

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1356

By: Pope of the House

and

Rabon of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to tax administration; amending 27A O.S. 2001, Section 2-11-405, which relates to the Waste Tire Recycling Indemnity Fund; modifying the formula for distribution of the funds from the Waste Tire Recycling Indemnity Fund; amending 68 O.S. 2001, Sections 203, 205.2, 214, 217, 231 and Section 1, Chapter 154, O.S.L. 2002 (68 O.S. Supp. 2002, Section 264), which relate to the Uniform Tax Procedure Code; authorizing the Tax Commission to require taxpayers to file returns or reports by electronic means; requiring certain claims to be filed electronically; modifying the time period for requesting certain hearing; excluding certain claims from withholding of income tax refund; allowing the Tax Commission to file releases of tax liens and tax warrants electronically; providing schedule for payment of interest on income tax refunds; modifying certain contracting procedures of the Tax Commission; specifying the determination of compensation; specifying procedure for paying required fees by the Tax Commission; amending 68 O.S. 2001, Sections 500.6, as amended by Section 4, Chapter 458, O.S.L. 2002, 500.20 and 607 (68 O.S. Supp. 2002, Section 500.6), which relate to motor fuel taxes; clarifying status of certain funds; providing procedures relating to the collection of previously uncollectible motor fuel taxes; allowing the Tax Commission to enter into an agreement for transmission of temporary permits; amending 68 O.S. 2001, Sections 807 and 815, which relate to estate tax; modifying determination of value of gross estate; eliminating requirement that the Tax Commission audit every estate tax return; amending 68 O.S. 2001, Sections 1352, as amended by Section 1 of Enrolled Senate Bill No. 5 of the 1st Session of the 49th Oklahoma Legislature, 1356, as last amended by Section 60 of Enrolled House Bill No. 1816 of the 1st Session of the 49th Oklahoma Legislature, 1359, as amended by Section 12, Chapter 299, O.S.L. 2002, 1367.1 and 1370, as amended by Section 5, Chapter 381, O.S.L. 2002 (68 O.S. Supp. 2002, Sections 1359, and 1370), which relate to sales taxes; modifying definitions; exempting certain sales to the Broken Bow Economic Development Authority and its

contractors from sales tax; prohibiting claiming certain manufacturing sales tax exemption for certain goods; requiring promoters or organizers to obtain a special event permit from the Tax Commission; providing for fee; requiring special event vendors to collect sales tax; requiring reports and payments of tax; defining terms; modifying discount allowed for certain sales tax vendors; modifying purposes for the use of county sales tax revenues; amending 68 O.S. 2001, Sections 2362 and 2385.3, as amended by Section 40, Chapter 460, O.S.L. 2002 (68 O.S. Supp. 2002, Section 2385.3), which relate to income taxes; allowing an income tax credit for donations to an independent biomedical research institute; specifying amount of credit; providing for adjustment of credit percentage; defining term; providing for carryover of credit; authorizing Tax Commission to prescribe forms; providing procedures to suspend income tax credit under certain conditions; including the distributive share of certain income in the determination of Oklahoma adjusted gross income; requiring certain tax return preparers to file electronically; requiring certain employers to file employee withholding taxes electronically; defining terms; requiring a pass-through entity to withhold income tax on certain income; specifying due dates for withholding; exempting certain distribution from withholding; requiring written statement; specifying that any amounts withheld shall be held in trust for the State of Oklahoma; providing penalties or fines; amending 73 O.S. 2001, Section 152, which relates to the Oklahoma Capital Improvement Authority; modifying membership of the Authority; providing for codification; providing effective dates; and declaring an emergency.

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

SECTION 1. AMENDATORY 27A O.S. 2001, Section 2-11-405, is amended to read as follows:

Section 2-11-405. A. Of the monies accruing annually to the Waste Tire Recycling Indemnity Fund, four percent (4%) thereof shall be available to the Oklahoma Tax Commission and four percent (4%) thereof shall be available to the Department of Environmental Quality for the purpose of administering the requirements of the Oklahoma Waste Tire Recycling Act. In addition, an amount not to exceed Fifty Thousand Dollars (\$50,000.00) per required audit shall be available to the State Auditor and Inspector for the purpose of

conducting audits of the Oklahoma Waste Tire Recycling Program pursuant to Section 2-11-411 of this title.

B. Of the ninety-two percent (92%) of the remaining monies in the Waste Tire Recycling Indemnity Fund, ten percent (10%) shall be allocated to businesses located in Oklahoma who manufacture new products or derive energy benefits from waste tires which have been processed according to the requirements of the Oklahoma Waste Tire Recycling Act. Such businesses shall be eligible for compensation in a total amount not to exceed one hundred percent (100%) of their capital investment in equipment necessary to utilize processed waste tires purchased on or after January 1, 1995, at a rate of Twenty Dollars (\$20.00) per ton of processed waste tires consumed in the manufacturing or energy recovery process. Funds shall be awarded based on a proportionate share of the funds available and based on the relative amount of ~~each capital investment~~ tons of processed waste tires consumed. Such businesses may apply for compensation monthly to the ~~Oklahoma~~ Tax Commission, and shall supply any information required by the Tax Commission to document compliance with the provisions of the Oklahoma Waste Tire Recycling Act.

C. The balance of the monies remaining in the Waste Tire Recycling Indemnity Fund shall be allocated pursuant to the provisions of the Oklahoma Waste Tire Recycling Act to waste tire facilities or persons, corporations or other legal entities authorized by the provisions of the Oklahoma Waste Tire Recycling Act to receive reimbursement which, through the filing of appropriate applications, reports, and other documentation that may be required by the Department of Environmental Quality pursuant to the Oklahoma Waste Tire Recycling Act, demonstrate that such facilities or legal entities have successfully processed discarded vehicle tires pursuant to the Oklahoma Waste Tire Recycling Act.

D. Businesses located in Oklahoma that use processed tires for energy or fuel recovery shall be eligible for compensation from the

fund at a rate not to exceed Twenty-nine Dollars (\$29.00) per ton of processed tires to be used for energy or fuel recovery. The business shall demonstrate the utilization through the application and submission of required documentation to the Tax Commission.

SECTION 2. AMENDATORY 68 O.S. 2001, Section 203, is amended to read as follows:

Section 203. The Oklahoma Tax Commission is hereby authorized to enforce the provisions of ~~this Code~~ Section 201 et seq. of this title and to promulgate and enforce any reasonable rules ~~and regulations~~ with respect thereto. The Tax Commission may also prescribe, promulgate and enforce all necessary rules ~~and regulations~~ for the purpose of making and filing of all reports required under any state tax law, and such rules ~~and regulations~~ as may be necessary to ascertain and compute the tax payable by any taxpayer subject to taxation under any state tax law; and may, at all times, exercise such authority as may be necessary to administer and enforce each and every provision of any state tax law. The Tax Commission is further authorized to require any person filing a report or return required by the provisions of any state tax law to file the report or return by electronic means. The Tax Commission is also authorized to allow a taxpayer to file a return on paper that is required by this title to be filed electronically.

SECTION 3. AMENDATORY 68 O.S. 2001, Section 205.2, is amended to read as follows:

Section 205.2 A. A state agency or a district court seeking to collect a debt or final judgment of at least Fifty Dollars (\$50.00) from an individual who has filed a state income tax return may file a claim with the Oklahoma Tax Commission requesting that the amount owed to the agency or a district court be deducted from any state income tax refund due to that individual. The claim shall be filed electronically in a form prescribed by the ~~Oklahoma~~ Tax Commission and shall contain information necessary to identify the person owing

the debt, including the full name and Social Security number of the debtor.

1. Upon receiving a claim from a state agency or a district court, the Tax Commission shall notify the agency or the district court whether there are funds available to pay the claim. Provided, the Tax Commission need not report available funds of less than Fifty Dollars (\$50.00).

2. The state agency or the district court shall send notice to the debtor by regular mail at the last-known address of the debtor as shown by the records of the Tax Commission when seeking to collect a debt not reduced to final judgment. The state agency or the district court shall send notice to the judgment debtor by first class mail at the last-known address of the judgment debtor as shown by the records of the Tax Commission when seeking to collect a final judgment. The notice shall state:

- a. that a claim has been filed,
- b. the basis for the claim,
- c. that such state agency or district court has applied to the Tax Commission for any portion of the tax refund due to the debtor which would satisfy the debt or final judgment in full or in part,
- d. that the debtor has the right to contest the claim by sending a written request to the state agency or the district court for a hearing to protest the claim and if the debtor fails to apply for a hearing within ~~thirty (30)~~ sixty (60) days after the receipt of the notice, the debtor shall be deemed to have waived his or her opportunity to contest the claim,
- e. that a collection expense of five percent (5%) of the gross proceeds owed to the state agency or district court shall be charged to the debtor and withheld from the refund upon final determination of the debt or

final judgment at the hearing or upon failure of the debtor to request a hearing, and

- f. if the taxpayer settles the outstanding debt or final judgment with the agency or district court before the ~~thirty (30)~~ sixty (60) days expire, the agency or the district court shall notify the Tax Commission in writing or by electronic media that the claim has been released.

3. In the case of a joint return, the notice shall state:

- a. the name of any taxpayer named in the return against whom no debt or final judgment is claimed,
- b. the fact that a debt or final judgment is not claimed against the taxpayer,
- c. the fact that the taxpayer is entitled to receive a refund if it is due regardless of the debt or final judgment asserted against the debtor,
- d. that in order to obtain the refund due, the taxpayer must apply, in writing, for a hearing with the district court or the agency named in the notice within ~~thirty (30)~~ sixty (60) days after the date of the mailing of the notice, and
- e. if the taxpayer against whom no debt or final judgment is claimed fails to apply in writing for a hearing within ~~thirty (30)~~ sixty (60) days after the mailing of the notice, the taxpayer shall have waived his or her right to a refund.

B. If the district court or agency asserting the claim receives a written request from the debtor or taxpayer against whom no debt or final judgment is claimed requesting a hearing, the agency or the district court shall grant a hearing according to the provisions of the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes. It shall be determined at the hearing

whether the claimed sum is correct or whether an adjustment to the claim shall be made. Pending final determination at the hearing of the validity of the debt or final judgment asserted by the district court or the agency, no action shall be taken in furtherance of the collection of the debt or final judgment. Appeals from actions taken at the hearing shall be in accordance with the provisions of the Administrative Procedures Act.

C. Upon final determination at a hearing, as provided for in subsection B of this section, of the amount of the debt or final judgment or upon failure of the debtor or taxpayer against whom no debt or final judgment is claimed to request such a hearing, the district court or the agency shall submit in the manner prescribed by the Tax Commission notification of the action taken on the claim and a request that the amount owed including the collection expense be deducted from the tax refund due to the debtor and transferred to the district court or the agency. However, if the tax refund due is inadequate to pay the collection expense and debt or final judgment, the balance due the state agency or the district court shall be a continuing debt or final judgment until paid in full.

D. Upon receipt of notification provided in subsection C of this section, the Tax Commission shall:

1. Deduct from the refund five percent (5%) of the gross proceeds owed to the state agency or district court and distribute it by retaining two percent (2%) and transferring three percent (3%) to the district court or the state agency as an expense of collection. The two percent (2%) retained by the Tax Commission shall be deposited in the Oklahoma Tax Commission Fund;

2. Transfer the amount of debt or final judgment or so much thereof as is available to the state agency or the district court;

3. Notify the debtor in writing as to how the refund was applied; and

4. Refund to the debtor any balance remaining after deducting the collection expense and debt or final judgment.

E. The Tax Commission shall deduct from any state tax refund due to a taxpayer the amount of delinquent state tax, and penalty and interest thereon, which such taxpayer owes pursuant to any state tax law prior to payment of such refund.

F. The Tax Commission shall have first priority over all other agencies or district courts when the Tax Commission is collecting a debt or final judgment pursuant to the provisions of this section. Priority in multiple claims by other agencies or district courts pursuant to the provisions of this section shall be in the order in time, in which the Tax Commission receives the claim from the agencies and district courts required by the provisions of subsection A of this section.

G. The Tax Commission shall prescribe or approve forms and promulgate rules and regulations for implementing the provisions of this section.

H. The information obtained by an agency or by the district court from the Tax Commission pursuant to the provisions of this section shall be used only to aid in collection of the debt or final judgment owed to the agency or a district court. Disclosure of the information for any other purpose shall constitute a misdemeanor. Any agency or court employee or person convicted of violating this provision shall be subject to a fine not exceeding One Thousand Dollars (\$1,000.00) or imprisonment in the county jail for a term not exceeding one (1) year, or both said fine and imprisonment and, if still employed by the agency or the courts, shall be dismissed from employment.

I. The ~~Oklahoma~~ Tax Commission may employ the procedures provided by this section in order to collect a debt owed to the Internal Revenue Service if the Internal Revenue Service requires

such procedure as a condition to providing information to the Commission concerning federal income tax.

J. The provisions of this section shall not apply to claims filed under the provisions of Section 2906 or Section 5011 of this title.

SECTION 4. AMENDATORY 68 O.S. 2001, Section 214, is amended to read as follows:

Section 214. The Oklahoma Tax Commission may release any property from the lien of any warrant, certificate, judgment, or levy procured by it; provided, payment shall be made to the Tax Commission of such sum as it shall deem adequate consideration for such release, or ~~provided~~ a deposit shall be made with the Tax Commission of such security as it shall deem adequate to secure the payment of any debt evidenced by any such warrant, certificate, judgment, or levy, the lien of which is sought to be released. Provided further, however, the Tax Commission shall issue such releases without the payment of any consideration in cases where it determines that its warrant, certificate or judgment is clouding the title of such property by reason of error in the description of properties or similarity of names. Such release ~~shall be issued under the seal of the Tax Commission, delivered by mail or by personal service to the taxpayer, and~~ shall be filed in the office of the county clerk in which the lien is filed or same shall be recorded in any office in which conveyances of real estate may be recorded. Such release may be filed in the appropriate office of the county clerk by the taxpayer or by the Tax Commission. If such release is filed by the Tax Commission, the Tax Commission shall collect the filing fee, as authorized by statute, along with the other consideration for the release. The Tax Commission may file the release in the appropriate office of the county clerk by electronic means. Upon collection of the filing fees, the Tax Commission shall transmit the revenue to the State Treasurer to be

deposited in the Oklahoma Tax Commission Fund. The revenue from the fees collected shall be remitted monthly by the Tax Commission to the appropriate county treasurers to be deposited in the appropriate fund of the county clerk's department.

SECTION 5. AMENDATORY 68 O.S. 2001, Section 217, is amended to read as follows:

Section 217. A. If any amount of tax imposed or levied by any state tax law, or any part of such amount, is not paid before such tax becomes delinquent, there shall be collected on the total delinquent tax interest at the rate of one and one-quarter percent (1 1/4%) per month from the date of the delinquency until paid.

B. Interest upon any amount of state tax determined as a deficiency, under the provisions of Section 221 of this title, shall be assessed at the same time as the deficiency and shall be paid upon notice and demand of the Oklahoma Tax Commission at the rate of one and one-quarter percent (1 1/4%) per month from the date prescribed in the state tax law levying such tax for the payment thereof to the date the deficiency is assessed.

C. If any tax due under state sales, use, tourism, mixed beverage gross receipts, or motor fuel tax laws, or any part thereof, is not paid within fifteen (15) days after such tax becomes delinquent a penalty of ten percent (10%) on the total amount of tax due and delinquent shall be added thereto, collected and paid. However, the Tax Commission shall not collect the penalty assessed if the taxpayer remits the tax within thirty (30) days of the mailing of a proposed assessment or voluntarily pays the tax upon the filing of an amended return.

D. If any tax due under any state tax law other than those specified in subsection C of this section, or any part thereof, is not paid within thirty (30) days after such tax becomes delinquent a penalty of ten percent (10%) on the total amount of tax due and delinquent shall be added thereto, collected and paid. However, the

Tax Commission shall not collect the penalty assessed if the taxpayer remits the tax within thirty (30) days of the mailing of a proposed assessment or voluntarily pays the tax upon the filing of an amended return.

E. If any part of any deficiency, arbitrary or jeopardy assessment made by the Tax Commission, is based upon or occasioned by the taxpayer's negligence or by the failure or refusal of any taxpayer to file with the Tax Commission any report or return, as required by this title, or by any state tax law, within ten (10) days after a written demand for such report or return has been served upon any taxpayer by the Tax Commission by letter, the Tax Commission may assess and collect, as a penalty, twenty-five percent (25%) of the amount of the assessment. For purposes of this subsection, "negligence" shall mean the consistent understatement of income, consistent understatement of receipts or a system of recordkeeping by the taxpayer that consistently results in an inaccurate reporting of tax liability.

F. If any part of any deficiency is due to fraud with intent to evade tax, then fifty percent (50%) of the total amount of the deficiency, in addition to such deficiency, including interest as herein provided, shall be added, collected and paid.

G. All penalties or interest imposed by this title, or any state tax law, shall be recoverable by the Tax Commission as a part of the tax with respect to which they are imposed, the penalties bearing interest as provided in this section for the tax, and all penalties and interest shall be apportioned as provided for the apportionment of the tax on which such penalties or interest are collected.

H. Whenever an income tax refund is not paid to the taxpayer within ninety (90) days after the return is filed or due, whichever is later, with all documents as required by the Tax Commission, entitling the taxpayer to a refund, then the Tax Commission shall

pay interest on the refund, at the same rate specified for interest on delinquent tax payments. The payment of interest on refunds provided for by this section shall apply to tax year 1987 and subsequent tax years. The Tax Commission shall not be required to pay interest on an income tax refund which is applied, in whole or in part, to a prior year tax liability pursuant to Section 2385.17 of this title or upon an income tax refund applied, in whole or in part, to satisfy a debt owed to the Internal Revenue Service of the United States or to a state agency, including the Oklahoma Tax Commission, as provided by Section 205.2 of this title.

For tax returns filed after January 1, 2004, whenever an income tax refund is not paid to the taxpayer within the following number of days after the income tax return is filed with all documents as required by the Tax Commission or after the income tax return is due, whichever is later, entitling the taxpayer to a refund, then the Tax Commission shall pay interest on the refund at the same rate specified for interest on delinquent tax payments:

1. For returns filed electronically, thirty (30) days; and
2. For all other returns, one hundred fifty (150) days.

SECTION 6. AMENDATORY 68 O.S. 2001, Section 231, is amended to read as follows:

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

by a time to be therein specified, not more than sixty (60) days from the date of the warrant.

B. The Tax Commission shall, immediately upon issuance of the warrant, file with the county clerk of the county for which the warrant was issued a copy thereof, and thereupon the county clerk shall record and index such warrant in the same manner as judgments using the name of the taxpayer named in the warrant, a short name for the tax, the amount of the tax or portion thereof, and interest and penalties for which the warrant was issued, and the date and time when such copy was filed. The Tax Commission may file the warrant in the appropriate office of the county clerk by electronic means. The filing of the warrant in the office of the county clerk of the county, shall constitute and be evidence and notice of the state's lien upon any interest in any real property of the taxpayer against whom such warrant is issued, until such tax, penalty and interest accruing thereon is paid. Such lien shall be in addition to any and all other liens existing in favor of the state to secure the payment of the unpaid tax, penalty, interest and costs, and such lien shall be paramount and superior to all other liens of whatsoever kind or character, attaching to any of said property subsequent to the date and time of such filing and shall be in addition to any lien provided by Section 234 of this title. The Tax Commission shall, immediately upon issuance of the warrant, mail, by regular mail, a copy of the warrant to the last-known address of the delinquent taxpayer. Such lien is hereby released and extinguished upon the payment of such tax, penalty, interest and costs, or, except as otherwise provided herein, upon the expiration of ten (10) years after the date upon which the warrant was filed with the county clerk; provided, the Tax Commission may, prior to the release and extinguishment of such lien, refile the warrant in the office of the county clerk. A warrant so refiled shall continue the lien until payment of the tax, penalty, interest and costs, or upon the

expiration of ten (10) years after the date upon which the warrant was refiled and indexed by the county clerk. All active liens evidenced by a warrant filed with a county clerk's office prior to November 1, 1989, shall be released and extinguished if the warrant is not refiled prior to November 1, 2001.

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

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

E. The Tax Commission may levy upon and sell without any appraisement or valuation any real or personal property of any taxpayer identified by a filed tax warrant. The Tax Commission may execute the tax warrant in the same manner prescribed by law for executions against property upon judgment of a court of record and may execute and deliver to the purchaser a bill of sale or deed, as the case may be.

F. Any purchaser, other than the State of Oklahoma, shall be entitled, upon application to the court having jurisdiction of the property, to have confirmation, the procedure for which shall be the same as is now provided for the confirmation of a sale of property under execution, of such sale prior to the issuance of a bill of sale or deed. The State of Oklahoma shall be authorized to make bids at any such sale to the amount of tax, penalty and costs accrued. In the event such bid is successful, the sheriff shall

issue proper muniment of title to the Tax Commission which shall hold such title for the use and benefit of the State of Oklahoma; and any taxpayer, or transferee of such taxpayer, shall have the right, at any time within one (1) year from the date of such sale, to redeem such property, upon the payment of all taxes, penalties and costs accrued to the date of redemption. Such applicant shall not be entitled to a credit upon such taxes, penalties and costs, by reason of revenue that might have accrued to the State of Oklahoma or other purchaser under sale, prior to such redemption. After the expiration of the period of redemption herein provided, the Tax Commission acting for the State of Oklahoma may sell such property at public auction, upon giving thirty (30) days' notice, published in a newspaper of general circulation in the county where such property is located, to the highest and best bidder for cash; and upon a sale had thereof, or when a redemption is made, the Tax Commission, for and on behalf of the State of Oklahoma, shall issue its bill of sale or quit claim deed, as the case may be, to the successful bidder or to the redemptioner. Such muniment of title shall be executed by the Tax Commission, and attested by its secretary, with the seal of the Tax Commission affixed. The sheriff shall be entitled to the same fee for services in executing the warrant, as the sheriff would be entitled to receive if he or she were executing an execution issued by the court clerk of the county upon a judgment of a court of record.

G. If any sheriff shall refuse or neglect to levy upon and sell any real or personal property of any taxpayer as directed by any warrant issued by the Tax Commission, or shall refuse or neglect, on demand, to pay over to the Tax Commission, its agents or attorneys, all monies collected or received under any warrant issued by the Tax Commission, at any time after collecting or receiving the same, such sheriff or other officer shall, upon motion of the Tax Commission in court, and after thirty (30) days' notice thereof, in writing, be

amerced in the amount for which any such warrant was issued by the Tax Commission, together with all penalties and costs and with an additional penalty of ten percent (10%) thereon, to and for the use of the State of Oklahoma. Every surety of any sheriff or officer shall be made a party to the judgment rendered as aforesaid against the sheriff or other officer.

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

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

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

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

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

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

SECTION 7. AMENDATORY Section 1, Chapter 154, O.S.L. 2002 (68 O.S. Supp. 2002, Section 264), is amended to read as follows:

Section 264. A. Notwithstanding the provisions of Section 205 of ~~Title 68 of the Oklahoma Statutes~~ this title and Section 85.7 of

Title 74 of the Oklahoma Statutes, the Oklahoma Tax Commission is authorized to enter into a contract with and release taxpayer information to ~~Cameron University~~ entities deemed to be qualified by the Tax Commission to acquire or utilize its computer server to compare information in disparate databases their technology systems or information to detect non-registered taxpayers, non-filers and under-reporting taxpayers. Functions and duties to be performed by the contracting entity may include registration, processing, and collection functions and other functions deemed necessary by the Tax Commission.

B. Compensation ~~to the University~~ shall be ~~limited to~~ based on a percentage of the additional tax revenues ~~realized from accounts identified through the~~ attributable to the implementation and use of the computer server technology systems or information. The contract may provide for additional fixed fees for services performed under the contract to be paid from monies appropriated by the Legislature or from the additional tax revenues.

~~The confidentiality provisions of this section and Section 205 of Title 68 of the Oklahoma Statutes shall not prohibit Cameron University from releasing information to any person with whom it has contracted to assist in the performance of its obligations under the contract with the Tax Commission. Provided, the~~

C. The taxpayer information released to Cameron University the contracting party shall be considered confidential and privileged and neither the ~~University~~ contracting party nor its employees, ~~nor any person with whom the University has contracted to assist in the performance of its obligations under the contract with the Tax Commission nor any of such person's employees,~~ shall disclose any information obtained from the records or files. A violation of any of the provisions of this section shall constitute a misdemeanor punishable in the same manner and to the same extent as a violation

of any of the provision of Section 205 of ~~Title 68 of the Oklahoma Statutes~~ this title.

D. The Tax Commission shall pay from the taxes collected and attributable to the utilization of the acquired technology systems the amount of fees the contracting party is entitled for services performed pursuant to the contract.

SECTION 8. AMENDATORY 68 O.S. 2001, Section 500.6, as amended by Section 4, Chapter 458, O.S.L. 2002 (68 O.S. Supp. 2002, Section 500.6), is amended to read as follows:

Section 500.6 A. The tax of sixteen cents (\$0.16) per gallon of gasoline that is levied by paragraph 1 of subsection A of Section 500.4 of this title, and the tax of two and eight one-hundredths cents (\$0.0208) per gallon of gasoline that is levied by subsection C of Section 500.4 of this title, and penalties and interest thereon, collected by the Oklahoma Tax Commission under the levy shall be apportioned and distributed monthly as follows:

1. The first Two Hundred Fifty Thousand Dollars (\$250,000.00) of the levy collected each month shall be deposited in the State Treasury to the credit of the State Transportation Fund;

2. One and six hundred twenty-five one-thousandths percent (1.625%) of the levy shall be remitted to the State Treasurer to the credit of the General Revenue Fund of the State Treasury;

3. Sixty-three and seventy-five one-hundredths percent (63.75%) of the levy shall be deposited in the State Treasury to the credit of the State Transportation Fund to be apportioned as follows:

a. the first Eight Hundred Fifty Thousand Dollars (\$850,000.00) collected each fiscal year shall be deposited into the Public Transit Revolving Fund, created in Section 4031 of Title 69 of the Oklahoma Statutes,

b. the second Eight Hundred Fifty Thousand Dollars (\$850,000.00) collected each fiscal year shall be

deposited into the Oklahoma Tourism and Passenger Rail Revolving Fund and shall be used by the Department of Transportation:

- (1) to contract railroad passenger services, including but not limited to a route linking stations in Oklahoma and Tulsa Counties with other primary points in the national railroad passenger system and passenger rail service within the state, and a route beginning at a station in Oklahoma County and extending north to the Kansas state line in Kay County, and
 - (2) to provide necessary facility, signaling, and track improvements for those contracted services,
- c. forty-one and two-tenths percent (41.2%) of the monies apportioned to the State Transportation Fund shall be used for any purpose provided for in Section 1502 of Title 69 of the Oklahoma Statutes,
- d. nine and eight-tenths percent (9.8%) of the monies apportioned to the State Transportation Fund shall be used to provide funds for the construction and maintenance of farm-to-market roads on the state highway system, and other rural farm-to-market roads and bridges, and
- e. any remaining amount of the apportionment shall be deposited into the State Transportation Fund;

4. Twenty-seven percent (27%) of the levy shall be transmitted by the Tax Commission to the various counties of the state, to be apportioned and used as follows:

- a. sixty-five and three-tenths percent (65.3%) of the monies apportioned under this paragraph shall be used on the following basis:

- (1) forty percent (40%) of such sum shall be distributed to the various counties in the proportion which the county road mileage of each county bears to the entire state road mileage as certified by the Transportation Commission, and
- (2) the remaining sixty percent (60%) of such sum shall be distributed to the various counties on the basis which the population and area of each county bears to the total population and area of the state. The population shall be as shown by the last Federal Decennial Census or the most recent annual estimate provided by the U.S. Bureau of the Census,

- b. twenty-three and one-tenth percent (23.1%) of the monies apportioned under this paragraph shall be distributed to the counties in the following manner: One-third ($1/3$) on area; one-third ($1/3$) on rural population, defined as including the population of all municipalities with a population of less than five thousand (5,000) according to the latest Federal Decennial Census; and one-third ($1/3$) on county road mileage, as last certified by the Department of Transportation, as each county bears to the entire area, rural population and road mileage of the state, and
- c. eleven and six-tenths percent (11.6%) of the monies apportioned under this paragraph shall be distributed to the various counties of the state based on a formula developed by the Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes. The

formula shall be similar to the formula currently used for the distribution of monies in the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to county road improvement and maintenance costs. Any county may, by resolution of the board of county commissioners, direct the Tax Commission to deposit the funds apportioned pursuant to this subparagraph directly into the County Bridge and Road Improvement Fund to be used for the purposes set forth in the County Bridge and Road Improvement Act;

5. Three and one hundred twenty-five one-thousandths percent (3.125%) of the levy shall be distributed to the various counties of the state based on a formula developed by the Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes. The formula shall be similar to the formula currently used for the distribution of monies in the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to county road improvement and maintenance costs. Any county may, by resolution approved by a majority of the board of county commissioners and filed with the Tax Commission, direct the Tax Commission to deposit the funds apportioned pursuant to this paragraph directly into the County Bridge and Road Improvement Fund to be used for the purposes set forth in the County Bridge and Road Improvement Act;

6. Two and six hundred twenty-five one-thousandths percent (2.625%) of the levy shall be deposited in the County Bridge and Road Improvement Fund of the State Treasury to be used for the purposes set forth in the County Bridge and Road Improvement Act; and

7. One and eight hundred seventy-five one-thousandths percent (1.875%) of the levy shall be transmitted by the Tax Commission to the treasurers of the various incorporated cities and towns of the state in the percentage which the population, as shown by the last Federal Decennial Census or the most recent annual estimate provided by the U.S. Bureau of the Census, bears to the total population of all the incorporated cities and towns in this state. The funds shall be expended for the construction, repair and maintenance of the streets and alleys of the incorporated cities and towns of this state.

Provided, for the fiscal year beginning July 1, 2002, the first Two Hundred Thousand Dollars (\$200,000.00) of such revenues shall be apportioned to the Education Reform Revolving Fund.

B. 1. The funds apportioned or transmitted pursuant to subparagraphs a, b, and c of paragraph 4 of subsection A of this section, subsection B of Section 500.7 of this title, subsection B of Section 704 of this title, Section 706 of this title, and paragraph 2 of subsection D of Section 707.3 of this title shall be sent to the respective county treasurers and deposited in the county highway fund to be used by the county commissioners for the purpose of constructing and maintaining county highways and bridges.

2. The funds received by any county shall not be diverted to any other county of the state, and shall only be expended under the direction and control of the board of county commissioners in the county to which the funds are appropriated. If any part of the funds is diverted for any other purpose, the county commissioners shall be liable on their bond for double the amount of the money so diverted. This paragraph shall not prohibit counties from entering into cooperative agreements pertaining to the maintenance and construction of roads and bridges.

3. Where any county highway has been laid out over a road already constructed in any county by the use of money raised from

county bond issues for that purpose, either alone or by the use of federal or state aid, or both, the county commissioners may set aside out of the funds apportioned to that county, as provided in this section, an amount of money equal to the value of any part thereof, of the interest of such county in such highway or bridge, which amount of money shall be considered by the excise board in reducing the levy for the purpose of retiring the bonded indebtedness and interest thereon of the county, and shall be used for investment or deposit in the same manner as provided by law for the disposition of other sinking fund money.

4. In all counties where the county excise board may find it necessary, because of insufficient revenue, to maintain county government out of the general fund, after a levy of ten (10) mills has been made for any fiscal year, the county excise board may appropriate out of any such funds apportioned to the county an amount sufficient to pay the salaries of the county commissioners of the county for the fiscal year.

5. Counties may use funds deposited in the county highway fund for the purpose of matching federal or state funds, provided such funds are available, as necessary to secure assistance in the construction or improvement of the county road system.

C. With regards to the apportionment of the levy as set forth in paragraph 5 of subsection A of this section, paragraph 5 of subsection A of Section 500.7 of this title, and subsection C of Section 707.2 of this title:

1. If any county has an accrued balance of funds which were appropriated to or otherwise accrued in a restricted road maintenance fund, such funds shall be deposited directly to the county highway fund of the county;

2. If any county has an accrued balance of funds which were appropriated to or otherwise accrued in the County Road Improvement Fund, or the County Bridge Improvement Fund, ~~as such funds existed~~

~~prior to July 1, 1997,~~ such funds shall, by resolution approved by a majority of the board of county commissioners and filed with the Department of Transportation, be deposited in the county highway fund of the county or shall be deposited to the County Bridge and Road Improvement Fund to be used for the purposes set forth in the County Bridge and Road Improvement Act; and

3. If any county has an advanced funding agreement with the Department of Transportation, the Department of Transportation shall notify the Tax Commission as to the amount the county is obligated to pay according to the terms of the advanced funding agreement. The obligated amount shall be transferred each month by the Tax Commission to the Department of Transportation to the credit of the County Bridge and Road Improvement Fund from the funds apportioned to the county pursuant to paragraph 5 of subsection A of this section. A county may elect to increase the monthly amount to be repaid pursuant to the advanced funding agreement from the funds apportioned to the county, but a county shall not be permitted to reduce the amount agreed to pursuant to the advanced funding agreement.

D. The tax levied on gasoline pursuant to Section 500.4A of this title, and the penalties and interest thereon, collected by the Tax Commission under the levy shall be apportioned and distributed on a monthly basis to the State Highway Construction and Maintenance Fund for the purposes authorized by Section 1502 of Title 69 of the Oklahoma Statutes.

SECTION 9. AMENDATORY 68 O.S. 2001, Section 500.20, is amended to read as follows:

Section 500.20 A. The tax imposed by Section 4 500.4 of this ~~act~~ title, measured by motor fuel removed by a licensed supplier from a terminal or refinery in this state other than a bulk transfer, shall be precollected and remitted on behalf of the retail

consumers to the state by the supplier, as shown in the records of the terminal operator, who removes the taxable gallons.

B. The supplier, and each reseller, shall list the amount of tax as a separate line item on all invoices or billings.

C. All tax to be paid by a supplier with respect to gallons removed on the account of the supplier during a calendar month shall be due and payable on or before the twenty-seventh day of the following month unless such day falls upon a weekend or state or banking holiday in which case the liability would be due the next succeeding business day.

D. A supplier shall remit any late taxes remitted to the supplier by an eligible purchaser and shall timely notify the Commission of any late remittances if that supplier has previously given notice to the Commission of an uncollectible tax amount pursuant to subsection B of Section ~~24~~ 500.24 of this ~~act~~ title. For the purposes of reporting a payment received on previously claimed uncollectible taxes, any payments made to a supplier on a debt or account shall be applied first proportionally to the gallons sold and the tax thereon, and secondly to interest, service charges, and any other charges.

SECTION 10. AMENDATORY 68 O.S. 2001, Section 607, is amended to read as follows:

Section 607. A. Before any person imports gasoline or diesel fuel into the state in the fuel supply tank or tanks of any motor vehicle, or in any other container for use on the highways of this state, such person shall file application for and obtain a Motor Fuel/Diesel Fuel Importer for Use License. Such requirement shall be complied with notwithstanding the tax levied by the Motor Fuel Tax Code has been paid on such gasoline or diesel fuel. However, persons exempted by Section 605 of this title from the tax levied pursuant to Section 603 of this title shall not be required to obtain such license. The application required by this section shall

be verified and filed on a form prescribed and furnished by the Oklahoma Tax Commission showing the name and address and kind of business of the applicant, a designation of the principal place of business and such other information as the Tax Commission may require. Such application must also contain, as a condition to the issuance of the license, an agreement by the applicant to comply with the requirements of ~~this article~~ Section 601 et seq. of this title and the rules ~~and regulations~~ of the Tax Commission.

B. Before any such application may be approved by the Tax Commission, the applicant must fully comply with the contribution requirements pursuant to Section 607.2 of this title. In addition, prior to the approval, the Tax Commission may require the applicant to file a bond payable to the State of Oklahoma conditioned upon compliance with the provisions of ~~this article~~ Section 601 et seq. of this title and the rules ~~and regulations~~ of the Tax Commission in a sum of not more than Ten Thousand Dollars (\$10,000.00), the amount thereof to be fixed by an order of the Tax Commission. During the license year, the amount of any such bond required may be increased or reduced by the Tax Commission at its discretion, and the Tax Commission may in its discretion, waive the filing of a bond by any person who regularly purchases sufficient gasoline or diesel fuel on which the motor fuel or diesel fuel excise tax has been paid to this state when the tax equals or exceeds the amount of the tax levied against such person under ~~this article~~ Section 601 et seq. of this title.

C. Upon approval of such application and bond, the Tax Commission shall issue to the applicant a nontransferable Motor Fuel/Diesel Fuel Importer for Use License bearing a distinctive number, at no charge to the applicant. The license shall be issued on an annual basis and shall remain in full force and effect until surrendered, suspended, or canceled in the manner provided by law. Each license shall be valid only for the operation of motor vehicles

on the highways of this state by the person to whom it is issued including motor vehicles transporting persons or property in furtherance of the business of the licensee under a lease, a contract or any other arrangement, whether permanent or temporary in nature. The Tax Commission may issue one (1) license credential to evidence the compliance of the applicant with the provisions of this section and the provisions of Section 1120 of Title 47 of the Oklahoma Statutes.

D. In consideration of the use of the highways of this state, and in addition to all other taxes levied for such purposes, all persons who import motor fuel/diesel fuel into the state in the fuel supply tank or tanks of motor vehicles for use in propelling the vehicles on the highways for commercial purposes may receive a temporary motor fuel/diesel fuel permit from the Tax Commission. This permit shall be recognized in lieu of licensing requirements in this state. The permit shall indicate the time and date of its issuance and shall be valid for a period not to exceed one hundred twenty (120) hours from such indicated time.

~~1-~~ A fee of Twenty-five Dollars (\$25.00) shall be charged for the issuance of the temporary permit. Eight Dollars (\$8.00) of the fee shall be apportioned in the same manner as other motor fuel/diesel fuel revenue. Two Dollars (\$2.00) of the fee shall be retained by the Tax Commission and deposited in its revolving fund. Fifteen Dollars (\$15.00) of the fee shall be paid to the State Treasurer for deposit in the General Revenue Fund.

~~2-~~ Any person importing motor fuel/diesel fuel into this state for use while in possession of an expired, altered or undated temporary fuel permit shall be deemed to be operating without proper licensing and shall be subject to licensing and penalties as provided for in the Motor Fuel/Diesel Fuel Importer for Use Tax Code.

~~3.~~ The Tax Commission may prescribe an application form for the temporary permit and such other forms as it deems appropriate. The Tax Commission, without notice, may suspend the issuance of temporary permits to any person found to be in violation of the Motor Fuel/Diesel Fuel Importer for Use Tax Code or similar laws of this state.

The Tax Commission may enter into an agreement with any person or corporation located within or without the state for transmission of temporary permits by way of a facsimile machine or other device when the Tax Commission determines that such agreement is in the best interests of the state.

E. In lieu of the requirements as provided for in ~~this article~~ Section 601 et seq. of this title in respect to licensing, bonding, reporting and auditing, the Tax Commission may, when in the best interests of this state and its residents, enter into the International Fuel Tax Agreement or other cooperative compacts or agreements with another state or other states or provinces to permit base state or base jurisdiction licensing of persons importing motor fuel or diesel fuel into this state and liable for the tax levied pursuant to ~~this article~~ Section 601 et seq. of this title and provide for the cooperation and assistance among the member states and provinces in the administration and collection of motor fuels consumption and use taxes.

SECTION 11. AMENDATORY 68 O.S. 2001, Section 807, is amended to read as follows:

Section 807. A. The value of the gross estate, used as a basis for a determination of the value of the net estate, shall be determined by including:

1. The value, at the time of the death of the decedent, or the alternate valuation as herein authorized, of all property, real, personal, or mixed, whether tangible or intangible, in which the decedent had an interest, whether vested or contingent, within the

jurisdiction of this state, and any interest therein, or income therefrom, which shall pass in possession or enjoyment, present or future, by distribution, by statute, descent, devise, bequest, grant, deed, bargain, sale, gift or contract, to any person or persons, associations or corporations, in trust or otherwise, by testamentary disposition or by the laws of inheritance or succession of this or any other state or country, and including the value of the homestead.

However, in determining the value of the gross estate of a nonresident of this state, there shall be excluded all intangible personal property, except intangible personal property required to be included in such gross estate and subjected to tax under paragraph 7 of this subsection, if:

- a. the transferor at the time of the transfer was a resident of a state or territory of the United States, or of any foreign country, which at the time of the transfer did not impose a transfer tax or death tax of any character in respect of personal property of residents of this state, except tangible personal property having an actual situs in such state or territory or foreign country, or
 - b. the laws of the state, territory or country of residence of the transferor at the time of the transfer contained a reciprocal exemption provision under which nonresidents were exempted from transfer taxes or death taxes of every character in respect to personal property, except tangible personal property having an actual situs therein, provided the state, territory or country of residence of such nonresident allowed a similar exemption to residents of the state, territory or country of residence of such transferor.
- For the purpose of this subsection the District of

Columbia and possessions of the United States shall be considered territories of the United States-;

2. Except as provided in this paragraph, the value of any real or personal property, including the homestead passing 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 the death of the decedent. Any transfer made by the decedent of a material part of the estate of the decedent within three (3) years prior to death, without an equivalent in monetary consideration, shall, unless shown to the contrary, be deemed to have been in contemplation of death, and such transfers shall be included at their net value at the date of decedent's death. ~~This~~ Except as to gifts with respect to a life insurance policy, this paragraph shall not apply to ~~any gift to a donee, excepting gifts with respect to a life insurance policy, made during the calendar year if the decedent was not required to file any federal gift tax return for such year with respect to gifts to such donee.~~ that portion of a gift which is properly excluded from the decedent's federal taxable gifts or which is treated as a federal taxable gift of the decedent only because the decedent consented to have a gift made by his or her spouse treated as made one-half by the decedent;

3. To the extent of any interest therein of which the decedent has, at any time, made a transfer, in trust or otherwise, where the enjoyment thereof was subject, at the date of the death of the decedent, to any change through the exercise of a power, either by the decedent alone or in conjunction with any person, to alter, amend or revoke the terms of such trust, or where the decedent relinquished any such power in contemplation of death, or where the decedent reserved to the decedent during the life of the decedent the income from the property included in any such transfer; and to the extent of any interest in property in which the decedent donee

has released a general power of appointment in contemplation of the death of the decedent, whether or not the decedent had previously transferred such property~~;~~;

4. To the extent of the value of any interest of the decedent in any property owned by the decedent and any other person as joint tenants, or tenants by the entirety, including funds or securities deposited with any person, corporation, bank or trust company or held in any safety box kept by the beneficiary or joint survivor, except such part of the property or deposit as may be shown to have originally belonged to such other person and never to have been acquired by the latter from the decedent for less than an adequate and full consideration in money or money's worth. Persons claiming to own an interest with the decedent in any property, real or personal, included in the taxable estate of the decedent must support said claim by adequate proof, showing the value of claimant's interest contributed in money or money's worth from separate funds or properties, and provided that a sworn affidavit setting forth the facts supporting such claims shall be considered prima facie evidence of adequate proof~~;~~;

5. To the extent of the total amount of the proceeds of insurance payable or accruing to the decedent's estate by virtue of policies upon the life of the decedent or the annuities, cash surrender values or options held in life insurance policies upon the lives of others~~;~~;

6. ~~a.~~ To the extent of the amount receivable directly, in trust, or as annuities by all other beneficiaries, or under a joint policy by the survivor, of the proceeds of life insurance, by virtue of policies taken out on the life of the decedent and in which, at the time of death, the decedent had the right, directly or indirectly, to change the beneficiary or to convert the policy to decedent's own use, or in which the

decedent possessed any other incidents of ownership, exercisable either alone or in conjunction with any other person.

~~b.~~ This ~~article~~ section shall not operate to include as a taxable asset any interest in any policy or contract of insurance, wherein the insured survives such spouse or beneficiary, belonging to any deceased spouse as such, or to any deceased spouse as beneficiary, or to any deceased beneficiary, claimed or existing on account of payment of premiums from funds of any beneficiary.

~~e.~~ Each and every insurance company, association or other institution which has outstanding on the life of a deceased resident of this state policies of insurance in an aggregate amount of Two Thousand Five Hundred Dollars (\$2,500.00)~~7~~ or more, immediately upon being notified of the death of the insured, shall file with the Oklahoma Tax Commission an information return containing complete information pertaining to such insurance, including any information on file with the reporting insurer concerning policies of insurance issued by other insurers on the life of the decedent. Notwithstanding any provisions of this or other sections, no insurer shall be liable for any part of the tax levied by Section 801 et seq. of this article title, and no insurer shall be required to retain any portion of the proceeds of a policy.

~~d.~~ The provisions of this section and of Section 801 et seq. of this article title shall not apply to the value of an annuity or other payment receivable by any beneficiary under:

~~(1)~~

a. an employees' trust, or under a contract purchased by an employees' trust, forming a part of a pension, stock bonus, or profit-sharing plan, where said trust was created for the exclusive benefit of the employee members or their beneficiaries and said purpose had not been altered at the time of the decedent's separation from employment, whether by death or otherwise, or at the time of termination of the plan if earlier, and was a plan described in Section 401(a) of the Internal Revenue Code of 1954, as amended,
~~(2)~~

b. a retirement annuity contract purchased by an employer, and not by an employees' trust, pursuant to a plan which, at the time of decedent's separation from employment, by death or otherwise, or at the time of termination of the plan if earlier, was a plan described in Section 403(a) of the Internal Revenue Code of 1954, as amended, or
~~(3) — A~~

c. a retirement annuity contract purchased for an employee by an employer which is an organization referred to in subsection A of Section 2359 of this title, and which is exempt from tax.

If such amounts payable after the death of the decedent under a plan described in ~~division (1) or (2)~~ subparagraph a or b of this ~~subparagraph paragraph~~, under a contract described in ~~division (3)~~ subparagraph c of this ~~subparagraph paragraph~~, are attributable to any extent to payments or contributions made by the decedent, no exclusion shall be allowed for that part of the value of such amounts in the proportion that the total payments or contributions made by the decedent bear to the total payments or contributions, except that all amounts payable to a surviving spouse shall not be

included in the decedent's estate. For purposes of this subsection, contributions or payments made by the decedent's employer or former employer under a trust or plan described in ~~division (1) or (2)~~ subparagraph a or b of this ~~subparagraph~~ paragraph shall not be considered to be contributed by the decedent, and contributions or payments made by the decedent's employer or former employer toward the purchase of an annuity contract described in ~~division (3)~~ subparagraph c of this ~~subparagraph~~ paragraph shall, to the extent excludable from gross income under Section 403(b) of the Internal Revenue Code of 1954, as amended, not be considered to be contributed by the decedent-;

7. To the extent of the interest of any decedent, who at the time of death was a nonresident of the State of Oklahoma, in any intangible personal property which is used in connection with any established business, having a business situs in this state including, the interest of such nonresident in a partnership the business of which is conducted in the state or the majority of assets of which are located in this state. None of the intangible personal property subject to tax under this paragraph shall be exempt under the provisions for reciprocity in paragraph 1 of subsection A of this section. No property exempted by paragraph 6 of this subsection shall be subject to tax by reason of this paragraph-;

8. If a decedent bequeaths property to one or more executors or trustees in lieu of their commissions or allowance or in any amount exceeding the commission or allowance prescribed by law, the excess in value of the property so bequeathed over the amount prescribed by law ~~is taxable and must be included as a part of the gross estate-;~~ and

9. To the extent of the value of any interest in property within the jurisdiction of this state, over which the decedent at the time of the death of the decedent had possessed a "general power

of appointment". A "general power of appointment" as used herein is restricted to one which is exercisable in favor of the decedent, the estate of the decedent, creditors of the decedent, or the creditors of the estate of the decedent.

B. In determining the value of the gross estate under this section, there shall be excluded:

~~1. The~~ the value of any interest in decedent's estate, beneficial or otherwise, vesting in the surviving spouse, provided that the value of such interest shall be included for the purpose of computing additional tax liability under Section 804 of this title.

~~2. Such exclusion under paragraph 1 of this subsection~~ shall be limited to that value of the gross estate, beneficial or otherwise, vesting in the surviving spouse, less debts, mortgages, liens, administration charges or other encumbrances chargeable against the value of the gross estate so vested.

C. The gross value of the estate shall not be diminished by:

~~1. Any~~ any transfers due to the claim of any creditor against the estate arising from a contract payable by its terms at or after the death of the decedent, except insofar as it may be affirmatively shown by competent evidence that such claim was legally due and payable in the lifetime of the decedent or was supported by a consideration of equivalent monetary value; and the forgiveness of any debt or the surrender of any right in any contract or chose in action upon the death of the decedent shall be deemed a transfer to the extent of the value or interest of the decedent therein at the time of death.

~~2. The deduction of any right of dower or curtesy claimed or passing under the laws of any other state, territory or foreign country, and the ownership of property, devolution, and succession thereto, the construction of wills, deeds, or transfers of both real and personal property within this state, the taxable situs thereof and the domicile of the decedent shall be governed by the laws of~~

this state for the purposes of Section 801 et seq. of this ~~article~~ title.

D. The term "tangible property," as used in Section 801 et seq. of this ~~article~~ title, means and includes all corporeal property such as real estate, goods, wares and merchandise, or any interest therein, or income therefrom. The term "real estate" includes any royalty, ground rental, leasehold interest or income therefrom. The terms "goods, wares, and merchandise" means and includes all property, real, personal or mixed, situated within the State of Oklahoma or within its jurisdiction. The term "intangible property," as used herein, means and includes all incorporeal property other than that named as tangible.

E. Whenever the property within this state of a resident or nonresident decedent is not specifically bequeathed or devised, such property, including all transfers under a residuary clause, shall for the purpose of Section 801 et seq. of this ~~article~~ title be deemed to be transferred proportionally to and divided pro rata among all the general legatees and devisees named in the will.

F. There shall be exempt from payment of tax hereunder any estate, the total net value of which, within the State of Oklahoma, does not exceed the sum of One Hundred Dollars (\$100.00).

SECTION 12. AMENDATORY 68 O.S. 2001, Section 815, is amended to read as follows:

Section 815. A. 1. The executor, administrator, trustee, devisee, heir or transferee shall within nine (9) months after the date of death of the decedent, unless the time has been extended by the Oklahoma Tax Commission, make a detailed return, verified by affidavit, to the Tax Commission upon forms furnished by it, giving all the information called for or that may be necessary to determine the value of the net estate. The provisions of this subsection shall not apply to estates exempt from filing such return by the provisions of subsections D and E of this section.

2. For estate tax returns filed pursuant to this section, an extension of time to file the return may be granted for a period not to exceed six (6) months. The request for the extension shall be made to the Tax Commission before the expiration of the normal filing period as allowed pursuant to paragraph 1 of this subsection.

B. Upon receipt of such return, the Tax Commission ~~shall proceed to audit the same and~~ may, for the purpose of determining the value of the estate or any transfer, audit the books of account and records of any executor, administrator, trustee, devisee, heir, corporation, bank, trust company or transferee, and may appraise the property transferred or returned and investigate and include any property or transfers which may have been omitted from the return and shall thereupon compute, and by order assess, the tax, together with any interest or penalty which it may find to be due, and shall forthwith notify the administrator, executor, trustee or transferee and ~~their~~ such person's attorney of record of such assessment by furnishing a detailed statement of the values of ~~said~~ the estate or transfers, as fixed by the Tax Commission, and the amount of tax assessed. Such notice may be delivered in person or may be by mail addressed to such administrator, executor, trustee, transferee and ~~their~~ such person's attorney of record at ~~their~~ the last-known post office addresses, with the postage thereon prepaid, and upon receipt of such notice of assessment, the administrator, executor, trustee, devisee, heir or transferee liable for such tax shall pay the tax to the Tax Commission as provided herein. Provided, however, that if upon receipt of such notice the administrator, executor, or trustee or any party interested is dissatisfied with such findings or assessment or any appraisement made by the Tax Commission, ~~he~~ such person shall, within thirty (30) days from the date of mailing of such notice, file with the Tax Commission ~~his~~ an objection, in writing, specifically setting forth the grounds of ~~his~~ the objections, and thereupon the Tax Commission may grant a hearing,

and upon such hearing may adjust the matters in controversy and correct the assessment as justice may require. Provided further, the administrator, executor, trustee or any interested party who finds, within one (1) year from the date of mailing of the notice, an error of omission or inclusion of property on return, may file in writing, an objection with the Tax Commission specifically setting forth the grounds of ~~his~~ the objection, and thereupon the Tax Commission shall grant a hearing, and upon such hearing shall adjust the matters in controversy and add to or delete from the return such property as justice may require.

An administrator, executor, trustee or any interested party who fails to file ~~his~~ an objection within the thirty-day time period prescribed by this section may, within one (1) year from the date of mailing of the notice, request the ~~Oklahoma~~ Tax Commission to adjust or abate the assessment for reasons other than an error of omission or inclusion of property on return, if the administrator, executor, trustee or any interested party can demonstrate, by a preponderance of the evidence, that the assessment or some portion thereof is clearly erroneous. If the Tax Commission determines that the proper showing has been made, the assessment or portion thereof determined to be clearly erroneous shall be deemed not to have become final and absolute. No hearing to adjust or abate a clearly erroneous assessment may be granted after the denial by the Tax Commission of such a request. An order of the Tax Commission denying a request of an administrator, executor, trustee or any interested party to adjust or abate an assessment alleged to be clearly erroneous is not an appealable order under Section 225 of this title. No proceeding instituted by the ~~Oklahoma~~ Tax Commission to collect a tax liability may be stayed because of a request made by a taxpayer to adjust or abate an assessment alleged to be clearly erroneous.

C. No assessment of inheritance, estate or transfer tax shall be made hereunder subsequent to the lapse of ten (10) years after

the date of the death of any decedent, except that this time limitation on the making of assessments and the beginning of proceedings for collection shall not affect or apply to assessments of inheritance, estate, transfer or gift taxes upon the estates of restricted Indians. If an estate tax return is filed as required by law, additional assessment may be made based upon unreported assets of the estate if such assessment is made not later than ten (10) years from the date of death of the decedent; provided, however, such additional assessment shall be made and any lien applicable thereto shall attach only against such unreported assets.

D. When all the property, both real and personal, of a decedent passes to the surviving spouse, no estate tax return shall be required and no order from the Tax Commission exempting such estate, the executor, administrator or beneficiary from payment of estate tax shall be necessary for any purpose, unless there are taxes due under the provisions of Section 804 of this title. However, an estate tax return or affidavit in a form provided by the ~~Oklahoma~~ Tax Commission may be filed which indicates that all the property of the decedent passes to the surviving spouse, and the Tax Commission, upon being satisfied from an examination of ~~said~~ the return or affidavit and any other information available to it that all of the property of the decedent passes to the surviving spouse, shall issue an order exempting as nontaxable all property included in such decedent's estate.

E. When an order releasing estate tax liability is obtained from the district court, as provided in this act, no estate tax return shall be required and no order from the Tax Commission exempting such estate, the executor, administrator or beneficiaries from the payment of estate tax shall be necessary for any purpose for any property described in such order of the district court.

F. The provisions of this section or Section 205 of this title shall not prevent the Tax Commission from delivering, upon written

request, to a duly authorized representative of the taxpayer, or any individual who has judicially been determined to be an heir, devisee, or legatee of the taxpayer by a court of competent jurisdiction, or any individual named as a beneficiary of a trust of the taxpayer, a copy of any return exclusive of distribution schedule, any order assessing tax or any other paper or report filed or issued pursuant to the provisions of Sections 801 et seq. of this title.

SECTION 13. AMENDATORY 68 O.S. 2001, Section 1352, as amended by Section 1 of Enrolled Senate Bill No. 5 of the 1st Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 1352. As used in the Oklahoma Sales Tax Code:

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 sale of tangible personal property is made or to whom a taxable service is furnished. "Consumer" or "user" includes all contractors to whom a taxable sale of materials, supplies, equipment, or other tangible personal property is made or 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 and who, as a necessary and incidental part of performing such improvement, incorporates tangible personal property belonging to or purchased by the person into the real property being improved;

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, in which a stock of merchandise for resale is maintained, 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 the Oklahoma Sales Tax Code;

6. "Fair authority" means:

- a. any county, municipality, school district, public trust or any other political subdivision of this state, or
- b. any not-for-profit corporation acting pursuant to an agency, operating or management agreement which has been approved or authorized by the governing body of any of the entities specified in subparagraph a of this paragraph which conduct, operate or produce a fair commonly understood to be a county, district or state fair;

7. "Gross receipts" or "gross proceeds" means the total amount of consideration for the sale of any tangible personal property or service taxable under the Oklahoma Sales Tax Code, 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, except for used or trade-in parts excluding tires or batteries for a motor

vehicle, bus, motorcycle, truck-tractor, trailer, semitrailer or implement of husbandry, as defined in Sections 1-105, 1-125, 1-134, 1-135, 1-162, 1-180 and 1-183 of Title 47 of the Oklahoma Statutes, if the used or trade-in parts are taken in trade as exchange on the sale of new or rebuilt parts.

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

8. "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;

9. "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, including natural resources, by procedures commonly regarded by the average person 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~~ nor oil and gas field processes, such as natural pressure reduction, mechanical separation, heating, cooling, dehydration and compression;

10. "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. Extractive activities and field processes shall not be deemed to be a part of a manufacturing operation even when performed by a person otherwise engaged in manufacturing;

11. "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;

12. "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;

13. "Point of sale" means, for purposes of administration of any municipal or county sales tax levied in this state, the physical location at which a sale of tangible personal property or services taxable under the Oklahoma Sales Tax Code is made in the course of the vendor's business, to be determined by one of the following:

- a. except as otherwise provided in subparagraph g of this paragraph, if the consumer identifies tangible personal property or 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, from a location outside the jurisdiction in which the vendor is engaged in business, orders or requests, by mail or telephonic or telegraphic device, to buy tangible personal property or services, the point of sale shall be the place of delivery, regardless of the manner of transportation,
- c. except as otherwise provided in subparagraph g of this paragraph, 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,
- 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,
- e. if the sale is of motor fuel or diesel fuel by a Group Five vendor, the point of sale shall be the location in the state at which the Group Five vendor withdrew the motor fuel or diesel fuel from the primary fuel storage facility of such vendor,
- f. if the sale is of mobile telecommunications services, the point of sale shall be the place of primary use as provided in Section 55001 of this title, or

- g. if the sale is made by a person primarily engaged in selling building materials and supplies classified under U.S. Industry No. 4441 of the North American Industrial Classification System (NAICS) Manual, the point of sale shall be the place of delivery;

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

15. "Sale" means the transfer of either title or possession of tangible personal property for a valuable consideration regardless of the manner, method, instrumentality, or device by which the transfer is accomplished in this state, or other transactions as provided by this paragraph, including but not limited to:

- a. the exchange, barter, lease, or rental of tangible personal property resulting in the transfer of the title to or possession of the property,
- b. the disposition for consumption or use in any business or by any person of all goods, wares, merchandise, or property which has been purchased for resale, manufacturing, or further processing,
- c. the sale, gift, exchange, or other disposition of admission, dues, or fees to clubs, places of amusement, or recreational or athletic events or for the privilege of having access to or the use of amusement, recreational, athletic or entertainment facilities,
- d. the furnishing or rendering of services taxable under the Oklahoma Sales Tax Code, and

- e. any use of motor fuel or diesel fuel by a supplier, as defined in Section 500.3 of this title, upon which sales tax has not previously been paid, for purposes other than to propel motor vehicles over the public highways of this state. Motor fuel or diesel fuel purchased outside the state and used for purposes other than to propel motor vehicles over the public highways of this state shall not constitute a sale within the meaning of this paragraph;

16. "Sale for resale" means:

- a. a sale of tangible personal property to any purchaser who is purchasing tangible personal property for the purpose of reselling it within the geographical limits of the United States of America or its territories or possessions, in the normal course of business either in the form or condition in which it is purchased or as an attachment to or integral part of other tangible personal property,
- b. a sale of tangible personal property to a purchaser for the sole purpose of the renting or leasing, within the geographical limits of the United States of America or its territories or possessions, of the tangible personal property to another person by the purchaser, but not if incidental to the renting or leasing of real estate, or
- c. a sale of tangible goods and products within this state if, simultaneously with the sale, the vendor issues an export bill of lading, or other documentation that the point of delivery of such goods for use and consumption is in a foreign country and not within the territorial confines of the United States;

17. "Tangible personal property" means personal property which may be seen, weighed, measured, felt, or touched or which is in any other manner perceptible to the senses;

18. "Taxpayer" means any person liable to pay a tax imposed by the Oklahoma Sales Tax Code;

19. "Tax period" or "taxable period" means the calendar period or the taxpayer's fiscal period for which a taxpayer has obtained a permit from the Tax Commission to use a fiscal period in lieu of a calendar period;

20. "Tax remitter" means any person required to collect, report, or remit the tax imposed by the Oklahoma Sales Tax Code. 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 Sales Tax Code; and

21. "Vendor" means:

- a. any person making sales of tangible personal property or services in this state, the gross receipts or gross proceeds from which are taxed by the Oklahoma Sales Tax Code,
- b. any person maintaining a place of business in this state and making sales of tangible personal property or services, whether at the place of business or elsewhere, to persons within this state, the gross receipts or gross proceeds from which are taxed by the Oklahoma Sales Tax Code,
- 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 tangible personal property or services, the gross receipts or gross

proceeds from which are taxed by the Oklahoma Sales Tax Code, or

- d. any person, pursuant to an agreement with the person with an ownership interest in or title to tangible personal property, who has been entrusted with the possession of any such property and has the power to designate who is to obtain title, to physically transfer possession of, or otherwise make sales of the property.

SECTION 14. AMENDATORY 68 O.S. 2001, Section 1356, as last amended by Section 60 of Enrolled House Bill No. 1816 of the 1st Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 1356. Exemptions - Governmental and nonprofit entities.

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

1. Sale of tangible personal property or services to the United States government or to the State of Oklahoma, any political subdivision of this state or any agency of a political subdivision of this state; provided, all sales to contractors in connection with the performance of any contract with the United States government, State of Oklahoma or any of its political subdivisions shall not be exempted from the tax levied by Section 1350 et seq. of this title, except as hereinafter provided;

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

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

Act, and if ownership and possession of such property transfers immediately to the political subdivision or the state;

4. Sales made directly by county, district or state fair authorities of this state, upon the premises of the fair authority, for the sole benefit of the fair authority or sales of admission tickets to such fairs or fair events at any location in the state authorized by county, district or state fair authorities; provided, the exemption provided by this paragraph for admission tickets to fair events shall apply only to any portion of the admission price that is retained by or distributed to the fair authority. As used in this paragraph, "fair event" shall be limited to an event held on the premises of the fair authority in conjunction with and during the time period of a county, district or state fair;

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

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

7. Sale of tangible personal property or services to or by churches, except sales made in the course of business for profit or savings, competing with other persons engaged in the same or a similar business or sale of tangible personal property or services

by an organization exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, made on behalf of or at the request of a church or churches if the sale of such property is conducted not more than once each calendar year for a period not to exceed three (3) days by the organization and proceeds from the sale of such property are used by the church or churches or by the organization for charitable purposes;

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

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

10. Sale of tangible personal property or services to any county, municipality, rural water district, public school district, the institutions of The Oklahoma State System of Higher Education, the Grand River Dam Authority, the Northeast Oklahoma Public Facilities Authority, the Oklahoma Municipal Power Authority, City

of Tulsa-Rogers County Port Authority, Muskogee City-County Port Authority, the Oklahoma Department of Veterans Affairs, the Broken Bow Economic Development Authority or to any person with whom any of the above-named subdivisions or agencies of this state has duly entered into a public contract pursuant to law, necessary for carrying out such public contract or to any subcontractor to such a public contract. Any person making purchases on behalf of such subdivision or agency of this state shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such subdivision or agency of this state and set out the name of such public subdivision or agency. Any person who wrongfully or erroneously certifies that purchases are for any of the above-named subdivisions or agencies of this state or who otherwise violates this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both;

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

Any person, firm, agency or entity making purchases on behalf of any institution, agency or subdivision in this state, shall certify in writing, on the copy of the invoice or sales ticket the nature of

the purchases, and violation of this paragraph shall be a misdemeanor as set forth in paragraph 10 of this section;

12. Tuition and educational fees paid to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

13. a. Sales of tangible personal property made by:

- (1) a public school,
- (2) a private school offering instruction for grade levels kindergarten through twelfth grade,
- (3) a public school district,
- (4) a public or private school board,
- (5) a public or private school student group or organization,
- (6) a parent-teacher association or organization other than as specified in subparagraph b of this paragraph, or
- (7) public or private school personnel for purposes of raising funds for the benefit of a public or private school, public school district, public or private school board or public or private school student group or organization, or

b. Sales of tangible personal property made by or to nonprofit parent-teacher associations or organizations exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c)(3).

The exemption provided by this paragraph for sales made by a public or private school shall be limited to those public or private

schools accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs. Sale of tangible personal property in this paragraph shall include sale of admission tickets and concessions at athletic events.

Sale of tangible personal property in this paragraph shall not include rings, bracelets, necklaces or other similar items that have a retail value that exceeds Fifty Dollars (\$50.00);

14. Sales of tangible personal property by:

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

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

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

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

17. Sales of tangible personal property or services to fire departments organized pursuant to Section 592 of Title 18 of the Oklahoma Statutes which items are to be used for the purposes of the fire department. Any person making purchases on behalf of any such fire department shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the

purchases are made for and on behalf of such fire department and set out the name of such fire department. Any person who wrongfully or erroneously certifies that the purchases are for any such fire department or who otherwise violates the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or both;

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

19. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property by fire departments organized pursuant to Titles 11, 18, or 19 of the Oklahoma Statutes for the purposes of raising funds for the benefit of the fire department. Fire departments selling tangible personal property for the purposes of raising funds shall be limited to no more than six (6) days each year to raise such funds in order to receive the exemption granted by this paragraph;

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

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

organization receives state funds in an amount less than ten percent (10%) of the annual budget of the organization;

22. Sales of tangible personal property or services to:

- a. any federally qualified community health center as defined in Section 254c of Title 42 of the United States Code,
- b. any migrant health center as defined in Section 254b of Title 42 of the United States Code,
- c. any clinic receiving disbursements of state monies from the Indigent Health Care Revolving Fund pursuant to the provisions of Section 66 of Title 56 of the Oklahoma Statutes, and
- d. any community based health center which meets all of the following criteria:
 - (1) provides primary care services at no cost to the recipient, and
 - (2) is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

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

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

25. Sales of tangible personal property or services to museums or other entities which have been accredited by the American

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

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

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

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

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

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

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

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

33. The sale, use, storage, consumption, or distribution in this state, whether by the importer, exporter, or another person, of any satellite or any associated launch vehicle, including components of, and parts and motors for, any such satellite or launch vehicle, imported or caused to be imported into this state for the purpose of export by means of launching into space. This exemption provided by this paragraph shall not be affected by:

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

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

35. The sale, lease, use, storage, consumption, or distribution in this state of tangible personal property, placed on or used

aboard any space facility, space propulsion system or space vehicle, satellite, or station possessing space flight capacity, which is launched into space, irrespective of whether such tangible property is returned to this state for subsequent use, storage, or consumption in any manner;

36. The sale, lease, use, storage, consumption, or distribution in this state of tangible personal property meeting the definition of "section 38 property" as defined in Sections 48(a)(1)(A) and (B)(i) of the Internal Revenue Code of 1986, that is an integral part of and used primarily in support of space flight; however, section 38 property used in support of space flight shall not include general office equipment, any boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States government, or any other property not specifically suited to supporting space activity. The term "in support of space flight", for purposes of this paragraph, means the altering, monitoring, controlling, regulating, adjusting, servicing, or repairing of any space facility, space propulsion systems or space vehicle, satellite, or station possessing space flight capacity, including the components thereof;

37. The purchase or lease of machinery and equipment for use at a fixed location in this state, which is used exclusively in the manufacturing, processing, compounding, or producing of any space facility, space propulsion system or space vehicle, satellite, or station of any kind possessing space flight capacity. Provided, the exemption provided for in this paragraph shall not be allowed unless the purchaser or lessee signs an affidavit stating that the item or items to be exempted are for the exclusive use designated herein. Any person furnishing a false affidavit to the vendor for the purpose of evading payment of any tax imposed by Section 1354 of this title shall be subject to the penalties provided by law. As

used in this paragraph, "machinery and equipment" means "section 38 property" as defined in Sections 48(a)(1)(A) and (B)(i) of the Internal Revenue Code of 1986, which is used as an integral part of the manufacturing, processing, compounding, or producing of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph;

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

39. Sales of tangible personal property or services which are directly used in or for the benefit of a state park in this state, which are made to an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and which is organized primarily for the purpose of supporting one or more state parks located in this state;

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

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

42. Sales of tangible personal property or services by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), in the course of conducting a national championship

sports event, but only if all or a portion of the payment in exchange therefor would qualify as the receipt of a qualified sponsorship payment described in Internal Revenue Code, 26 U.S.C., Section 513(i). Sales exempted pursuant to this paragraph shall be exempt from all Oklahoma sales, use, excise and gross receipts taxes;

43. Sales of tangible personal property or services to or by an organization which:

- a. is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
- b. is affiliated with a comprehensive university within The Oklahoma State System of Higher Education, and
- c. has been organized primarily for the purpose of providing education and teacher training and conducting events relating to robotics; and

44. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property by youth athletic teams which are part of an athletic organization exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(4), for the purposes of raising funds for the benefit of the team.

SECTION 15. AMENDATORY 68 O.S. 2001, Section 1359, as amended by Section 12, Chapter 299, O.S.L. 2002 (68 O.S. Supp. 2002, Section 1359), is amended to read as follows:

Section 1359. Exemptions - Manufacturers.

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

1. Sales of goods, wares, merchandise, tangible personal property, machinery and equipment to a manufacturer for use in a manufacturing operation. Goods, wares, merchandise, property, machinery and equipment used in a nonmanufacturing activity or

process as set forth in paragraph 9 of Section 1352 of this title shall not be eligible for the exemption provided for in this subsection by virtue of the activity or process being performed in conjunction with or integrated into a manufacturing operation;

2. Ethyl alcohol when sold and used for the purpose of blending same with motor fuel on which motor fuel tax is levied by Section 500.4 of this title;

3. Sales of containers when sold to a person regularly engaged in the business of reselling empty or filled containers or when purchased for the purpose of packaging raw products of farm, garden, or orchard for resale to the consumer or processor. This exemption shall not apply to the sale of any containers used more than once and which are ordinarily known as returnable containers, except returnable soft drink bottles and the cartons, crates, pallets, and containers used to transport returnable soft drink bottles. Each and every transfer of title or possession of such returnable containers in this state to any person who is not regularly engaged in the business of selling, reselling or otherwise transferring empty or filled containers shall be taxable under this Code. Additionally, this exemption shall not apply to the sale of labels or other materials delivered along with items sold but which are not necessary or absolutely essential to the sale of the sold merchandise;

4. Sales of or transfers of title to or possession of any containers, after June 30, 1987, used or to be used more than once and which are ordinarily known as returnable containers and which do or will contain beverages defined by paragraphs 4 and 14 of Section 506 of Title 37 of the Oklahoma Statutes, or water for human consumption and the cartons, crates, pallets, and containers used to transport such returnable containers;

5. Sale of tangible personal property when sold by the manufacturer to a person who transports it to a state other than

Oklahoma for immediate and exclusive use in a state other than Oklahoma. Provided, no sales at a retail outlet shall qualify for the exemption under this paragraph;

6. Machinery, equipment, fuels and chemicals or other materials incorporated into and directly used or consumed in the process of treatment to substantially reduce the volume or harmful properties of hazardous waste at treatment facilities specifically permitted pursuant to the Oklahoma Hazardous Waste Management Act and operated at the place of waste generation, or facilities approved by the Department of Environmental Quality for the cleanup of a site of contamination. The term "hazardous" waste may include low-level radioactive waste for the purpose of this paragraph;

7. Except as otherwise provided by subsection I of Section ~~§~~ 3658 of this ~~act~~ title pursuant to which the exemption authorized by this paragraph may not be claimed, sales of tangible personal property to a qualified manufacturer to be consumed or incorporated in a new manufacturing facility or to expand an existing manufacturing facility. For purposes of this paragraph, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a qualified manufacturer for construction or expansion of a manufacturing facility shall be considered sales made to a qualified manufacturer. For the purposes of this paragraph, "qualified manufacturer" means:

- a. any enterprise whose total cost of construction of a new or expanded facility exceeds the sum of Five Million Dollars (\$5,000,000.00) and in which at least one hundred (100) new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, are added and maintained for a period of at least thirty-six (36) months as a direct result of the new or expanded facility,

- b. any enterprise whose total cost of construction of a new or expanded facility exceeds the sum of Ten Million Dollars (\$10,000,000.00) and the combined cost of construction material, machinery, equipment and other tangible personal property exempt from sales tax under the provisions of this paragraph exceeds the sum of Fifty Million Dollars (\$50,000,000.00) and in which at least seventy-five (75) new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, are added and maintained for a period of at least thirty-six (36) months as a direct result of the new or expanded facility, or
- c. any enterprise whose total cost of construction of an expanded facility exceeds the sum of Three Hundred Million Dollars (\$300,000,000.00) and in which the manufacturer has and maintains an average employment level of at least one thousand seven hundred fifty (1,750) full-time-equivalent employees, as certified by the Employment Security Commission.

For purposes of this paragraph, the total cost of construction shall include building and construction material and engineering and architectural fees or charges directly associated with the construction of a new or expanded facility. The total cost of construction shall not include attorney fees. For purposes of subparagraph c of this paragraph, the total cost of construction shall also include the cost of qualified depreciable property as defined in Section 2357.4 of this title and labor services performed in the construction of an expanded facility. The employment requirement of this paragraph can be satisfied by the employment of a portion of the required number of new full-time-equivalent employees at a manufacturing facility that is related to or supported by the new or expanded manufacturing facility as long as

both facilities are owned by one person or business entity. For purposes of this section, "manufacturing facility" shall mean building and land improvements used in manufacturing as defined by the Standard Industrial Classification Code and shall also mean building and land improvements used for the purpose of packing, repackaging, labeling or assembling for distribution to market, products at least seventy percent (70%) of which are made in Oklahoma by the same company but at an off-site in-state manufacturing facility or facilities. It shall not include a retail outlet unless the retail outlet is operated in conjunction with and on the same site or premises as the manufacturing facility. Up to ten percent (10%) of the square feet of a manufacturing facility building may be devoted to office space used to provide clerical support for the manufacturing operation. Such ten percent (10%) may be in a separate building as long as it is part of the same contiguous tract of property on which the manufacturing facility is located. Only sales of tangible personal property made after June 1, 1988, shall be eligible for the exemption provided by this paragraph;

8. Sales of tangible personal property purchased and used by a licensed radio or television station in broadcasting. This exemption shall not apply unless such machinery and equipment is used directly in the manufacturing process, is necessary for the proper production of a broadcast signal or is such that the failure of the machinery or equipment to operate would cause broadcasting to cease. This exemption begins with the equipment used in producing live programming or the electronic equipment directly behind the satellite receiving dish or antenna, and ends with the transmission of the broadcast signal from the broadcast antenna system. For purposes of this paragraph, "proper production" shall include, but not be limited to, machinery or equipment required by Federal Communications Commission rules and regulations;

9. Sales of tangible personal property purchased or used by a licensed cable television operator in cablecasting. This exemption shall not apply unless such machinery and equipment is used directly in the manufacturing process, is necessary for the proper production of a cablecast signal or is such that the failure of the machinery or equipment to operate would cause cablecasting to cease. This exemption begins with the equipment used in producing local programming or the electronic equipment behind the satellite receiving dish, microwave tower or antenna, and ends with the transmission of the signal from the cablecast head-end system. For purposes of this paragraph, "proper production" shall include, but not be limited to, machinery or equipment required by Federal Communications Commission rules and regulations;

10. Sales of packaging materials for use in packing, shipping or delivering tangible personal property for sale when sold to a producer of agricultural products. This exemption shall not apply to the sale of any packaging material which is ordinarily known as a returnable container;

11. Sales of any pattern used in the process of manufacturing iron, steel or other metal castings. The exemption provided by this paragraph shall be applicable irrespective of ownership of the pattern provided that such pattern is used in the commercial production of metal castings;

12. Deposits or other charges made and which are subsequently refunded for returnable cartons, crates, pallets, and containers used to transport cement and cement products;

13. Beginning January 1, 1998, machinery, electricity, fuels, explosives and materials, excluding chemicals, used in the mining of coal in this state; and

14. Deposits, rent or other charges made for returnable cartons, crates, pallets, and containers used to transport mushrooms

or mushroom products from a farm for resale to the consumer or processor.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1364.2 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Promoters or organizers of special events shall submit an application for a special event permit to the Oklahoma Tax Commission at least twenty (20) days prior to the special event. The application shall be accompanied by a fee of Fifty Dollars (\$50.00). The application shall include the location and dates of the special event, expected number of vendors, and any other information that may be required by the Tax Commission. A separate permit shall be required for each special event and must be prominently displayed. Multiple events held at the same location during the calendar year may be included in one application.

B. All monies received from such fees shall be paid to the State Treasurer and placed to the credit of the General Revenue Fund of the State Treasurer.

C. Promoters or organizers shall provide forms to special event vendors for reporting sales tax collections and any other information that may be required by the Tax Commission.

D. Special event vendors shall collect sales tax from purchasers of tangible personal property and services taxable under Section 1350 et seq. of Title 68 of the Oklahoma Statutes and shall remit the tax daily, along with a daily sales tax report, to the promoter or organizer.

E. Within fifteen (15) days following the conclusion of the special event, the organizer or promoter shall forward all daily reports and payments to the Tax Commission along with a completed sales tax report. If not filed on or before the fifteenth day, the tax shall be delinquent from such date. Reports timely mailed shall be considered timely filed. If a report is not timely filed,

interest shall be charged from the date the report should have been filed until the report is actually filed.

F. Within fifteen (15) days following the conclusion of the special event, the organizer or promoter shall also submit a list of vendors at each event that hold a valid sales tax permit issued under Section 1364 of Title 68 of the Oklahoma Statutes. The list shall include the vendor's name, address, telephone number and sales tax permit number.

G. For the purposes of compensating the promoter or organizer in keeping sales tax records, filing reports and remitting the tax when due, a promoter or organizer shall be allowed a deduction of the tax due as provided in Section 1367.1 of Title 68 of the Oklahoma Statutes.

H. Promoters and organizers shall be liable for failure to report and remit all taxes that are remitted to them by special event vendors.

I. As used in this section:

1. "Promoter" or "organizer" means any person who organizes or promotes a special event which results in the rental, occupation, or use of any structure, lot, tract of land, sample or display case, table, or any other similar items for the exhibition and sale of tangible personal property or services taxable under Section 1350 et seq. of Title 68 of the Oklahoma Statutes by special event vendors;

2. "Special event" means an entertainment, amusement, recreation, or marketing event that occurs at a single location on an irregular basis and at which tangible personal property is sold. "Special event" shall include, but not be limited to, gun shows, knife shows, craft shows, antique shows, flea markets, carnivals, bazaars, art shows, and other merchandise displays or exhibits. Special event shall not include any county, district, or state fair or public or private school-sponsored event; and

3. "Special event vendor" means a person making sales of tangible personal property or services taxable under Section 1350 et seq. of Title 68 of the Oklahoma Statutes at a special event within this state and who is not permitted under Section 1364 of Title 68 of the Oklahoma Statutes.

SECTION 17. AMENDATORY 68 O.S. 2001, Section 1367.1, is amended to read as follows:

Section 1367.1 A. For the purpose of compensating the seller or vendor in keeping sales tax records, filing reports and remitting the tax when due, a seller or vendor shall be allowed a deduction ~~of~~ as follows:

1. For sellers or vendors participating in the Oklahoma Tax Commission's electronic funds transfer and electronic data interchange program, two and one-fourth percent (2 1/4%) of the tax due under the applicable provisions of this title; and

2. For all other sellers or vendors, one and one-fourth percent (1 1/4%) of the tax due under the applicable provisions of this title. The Tax Commission is authorized to allow a vendor to deduct two and one-fourth percent (2 1/4%) if the Tax Commission determines that the vendor is unable to participate in the Tax Commission's electronic funds transfer and electronic data interchange program.

Such deduction shall not be allowed with respect to a direct payment permit.

B. No deductions from tax shall be allowed if any such report or payment of tax is delinquent; provided, the deduction shall be allowed if the Oklahoma Tax Commission determines that the reason that such report or payment of tax was delinquent was due to the tornadoes occurring May 3, 1999.

C. Notwithstanding the formula provided by subsection A of this section, the deduction provided by this section shall be limited to a maximum of Three Thousand Three Hundred Dollars (\$3,300.00) per month per sales tax permit. No such sales tax permit holder may

change sales tax permit status in order to avoid the provisions of this subsection.

D. Notwithstanding any other provision of law, an amount equal to the excess of the amount calculated by the formula provided by subsection A of this section over the Three-Thousand-Three-Hundred-Dollar limit provided by subsection C of this section shall be retained by the state as an administrative expense and deposited to the General Revenue Fund.

SECTION 18. AMENDATORY 68 O.S. 2001, Section 1370, as amended by Section 5, Chapter 381, O.S.L. 2002 (68 O.S. Supp. 2002, Section 1370), is amended to read as follows:

Section 1370. A. 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. Initiative petitions calling for a special election concerning county sales tax proposals shall be in accordance with Sections 2, 3, 3.1, 6, 18 and 24 of Title 34 of the Oklahoma Statutes. Petitions shall be submitted to the office of county clerk for approval as to form prior to circulation. Following approval, the petitioner shall have ninety (90) days to secure the required signatures. After securing the requisite number of signatures, the petitioner shall submit the petition and signatures to the county clerk. Following the verification of signatures, the county clerk shall present the petition to the board of county commissioners. The special election shall be held within sixty (60) days of receiving the petition. The ballot title presented to the voters at the special election shall be identical to the ballot as presented in the initiative petition.

C. All items that are exempt from the state sales tax shall be exempt from any sales tax levied by a county.

D. 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, projects owned by the state, any agency or instrumentality thereof, the county and/or any political subdivision located in whole or in part within such county, regional development, economic development, common education, general operations, capital improvements, county roads, weather modification or any other purpose deemed, by a majority vote of the county commissioners or as stated by initiative petition, 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. Except as otherwise provided in this section, 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.

E. Proceeds from any sales tax levied that is designated to be used solely by the sheriff for the operation of the office of sheriff shall be placed in the special revenue account of the sheriff.

F. 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~~ subsections A and B of this section.

G. 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 or comply with the provisions of subsection E of this section. 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 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.45 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. 1. For tax years beginning after December 31, 2004, unless the State Board of Equalization suspends this section in any tax year pursuant to subsection E of this section, there shall be allowed against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes, a credit for any taxpayer who makes a donation to an independent biomedical research institute. For calendar years 2005 and 2006, the amount of the credit shall be fifty percent (50%) of the amount donated to an independent biomedical research institute but in no event shall the credit exceed One Thousand Dollars (\$1,000.00) for each taxpayer. For calendar year 2007 and all subsequent years the credit is not suspended pursuant to subsection E of this section, the credit percentage, not to exceed fifty percent (50%), shall be adjusted annually so that the total estimate of the credits does not exceed Two Million Dollars (\$2,000,000.00) annually. The formula to be used for the percentage adjusted shall be fifty percent (50%) times Two Million Dollars (\$2,000,000.00) divided by the credits claimed in the preceding year. In no event shall the credit be claimed more than once by a taxpayer each taxable year nor shall the credit exceed One Thousand Dollars (\$1,000.00) for each taxpayer. In the event the total tax credits authorized by this section exceed Two Million Dollars (\$2,000,000.00) in any calendar year, the Oklahoma Tax Commission shall permit any excess over Two Million Dollars (\$2,000,000.00) but shall factor such excess into the percentage adjustment formula for subsequent years.

2. For purposes of this section, "independent biomedical research institute" means an organization which is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) whose primary focus is conducting peer-reviewed basic biomedical research. The organization shall:

a. have a board of directors,

- b. be able to accept grants in its own name,
- c. be an identifiable institute that has its own employees and administrative staff, and
- d. receive at least Fifteen Million Dollars (\$15,000,000.00) in National Institute of Health funding each year.

B. In no event shall the amount of the credit exceed the amount of any tax liability of the taxpayer.

C. Any credits allowed but not used in any tax year may be carried over, in order, to each of the four (4) years following the year of qualification.

D. The Tax Commission shall have the authority to prescribe forms for purposes of claiming the credit authorized by this section.

E. In addition to any other duties prescribed by law, at the meeting required by paragraph 1 of Section 23 of Article X of the Oklahoma Constitution to be held in December 2006 and subsequent calendar years, the State Board of Equalization shall determine for the following fiscal years:

- 1. The amount of funds available for appropriation if the provisions of subsection A of this section are not in effect; and
- 2. The amount by which such funds will be reduced if such provisions are in effect.

If the amount determined pursuant to the provisions of paragraph 2 of this subsection is greater than the amount of funds available for appropriation for the then-current fiscal year, the Board shall make a finding that economic growth in the state warrants the taking effect of the provisions of subsection A of this section and such provisions shall be effective for the following calendar year. If the amount determined pursuant to the provisions of paragraph 2 of this subsection is less than the amount of funds available for appropriation for the then-current fiscal year, the Board shall make

a finding that economic growth in the state warrants a suspension of the provisions of subsection A of this section for the following calendar year.

F. As used in this section, "funds available for appropriation" means the amount certified as available for appropriation for the next fiscal year as determined by the State Board of Equalization at the meeting required by paragraph 1 of Section 23 of Article X of the Oklahoma Constitution. Such term shall not include:

1. Any appropriation of bond proceeds;
2. Appropriations from or amounts to be deposited to the Constitutional Reserve Fund;
3. Appropriations from or amounts to be deposited to the Education Reform Revolving Fund;
4. Appropriations from or amounts to be deposited to revolving funds;
5. Federal funds;
6. Appropriations from or amounts to be deposited to the Cash Flow Reserve Fund;
7. Prior year certified but unappropriated funds; or
8. Any cash on hand.

SECTION 20. AMENDATORY 68 O.S. 2001, Section 2362, is amended to read as follows:

Section 2362. A. For tax years beginning on or after January 1, 1994, the Oklahoma taxable income of a part-year resident individual, nonresident individual, a nonresident trust and a nonresident estate shall be calculated following the provisions of Section 2358 of this title as if all income were earned in Oklahoma.

B. Using Oklahoma income tax rates, part-year resident individuals, nonresident individuals, nonresident trusts and nonresident estates shall compute their tax liability on the amount computed in the preceding paragraph.

C. From the liability computed there shall be deducted all allowable credits to determine the amount of tax due.

D. Part-year resident individuals, nonresident individuals, nonresident trusts and nonresident estates shall divide adjusted gross income from Oklahoma sources by the adjusted gross income from all sources to arrive at the applicable percentage that Oklahoma adjusted gross income represents of all adjusted income received by the taxpayer in the income year.

E. Part-year resident individuals, nonresident individuals, nonresident trusts and nonresident estates shall multiply the amount of Oklahoma tax computed by the applicable percentage calculated in the preceding paragraph in order to determine the amount of income tax which must be paid to the State of Oklahoma. Nothing in this section shall be construed to allow for greater than one hundred percent (100%) of a taxpayer's income to be taxed.

F. For purposes of determining the adjusted gross income from Oklahoma, the following shall be includable:

1. The ownership of any interest in real or tangible personal property in this state;

2. A business, trade, profession or occupation carried on in this state or compensation for services performed in this state;

3. A business, trade, profession or occupation carried on or compensation for services performed partly within and partly without this state to the extent allocable and apportionable to Oklahoma as determined under Section 2358 of this title;

4. The distributive share of the Oklahoma part of partnership income, gains, losses or deductions;

5. The distributive share of the Oklahoma part of estate or trust income, gains, losses or deductions;

6. Income from intangible personal property, including annuities, dividends, interest and gains from the disposition of intangible personal property to the extent that such income is from

property employed in a trade, business, profession or occupation carried on in Oklahoma. A part-year resident individual, nonresident individual, nonresident trust or nonresident estate, other than a dealer holding property primarily for sale to customers in the ordinary course of ~~his or its~~ trade or business, shall not be deemed to carry on a business, trade, profession or occupation in Oklahoma solely by reason of the purchase and sale of property for ~~his or~~ its own account;

7. The distributive share of the Oklahoma taxable income or loss of a corporation defined in subchapter S of the Internal Revenue Code, 26 U.S.C., Section 1361 et seq.; ~~and~~

8. Income received from all sources of wagering, games of chance or any other winnings from sources within this state. Proceeds which are not money shall be taken into account at their fair market value; and

9. The distributive share of the Oklahoma part of limited liability company income, gains, losses or deductions.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2385 of Title 68, unless there is created a duplication in numbering, reads as follows:

Any tax return preparer, who prepared more than fifty Oklahoma tax returns for the prior tax year, must file all Oklahoma tax returns prepared for the current tax year by electronic means. The term "tax return preparer" means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by Title 68 of the Oklahoma Statutes or any claim for refund of tax imposed by Title 68 of the Oklahoma Statutes. The preparation of a substantial part of a return or claim for refund is treated as if it were the preparation of the entire return or claim for refund. This section shall not apply to a return upon which the taxpayer has indicated that the taxpayer did not want the return filed by electronic means.

SECTION 22. AMENDATORY 68 O.S. 2001, Section 2385.3, as amended by Section 40, Chapter 460, O.S.L. 2002 (68 O.S. Supp. 2002, 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. Effective October 1, 2003, every employer owing an average of Five Thousand Dollars (\$5,000.00) or more per month in taxes in the previous fiscal year shall file returns pursuant to the Tax Commission's electronic data interchange program.

C. 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.~~ D. 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.~~ E. 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.

~~E.~~ F. 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.~~ G. 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.~~ H. 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.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2385.29 of Title 68, unless there is created a duplication in numbering, reads as follows:

As used in Sections 23 through 25 of this act:

1. "Member" means any person who is a shareholder of an S Corporation, a partner in a general partnership, a limited partnership, or limited liability partnership, a member of a limited liability company, or a beneficiary of a trust;

2. "Nonresident" means an individual who is not a resident of or domiciled in this state, a business entity that does not have its commercial domicile in this state, or a trust not organized in this state; and

3. "Pass-through entity" means a corporation that for the applicable tax years is treated as an S Corporation under the Internal Revenue Code, general partnership, limited partnership, limited liability partnership, trust, or limited liability company that for the applicable tax year is not taxed as a corporation for federal income tax purposes.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2385.30 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. A pass-through entity shall withhold income tax at the rate of five percent (5%) of the Oklahoma share of income of the entity distributed to each nonresident member and pay the withheld amount as follows:

1. For distributions made to nonresident members during the months of January, February and March, the withholding amounts shall be due on or before April 30;

2. For distributions made to nonresident members during the months of April, May and June, the withholding amounts shall be due on or before July 31;

3. For distributions made to nonresident members payments made during the months of July, August and September, the withholding amounts shall be due on or before October 31; and

4. For distributions made to nonresident members during the months of October, November and December, the withholding amounts shall be due on or before January 31 of the succeeding calendar year.

The pass-through entity shall file a return with each payment to the Oklahoma Tax Commission. The return, in a form prescribed by the Tax Commission, shall show the amount of the Oklahoma distribution subject to withholding and the amount withheld.

B. A pass-through entity shall not be required to withhold income tax on distributions made to any entity exempt pursuant to subsection C of Section 2359 of Title 68 of the Oklahoma Statutes or Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3).

C. Every pass-through entity required pursuant to this section to deduct and withhold income tax shall furnish to its nonresident member and to the Tax Commission annually, but not later than the last day of the second month after the end of its taxable year, a written statement of the amount of distribution made and of the tax withheld on behalf of the nonresident member on forms prescribed by the Tax Commission. The written statement shall show the name of member, the applicable social security number or federal identification number, the amount of the Oklahoma distribution, the amounts withheld, and any such information as may be required by the Tax Commission.

D. If the Tax Commission, in any case, has justifiable reason to believe that the collection of the amount required in subsection

A of this section is in jeopardy, the Tax Commission may require a pass-through entity to file a return and pay the withheld amounts at any time.

E. All amounts received by the Tax Commission pursuant to the provisions of Sections 23 through 25 of this act shall be deposited as provided by Section 2385.16 of Title 68 of the Oklahoma Statutes.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2385.31 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Any amounts withheld in accordance with the provisions of Section 24 of this act shall be deemed to be held in trust for the State of Oklahoma, and, as trustee, the pass-through entity shall have a fiduciary duty to the State of Oklahoma in regard to such amounts and shall be subject to the trust laws of this state. Any pass-through entity who fails to pay to the Tax Commission any amounts required to be withheld by such pass-through entity, after such amounts have been withheld from distributions to nonresident members, and appropriates the amount held in trust to the pass-through entity's own use, or to the use of any person not entitled thereto, without authority of law, shall be guilty of embezzlement.

B. If any pass-through entity fails to withhold the amounts required to be withheld by Section 24 of this act and thereafter income tax is paid by the nonresident member with respect to such payment, the amount so required to be withheld shall not be collected from the pass-through entity, but such pass-through entity shall not be relieved from the liability for penalties or interest otherwise applicable because of such failure to withhold such amount.

C. If a pass-through entity fails to file a return or to pay to the Tax Commission the amounts withheld within the time prescribed by Section 24 of this act, there shall be imposed on the pass-through entity a penalty equal to ten percent (10%) of the amount

required to be withheld, or ten percent (10%) of the amount of the underpayment of the amount required to be withheld, if such failure is not corrected on or before the last day of the month when due. There shall also be imposed on such pass-through entity interest at the rate of one and one-fourth percent (1 1/4%) per month during the period such underpayment exists. For the purposes of this subsection, "underpayment" shall mean the excess of the amount required to be paid over the amount thereof actually paid on or before the date prescribed therefor. Such penalty and interest shall be added to and become a part of the amount assessed. However, the Tax Commission shall not collect the penalty assessed if the pass-through entity remits the amount required to be withheld within thirty (30) days of the mailing of a proposed assessment or voluntarily pays such amount upon the filing of an amended return.

D. Any pass-through entity who is required under the provisions of subsection C of Section 24 of this act to furnish a statement to a nonresident member, but who willfully fails to furnish such recipient the statement, shall be punished by an administrative fine not exceeding One Thousand Dollars (\$1,000.00).

SECTION 26. AMENDATORY 73 O.S. 2001, Section 152, is amended to read as follows:

Section 152. A. There is hereby created a body corporate and politic to be known as the "Oklahoma Capitol Improvement Authority" and by that name the Authority may sue and be sued and plead and be impleaded. The Authority is hereby constituted an instrumentality of the state and the exercise by the Authority of the powers conferred by Sections 151 through 214 of this title, in the construction, equipping, operation, and maintenance of the state building or buildings hereinafter referred to as the "building", and in the construction, improvement, repair, and maintenance of the highway infrastructure in this state, shall be deemed and shall be held to be an essential governmental function of the state.

B. The Authority shall consist of eight (8) members, including the Governor of the state, who shall be Chairman of the Authority, the State Treasurer, the Lieutenant Governor, who shall be Vice Chairman of the Authority, the Director of Central Services, the Director of Human Services, the ~~Vice-Chairman~~ Secretary-Member of the Oklahoma Tax Commission, the Director of the Oklahoma Department of Tourism and Recreation, and the Director of Oklahoma Department of Transportation.

C. The Authority shall elect one of its members as Secretary. Four members of the Authority shall constitute a quorum and the vote of four members shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the rights of a quorum to exercise and perform all of the rights and duties of the Authority. The members of the Authority shall not be entitled to compensation for their services, but each member shall be reimbursed for actual expenses necessarily incurred in the performance of official duties.

D. Before the issuance of any revenue bonds pursuant to the provisions of Sections 151 through 214 of this title, each member of the Authority shall execute a surety bond in the sum of Twenty-five Thousand Dollars (\$25,000.00), each such bond to be conditioned upon the faithful performance of the duties of the office, as such member, to be executed by a surety company authorized to transact business in the State of Oklahoma, as surety, and to be approved by the Governor and filed in the office of the Secretary of State.

SECTION 27. Sections 1 through 16 and 20 through 25 of this act shall become effective July 1, 2003.

SECTION 28. Section 17 of this act shall become effective October 1, 2003.

SECTION 29. Section 19 of this act shall become effective January 1, 2005.

SECTION 30. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

49-1-7077 ARE 05/22/03