provided for in Section 2385.2 of this title is in jeopardy, the Tax Commission may require the employer to file a return and pay the tax at any time.

D. Every employer who fails to withhold or pay to the Tax Commission any sums herein required to be withheld or paid shall be

personally and individually liable therefor to the State of Oklahoma. The term "employer" as used in this subsection and in Section 2385.6 of this title includes an officer or employee of a corporation, manager or member of a limited liability company or a member or employee of a partnership, who as an officer or employee of a corporation, or manager or member of a limited liability company or member or employee of a partnership is under a duty to act for a corporation, limited liability company or partnership to withhold and remit withholding taxes in accordance with this section and Section 2385.2 of this title. Any sum or sums withheld in accordance with the provisions of Section 2385.2 of this title shall be deemed to be held in trust for the State of Oklahoma, and, as trustee, the employer shall have a fiduciary duty to the State of Oklahoma in regard to such sums and shall be subject to the trust laws of this state. Any employer who fails to pay to the Tax Commission any sums required to be withheld by such employer, after such sums have been withheld from the wages of employees, and appropriates the tax held in trust to the employer's own use, or to the use of any person not entitled thereto, without authority of law shall be guilty of embezzlement.

E. If any employer fails to withhold the tax required to be withheld by Section 2385.2 of this title and thereafter the income tax is paid by the employee, the tax so required to be withheld shall not be collected from the employer but such employer shall not be relieved from the liability for penalties or interest otherwise applicable because of such failure to withhold the tax.

F. Every person making payments of winnings subject to withholding shall, for each monthly period, on or before the fifteenth day of the month following the payment of such winnings pay over to the Tax Commission the amounts so withheld, and shall file a return, in a form as prescribed by the Tax Commission.

G. Every person making payments of winnings subject to withholding shall furnish to each recipient on or before January 31 of the succeeding year a written statement in a form as prescribed by the Tax Commission. Every person making such reports shall also furnish a copy of such report to the Tax Commission in a manner and at a time as shall be prescribed by the Tax Commission.

H. No return shall be required to be filed and no statement shall be required to be furnished to an employee pursuant to the provisions of this section for wages or winnings received on or after January 1, 2004.

SECTION 36. AMENDATORY 68 O.S. 2001, Section 2385.7, is amended to read as follows:

Section 2385.7 A. Except as provided in subsection B of this section, every taxpayer, as defined by Section 2353 of this title, shall make estimated tax payments for the taxable year if:

1. ~~In~~ For tax years beginning prior to January 1, 2004, in the case of a single individual taxpayer, the tax liability of the taxpayer can reasonably be expected to be Five Hundred Dollars (\$500.00) or more in excess of taxes to be withheld from wages;

2. ~~In~~ For tax years beginning prior to January 1, 2004, in the case of married individuals, the combined tax liability of the married individuals can reasonably be expected to be Five Hundred Dollars (\$500.00) or more in excess of taxes to be withheld from wages; or

3. In the case of a corporation or trust, the tax of the corporation or trust for the taxable year can reasonably be expected to be Five Hundred Dollars (\$500.00) or more.

B. Subsection A of this section shall not apply to:

1. Estates; and

2. Any individual whose gross income from farming for the taxable year is at least sixty-six and two-thirds percent (66 2/3%) of the total estimated gross income from all sources for the taxable

year. However, if an individual whose gross income from farming qualifies pursuant to the provisions of this paragraph for the previous taxable year, the individual shall not be required to qualify for the current taxable year. In no event shall the qualification for the previous taxable year be carried forward for more than one (1) year.

SECTION 37. AMENDATORY 68 O.S. 2001, Section 2701, is amended to read as follows:

Section 2701. A. Any incorporated city or town in this state is hereby authorized to assess, levy, and collect taxes for general and special purposes of municipal government as the Legislature may levy and collect for purposes of state government except ad valorem property taxes.—~~Provided;~~ provided:

1. Taxes shall be uniform upon the same class subjects, and any tax, charge, or fee levied upon or measured by income or receipts from the sale of products or services shall be uniform upon all classes of taxpayers;

2. Motor vehicles may be taxed by the city or town only when such vehicles are primarily used or located in such city or town for a period of time longer than six (6) months of a taxable year;

3. The provisions of this section shall not be construed to authorize imposition of any tax upon persons, firms, or corporations exempted from other taxation under the provisions of Sections 348.1, 624 and 321 of Title 36 of the Oklahoma Statutes, by reason of payment of taxes imposed under such sections;

4. Cooperatives and communications companies are hereby authorized to pass on to their subscribers in the incorporated city or town involved, the amount of any special municipal fee, charge or tax hereafter assessed or levied on or collected from such cooperatives or communications companies;

5. No earnings, payroll or income taxes may be levied on nonresidents of the cities or towns levying such tax;

6. The governing body of any city or town shall be prohibited from proposing taxing ordinances more often than three times in any calendar year, or twice in any six-month period; and

7. Any revenues derived from a tax authorized by this subsection not dedicated to a limited purpose shall be deposited in the municipal general fund.

B. A sales tax authorized in subsection A of this section may be levied for limited purposes specified in the ordinance levying the tax. Such ordinance shall be submitted to the voters for approval as provided in Section 2705 of this title. Any sales tax levied or any change in the rate of a sales tax levied pursuant to the provisions of this section shall become effective on the first day of the calendar quarter following approval by the voters of the city or town unless another effective date, which shall also be on the first day of a calendar quarter, is specified in the ordinance levying the sales tax or changing the rate of sales tax. Such ordinance shall describe with specificity the projects or expenditures for which the limited-purpose tax levy would be made. The municipal governing body shall create a limited-purpose fund and deposit therein any revenue generated by any tax levied pursuant to this subsection. Money in the fund shall be accumulated from year to year. The fund shall be placed in an insured interest-bearing account and the interest which accrues on the fund shall be retained in the fund. The fund shall be nonfiscal and shall not be considered in computing any levy when the municipality makes its estimate to the excise board for needed appropriations. Money in the limited-purpose tax fund shall be expended only as accumulated and only for the purposes specifically described in the taxing ordinance as approved by the voters.

C. If the proceeds of any sales tax levied by a municipality pursuant to subsection B of this section are being used by the municipality for the purpose of retiring indebtedness incurred by

the municipality or by a public trust of which the municipality is a beneficiary for the specific purpose for which the sales tax was imposed, the sales tax shall not be repealed until such time as the indebtedness is retired. However, in no event shall the life of the tax be extended beyond the duration approved by the voters of the municipality. The provisions of this subsection shall apply to all sales tax levies imposed by a municipality and being used by the municipality for the purposes set forth in this subsection prior to or after July 1, 1995.

D. The exemption for eligible food, beverages, nonprescription drugs and medicines as set forth in Section 21 of this act shall not apply to any sales tax levied pursuant to this section unless the municipality approves an ordinance for such exemption in accordance with law.

E. The provisions of this section shall not authorize any municipality in this state to levy any sales tax on the services enumerated in Section 6 of this act.

SECTION 38. AMENDATORY 68 O.S. 2001, Section 5011, is amended to read as follows:

Section 5011. A. Except as otherwise provided by this section, beginning with the calendar year 1990 and for each calendar year through 1998, ~~and for years in which the State Board of Equalization suspends subsection B or C of this section pursuant to the provisions of Section 3 of this act,~~ any individual who is a resident of and is domiciled in this state during the entire calendar year for which the filing is made and whose gross household income for such year does not exceed Twelve Thousand Dollars (\$12,000.00) may file a claim for sales tax relief.

B. For calendar year 1999, ~~and for all other years for which the requirements of Section 3 of this act may apply,~~ any individual who is a resident of and is domiciled in this state during the entire calendar year for which the filing is made may file a claim

for sales tax relief if the gross household income for such year does not exceed the following amounts:

1. For an individual not subject to the provisions of paragraph 2 of this subsection and claiming no allowable personal exemption other than the allowable personal exemption for that individual or the spouse of that individual, Fifteen Thousand Dollars (\$15,000.00); or

2. For an individual claiming one or more allowable personal exemptions other than the allowable personal exemption for that individual or the spouse of that individual, an individual with a physical disability constituting a substantial handicap to employment, or an individual who is sixty-five (65) years of age or older at the close of the tax year, Thirty Thousand Dollars (\$30,000.00).

C. ~~Except as otherwise may be provided in Section 3 of this act, for~~ For calendar year years 2000, and for all other years for which the requirements of Section 3 of this act may apply and 2001, an individual who is a resident of and is domiciled in this state during the entire calendar year for which the filing is made may file a claim for sales tax relief if the gross household income for such year does not exceed the following amounts:

1. For an individual not subject to the provisions of paragraph 2 of this subsection and claiming no allowable personal exemption other than the allowable personal exemption for that individual or the spouse of that individual, Twenty Thousand Dollars (\$20,000.00); or

2. For an individual claiming one or more allowable personal exemptions other than the allowable personal exemption for that individual or the spouse of that individual, an individual with a physical disability constituting a substantial handicap to employment, or an individual ~~whose~~ who is sixty-five (65) years of

age or older at the close of the tax year, Fifty Thousand Dollars (\$50,000.00).

D. The For calendar years 2004 and thereafter, an individual who is a resident of and is domiciled in this state during the entire calendar year for which the filing is made may file a claim for sales and service tax relief if the gross household income for such year does not exceed the following amounts:

1. For an individual not subject to the provisions of paragraph 2 of this subsection whose household consists of the individual only or the individual and the spouse of that individual, Twenty Thousand Dollars (\$20,000.00); or

2. For an individual whose household includes one or more children or other persons for whom a personal exemption is claimed by the individual on his or her federal income tax return, or, if the individual is not required to file a federal income tax return, who could be so claimed if the individual were required to file a federal income tax return, an individual with a physical disability constituting a substantial handicap to employment, or an individual who is sixty-five (65) years of age or older at the close of the tax year, Fifty Thousand Dollars (\$50,000.00).

E. For calendar years 1990 through 2003, the amount of the claim filed pursuant to the Sales Tax Relief Act shall be Forty Dollars (\$40.00) multiplied by the number of allowable personal exemptions. For calendar year 2004 and thereafter, the amount of the claim filed pursuant to the Sales Tax Relief Act shall be Four Hundred Dollars (\$400.00) for an individual subject to the provisions of paragraph 1 of subsection D of this section or Six Hundred Dollars (\$600.00) for an individual subject to the provisions of paragraph 2 of subsection D of this section, plus an amount equal to Forty Dollars (\$40.00) multiplied by the number of allowable personal exemptions. As used in the Sales Tax Relief Act, "allowable personal exemption" means a personal exemption to which

the taxpayer would be entitled pursuant to the provisions of the ~~Oklahoma Income Tax Act~~ Internal Revenue Code, except for:

~~1. The exemptions such taxpayer would be entitled to pursuant to Section 2358 of this title if such taxpayer or spouse is blind or sixty-five (65) years of age or older at the close of the tax year;~~

~~2. An exemption for a person convicted of a felony if during all or any part of the calendar year for which the claim is filed such person was an inmate in the custody of the Department of Corrections; or~~

~~3. 2. An exemption for a person if during all or any part of the calendar year for which the claim is filed such person resided outside of this state.~~

~~E. F.~~ F. A person convicted of a felony shall not be permitted to file a claim for sales tax relief pursuant to the provisions of Sections 5010 through 5016 of this title for the period of time during which the person is an inmate in the custody of the Department of Corrections. Such period of time shall include the entire calendar year if the person is in the custody of the Department of Corrections during any part of the calendar year. The provisions of this subsection shall not prohibit all other members of the household of an inmate from filing a claim based upon the personal exemptions to which the household members would be entitled pursuant to the provisions of the ~~Oklahoma Income Tax Act~~ Internal Revenue Code.

~~F. G.~~ G. The Department of Corrections shall withhold up to fifty percent (50%) of any money inmates receive for claims made pursuant to the Sales Tax Relief Act prior to September 1, 1991, for costs of incarceration.

~~G. H.~~ H. For purposes of Section 139.105 of Title 17 of the Oklahoma Statutes, the gross household income of any individual who may file a claim for sales tax relief shall not exceed Twelve Thousand Dollars (\$12,000.00).

SECTION 39. AMENDATORY 68 O.S. 2001, Section 5013, is amended to read as follows:

Section 5013. A. All claims for relief authorized by the Sales Tax Relief Act shall be received by and in the possession of the Oklahoma Tax Commission on or before June 30 of each year for sales and services taxes paid for the preceding calendar year. ~~Claimants shall be allowed a direct credit against income taxes owed by such claimant to the State of Oklahoma for the amount of such claim, in which case such claim shall be filed with the claimant's income tax return on or before April 15 following the close of the taxable year. In all cases where claimants have no income tax liability or where the sales tax relief authorized by this section exceeds the claimant's income tax liability, such claim, or any balance thereof, shall be paid out in the same manner and out of the same fund as refunds of income taxes are paid and so much of said fund as is necessary for such purposes is hereby appropriated.~~

B. 1. Sales tax relief for families receiving assistance pursuant to the federal program of Temporary Aid to Needy Families shall be transferred from the ~~Oklahoma~~ Tax Commission to the Department of Human Services as provided in this subsection for purposes of obtaining federal matching funds to increase the payments to recipients of Temporary Aid to Needy Families. The determination of the amount to be transferred by the ~~Oklahoma~~ Tax Commission shall be based on a statistical report prepared monthly by the Department of Human Services which identifies the number of recipients of Temporary Aid to Needy Families. The amount transferred shall equal one-twelfth (1/12) of the annual sales tax relief for all persons receiving assistance during the month of the report. ~~The amount transferred shall be paid out of the Income Tax Withholding Refund Account of the Tax Commission.~~

2. Monies received from the Tax Commission shall be deposited in the Human Services Fund. Recipients of assistance pursuant to

the federal program of Temporary Aid to Needy Families shall receive sales tax relief as a part of their monthly Temporary Aid to Needy Families.

C. All duties of the Tax Commission to make sales tax relief payments to recipients since January 1, 1992, of state supplemental payments or medical assistance as patients in long-term care facilities who have received such supplemental payments or medical assistance throughout the calendar year are hereby transferred to the Department of Human Services. Receipt of such supplemental payments or medical assistance shall constitute automatic eligibility for sales tax relief under the provisions of the Sales Tax Relief Act. Sales tax relief payments to persons identified in this subsection shall be made as soon as practicable after the commencement of each calendar year. The Department of Human Services shall notify the Tax Commission of the total amount of the sales tax relief payments made in order that such sum may be transferred from the ~~Income Tax Withholding Refund Account of the~~ Tax Commission to the Department.

D. For those individuals receiving assistance or state supplemental payments as provided in subsections B and C of this section, the Department of Human Services shall make the sales tax relief payment without the requirement of an additional application form.

E. To avoid duplication of payment, at the end of each calendar year, the Department of Human Services shall provide the Tax Commission with a list of the individuals who received sales tax relief from the Department. Persons receiving sales tax relief payments directly from the Department of Human Services shall not be entitled to additional sales tax relief payments from the Tax Commission.

F. The Department of Human Services and the Tax Commission shall work jointly to notify individuals receiving assistance or

state supplemental payments from the Department of Human Services of their possible entitlement and right to apply for sales tax relief as provided for in the Sales Tax Relief Act.

SECTION 40. REPEALER 68 O.S. 2001, Sections 2385.25, 2385.26, 2385.27 and 2385.28, are hereby repealed.

SECTION 41. This act shall become effective January 1, 2004, upon approval by the people.

SECTION 42. The Ballot Title for the proposed act shall be in the following form:

BALLOT TITLE

Legislative Referendum No. _____ State Question No. _____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This act is the Oklahoma Tax Reform Act of 2002. Individual income taxes, state sales taxes on groceries, franchise taxes and some estate taxes will not be imposed starting January 1, 2004. A sales tax of 5.9% will be imposed on certain services, including construction, services provided by trade contractors, transportation, communications, utilities, finance, insurance and real estate, personal services, advertising, computer services, business services, automotive services, repair services, legal services, child care, and engineering, architectural and surveying services. Other services are also subject to the tax. Some services are exempted, including those related to agriculture, forestry, fishing, mining, oil and gas, manufacturing, transportation, wholesale trade, health, education and social services. Sales to some taxpayers are also exempted. Counties and municipalities may not levy a services tax. Revenues from the tax are apportioned in the same manner as the taxes no longer imposed. Low income households are allowed a rebate.

SHALL THIS ACT BE APPROVED BY THE PEOPLE?

YES, FOR THE ACT

NO, AGAINST THE ACT

SECTION 43. The President Pro Tempore of the Senate shall, immediately after the passage of this order for legislative referendum, prepare and file in accordance with Section 3 of Article V of the Oklahoma Constitution, one copy of this order for legislative referendum, including the Ballot Title set forth in SECTION 42, with the Secretary of State and one copy with the Attorney General.

48-2-2039

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