

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1352

By: Rabon and Capps of the
Senate

and

Pope of the House

COMMITTEE SUBSTITUTE

(income tax credits - effective date -
emergency)

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 1357, as last amended by Section 9, Chapter 413, O.S.L. 2003 (68 O.S. Supp. 2003, Section 1357), is amended to read as follows:

Section 1357. Exemptions - General.

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

1. Transportation of school pupils to and from elementary schools or high schools in motor or other vehicles;
2. Transportation of persons where the fare of each person does not exceed One Dollar (\$1.00), or local transportation of persons within the corporate limits of a municipality except by taxicabs;
3. Sales for resale to persons engaged in the business of reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made to persons to whom sales tax permits have been issued as provided in Section 1350 et seq. of this title. This exemption shall not apply

to the sales of articles made to persons holding permits when such persons purchase items for their use and which they are not regularly engaged in the business of reselling; neither shall this exemption apply to sales of tangible personal property to peddlers, solicitors and other salespersons who do not have an established place of business and a sales tax permit. The exemption provided by this paragraph shall apply to sales of motor fuel or diesel fuel to a Group Five vendor, but the use of such motor fuel or diesel fuel by the Group Five vendor shall not be exempt from the tax levied by Section 1350 et seq. of this title. The purchase of motor fuel or diesel fuel is exempt from sales tax when the motor fuel is for shipment outside this state and consumed by a common carrier by rail in the conduct of its business. The sales tax shall apply to the purchase of motor fuel or diesel fuel in Oklahoma by a common carrier by rail when such motor fuel is purchased for fueling, within this state, of any locomotive or other motorized flanged wheel equipment;

4. Sales of advertising space in newspapers and periodicals and billboard advertising service, and any advertising through the electronic media, including radio, television and cable television, and the servicing of any advertising devices;

5. Eggs, feed, supplies, machinery and equipment purchased by persons regularly engaged in the business of raising worms, fish, any insect or any other form of terrestrial or aquatic animal life and used for the purpose of raising same for marketing. This exemption shall only be granted and extended to the purchaser when the items are to be used and in fact are used in the raising of animal life as set out above. Each purchaser shall certify, in writing, on the invoice or sales ticket retained by the vendor that the purchaser is regularly engaged in the business of raising such animal life and that the items purchased will be used only in such business. The vendor shall certify to the Oklahoma Tax Commission

that the price of the items has been reduced to grant the full benefit of the exemption. Violation hereof by the purchaser or vendor shall be a misdemeanor;

6. Sale of natural or artificial gas and electricity, and associated delivery or transmission services, when sold exclusively for residential use. Provided, this exemption shall not apply to any sales tax levied by a city or town, or a county, or any other jurisdiction in this state;

7. In addition to the exemptions authorized by Section 1357.6 of this title, sales of drugs sold pursuant to a prescription written for the treatment of human beings by a person licensed to prescribe the drugs, and sales of insulin and medical oxygen. Provided, this exemption shall not apply to over-the-counter drugs;

8. Transfers of title or possession of empty, partially filled, or filled returnable oil and chemical drums to any person who is not regularly engaged in the business of selling, reselling or otherwise transferring empty, partially filled, or filled returnable oil drums;

9. Sales of one-way utensils, paper napkins, paper cups, disposable hot containers and other one-way carry out materials to a vendor of meals or beverages;

10. Sales of food or food products for home consumption which are purchased in whole or in part with coupons issued pursuant to the federal food stamp program as authorized by Sections 2011 through 2029 of Title 7 of the United States Code, as to that portion purchased with such coupons. The exemption provided for such sales shall be inapplicable to such sales upon the effective date of any federal law that removes the requirement of the exemption as a condition for participation by the state in the federal food stamp program;

11. Sales of food or food products, or any equipment or supplies used in the preparation of the food or food products to or by an organization which:

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

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

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

14. Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment for use in a qualified aircraft maintenance or manufacturing facility. For purposes of this paragraph, "qualified aircraft maintenance or manufacturing facility" means a new or expanding facility primarily engaged in aircraft repair, building or rebuilding whether or not on a factory basis, whose total cost of construction exceeds the sum of Five Million Dollars (\$5,000,000.00) and which employs at least two hundred fifty (250) new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, upon completion of the facility. In order to qualify for the exemption provided for by this paragraph, the cost of the items purchased by the qualified aircraft maintenance or manufacturing facility shall equal or exceed the sum of Two Million Dollars (\$2,000,000.00);

15. Sales of tangible personal property consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility as defined in paragraph 14 of this section. For purposes of this paragraph, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a qualified aircraft maintenance or manufacturing facility for construction or expansion of such a facility shall be considered sales made to a qualified aircraft maintenance or manufacturing facility;

16. Sales of any interstate telecommunications services which:
- a. entitle the subscriber to inward or outward calling respectively between a station associated with an access line in the local telephone system area or a station directly connected to any interexchange carrier's facilities and telephone or radiotelephone stations in diverse geographical locations specified by the subscriber, or

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

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

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

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

- a. as defined under Industrial Group Numbers 7372 and 7373 of the Standard Industrial Classification (SIC) Manual, latest version, which derive at least fifty percent (50%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer, and
- b. as defined under Industrial Group Number 7374 of the SIC Manual, latest version, which derive at least eighty percent (80%) of their annual gross revenues

from the sale of a product or service to an out-of-state buyer or consumer.

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

20. Sales of prosthetic devices to an individual for use by such individual. For purposes of this paragraph, "prosthetic device" shall have the same meaning as provided in Section 1357.6 of this title, but shall not include corrective eye glasses, contact lenses, hearing aids or dental prostheses;

21. Sales of tangible personal property or services to a motion picture or television production company to be used or consumed in connection with an eligible production. For purposes of this paragraph, "eligible production" means a documentary, special, music video, or a television program that will serve as a pilot for or be a segment of an ongoing dramatic or situation comedy series filmed or taped for network or national or regional syndication or a feature-length motion picture intended for theatrical release or for network or national or regional syndication or broadcast. The provisions of this paragraph shall apply to sales occurring on or after July 1, 1996;

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

23. Sales of tangible personal property or services to tax-exempt independent nonprofit biomedical research foundations that provide educational programs for Oklahoma science students and

teachers and to tax-exempt independent nonprofit community blood banks headquartered in this state;

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

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

26. Beginning July 1, 2002, sales of aircraft engine repairs, modification, and replacement parts, sales of aircraft frame repairs and modification, aircraft interior modification, and paint, and sales of services employed in the repair, modification and replacement of parts of aircraft engines, aircraft frame and interior repair and modification, and paint. The exemption provided by this paragraph shall be limited to aircraft repairs, modification, and replacement parts for aircraft weighing more than nine thousand (9,000) pounds gross take-off weight and less than three hundred thousand (300,000) pounds gross take-off weight and which aircraft are brought into this state exclusively for such repairs or modification. The exemption provided by this paragraph shall be limited to repairs or modifications made by an aircraft repair facility. As used in this paragraph, the term "aircraft" shall have the same meaning as such term is defined in Section 6001 of this title. The term "aircraft repair facility" shall mean any facility which either is an aircraft manufacturer's authorized service facility or a facility which repairs, modifies or replaces aircraft parts in which more than Three Million Dollars (\$3,000,000.00) was invested to establish the new facility or expand an existing facility and which construction was commenced or was in progress on or after July 1, 1999; provided, amounts expended for

research and development as defined in Sections 41 and 174 of the Internal Revenue Code with respect to modification of aircraft shall be included as amounts invested to establish a new facility or expand an existing facility for purposes of the investment threshold specified herein;

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

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

28. Sales of tangible personal property made at estate sales at which such property is offered for sale on the premises of the former residence of the decedent by a person who is not required to be licensed pursuant to the Transient Merchant Licensing Act, Section 1601 et seq. of Title 19 of the Oklahoma Statutes, or who is not otherwise required to obtain a sales tax permit for the sale of such property pursuant to the provisions of Section 1364 of this title; provided:

- a. such sale or event may not be held for a period exceeding three (3) consecutive days,
- b. the sale must be conducted within six (6) months of the date of death of the decedent, and
- c. the exemption allowed by this paragraph shall not be allowed for property that was not part of the decedent's estate;

29. Beginning January 1, 2004, sales of electricity and associated delivery and transmission services, when sold exclusively for use by an oil and gas operator for reservoir dewatering projects and associated operations commencing on or after July 1, 2003, in

which the initial water-to-oil ratio is greater than or equal to five-to-one water-to-oil, and such oil and gas development projects have been classified by the Corporation Commission as a reservoir dewatering unit; ~~and~~

30. Sales of prewritten computer software that is delivered electronically. For purposes of this paragraph, "delivered electronically" means delivered to the purchaser by means other than tangible storage media; and

31. Sales of modular dwelling units when built at a production facility and moved in whole or in parts, to be assembled on-site, and permanently affixed to the real property and used for residential or commercial purposes. The exemption provided by this paragraph shall equal forty-five percent (45%) of the total sales price of the modular dwelling unit. For purposes of this paragraph, "modular dwelling unit" means a structure that is not subject to the motor vehicle excise tax imposed pursuant to Section 2103 of this title.

SECTION 2. AMENDATORY 68 O.S. 2001, Section 2355, is amended to read as follows:

Section 2355. A. Individuals. ~~Except as otherwise provided in Section 4001 of this title, for~~ For all taxable years beginning after December 31, 1998, a tax is hereby imposed upon the Oklahoma taxable income of every resident or nonresident individual, which tax shall be computed at the option of the taxpayer under one of the two following methods:

1. METHOD 1.

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

- (1) 1/2% tax on first \$1,000.00 or part thereof,
- (2) 1% tax on next \$1,500.00 or part thereof,
- (3) 2% tax on next \$1,250.00 or part thereof,
- (4) 3% tax on next \$1,150.00 or part thereof,

- (5) 4% tax on next \$1,300.00 or part thereof,
- (6) 5% tax on next \$1,500.00 or part thereof,
- (7) 6% tax on next \$2,300.00 or part thereof, and
- (8) (a) for taxable years beginning after December 31, 1998, and before January 1, 2002, 6.75% tax on the remainder ~~and,~~
 - (b) for taxable years beginning on or after January 1, 2002, and before January 1, 2004, 7% tax on the remainder, and
 - (c) for taxable years beginning on or after January 1, 2004, 6.65% tax on the remainder,
- ~~(b) for taxable years beginning after December 31, 1999, for which the State Board of Equalization suspends the provisions of subdivision (a) of this division pursuant to the provisions of Section 4001 of this title, 7% tax on the remainder.~~

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

- (1) 1/2% tax on first \$2,000.00 or part thereof,
- (2) 1% tax on next \$3,000.00 or part thereof,
- (3) 2% tax on next \$2,500.00 or part thereof,
- (4) 3% tax on next \$2,300.00 or part thereof,
- (5) 4% tax on next \$2,400.00 or part thereof,
- (6) 5% tax on next \$2,800.00 or part thereof,
- (7) 6% tax on next \$6,000.00 or part thereof, and

- (8) (a) for taxable years beginning after December 31, 1998, and before January 1, 2002, 6.75% tax on the remainder ~~and,~~
- (b) for taxable years beginning on or after January 1, 2002, and before January 1, 2004, 7% tax on the remainder, and
- (c) for taxable years beginning on or after January 1, 2004, 6.65% tax on the remainder,
- ~~or~~
- ~~(b) for taxable years beginning after December 31, 1999, for which the State Board of Equalization suspends the provisions of subdivision (a) of this division pursuant to the provisions of Section 4001 of this title, 7% tax on the remainder.~~

2. METHOD 2.

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

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

b. Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return

under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code deducting federal income tax:

- (1) 1/2% tax on the first \$2,000.00 or part thereof,
- (2) 1% tax on the next \$3,000.00 or part thereof,
- (3) 2% tax on the next \$2,500.00 or part thereof,
- (4) 3% tax on the next \$1,400.00 or part thereof,
- (5) 4% tax on the next \$1,500.00 or part thereof,
- (6) 5% tax on the next \$1,600.00 or part thereof,
- (7) 6% tax on the next \$1,250.00 or part thereof,
- (8) 7% tax on the next \$1,750.00 or part thereof,
- (9) 8% tax on the next \$3,000.00 or part thereof,
- (10) 9% tax on the next \$6,000.00 or part thereof, and
- (11) 10% tax on the remainder.

B. Nonresident aliens. In lieu of the rates set forth in subsection A above, there shall be imposed on nonresident aliens, as defined in the Internal Revenue Code, a tax of eight percent (8%) instead of thirty percent (30%) as used in the Internal Revenue Code, with respect to the Oklahoma taxable income of such nonresident aliens as determined under the provision of the Oklahoma Income Tax Act.

Every payer of amounts covered by this subsection shall deduct and withhold from such amounts paid each payee an amount equal to eight percent (8%) thereof. Every payer required to deduct and withhold taxes under this subsection shall for each quarterly period on or before the last day of the month following the close of each such quarterly period, pay over the amount so withheld as taxes to the Tax Commission, and shall file a return with each such payment. Such return shall be in such form as the Tax Commission shall prescribe. Every payer required under this subsection to deduct and withhold a tax from a payee shall, as to the total amounts paid to each payee during the calendar year, furnish to such payee, on or

before January 31, of the succeeding year, a written statement showing the name of the payer, the name of the payee and ~~his~~ the payee's social security account number, if any, the total amount paid subject to taxation, and the total amount deducted and withheld as tax and such other information as the Tax Commission may require. Any payer who fails to withhold or pay to the Tax Commission any sums herein required to be withheld or paid shall be personally and individually liable therefor to the State of Oklahoma.

C. Corporations. For all taxable years beginning after December 31, 1989, a tax is hereby imposed upon the Oklahoma taxable income of every corporation doing business within this state or deriving income from sources within this state in an amount equal to six percent (6%) thereof.

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

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

Every payer of amounts covered by this subsection shall deduct and withhold from such amounts paid each payee an amount equal to six percent (6%) thereof. Every payer required to deduct and withhold taxes under this subsection shall for each quarterly period on or before the last day of the month following the close of each such quarterly period, pay over the amount so withheld as taxes to the Tax Commission, and shall file a return with each such payment.

Such return shall be in such form as the Tax Commission shall prescribe. Every payer required under this subsection to deduct and withhold a tax from a payee shall, as to the total amounts paid to each payee during the calendar year, furnish to such payee, on or before January 31, of the succeeding year, a written statement showing the name of the payer, the name of the payee and ~~his~~ the payee's social security account number, if any, the total amounts paid subject to taxation, the total amount deducted and withheld as tax and such other information as the Tax Commission may require. Any payer who fails to withhold or pay to the Tax Commission any sums herein required to be withheld or paid shall be personally and individually liable therefor to the State of Oklahoma.

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

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

SECTION 3. AMENDATORY Section 19, Chapter 472, O.S.L. 2003 (68 O.S. Supp. 2003, Section 2357.45), is amended to read as follows:

Section 2357.45 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~~ this title, 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 4. AMENDATORY 68 O.S. 2001, Section 5011, is amended to read as follows:

Section 5011. A. Except as otherwise provided by this section, beginning with the calendar year 1990 and for each calendar year through 1998, and for years in which the State Board of Equalization suspends subsection B or C of this section pursuant to the provisions of Section 3 of this act calendar year 2003, any individual who is a resident of and is domiciled in this state during the entire calendar year for which the filing is made and

whose gross household income for such year does not exceed Twelve Thousand Dollars (\$12,000.00) may file a claim for sales tax relief.

B. For calendar ~~year~~ years 1999, ~~and for all other years for which the requirements of Section 3 of this act may apply~~ and 2002, any individual who is a resident of and is domiciled in this state during the entire calendar year for which the filing is made may file a claim for sales tax relief if the gross household income for such year does not exceed the following amounts:

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

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

C. ~~Except as otherwise may be provided in Section 3 of this act, for~~ For calendar ~~year~~ years 2000, ~~and for all other years for which the requirements of Section 3 of this act may apply~~ 2001, 2004, 2005 and subsequent years, an individual who is a resident of and is domiciled in this state during the entire calendar year for which the filing is made may file a claim for sales tax relief if the gross household income for such year does not exceed the following amounts:

1. For an individual not subject to the provisions of paragraph 2 of this subsection and claiming no allowable personal exemption other than the allowable personal exemption for that individual or

the spouse of that individual, Twenty Thousand Dollars (\$20,000.00);
or

2. For an individual claiming one or more allowable personal exemptions other than the allowable personal exemption for that individual or the spouse of that individual, an individual with a physical disability constituting a substantial handicap to employment, or an individual ~~whose~~ who is sixty-five (65) years of age or older at the close of the tax year, Fifty Thousand Dollars (\$50,000.00).

D. The amount of the claim filed pursuant to the Sales Tax Relief Act shall be Forty Dollars (\$40.00) multiplied by the number of allowable personal exemptions. As used in the Sales Tax Relief Act, "allowable personal exemption" means a personal exemption to which the taxpayer would be entitled pursuant to the provisions of the Oklahoma Income Tax Act, except for:

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

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

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

E. A person convicted of a felony shall not be permitted to file a claim for sales tax relief pursuant to the provisions of Sections 5010 through 5016 of this title for the period of time during which the person is an inmate in the custody of the Department of Corrections. Such period of time shall include the entire calendar year if the person is in the custody of the Department of Corrections during any part of the calendar year. The

provisions of this subsection shall not prohibit all other members of the household of an inmate from filing a claim based upon the personal exemptions to which the household members would be entitled pursuant to the provisions of the Oklahoma Income Tax Act.

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

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

SECTION 5. REPEALER 68 O.S. 2001, Section 4001, is hereby repealed.

SECTION 6. This act shall become effective July 1, 2004.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

49-2-8863 ARE 03/26/04