

EHB 2753

THE STATE SENATE
Wednesday, April 12, 2006

ENGROSSED

House Bill No. 2753

As Amended

ENGROSSED HOUSE BILL NO. 2753 - By: THOMPSON, TERRILL, BRADDOCK,
BRANNON, COVEY, DEUTSCHENDORF, DUNCAN, LINDLEY, NANCE, SHELTON,
SMITHSON and TURNER of the House and JOLLEY of the Senate.

[revenue and taxation - 47 O.S., Section 1135.2 - special
license plates - amending 68 O.S., Sections 1357, 2105, and
2358 - sales tax exemption - veterans - effective dates -
emergency]

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

SECTION 1. AMENDATORY Section 11, Chapter 504, O.S.L.
2004, as amended by Section 3, Chapter 416, O.S.L. 2005 (47 O.S.
Supp. 2005, Section 1135.2), is amended to read as follows:

Section 1135.2 A. The Oklahoma Tax Commission is hereby
authorized to design and issue appropriate official special license
plates to persons in recognition of their service or awards as
provided by this section.

Special license plates shall not be transferred to any other
person but shall be removed from the vehicle upon transfer of
ownership and retained. The special license plate may then be used
on another vehicle but only after such other vehicle has been
registered for the current year.

1 Special license plates shall be renewed each year by the Tax
2 Commission or a motor license agent. The Tax Commission shall
3 annually notify by mail all persons issued special license plates.
4 The notice shall contain all necessary information and shall contain
5 instructions for the renewal procedure upon presentation to a motor
6 license agent or the Tax Commission. The license plates shall be
7 issued on a staggered system except for legislative plates and
8 amateur radio operator license plates.

9 The Tax Commission is hereby directed to develop and implement a
10 system whereby motor license agents are permitted to accept
11 applications for special license plates authorized under this
12 section. The motor license agent shall confirm the applicant's
13 eligibility, if applicable, collect and deposit any amount
14 specifically authorized by law, accept and process the necessary
15 information directly into such system and generate a receipt
16 accordingly. For performance of these duties, motor license agents
17 shall retain the fee provided in Section 1141.1 of this title for
18 registration of a motor vehicle. The motor license agent fees for
19 acceptance of applications and renewals shall be paid out of the
20 Oklahoma Tax Commission Reimbursement Fund.

21 B. The special license plates provided by this section are as
22 follows:

1 1. Prisoner of War License Plates - such plates shall be
2 designed for honorably discharged or present members of the United
3 States Armed Forces and civilians who were former prisoners of war
4 held by a foreign country and who can provide proper certification
5 of that status. Such persons may apply for a prisoner of war
6 license plate for no more than two vehicles with each vehicle having
7 a rated carrying capacity of one (1) ton or less. The surviving
8 spouse of any deceased former prisoner of war, if the spouse has not
9 since remarried, or if remarried, the remarriage is terminated by
10 death, divorce, or annulment, may apply for a prisoner of war
11 license plate for one vehicle with a rated carrying capacity of one
12 (1) ton or less. The fee provided by this section for the special
13 license plate authorized by this paragraph shall be in addition to
14 all other registration fees provided by law, except the registration
15 fees levied by Section 1132 of this title;

16 2. National Guard License Plates - such plates shall be
17 designed for active or retired members of the Oklahoma National
18 Guard. Retirees who are eligible for such plates shall provide
19 proof of eligibility upon initial application, but shall not be
20 required to provide proof of eligibility annually;

21 3. Air National Guard License Plates - such plates shall be
22 designed for active or retired members of the Oklahoma Air National
23 Guard. Retirees who are eligible for such plates shall provide

1 proof of eligibility upon initial application, but shall not be
2 required to provide proof of eligibility annually;

3 4. United States Armed Forces - such plates shall be designed
4 for active, retired, former or reserve members of the United States
5 Armed Forces, and shall identify which branch of service, and carry
6 the emblem and name of either the Army, Navy, Air Force, Marines or
7 Coast Guard, according to the branch of service to which the member
8 belongs or did belong. Former members who have been dishonorably
9 discharged shall not be eligible for such plates. Persons applying
10 for such license plate must show proof of present or past military
11 service by presenting a valid Uniformed Services Identity Card or
12 the United States Department of Defense Form (DD)214. Retired or
13 former members who are eligible for such plates shall provide proof
14 of eligibility upon initial application, but shall not be required
15 to provide proof of eligibility annually;

16 5. Congressional Medal of Honor Recipient License Plates - such
17 plates shall be designed for any resident of this state who has been
18 awarded the Congressional Medal of Honor. Such persons may apply
19 for a Congressional Medal of Honor recipient license plate for each
20 vehicle with a rated carrying capacity of one (1) ton or less.
21 There shall be no registration fee for the issuance of this plate;

22 6. Missing In Action License Plates - such plates shall be
23 designed to honor members of the United States Armed Forces who are

1 missing in action. The spouse of such missing person, if the spouse
2 has not since remarried, or if remarried, the remarriage is
3 terminated by death, divorce, or annulment, and each parent of the
4 missing person may apply for a missing in action license plate upon
5 presenting proper certification that the person is missing in action
6 and that the person making the application is the qualifying spouse
7 or the parent of the missing person. The qualifying spouse and each
8 parent of the missing person may each apply for the missing in
9 action license plate for each vehicle with a rated carrying capacity
10 of one (1) ton or less;

11 7. Purple Heart Recipient License Plates - such plates shall be
12 designed for any resident of this state presenting proper
13 certification from the United States Department of Veterans Affairs
14 or the Armed Forces of the United States certifying that such
15 resident has been awarded the Purple Heart military decoration.
16 Such persons may apply for a Purple Heart recipient license plate
17 for vehicles having a rated carrying capacity of one (1) ton or
18 less. The surviving spouse of any deceased veteran who has been
19 awarded the Purple Heart military decoration, if such spouse has not
20 since remarried, or if remarried, the remarriage has been terminated
21 by death, divorce or annulment, may apply for such plate for one
22 vehicle with a rated carrying capacity of one (1) ton or less;

1 8. Pearl Harbor Survivor License Plates - such plates shall be
2 designed for any resident of this state who can be verified by the
3 United States Department of Veterans Affairs or the Armed Forces of
4 the United States as being:

5 a. a member of the United States Armed Forces on December
6 7, 1941,

7 b. stationed on December 7, 1941, during the hours of
8 7:55 a.m. to 9:45 a.m. Hawaii time at Pearl Harbor,
9 the island of Oahu, or offshore at a distance not to
10 exceed three (3) miles, and

11 c. a recipient of an honorable discharge from the United
12 States Armed Forces.

13 Such person may apply for a Pearl Harbor Survivor license plate
14 for each vehicle with a rated carrying capacity of one (1) ton or
15 less;

16 9. Iwo Jima License Plates - such plates shall be designed for
17 any resident of this state who can be verified by the United States
18 Department of Veterans Affairs or the Armed Forces of the United
19 States as being:

20 a. a member of the United States Armed Forces in February
21 of 1945,

22 b. stationed in February of 1945 on or in the immediate
23 vicinity of the island of Iwo Jima, and

1 the United States, the Tax Commission may, in its
2 discretion, accept evidence of such participation from
3 the person applying for the license plate, and
4 c. a recipient of an honorable discharge from the United
5 States Armed Forces.

6 Such person may apply for a D-Day Survivor license plate for
7 each vehicle with a rated carrying capacity of one (1) ton or less;

8 11. Killed in Action License Plates - such plates shall be
9 designed to honor members of the United States Armed Forces who were
10 killed in action. The spouse of the deceased person, if the spouse
11 has not remarried, or if remarried, the remarriage is terminated by
12 death, divorce, or annulment, may apply for a killed in action
13 license plate upon presenting proper certification that the person
14 was killed in action and that the person making the application is
15 the qualifying spouse of the deceased person. The qualifying spouse
16 may apply for a killed in action license plate for no more than two
17 vehicles with each vehicle with a rated carrying capacity of one (1)
18 ton or less. The fee provided by this section for the special
19 license plate authorized by this paragraph shall be in addition to
20 all other registration fees provided by law, except the registration
21 fees levied by Section 1132 of this title;

1 12. Gold Star Survivor License Plates - such plates shall be
2 designed to honor the surviving spouses of qualified veterans. As
3 used in this paragraph, "qualified veteran" shall mean:

4 a. any person honorably discharged from any branch of the
5 United States Armed Forces or as a member of the
6 Oklahoma National Guard, who died as a direct result
7 of the performance of duties for any branch of the
8 United States Armed Forces while on active military
9 duty; or

10 b. any person honorably discharged from any branch of the
11 United States Armed Forces or as a member of the
12 Oklahoma National Guard, who died as a result of
13 injury, illness or disease caused by the performance
14 of such duties while on active duty, whether the death
15 occurred while on active duty or after the honorable
16 discharge of such person.

17 13. Gold Star Parents License Plates - such plates shall be
18 designed to honor members of the United States Armed Forces who were
19 killed during a war. The parents of the deceased person may apply
20 for a gold star license plate upon presenting proper certification
21 that the person was killed during a war and that the person making
22 the application is the parent of the deceased person. The parent
23 may apply for a gold star parent license plate for no more than two

1 vehicles with each vehicle having a rated carrying capacity of one
2 (1) ton or less. The fee provided by this section for the special
3 license plate authorized by this paragraph shall be in addition to
4 all other registration fees provided by law, except the registration
5 fees levied by Section 1132 of this title;

6 ~~13.~~ 14. Military Decoration License Plates - such plates shall
7 be designed for any resident of this state who has been awarded the
8 Distinguished Service Medal, the Distinguished Service Cross, the
9 Distinguished Flying Cross, the Bronze Star military decoration or
10 the Silver Star military decoration. Such persons may apply for a
11 military decoration license plate for each vehicle with a rated
12 carrying capacity of one (1) ton or less;

13 ~~14.~~ 15. Vietnam Veteran License Plates - such plates shall be
14 designed for honorably discharged or present members of the United
15 States Armed Forces who served in the Vietnam Conflict. Such
16 persons may apply for a Vietnam veteran license plate for each
17 vehicle with a rated carrying capacity of one (1) ton or less;

18 ~~15.~~ 16. Police Officer License Plates - such plates shall be
19 designed for any currently employed or retired municipal police
20 officer. Police officers may apply for police officer license
21 plates for vehicles with a rated capacity of one (1) ton or less
22 upon proof of employment by or retirement from a municipal police
23 department by either an identification card or letter from the chief

1 of the police department or the Oklahoma Police Pension and
2 Retirement Board. Retirees who are eligible for such plates shall
3 provide proof of eligibility upon initial application, but shall not
4 be required to provide proof of eligibility annually. The license
5 plates shall be designed in consultation with municipal police
6 departments of this state;

7 ~~16.~~ 17. World War II Veteran License Plates - such plates shall
8 be designed to honor honorably discharged former members of the
9 United States Armed Forces who are residents of this state and who
10 can be verified by the Oklahoma Military Department, the Department
11 of Veterans Affairs or the Armed Forces of the United States as
12 having served on federal active duty anytime during the period from
13 September 16, 1940, to December 7, 1945. The former members may
14 apply for a World War II Veteran license plate for vehicles with a
15 rated carrying capacity of one (1) ton or less.

16 The license plate shall have the legend "Oklahoma" and shall
17 contain, in the center of the plate, either the Thunderbird Insignia
18 of the 45th Infantry Division in the prescribed red and gold
19 coloring or the emblem of the Army, Navy, Air Force, Marines or
20 Coast Guard according to the branch of service to which the member
21 belonged. For the purpose of license plate identification, the
22 plate shall contain four digits, two digits at the left and two

1 digits at the right of the insignia or emblem. Centered on the
2 bottom of the license plate shall be the words "WORLD WAR II";

3 ~~17.~~ 18. Korean War Veteran License Plates - such plates shall
4 be designed to honor honorably discharged former members of the
5 United States Armed Forces who are residents of this state and who
6 can be verified by the Oklahoma Military Department, the Department
7 of Veterans Affairs or the Armed Forces of the United States as
8 having served on federal active duty anytime during the period from
9 June 27, 1950, to January 31, 1955, both dates inclusive. The
10 former members may apply for a Korean War Veteran license plate for
11 vehicles with a rated carrying capacity of one (1) ton or less.

12 The license plate shall have the legend "OKLAHOMA" and shall
13 contain, in the center of the plate, either the Thunderbird Insignia
14 of the 45th Infantry Division in the prescribed red and gold
15 coloring or the emblem of the Army, Navy, Air Force, Marines or
16 Coast Guard according to the branch of service to which the member
17 belonged. For the purpose of license plate identification, the
18 plate shall contain four digits, two digits at the left and two
19 digits at the right of the insignia or emblem. Centered on the
20 bottom of the license plate shall be the word "KOREA";

21 ~~18.~~ 19. Municipal Official License Plates - such plates shall
22 be designed for persons elected to a municipal office in this state
23 and shall designate the name of the municipality and the district or

1 ward in which the municipal official serves. The plates shall only
2 be produced upon application;

3 ~~19.~~ 20. Red Cross Volunteer License Plates - such plates shall
4 be designed to honor American Red Cross volunteers and staff who are
5 residents of this state. Such persons must present an
6 identification card issued by the American Red Cross and bearing a
7 photograph of the person. The license plate shall be designed with
8 the assistance of the American Red Cross and shall have the legend
9 "Oklahoma OK!" in the color Pantone 186C Red. Below the legend the
10 symbol of the American Red Cross and no more than three letters and
11 three numbers shall be in the color Pantone 186C Red. Below the
12 symbol and letters and numbers shall be the words "American Red
13 Cross" in black. The plates shall not be subject to the design
14 requirements of any other license plates prescribed by law other
15 than the space for the placement of the yearly decals for each
16 succeeding year of registration after the initial issue;

17 ~~20.~~ 21. Veterans of Foreign Wars License Plates - such plates
18 shall be designed to honor the veterans of foreign wars and issued
19 to any resident of this state who is a member of a Veterans of
20 Foreign Wars organization in this state. Such persons may apply for
21 Veterans of Foreign Wars license plates upon proof of membership in
22 a Veterans of Foreign Wars organization. The license plate shall be

1 designed in consultation with the Veterans of Foreign Wars
2 organization;

3 ~~21.~~ 22. Desert Storm License Plates - such plates shall be
4 designed and issued to any honorably discharged or present member of
5 the United States Armed Forces who served in the Persian Gulf Crisis
6 and the Desert Storm operation. Such persons may apply for a Desert
7 Storm license plate for each vehicle with a rated carrying capacity
8 of one (1) ton or less;

9 ~~22.~~ 23. Military Reserve Unit License Plates - such plates
10 shall be designed and issued to any honorably discharged or present
11 member of a reserve unit of the United States Armed Forces. Such
12 persons may apply for a Military Reserve Unit license plate for each
13 vehicle with a rated carrying capacity of one (1) ton or less;

14 ~~23.~~ 24. Oklahoma City Bombing Victims and Survivors License
15 Plates - such plates shall be designed and issued to any victim or
16 survivor of the bombing attack on the Alfred P. Murrah Federal
17 Building in downtown Oklahoma City on April 19, 1995;

18 ~~24.~~ 25. Civil Air Patrol License Plates - such plates shall be
19 designed and issued to any person who is a member of the Civil Air
20 Patrol. Such persons may apply for a Civil Air Patrol license plate
21 for each vehicle with a rated carrying capacity of one (1) ton or
22 less upon proof of membership in the Civil Air Patrol. The license
23 plate shall be designed in consultation with the Civil Air Patrol;

1 ~~25.~~ 26. Ninety-Nines License Plates - such plates shall be
2 designed and issued to members of the Ninety-Nines. Persons
3 applying for such license plate must show proof of membership in the
4 Ninety-Nines. The license plates shall be designed in consultation
5 with the Ninety-Nines;

6 ~~26.~~ 27. Combat Infantryman Badge License Plates - such plates
7 shall be designed to honor recipients of the Combat Infantryman
8 Badge. The plate shall have the legend "Oklahoma OK". Below the
9 legend shall be the Combat Infantryman Badge and three numbers.
10 Below the badge and the numbers shall be the words "Combat
11 Infantryman Badge". Such persons may apply for a Combat Infantryman
12 Badge license plate for each vehicle with a rated carrying capacity
13 of one (1) ton or less;

14 ~~27.~~ 28. Somalia Combat Veterans License Plates - such plates
15 shall be designed and issued to any honorably discharged or present
16 member of the United States Armed Forces who saw combat in the
17 United Nations relief effort. Such persons may apply for a Somalia
18 Combat Veteran licenseplate for each vehicle with a rated carrying
19 capacity of one (1) ton or less;

20 ~~28.~~ 29. Police Chaplain License Plates - such plates shall be
21 designed and issued to members of the International Conference of
22 Police Chaplains (ICPC) who have completed the ICPC requirements for

1 basic certification as a police chaplain. The license plates shall
2 be designed in consultation with the ICPC;

3 ~~29.~~ 30. Joint Service Commendation Medal License Plates - such
4 plates shall be designed and issued to any resident of this state
5 who has been awarded the Joint Service Commendation Medal by the
6 United States Secretary of Defense;

7 ~~30.~~ 31. Merchant Marine License Plates - such plates shall be
8 designed, subject to criteria to be presented to the Tax Commission
9 by the Oklahoma Department of Veterans Affairs, and issued to any
10 person who during combat was a member of the Merchant Marines as
11 certified by the Oklahoma Department of Veterans Affairs. Such
12 license plate may be issued for each vehicle with a rated carrying
13 capacity of one (1) ton or less;

14 ~~31.~~ 32. Legislative License Plates - such plates shall be
15 designed for persons elected to the Oklahoma Legislature and shall
16 designate the house of the Legislature in which the legislator
17 serves and the district number;

18 ~~32.~~ 33. Disabled Veterans License Plates - such plates shall be
19 designed for persons presenting proper certification from the United
20 States Department of Veterans Affairs or the Armed Forces of the
21 United States certifying such veteran has a service-connected
22 disability rating of fifty percent (50%) or more, regardless which
23 agency pays the disability benefits, or that such veteran has been

1 awarded a vehicle by the United States government or receives a
2 grant from the United States Department of Veterans Affairs for the
3 purchase of an automobile due to a service-connected disability
4 rating or due to the loss of use of a limb or an eye. Such persons
5 may apply to the Tax Commission for a disabled veterans license
6 plate or to a motor license agent for a regular license plate for no
7 more than two vehicles with each vehicle having a rated carrying
8 capacity of one (1) ton or less. The surviving spouse of any
9 deceased disabled veteran, if the spouse has not since remarried, or
10 if remarried, the remarriage is terminated by death, divorce, or
11 annulment, may apply for a disabled veterans license plate for one
12 vehicle with a rated carrying capacity of one (1) ton or less. The
13 fee provided by this section for the special license plate
14 authorized by this paragraph shall be in addition to all other
15 registration fees provided by law, except the registration fees
16 levied by Section 1132 of this title.

17 If the person qualifies for a disabled veterans license plate
18 and is also eligible for an insignia as a physically disabled person
19 under the provisions of Section 15-112 of this title, the person
20 shall be eligible to receive a disabled veterans license plate that
21 also displays the international accessibility symbol, which is a
22 stylized human figure in a wheelchair. Upon the death of the
23 disabled veteran with a disabled veterans license plate with the

1 international accessibility symbol, the plate shall be returned to
2 the Tax Commission;

3 ~~33.~~ 34. United States Air Force Association License Plates -
4 such plates shall be designed for members of the United States Air
5 Force Association. Persons applying for such license plate must
6 show proof of membership in the Association. The license plates
7 shall be designed in consultation with the Association;

8 ~~34.~~ 35. Oklahoma Military Academy Alumni License Plates - such
9 plates shall be designed and issued to any resident of this state
10 who is an alumnus of the Oklahoma Military Academy. Such persons
11 may apply for an Oklahoma Military Academy Alumnus license plate for
12 each vehicle with a rated carrying capacity of one (1) ton or less.
13 The license plates shall be designed in consultation with the
14 Oklahoma Military Academy and shall contain the shield of the
15 Academy;

16 ~~35.~~ 36. Amateur Radio Operator License Plates - such plates
17 shall be designed and issued to any person, holding a valid
18 operator's license, technician class or better, issued by the
19 Federal Communications Commission, and who is also the owner of a
20 motor vehicle currently registered in Oklahoma, in which has been
21 installed amateur mobile transmitting and receiving equipment.
22 Eligible persons shall be entitled to two special vehicle
23 identification plates as herein provided. Application for such

1 identification plates shall be on a form prescribed by the Oklahoma
2 Tax Commission and the plates issued to such applicant shall have
3 stamped thereon the word "Oklahoma" and bear the official call
4 letters of the radio station assigned by the Federal Communications
5 Commission to the individual amateur operator thereof. All
6 applications for such plates must be made to the Oklahoma Tax
7 Commission on or before the first day of October of any year for
8 such plates for the following calendar year and must be accompanied
9 by the fee required in this section together with a certificate, or
10 such other evidence as the Tax Commission may require, of proof that
11 applicant has a valid technician class or better amateur operator's
12 license and proof of his ownership of a vehicle in which radio
13 receiving and transmitting equipment is installed. Applicants shall
14 only be entitled to one set of special identification plates in any
15 one (1) year, and such calendar year shall be stamped thereon. The
16 right to such special identification plates herein provided for
17 shall continue until the amateur radio operator's license of the
18 person to whom such plates are issued expires or is revoked;

19 ~~36.~~ 37. American Legion License Plates - such plates shall be
20 designed for members of the American Legion. Persons applying for
21 such license plate must show proof of membership. The license
22 plates shall be designed in consultation with the American Legion of
23 Oklahoma;

1 ~~37.~~ 38. Deputy Sheriff License Plates - such plates shall be
2 designed for any currently employed or retired county sheriff or
3 deputy sheriff. County sheriffs or deputy sheriffs may apply for
4 such plates for vehicles with a rated capacity of one (1) ton or
5 less upon proof of employment by or retirement from a county
6 sheriff's office by either an identification card or letter from the
7 county sheriff or a government-sponsored retirement board from which
8 the county sheriff or deputy sheriff may be receiving a pension.
9 Retirees who are eligible for such plates shall provide proof of
10 eligibility upon initial application, but shall not be required to
11 provide proof of eligibility annually. The license plates shall be
12 designed in consultation with the county sheriff offices of this
13 state; and

14 ~~38.~~ 39. Surviving Spouse License Plates - such plates shall be
15 designed for any resident of this state who is the surviving spouse
16 of an honorably discharged veteran who died due to or as a
17 consequence of a service-connected disability. Such surviving
18 spouse may, if not since remarried, or if remarried, the remarriage
19 is terminated by death, divorce or annulment, apply for a Surviving
20 Spouse license plate for one vehicle with a rated carrying capacity
21 of one (1) ton or less.

22 C. Unless otherwise provided by this section, the fee for such
23 plates shall be Eight Dollars (\$8.00) and shall be in addition to

1 all other registration fees provided by the Oklahoma Vehicle License
2 and Registration Act. Such fees shall be deposited in the Oklahoma
3 Tax Commission Reimbursement Fund to be used for the administration
4 of the Oklahoma Vehicle License and Registration Act.

5 SECTION 2. AMENDATORY 68 O.S. 2001, Section 1357, as
6 last amended by Section 9, Chapter 381, O.S.L. 2005 (68 O.S. Supp.
7 2005, Section 1357), is amended to read as follows:

8 Section 1357. Exemptions - General.

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

- 11 1. Transportation of school pupils to and from elementary
12 schools or high schools in motor or other vehicles;
- 13 2. Transportation of persons where the fare of each person does
14 not exceed One Dollar (\$1.00), or local transportation of persons
15 within the corporate limits of a municipality except by taxicabs;
- 16 3. Sales for resale to persons engaged in the business of
17 reselling the articles purchased, whether within or without the
18 state, provided that such sales to residents of this state are made
19 to persons to whom sales tax permits have been issued as provided in
20 Section 1350 et seq. of this title. This exemption shall not apply
21 to the sales of articles made to persons holding permits when such
22 persons purchase items for their use and which they are not
23 regularly engaged in the business of reselling; neither shall this

1 exemption apply to sales of tangible personal property to peddlers,
2 solicitors and other salespersons who do not have an established
3 place of business and a sales tax permit. The exemption provided by
4 this paragraph shall apply to sales of motor fuel or diesel fuel to
5 a Group Five vendor, but the use of such motor fuel or diesel fuel
6 by the Group Five vendor shall not be exempt from the tax levied by
7 Section 1350 et seq. of this title. The purchase of motor fuel or
8 diesel fuel is exempt from sales tax when the motor fuel is for
9 shipment outside this state and consumed by a common carrier by rail
10 in the conduct of its business. The sales tax shall apply to the
11 purchase of motor fuel or diesel fuel in Oklahoma by a common
12 carrier by rail when such motor fuel is purchased for fueling,
13 within this state, of any locomotive or other motorized flanged
14 wheel equipment;

15 4. Sales of advertising space in newspapers, periodicals,
16 programs relating to sporting and entertainment events, and on
17 billboards (including signage, posters, panels, marquees, or on
18 other similar surfaces, whether indoors or outdoors), and any
19 advertising via the Internet, electronic display devices, or through
20 the electronic media, including radio, public address or broadcast
21 systems, television (whether through closed circuit broadcasting
22 systems or otherwise), and cable and satellite television, and the
23 servicing of any advertising devices;

1 5. Eggs, feed, supplies, machinery and equipment purchased by
2 persons regularly engaged in the business of raising worms, fish,
3 any insect or any other form of terrestrial or aquatic animal life
4 and used for the purpose of raising same for marketing. This
5 exemption shall only be granted and extended to the purchaser when
6 the items are to be used and in fact are used in the raising of
7 animal life as set out above. Each purchaser shall certify, in
8 writing, on the invoice or sales ticket retained by the vendor that
9 the purchaser is regularly engaged in the business of raising such
10 animal life and that the items purchased will be used only in such
11 business. The vendor shall certify to the Oklahoma Tax Commission
12 that the price of the items has been reduced to grant the full
13 benefit of the exemption. Violation hereof by the purchaser or
14 vendor shall be a misdemeanor;

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

20 7. In addition to the exemptions authorized by Section 1357.6
21 of this title, sales of drugs sold pursuant to a prescription
22 written for the treatment of human beings by a person licensed to

1 prescribe the drugs, and sales of insulin and medical oxygen.

2 Provided, this exemption shall not apply to over-the-counter drugs;

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

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

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

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

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

14 12. Sales of tangible personal property or services to or by
15 organizations which are exempt from taxation pursuant to the
16 provisions of Section 501(c) (3) of the Internal Revenue Code, 26
17 U.S.C., Section 501(c) (3), and which are primarily involved in the
18 collection and distribution of food and other household products to
19 other organizations which are exempt from taxation pursuant to the
20 provisions of Section 501(c) (3) of the Internal Revenue Code, 26
21 U.S.C., Section 501(c) (3), which facilitate the distribution of such
22 products to the needy, except sales made in the course of business

1 for profit or savings, competing with other persons engaged in the
2 same or similar business;

3 13. Sales of tangible personal property or services to
4 children's homes which are located on church-owned property and are
5 operated by organizations exempt from taxation pursuant to the
6 provisions of the Internal Revenue Code, 26 U.S.C., Section
7 501(c)(3);

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

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

10 16. Sales of any interstate telecommunications services which:

11 a. entitle the subscriber to inward or outward calling
12 respectively between a station associated with an
13 access line in the local telephone system area or a
14 station directly connected to any interexchange
15 carrier's facilities and telephone or radiotelephone
16 stations in diverse geographical locations specified
17 by the subscriber, or

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

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

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

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

- 20 a. as defined under Industrial Group Numbers 7372 and
21 7373 of the Standard Industrial Classification (SIC)
22 Manual, latest version, which derive at least fifty
23 percent (50%) of their annual gross revenues from the

1 sale of a product or service to an out-of-state buyer
2 or consumer, and

3 b. as defined under Industrial Group Number 7374 of the
4 SIC Manual, latest version, which derive at least
5 eighty percent (80%) of their annual gross revenues
6 from the sale of a product or service to an out-of-
7 state buyer or consumer.

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

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

21 21. Sales of tangible personal property or services to a motion
22 picture or television production company to be used or consumed in
23 connection with an eligible production. For purposes of this

1 paragraph, "eligible production" means a documentary, special, music
2 video, or a television commercial or television program that will
3 serve as a pilot for or be a segment of an ongoing dramatic or
4 situation comedy series filmed or taped for network or national or
5 regional syndication or a feature-length motion picture intended for
6 theatrical release or for network or national or regional
7 syndication or broadcast. The provisions of this paragraph shall
8 apply to sales occurring on or after July 1, 1996. In order to
9 qualify for the exemption, the motion picture or television
10 production company shall file any documentation and information
11 required to be submitted pursuant to rules promulgated by the Tax
12 Commission;

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

15 23. Sales of tangible personal property or services to tax-
16 exempt independent nonprofit biomedical research foundations that
17 provide educational programs for Oklahoma science students and
18 teachers and to tax-exempt independent nonprofit community blood
19 banks headquartered in this state;

20 24. Effective May 6, 1992, sales of wireless telecommunications
21 equipment to a vendor who subsequently transfers the equipment at no
22 charge or for a discounted charge to a consumer as part of a

1 promotional package or as an inducement to commence or continue a
2 contract for wireless telecommunications services;

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

6 26. Beginning July 1, 2002, sales of aircraft engine repairs,
7 modification, and replacement parts, sales of aircraft frame repairs
8 and modification, aircraft interior modification, and paint, and
9 sales of services employed in the repair, modification and
10 replacement of parts of aircraft engines, aircraft frame and
11 interior repair and modification, and paint. The exemption provided
12 by this paragraph shall be limited to aircraft repairs,
13 modification, and replacement parts for aircraft weighing more than
14 nine thousand (9,000) pounds gross take-off weight and less than
15 three hundred thousand (300,000) pounds gross take-off weight and
16 which aircraft are brought into this state exclusively for such
17 repairs or modification. The exemption provided by this paragraph
18 shall be limited to repairs or modifications made by an aircraft
19 repair facility. As used in this paragraph, the term "aircraft"
20 shall have the same meaning as such term is defined in Section 6001
21 of this title. The term "aircraft repair facility" shall mean any
22 facility which either is an aircraft manufacturer's authorized
23 service facility or a facility which repairs, modifies or replaces

1 aircraft parts in which more than Three Million Dollars
2 (\$3,000,000.00) was invested to establish the new facility or expand
3 an existing facility and which construction was commenced or was in
4 progress on or after July 1, 1999; provided, amounts expended for
5 research and development as defined in Sections 41 and 174 of the
6 Internal Revenue Code with respect to modification of aircraft shall
7 be included as amounts invested to establish a new facility or
8 expand an existing facility for purposes of the investment threshold
9 specified herein;

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

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

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

1 such property pursuant to the provisions of Section 1364 of this
2 title; provided:

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

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

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

22 31. Sales of modular dwelling units when built at a production
23 facility and moved in whole or in parts, to be assembled on-site,

1 and permanently affixed to the real property and used for
2 residential or commercial purposes. The exemption provided by this
3 paragraph shall equal forty-five percent (45%) of the total sales
4 price of the modular dwelling unit. For purposes of this paragraph,
5 "modular dwelling unit" means a structure that is not subject to the
6 motor vehicle excise tax imposed pursuant to Section 2103 of this
7 title; ~~and~~

8 32. Sales of tangible personal property or services to persons
9 who have been honorably discharged from active service in any branch
10 of the Armed Forces of the United States or Oklahoma National Guard
11 and who have been certified by the United States Department of
12 Veterans Affairs or its successor to be in receipt of disability
13 compensation at the one-hundred-percent rate and the disability
14 shall be permanent and have been sustained through military action
15 or accident or resulting from disease contracted while in such
16 active service. Sales qualifying for the exemption authorized by
17 this paragraph shall not exceed Twenty-five Thousand Dollars
18 (\$25,000.00) per year per individual. Upon request of the Oklahoma
19 Tax Commission, a person asserting or claiming the exemption
20 authorized by this paragraph shall provide a statement, executed
21 under oath, that the total sales amounts for which the exemption is
22 applicable have not exceeded Twenty-five Thousand Dollars
23 (\$25,000.00) per year. If the amount of such exempt sales exceeds

1 such amount, the sales tax in excess of the authorized amount shall
2 be treated as a direct sales tax liability and may be recovered by
3 the Oklahoma Tax Commission in the same manner provided by law for
4 other taxes, including penalty and interest; and

5 33. Sales of tangible personal property or services to the
6 surviving spouse of a qualified veteran. As used in this paragraph,
7 "qualified veteran" means:

- 8 a. any person honorably discharged from any branch of the
9 United States Armed Forces or as a member of the
10 Oklahoma National Guard, who died as a direct result
11 of the performance of duties for any branch of the
12 United States Armed Forces **or Oklahoma National Guard**
13 while on active military duty, or
- 14 b. any person honorably discharged from any branch of the
15 United States Armed Forces or as a member of the
16 Oklahoma National Guard, who died as a result of
17 injury, illness or disease caused by the performance
18 of such duties while on active duty, whether the death
19 occurred while on active duty or after the honorable
20 discharge of such person.

21 SECTION 3. AMENDATORY 68 O.S. 2001, Section 2105, as
22 amended by Section 3, Chapter 413, O.S.L. 2005 (68 O.S. Supp. 2005,
23 Section 2105), is amended to read as follows:

1 Section 2105. An original or a transfer certificate of title
2 shall be issued without the payment of the excise tax levied by
3 Section 2101 et seq. of this title for:

4 1. Any vehicle owned by a nonresident person who operates
5 principally in some other state but who is in Oklahoma only
6 occasionally;

7 2. Any vehicle brought into this state by a person formerly
8 living in another state, who has owned and registered the vehicle in
9 such other state of residence at least sixty (60) days prior to the
10 time it is required to be registered in this state; provided,
11 however, this paragraph shall not apply to businesses engaged in
12 renting cars without a driver;

13 3. Any vehicle registered by the State of Oklahoma, by any of
14 the political subdivisions thereof, or by a fire department
15 organized pursuant to Section 592 of Title 18 of the Oklahoma
16 Statutes to be used for the purposes of the fire department, or a
17 vehicle which is the subject of a lease or lease-purchase agreement
18 executed between the person seeking an original or transfer
19 certificate of title for the vehicle and a municipality, county,
20 school district, or fire protection district. The person seeking an
21 original or transfer certificate of title shall provide adequate
22 proof that the vehicle is subject to a lease or lease-purchase
23 agreement with a municipality, county, school district, or fire

1 protection district at the time the excise tax levied would
2 otherwise be payable. The Oklahoma Tax Commission shall have the
3 authority to determine what constitutes adequate proof as required
4 by this section;

5 4. Any vehicle, the legal ownership of which is obtained by the
6 applicant for a certificate of title by inheritance;

7 5. Any used motor vehicle, travel trailer, or commercial
8 trailer which is owned and being offered for sale by a person
9 licensed as a dealer to sell the same, under the provisions of
10 Section 1101 et seq. of Title 47 of the Oklahoma Statutes:

11 a. if such vehicle, travel trailer, or commercial trailer
12 has been registered in Oklahoma and the excise tax
13 paid thereon, or

14 b. when such vehicle, travel trailer, or commercial
15 trailer has been registered in some other state but is
16 not the latest manufactured model.

17 Provided, the provisions of this paragraph shall not be
18 construed as allowing an exemption to any person not licensed as a
19 dealer of used motor vehicles, travel trailers, or commercial
20 trailers, or as an automotive dismantler and parts recycler in this
21 state;

22 6. Any vehicle which was purchased by a person licensed to sell
23 new or used motor vehicles in another state:

- 1 a. if such vehicle is not purchased for operation or
2 resale in this state, and
- 3 b. the state from which the dealer is licensed offers
4 reciprocal privileges to a dealer licensed in this
5 state, pursuant to a reciprocal agreement between the
6 duly authorized agent of the Tax Commission and the
7 licensing state;

8 7. Any vehicle, the ownership of which was obtained by the
9 lienholder or mortgagee under or by foreclosure of a lien or
10 mortgage in the manner provided by law or to the insurer under
11 subrogated rights arising by reason of loss under an insurance
12 contract;

13 8. Any vehicle which is taxed on an ad valorem basis;

14 9. Any vehicle or motor vehicle, the legal ownership of which
15 is obtained by transfers:

- 16 a. from one corporation to another corporation pursuant
17 to a reorganization. As used in this subsection the
18 term "reorganization" means:
- 19 (1) a statutory merger or consolidation, or
20 (2) the acquisition by a corporation of substantially
21 all of the properties of another corporation when
22 the consideration is solely all or a part of the

1 voting stock of the acquiring corporation, or of
2 its parent or subsidiary corporation,
3 b. in connection with the winding up, dissolution, or
4 liquidation of a corporation only when there is a
5 distribution in kind to the shareholders of the
6 property of such corporation,
7 c. to a corporation where the former owners of the
8 vehicle or motor vehicle transferred are, immediately
9 after the transfer, in control of the corporation, and
10 the stock or securities received by each is
11 substantially in proportion to the interest in the
12 vehicle or motor vehicle prior to the transfer,
13 d. to a partnership if the former owners of the vehicle
14 or motor vehicle transferred are, immediately after
15 the transfer, members of such partnership and the
16 interest in the partnership received by each is
17 substantially in proportion to the interest in the
18 vehicle or motor vehicle prior to the transfer,
19 e. from a partnership to the members thereof when made in
20 the dissolution of such partnership,
21 f. to a limited liability company if the former owners of
22 the vehicle or motor vehicle transferred are,
23 immediately after the transfer, members of the limited

1 liability company and the interest in the limited
2 liability company received by each is substantially in
3 proportion to the interest in the vehicle or motor
4 vehicle prior to the transfer, or

5 g. from a limited liability company to the members
6 thereof when made in the dissolution of such
7 partnership;

8 10. Any vehicle which is purchased by a person to be used by a
9 business engaged in renting motor vehicles without a driver,
10 provided:

11 a. the vehicle shall not be rented to the same person for
12 a period exceeding ninety (90) days,

13 b. any such vehicle exempted from the excise tax by these
14 provisions shall not be placed under any type of lease
15 agreement,

16 c. on any such vehicle exempted from the excise tax by
17 this subsection that is reregistered in this state,
18 without a prior sale or transfer to the persons
19 specified in divisions (1) and (2) of this
20 subparagraph, at any time prior to the expiration of
21 twelve (12) months from the date of issuance of the
22 original title, the seller shall pay immediately the
23 amount of excise tax which would have been due had

1 this exemption not been granted plus a penalty of
2 twenty percent (20%). No such excise tax or penalty
3 shall become due and payable if the vehicle is sold or
4 transferred in a condition either physical or
5 mechanical which would render it eligible for a
6 salvage title pursuant to law or if the vehicle is
7 sold and transferred in this state at any time prior
8 to the expiration of twelve (12) months:

9 (1) to the manufacturer of the vehicle or its
10 controlled financing arm, or

11 (2) to a factory authorized franchised new motor
12 vehicle dealer which holds a franchise of the
13 same line-make of the vehicle being purchased, or

14 d. when this exemption is claimed, the Tax Commission
15 shall issue a special title which shall restrict the
16 transfer of the title only within this state prior to
17 the expiration of twelve (12) months unless:

18 (1) payment of the excise tax plus penalty as
19 provided in this section is made,

20 (2) the sale is made to a person specified in
21 division (1) or (2) of subparagraph c of this
22 paragraph, or

23 (3) the vehicle is eligible for a salvage title.

1 For all other tax purposes vehicles herein exempted shall be
2 treated as though the excise tax has been paid;

3 11. Any vehicle of the latest manufactured model, registered
4 from a title in the name of the original manufacturer or assigned to
5 the original manufacturer and issued by any state and transferred to
6 a licensed, franchised Oklahoma motor vehicle dealer, as defined by
7 Section 1102 of Title 47 of the Oklahoma Statutes, which holds a
8 franchise of the same line-make as the vehicle being registered;

9 12. Any new motor vehicle, registered in the name of a
10 manufacturer or dealer of new motor vehicles, for which a license
11 plate has been issued pursuant to Section 1116.1 of Title 47 of the
12 Oklahoma Statutes, if such vehicle is authorized by the manufacturer
13 or dealer for personal use by an individual. The authorization for
14 such use shall not exceed four (4) months which shall not be renewed
15 or the exemption provided by this subsection shall not be
16 applicable. The exemption provided by this subsection shall not be
17 applicable to a transfer of ownership or registration subsequent to
18 the first registration of the vehicle by a manufacturer or dealer;

19 13. Any vehicle, travel trailer, or commercial trailer of the
20 latest manufacturer model purchased by a franchised Oklahoma dealer
21 licensed to sell the same which holds a franchise of the same line-
22 make as the vehicle, travel trailer, or commercial trailer being
23 registered;

1 14. Any vehicle which is the subject of a lease or lease-
2 purchase agreement and which the ownership of such vehicle is being
3 obtained by the lessee, if the vehicle excise tax was paid at the
4 time of the initial lease or lease-purchase agreement;

5 15. Any vehicle which:

- 6 a. is purchased by a private, nonprofit organization
7 which is exempt from taxation pursuant to the
8 provisions of Section 501(c)(3) of the Internal
9 Revenue Code, 26 U.S.C., Section 501(c)(3), and which
10 is primarily funded by a fraternal or civic service
11 organization with at least one hundred local chapters
12 or clubs, and
- 13 b. is designed and used to provide mobile health
14 screening services to the general public at no cost to
15 the recipient, and for which no reimbursement of any
16 kind is received from any health insurance provider,
17 health maintenance organization, or governmental
18 program; ~~or~~

19 16. Any vehicle which is purchased by an individual who has
20 been honorably discharged from active service in any branch of the
21 Armed Forces of the United States or Oklahoma National Guard and who
22 has been certified by the United States Department of Veterans
23 Affairs, its successor, or the Armed Forces of the United States to

1 be a disabled veteran in receipt of compensation at the one-hundred-
2 percent rate for a permanent disability sustained through military
3 action or accident resulting from disease contracted while in such
4 active service. Provided, this exemption may not be claimed by an
5 individual for more than one vehicle in a consecutive three-year
6 period; or

7 17. Any vehicle purchased by the surviving spouse of a
8 qualified veteran. As used in this paragraph, "qualified veteran"
9 shall mean:

- 10 a. any person honorably discharged from any branch of the
11 United States Armed Forces or as a member of the
12 Oklahoma National Guard, who died as a direct result
13 of the performance of duties for any branch of the
14 United States Armed Forces **or Oklahoma National Guard**
15 while on active military duty; or
- 16 b. any person honorably discharged from any branch of the
17 United States Armed Forces or as a member of the
18 Oklahoma National Guard, who died as a result of
19 injury, illness or disease caused by the performance
20 of such duties while on active duty, whether the death
21 occurred while on active duty or after the honorable
22 discharge of such person.

1 SECTION 4. AMENDATORY 68 O.S. 2001, Section 2358, as
2 last amended by Section 1, Chapter 237, O.S.L. 2005 (68 O.S. Supp.
3 2005, Section 2358), is amended to read as follows:

4 Section 2358. For all tax years beginning after December 31,
5 1981, taxable income and adjusted gross income shall be adjusted to
6 arrive at Oklahoma taxable income and Oklahoma adjusted gross income
7 as required by this section.

8 A. The taxable income of any taxpayer shall be adjusted to
9 arrive at Oklahoma taxable income for corporations and Oklahoma
10 adjusted gross income for individuals, as follows:

11 1. There shall be added interest income on obligations of any
12 state or political subdivision thereto which is not otherwise
13 exempted pursuant to other laws of this state, to the extent that
14 such interest is not included in taxable income and adjusted gross
15 income.

16 2. There shall be deducted amounts included in such income that
17 the state is prohibited from taxing because of the provisions of the
18 Federal Constitution, the State Constitution, federal laws or laws
19 of Oklahoma.

20 3. The amount of any federal net operating loss deduction shall
21 be adjusted as follows:

22 a. For carryovers and carrybacks to taxable years
23 beginning before January 1, 1981, the amount of any

1 net operating loss deduction allowed to a taxpayer for
2 federal income tax purposes shall be reduced to an
3 amount which is the same portion thereof as the loss
4 from sources within this state, as determined pursuant
5 to this section and Section 2362 of this title, for
6 the taxable year in which such loss is sustained is of
7 the total loss for such year;

8 b. For carryovers and carrybacks to taxable years
9 beginning after December 31, 1980, the amount of any
10 net operating loss deduction allowed for the taxable
11 year shall be an amount equal to the aggregate of the
12 Oklahoma net operating loss carryovers and carrybacks
13 to such year. Oklahoma net operating losses shall be
14 separately determined by reference to Section 172 of
15 the Internal Revenue Code, 26 U.S.C., Section 172, as
16 modified by the Oklahoma Income Tax Act, Section 2351
17 et seq. of this title, and shall be allowed without
18 regard to the existence of a federal net operating
19 loss. For tax years beginning after December 31,
20 2000, the years to which such losses may be carried
21 shall be determined solely by reference to Section 172
22 of the Internal Revenue Code, 26 U.S.C., Section 172,
23 with the exception that the terms "net operating loss"

1 and "taxable income" shall be replaced with "Oklahoma
2 net operating loss" and "Oklahoma taxable income".

3 4. Items of the following nature shall be allocated as
4 indicated. Allowable deductions attributable to items separately
5 allocable in subparagraphs a, b and c of this paragraph, whether or
6 not such items of income were actually received, shall be allocated
7 on the same basis as those items:

8 a. Income from real and tangible personal property, such
9 as rents, oil and mining production or royalties, and
10 gains or losses from sales of such property, shall be
11 allocated in accordance with the situs of such
12 property;

13 b. Income from intangible personal property, such as
14 interest, dividends, patent or copyright royalties,
15 and gains or losses from sales of such property, shall
16 be allocated in accordance with the domiciliary situs
17 of the taxpayer, except that:

18 (1) where such property has acquired a nonunitary
19 business or commercial situs apart from the
20 domicile of the taxpayer such income shall be
21 allocated in accordance with such business or
22 commercial situs; interest income from
23 investments held to generate working capital for

1 a unitary business enterprise shall be included
2 in apportionable income; a resident trust or
3 resident estate shall be treated as having a
4 separate commercial or business situs insofar as
5 undistributed income is concerned, but shall not
6 be treated as having a separate commercial or
7 business situs insofar as distributed income is
8 concerned,

9 (2) income from such property which is required to be
10 allocated pursuant to the provisions of paragraph
11 5 of this subsection shall be allocated as herein
12 provided;

13 c. Net income or loss from a business activity which is
14 not a part of business carried on within or without
15 the state of a unitary character shall be separately
16 allocated to the state in which such activity is
17 conducted;

18 d. In the case of a manufacturing or processing
19 enterprise the business of which in Oklahoma consists
20 solely of marketing its products by:

21 (1) sales having a situs without this state, shipped
22 directly to a point from without the state to a

1 purchaser within the state, commonly known as
2 interstate sales,

3 (2) sales of the product stored in public warehouses
4 within the state pursuant to "in transit"
5 tariffs, as prescribed and allowed by the
6 Interstate Commerce Commission, to a purchaser
7 within the state,

8 (3) sales of the product stored in public warehouses
9 within the state where the shipment to such
10 warehouses is not covered by "in transit"
11 tariffs, as prescribed and allowed by the
12 Interstate Commerce Commission, to a purchaser
13 within or without the state,

14 the Oklahoma net income shall, at the option of the
15 taxpayer, be that portion of the total net income of
16 the taxpayer for federal income tax purposes derived
17 from the manufacture and/or processing and sales
18 everywhere as determined by the ratio of the sales
19 defined in this section made to the purchaser within
20 the state to the total sales everywhere. The term
21 "public warehouse" as used in this subparagraph means
22 a licensed public warehouse, the principal business of
23 which is warehousing merchandise for the public;

1 e. In the case of insurance companies, Oklahoma taxable
2 income shall be taxable income of the taxpayer for
3 federal tax purposes, as adjusted for the adjustments
4 provided pursuant to the provisions of paragraphs 1
5 and 2 of this subsection, apportioned as follows:
6 (1) except as otherwise provided by division (2) of
7 this subparagraph, taxable income of an insurance
8 company for a taxable year shall be apportioned
9 to this state by multiplying such income by a
10 fraction, the numerator of which is the direct
11 premiums written for insurance on property or
12 risks in this state, and the denominator of which
13 is the direct premiums written for insurance on
14 property or risks everywhere. For purposes of
15 this subsection, the term "direct premiums
16 written" means the total amount of direct
17 premiums written, assessments and annuity
18 considerations as reported for the taxable year
19 on the annual statement filed by the company with
20 the Insurance Commissioner in the form approved
21 by the National Association of Insurance
22 Commissioners, or such other form as may be
23 prescribed in lieu thereof,

1 (2) if the principal source of premiums written by an
2 insurance company consists of premiums for
3 reinsurance accepted by it, the taxable income of
4 such company shall be apportioned to this state
5 by multiplying such income by a fraction, the
6 numerator of which is the sum of (a) direct
7 premiums written for insurance on property or
8 risks in this state, plus (b) premiums written
9 for reinsurance accepted in respect of property
10 or risks in this state, and the denominator of
11 which is the sum of (c) direct premiums written
12 for insurance on property or risks everywhere,
13 plus (d) premiums written for reinsurance
14 accepted in respect of property or risks
15 everywhere. For purposes of this paragraph,
16 premiums written for reinsurance accepted in
17 respect of property or risks in this state,
18 whether or not otherwise determinable, may at the
19 election of the company be determined on the
20 basis of the proportion which premiums written
21 for insurance accepted from companies
22 commercially domiciled in Oklahoma bears to
23 premiums written for reinsurance accepted from

1 all sources, or alternatively in the proportion
2 which the sum of the direct premiums written for
3 insurance on property or risks in this state by
4 each ceding company from which reinsurance is
5 accepted bears to the sum of the total direct
6 premiums written by each such ceding company for
7 the taxable year.

8 5. The net income or loss remaining after the separate
9 allocation in paragraph 4 of this subsection, being that which is
10 derived from a unitary business enterprise, shall be apportioned to
11 this state on the basis of the arithmetical average of three factors
12 consisting of property, payroll and sales or gross revenue
13 enumerated as subparagraphs a, b and c of this paragraph. Net
14 income or loss as used in this paragraph includes that derived from
15 patent or copyright royalties, purchase discounts, and interest on
16 accounts receivable relating to or arising from a business activity,
17 the income from which is apportioned pursuant to this subsection,
18 including the sale or other disposition of such property and any
19 other property used in the unitary enterprise. Deductions used in
20 computing such net income or loss shall not include taxes based on
21 or measured by income. Provided, for corporations whose property
22 for purposes of the tax imposed by Section 2355 of this title has an
23 initial investment cost equaling or exceeding Two Hundred Million

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

11 a. The property factor is a fraction, the numerator of
12 which is the average value of the taxpayer's real and
13 tangible personal property owned or rented and used in
14 this state during the tax period and the denominator
15 of which is the average value of all the taxpayer's
16 real and tangible personal property everywhere owned
17 or rented and used during the tax period.

18 (1) Property, the income from which is separately
19 allocated in paragraph 4 of this subsection,
20 shall not be included in determining this
21 fraction. The numerator of the fraction shall
22 include a portion of the investment in
23 transportation and other equipment having no

1 fixed situs, such as rolling stock, buses, trucks
2 and trailers, including machinery and equipment
3 carried thereon, airplanes, salespersons'
4 automobiles and other similar equipment, in the
5 proportion that miles traveled in Oklahoma by
6 such equipment bears to total miles traveled,

7 (2) Property owned by the taxpayer is valued at its
8 original cost. Property rented by the taxpayer
9 is valued at eight times the net annual rental
10 rate. Net annual rental rate is the annual
11 rental rate paid by the taxpayer, less any annual
12 rental rate received by the taxpayer from
13 subrentals,

14 (3) The average value of property shall be determined
15 by averaging the values at the beginning and
16 ending of the tax period but the Oklahoma Tax
17 Commission may require the averaging of monthly
18 values during the tax period if reasonably
19 required to reflect properly the average value of
20 the taxpayer's property;

21 b. The payroll factor is a fraction, the numerator of
22 which is the total compensation for services rendered
23 in the state during the tax period, and the

1 denominator of which is the total compensation for
2 services rendered everywhere during the tax period.
3 "Compensation", as used in this subsection means those
4 paid-for services to the extent related to the unitary
5 business but does not include officers' salaries,
6 wages and other compensation.

7 (1) In the case of a transportation enterprise, the
8 numerator of the fraction shall include a portion
9 of such expenditure in connection with employees
10 operating equipment over a fixed route, such as
11 railroad employees, airline pilots, or bus
12 drivers, in this state only a part of the time,
13 in the proportion that mileage traveled in
14 Oklahoma bears to total mileage traveled by such
15 employees,

16 (2) In any case the numerator of the fraction shall
17 include a portion of such expenditures in
18 connection with itinerant employees, such as
19 traveling salespersons, in this state only a part
20 of the time, in the proportion that time spent in
21 Oklahoma bears to total time spent in furtherance
22 of the enterprise by such employees;

1 c. The sales factor is a fraction, the numerator of which
2 is the total sales or gross revenue of the taxpayer in
3 this state during the tax period, and the denominator
4 of which is the total sales or gross revenue of the
5 taxpayer everywhere during the tax period. "Sales",
6 as used in this subsection does not include sales or
7 gross revenue which are separately allocated in
8 paragraph 4 of this subsection.

9 (1) Sales of tangible personal property have a situs
10 in this state if the property is delivered or
11 shipped to a purchaser other than the United
12 States government, within this state regardless
13 of the FOB point or other conditions of the sale;
14 or the property is shipped from an office, store,
15 warehouse, factory or other place of storage in
16 this state and (a) the purchaser is the United
17 States government or (b) the taxpayer is not
18 doing business in the state of the destination of
19 the shipment.

20 (2) In the case of a railroad or interurban railway
21 enterprise, the numerator of the fraction shall
22 not be less than the allocation of revenues to

1 this state as shown in its annual report to the
2 Corporation Commission.

3 (3) In the case of an airline, truck or bus
4 enterprise or freight car, tank car, refrigerator
5 car or other railroad equipment enterprise, the
6 numerator of the fraction shall include a portion
7 of revenue from interstate transportation in the
8 proportion that interstate mileage traveled in
9 Oklahoma bears to total interstate mileage
10 traveled.

11 (4) In the case of an oil, gasoline or gas pipeline
12 enterprise, the numerator of the fraction shall
13 be either the total of traffic units of the
14 enterprise within Oklahoma or the revenue
15 allocated to Oklahoma based upon miles moved, at
16 the option of the taxpayer, and the denominator
17 of which shall be the total of traffic units of
18 the enterprise or the revenue of the enterprise
19 everywhere as appropriate to the numerator. A
20 "traffic unit" is hereby defined as the
21 transportation for a distance of one (1) mile of
22 one (1) barrel of oil, one (1) gallon of gasoline

1 or one thousand (1,000) cubic feet of natural or
2 casinghead gas, as the case may be.

3 (5) In the case of a telephone or telegraph or other
4 communication enterprise, the numerator of the
5 fraction shall include that portion of the
6 interstate revenue as is allocated pursuant to
7 the accounting procedures prescribed by the
8 Federal Communications Commission; provided that
9 in respect to each corporation or business entity
10 required by the Federal Communications Commission
11 to keep its books and records in accordance with
12 a uniform system of accounts prescribed by such
13 Commission, the intrastate net income shall be
14 determined separately in the manner provided by
15 such uniform system of accounts and only the
16 interstate income shall be subject to allocation
17 pursuant to the provisions of this subsection.
18 Provided further, that the gross revenue factors
19 shall be those as are determined pursuant to the
20 accounting procedures prescribed by the Federal
21 Communications Commission.

22 In any case where the apportionment of the three factors prescribed
23 in this paragraph attributes to Oklahoma a portion of net income of

1 the enterprise out of all appropriate proportion to the property
2 owned and/or business transacted within this state, because of the
3 fact that one or more of the factors so prescribed are not employed
4 to any appreciable extent in furtherance of the enterprise; or
5 because one or more factors not so prescribed are employed to a
6 considerable extent in furtherance of the enterprise; or because of
7 other reasons, the Tax Commission is empowered to permit, after a
8 showing by taxpayer that an excessive portion of net income has been
9 attributed to Oklahoma, or require, when in its judgment an
10 insufficient portion of net income has been attributed to Oklahoma,
11 the elimination, substitution, or use of additional factors, or
12 reduction or increase in the weight of such prescribed factors.
13 Provided, however, that any such variance from such prescribed
14 factors which has the effect of increasing the portion of net income
15 attributable to Oklahoma must not be inherently arbitrary, and
16 application of the recomputed final apportionment to the net income
17 of the enterprise must attribute to Oklahoma only a reasonable
18 portion thereof.

19 6. For calendar years 1997 and 1998, the owner of a new or
20 expanded agricultural commodity processing facility in this state
21 may exclude from Oklahoma taxable income, or in the case of an
22 individual, the Oklahoma adjusted gross income, fifteen percent
23 (15%) of the investment by the owner in the new or expanded

1 agricultural commodity processing facility. For calendar year 1999,
2 and all subsequent years, the percentage, not to exceed fifteen
3 percent (15%), available to the owner of a new or expanded
4 agricultural commodity processing facility in this state claiming
5 the exemption shall be adjusted annually so that the total estimated
6 reduction in tax liability does not exceed One Million Dollars
7 (\$1,000,000.00) annually. The Tax Commission shall promulgate rules
8 for determining the percentage of the investment which each eligible
9 taxpayer may exclude. The exclusion provided by this paragraph
10 shall be taken in the taxable year when the investment is made. In
11 the event the total reduction in tax liability authorized by this
12 paragraph exceeds One Million Dollars (\$1,000,000.00) in any
13 calendar year, the Tax Commission shall permit any excess over One
14 Million Dollars (\$1,000,000.00) and shall factor such excess into
15 the percentage for subsequent years. Any amount of the exemption
16 permitted to be excluded pursuant to the provisions of this
17 paragraph but not used in any year may be carried forward as an
18 exemption from income pursuant to the provisions of this paragraph
19 for a period not exceeding six (6) years following the year in which
20 the investment was originally made.

21 For purposes of this paragraph:

- 22 a. "Agricultural commodity processing facility" means
23 building, structures, fixtures and improvements used

1 or operated primarily for the processing or production
2 of marketable products from agricultural commodities.
3 The term shall also mean a dairy operation that
4 requires a depreciable investment of at least Two
5 Hundred Fifty Thousand Dollars (\$250,000.00) and which
6 produces milk from dairy cows. The term does not
7 include a facility that provides only, and nothing
8 more than, storage, cleaning, drying or transportation
9 of agricultural commodities, and

10 b. "Facility" means each part of the facility which is
11 used in a process primarily for:

- 12 (1) the processing of agricultural commodities,
13 including receiving or storing agricultural
14 commodities, or the production of milk at a dairy
15 operation,
16 (2) transporting the agricultural commodities or
17 product before, during or after the processing,
18 or
19 (3) packaging or otherwise preparing the product for
20 sale or shipment.

21 7. Despite any provision to the contrary in paragraph 3 of this
22 subsection, for taxable years beginning after December 31, 1999, in
23 the case of a taxpayer which has a farming loss, such farming loss

1 shall be considered a net operating loss carryback in accordance
2 with and to the extent of the Internal Revenue Code, 26 U.S.C.,
3 Section 172(b)(G). However, the amount of the net operating loss
4 carryback shall not exceed the lesser of:

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

10 8. In taxable years beginning after December 31, 1995, all
11 qualified wages equal to the federal income tax credit set forth in
12 26 U.S.C.A., Section 45A, shall be deducted from taxable income.
13 The deduction allowed pursuant to this paragraph shall only be
14 permitted for the tax years in which the federal tax credit pursuant
15 to 26 U.S.C.A., Section 45A, is allowed. For purposes of this
16 paragraph, "qualified wages" means those wages used to calculate the
17 federal credit pursuant to 26 U.S.C.A., Section 45A.

18 B. The taxable income of any corporation shall be further
19 adjusted to arrive at Oklahoma taxable income, except those
20 corporations electing treatment as provided in subchapter S of the
21 Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section
22 2365 of this title, deductions pursuant to the provisions of the
23 Accelerated Cost Recovery System as defined and allowed in the

1 Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C.,
2 Section 168, for depreciation of assets placed into service after
3 December 31, 1981, shall not be allowed in calculating Oklahoma
4 taxable income. Such corporations shall be allowed a deduction for
5 depreciation of assets placed into service after December 31, 1981,
6 in accordance with provisions of the Internal Revenue Code, 26
7 U.S.C., Section 1 et seq., in effect immediately prior to the
8 enactment of the Accelerated Cost Recovery System. The Oklahoma tax
9 basis for all such assets placed into service after December 31,
10 1981, calculated in this section shall be retained and utilized for
11 all Oklahoma income tax purposes through the final disposition of
12 such assets.

13 Notwithstanding any other provisions of the Oklahoma Income Tax
14 Act, Section 2351 et seq. of this title, or of the Internal Revenue
15 Code to the contrary, this subsection shall control calculation of
16 depreciation of assets placed into service after December 31, 1981,
17 and before January 1, 1983.

18 For assets placed in service and held by a corporation in which
19 accelerated cost recovery system was previously disallowed, an
20 adjustment to taxable income is required in the first taxable year
21 beginning after December 31, 1982, to reconcile the basis of such
22 assets to the basis allowed in the Internal Revenue Code. The
23 purpose of this adjustment is to equalize the basis and allowance

1 for depreciation accounts between that reported to the Internal
2 Revenue Service and that reported to Oklahoma.

3 C. 1. For taxable years beginning after December 31, 1987, the
4 taxable income of any corporation shall be further adjusted to
5 arrive at Oklahoma taxable income for transfers of technology to
6 qualified small businesses located in Oklahoma. Such transferor
7 corporation shall be allowed an exemption from taxable income of an
8 amount equal to the amount of royalty payment received as a result
9 of such transfer; provided, however, such amount shall not exceed
10 ten percent (10%) of the amount of gross proceeds received by such
11 transferor corporation as a result of the technology transfer. Such
12 exemption shall be allowed for a period not to exceed ten (10) years
13 from the date of receipt of the first royalty payment accruing from
14 such transfer. No exemption may be claimed for transfers of
15 technology to qualified small businesses made prior to January 1,
16 1988.

17 2. For purposes of this subsection:

18 a. "Qualified small business" means an entity, whether
19 organized as a corporation, partnership, or
20 proprietorship, organized for profit with its
21 principal place of business located within this state
22 and which meets the following criteria:

- 1 (1) Capitalization of not more than Two Hundred Fifty
2 Thousand Dollars (\$250,000.00),
3 (2) Having at least fifty percent (50%) of its
4 employees and assets located in Oklahoma at the
5 time of the transfer, and
6 (3) Not a subsidiary or affiliate of the transferor
7 corporation;
- 8 b. "Technology" means a proprietary process, formula,
9 pattern, device or compilation of scientific or
10 technical information which is not in the public
11 domain;
- 12 c. "Transferor corporation" means a corporation which is
13 the exclusive and undisputed owner of the technology
14 at the time the transfer is made; and
- 15 d. "Gross proceeds" means the total amount of
16 consideration for the transfer of technology, whether
17 the consideration is in money or otherwise.
- 18 D. The Oklahoma adjusted gross income of any individual
19 taxpayer shall be further adjusted as follows to arrive at Oklahoma
20 taxable income:
- 21 1. a. In the case of individuals, there shall be added or
22 deducted, as the case may be, the difference necessary
23 to allow personal exemptions of One Thousand Dollars

1 (\$1,000.00) in lieu of the personal exemptions allowed
2 by the Internal Revenue Code.

3 b. There shall be allowed an additional exemption of One
4 Thousand Dollars (\$1,000.00) for each taxpayer or
5 spouse who is blind at the close of the tax year. For
6 purposes of this subparagraph, an individual is blind
7 only if the central visual acuity of the individual
8 does not exceed 20/200 in the better eye with
9 correcting lenses, or if the visual acuity of the
10 individual is greater than 20/200, but is accompanied
11 by a limitation in the fields of vision such that the
12 widest diameter of the visual field subtends an angle
13 no greater than twenty (20) degrees.

14 c. There shall be allowed an additional exemption of One
15 Thousand Dollars (\$1,000.00) for each taxpayer or
16 spouse who is sixty-five (65) years of age or older at
17 the close of the tax year based upon the filing status
18 and federal adjusted gross income of the taxpayer.
19 Taxpayers with the following filing status may claim
20 this exemption if the federal adjusted gross income
21 does not exceed:

- 22 (1) Twenty-five Thousand Dollars (\$25,000.00) if
23 married and filing jointly;

- 1 (2) Twelve Thousand Five Hundred Dollars (\$12,500.00)
2 if married and filing separately;
3 (3) Fifteen Thousand Dollars (\$15,000.00) if single;
4 and
5 (4) Nineteen Thousand Dollars (\$19,000.00) if a
6 qualifying head of household.

7 Provided, for taxable years beginning after December
8 31, 1999, amounts included in the calculation of
9 federal adjusted gross income pursuant to the
10 conversion of a traditional individual retirement
11 account to a Roth individual retirement account shall
12 be excluded from federal adjusted gross income for
13 purposes of the income thresholds provided in this
14 subparagraph.

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

1 2. In the case of individuals who use the standard deduction in
2 determining taxable income, there shall be added or deducted, as the
3 case may be, the difference necessary to allow a standard deduction
4 in lieu of the standard deduction allowed by the Internal Revenue
5 Code, in an amount equal to the larger of fifteen percent (15%) of
6 the Oklahoma adjusted gross income or One Thousand Dollars
7 (\$1,000.00), but not to exceed Two Thousand Dollars (\$2,000.00),
8 except that in the case of a married individual filing a separate
9 return such deduction shall be the larger of fifteen percent (15%)
10 of such Oklahoma adjusted gross income or Five Hundred Dollars
11 (\$500.00), but not to exceed the maximum amount of One Thousand
12 Dollars (\$1,000.00).

13 3. In the case of resident and part-year resident individuals
14 having adjusted gross income from sources both within and without
15 the state, the itemized or standard deductions and personal
16 exemptions shall be reduced to an amount which is the same portion
17 of the total thereof as Oklahoma adjusted gross income is of
18 adjusted gross income. To the extent itemized deductions include
19 allowable moving expense, proration of moving expense shall not be
20 required or permitted but allowable moving expense shall be fully
21 deductible for those taxpayers moving within or into Oklahoma and no
22 part of moving expense shall be deductible for those taxpayers
23 moving without or out of Oklahoma. All other itemized or standard

1 deductions and personal exemptions shall be subject to proration as
2 provided by law.

3 4. A resident individual with a physical disability
4 constituting a substantial handicap to employment may deduct from
5 Oklahoma adjusted gross income such expenditures to modify a motor
6 vehicle, home or workplace as are necessary to compensate for his or
7 her handicap. A veteran certified by the Veterans Administration of
8 the federal government as having a service-connected disability
9 shall be conclusively presumed to be an individual with a physical
10 disability constituting a substantial handicap to employment. The
11 Tax Commission shall promulgate rules containing a list of
12 combinations of common disabilities and modifications which may be
13 presumed to qualify for this deduction. The Tax Commission shall
14 prescribe necessary requirements for verification.

15 5. In any taxable year the first One Thousand Five Hundred
16 Dollars (\$1,500.00) received by any person from the United States as
17 salary or compensation in any form, other than retirement benefits,
18 as a member of any component of the Armed Forces of the United
19 States shall be deducted from taxable income. Whenever the filing
20 of a timely income tax return by a member of the Armed Forces of the
21 United States is made impracticable or impossible of accomplishment
22 by reason of:

1 a. absence from the United States, which term includes
2 only the states and the District of Columbia;
3 b. absence from the State of Oklahoma while on active
4 duty; or
5 c. confinement in a hospital within the United States for
6 treatment of wounds, injuries or disease,
7 the time for filing a return and paying an income tax shall
8 be and is hereby extended without incurring liability for
9 interest or penalties, to the fifteenth day of the third
10 month following the month in which:

11 (1) Such individual shall return to the United States
12 if the extension is granted pursuant to
13 subparagraph a of this paragraph, return to the
14 State of Oklahoma if the extension is granted
15 pursuant to subparagraph b of this paragraph or
16 be discharged from such hospital if the extension
17 is granted pursuant to subparagraph c of this
18 paragraph; or

19 (2) An executor, administrator, or conservator of the
20 estate of the taxpayer is appointed, whichever
21 event occurs the earliest.

22 Provided, that the Tax Commission may, in its discretion, grant any
23 member of the Armed Forces of the United States an extension of time

1 for filing of income tax returns and payment of income tax without
2 incurring liabilities for interest or penalties. Such extension may
3 be granted only when in the judgment of the Tax Commission a good
4 cause exists therefor and may be for a period in excess of six (6)
5 months. A record of every such extension granted, and the reason
6 therefor, shall be kept.

7 6. The salary or any other form of compensation, received from
8 the United States by a member of any component of the Armed Forces
9 of the United States, shall be deducted from taxable income during
10 the time in which the person is detained by the enemy in a conflict,
11 is a prisoner of war or is missing in action and not deceased.

12 7. Notwithstanding anything in the Internal Revenue Code or in
13 the Oklahoma Income Tax Act to the contrary, it is expressly
14 provided that, in the case of resident individuals, amounts received
15 as dividends or distributions of earnings from savings and loan
16 associations or credit unions located in Oklahoma, and interest
17 received on savings accounts and time deposits from such sources or
18 from state and national banks or trust companies located in
19 Oklahoma, shall qualify as dividends for the purpose of the dividend
20 exclusion, and taxable income shall be adjusted accordingly to
21 arrive at Oklahoma taxable income; provided, however, that the
22 dividend, distribution of earnings and/or interest exclusion
23 provided for hereinabove shall not be cumulative to the maximum

1 dividend exclusion allowed by the Internal Revenue Code. Any
2 dividend exclusion already allowed by the Internal Revenue Code and
3 reflected in the taxpayer's Oklahoma taxable income together with
4 exclusion allowed herein shall not exceed the total of One Hundred
5 Dollars (\$100.00) per individual or Two Hundred Dollars (\$200.00)
6 per couple filing a joint return.

7 8. a. An individual taxpayer, whether resident or
8 nonresident, may deduct an amount equal to the federal
9 income taxes paid by the taxpayer during the taxable
10 year.

11 b. Federal taxes as described in subparagraph a of this
12 paragraph shall be deductible by any individual
13 taxpayer, whether resident or nonresident, only to the
14 extent they relate to income subject to taxation
15 pursuant to the provisions of the Oklahoma Income Tax
16 Act. The maximum amount allowable in the preceding
17 paragraph shall be prorated on the ratio of the
18 Oklahoma adjusted gross income to federal adjusted
19 gross income.

20 c. For the purpose of this paragraph, "federal income
21 taxes paid" shall mean federal income taxes, surtaxes
22 imposed on incomes or excess profits taxes, as though
23 the taxpayer was on the accrual basis. In determining

1 the amount of deduction for federal income taxes for
2 tax year 2001, the amount of the deduction shall not
3 be adjusted by the amount of any accelerated ten
4 percent (10%) tax rate bracket credit or advanced
5 refund of the credit received during the tax year
6 provided pursuant to the federal Economic Growth and
7 Tax Relief Reconciliation Act of 2001, P.L. No. 107-
8 16, and the advanced refund of such credit shall not
9 be subject to taxation.

10 d. The provisions of this paragraph shall apply to all
11 taxable years ending after December 31, 1978.

12 9. Retirement benefits not to exceed Five Thousand Five Hundred
13 Dollars (\$5,500.00) for the 2004 tax year and Seven Thousand Five
14 Hundred Dollars (\$7,500.00) for the 2005 tax year and all subsequent
15 tax years, which are received by an individual from the civil
16 service of the United States, the Oklahoma Public Employees
17 Retirement System, the Teachers' Retirement System of Oklahoma, the
18 Oklahoma Law Enforcement Retirement System, the Oklahoma
19 Firefighters Pension and Retirement System, the Oklahoma Police
20 Pension and Retirement System, the employee retirement systems
21 created by counties pursuant to Section 951 et seq. of Title 19 of
22 the Oklahoma Statutes, the Uniform Retirement System for Justices
23 and Judges, the Oklahoma Wildlife Conservation Department Retirement

1 Fund, the Oklahoma Employment Security Commission Retirement Plan,
2 or the employee retirement systems created by municipalities
3 pursuant to Section 48-101 et seq. of Title 11 of the Oklahoma
4 Statutes shall be exempt from taxable income.

5 10. In taxable years beginning after December 31, 1984, Social
6 Security benefits received by an individual shall be exempt from
7 taxable income, to the extent such benefits are included in the
8 federal adjusted gross income pursuant to the provisions of Section
9 86 of the Internal Revenue Code, 26 U.S.C., Section 86.

10 11. For taxable years beginning after December 31, 1994, lump-
11 sum distributions from employer plans of deferred compensation,
12 which are not qualified plans within the meaning of Section 401(a)
13 of the Internal Revenue Code, 26 U.S.C., Section 401(a), and which
14 are deposited in and accounted for within a separate bank account or
15 brokerage account in a financial institution within this state,
16 shall be excluded from taxable income in the same manner as a
17 qualifying rollover contribution to an individual retirement account
18 within the meaning of Section 408 of the Internal Revenue Code, 26
19 U.S.C., Section 408. Amounts withdrawn from such bank or brokerage
20 account, including any earnings thereon, shall be included in
21 taxable income when withdrawn in the same manner as withdrawals from
22 individual retirement accounts within the meaning of Section 408 of
23 the Internal Revenue Code.

1 12. In taxable years beginning after December 31, 1995,
2 contributions made to and interest received from a medical savings
3 account established pursuant to Sections 2621 through 2623 of Title
4 63 of the Oklahoma Statutes shall be exempt from taxable income.

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

17 14. a. In taxable years beginning after December 31, 2002,
18 nonrecurring adoption expenses paid by a resident
19 individual taxpayer in connection with:
20 (1) the adoption of a minor, or
21 (2) a proposed adoption of a minor which did not
22 result in a decreed adoption,

1 may be deducted from the Oklahoma adjusted gross
2 income.

3 b. The deductions for adoptions and proposed adoptions
4 authorized by this paragraph shall not exceed Twenty
5 Thousand Dollars (\$20,000.00) per calendar year.

6 c. The Tax Commission shall promulgate rules to implement
7 the provisions of this paragraph which shall contain a
8 specific list of nonrecurring adoption expenses which
9 may be presumed to qualify for the deduction. The Tax
10 Commission shall prescribe necessary requirements for
11 verification.

12 d. "Nonrecurring adoption expenses" means adoption fees,
13 court costs, medical expenses, attorney fees and
14 expenses which are directly related to the legal
15 process of adoption of a child including, but not
16 limited to, costs relating to the adoption study,
17 health and psychological examinations, transportation
18 and reasonable costs of lodging and food for the child
19 or adoptive parents which are incurred to complete the
20 adoption process and are not reimbursed by other
21 sources. The term "nonrecurring adoption expenses"
22 shall not include attorney fees incurred for the
23 purpose of litigating a contested adoption, from and

1 after the point of the initiation of the contest,
2 costs associated with physical remodeling, renovation
3 and alteration of the adoptive parents' home or
4 property, except for a special needs child as
5 authorized by the court.

6 15. In taxable years beginning before January 1, 2005,
7 retirement benefits not to exceed the amounts specified in this
8 paragraph, which are received by an individual sixty-five (65) years
9 of age or older and whose Oklahoma adjusted gross income is Twenty-
10 five Thousand Dollars (\$25,000.00) or less if the filing status is
11 single, head of household, or married filing separate, or Fifty
12 Thousand Dollars (\$50,000.00) or less if the filing status is
13 married filing joint or qualifying widow, shall be exempt from
14 taxable income. In taxable years beginning after December 31, 2004,
15 retirement benefits not to exceed the amounts specified in this
16 paragraph, which are received by an individual whose Oklahoma
17 adjusted gross income is Thirty-seven Thousand Five Hundred Dollars
18 (\$37,500.00) or less if the filing status is single, head of
19 household, or married filing separate, or Seventy-Five Thousand
20 Dollars (\$75,000.00) or less if the filing status is married filing
21 jointly or qualifying widow, shall be exempt from taxable income.
22 For purposes of this paragraph, "retirement benefits" means the
23 total distributions or withdrawals from the following:

- 1 a. an employee pension benefit plan which satisfies the
- 2 requirements of Section 401 of the Internal Revenue
- 3 Code, 26 U.S.C., Section 401,
- 4 b. an eligible deferred compensation plan that satisfies
- 5 the requirements of Section 457 of the Internal
- 6 Revenue Code, 26 U.S.C., Section 457,
- 7 c. an individual retirement account, annuity or trust or
- 8 simplified employee pension that satisfies the
- 9 requirements of Section 408 of the Internal Revenue
- 10 Code, 26 U.S.C., Section 408,
- 11 d. an employee annuity subject to the provisions of
- 12 Section 403(a) or (b) of the Internal Revenue Code, 26
- 13 U.S.C., Section 403(a) or (b),
- 14 e. United States Retirement Bonds which satisfy the
- 15 requirements of Section 86 of the Internal Revenue
- 16 Code, 26 U.S.C., Section 86, or
- 17 f. lump-sum distributions from a retirement plan which
- 18 satisfies the requirements of Section 402(e) of the
- 19 Internal Revenue Code, 26 U.S.C., Section 402(e).

20 The amount of the exemption provided by this paragraph shall be
21 limited to Five Thousand Five Hundred Dollars (\$5,500.00) for the
22 2004 tax year and Seven Thousand Five Hundred Dollars (\$7,500.00)
23 for the 2005 tax year and for all subsequent tax years. Any

1 individual who claims the exemption provided for in paragraph 9 of
2 this subsection shall not be permitted to claim a combined total
3 exemption pursuant to this paragraph and paragraph 9 of this
4 subsection in an amount exceeding Five Thousand Five Hundred Dollars
5 (\$5,500.00) for the 2004 tax year and Seven Thousand Five Hundred
6 Dollars (\$7,500.00) for the 2005 tax year and subsequent tax years.

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

15 17. In taxable years beginning December 31, 2000, an amount
16 equal to one hundred percent (100%) of the amount of any scholarship
17 or stipend received from participation in the Oklahoma Police Corps
18 Program, as established in Section 2-140.3 of Title 47 of the
19 Oklahoma Statutes shall be exempt from taxable income.

20 18. In taxable years beginning after December 31, 2001, there
21 shall be allowed a deduction in the amount of contributions to
22 accounts established pursuant to the Oklahoma College Savings Plan
23 Act. The deduction shall equal the amount of contributions to

1 accounts, but in no event shall the deduction for each contributor
2 exceed Two Thousand Five Hundred Dollars (\$2,500.00) each taxable
3 year for each account.

4 19. For taxable years beginning after December 31, 2005,
5 retirement benefits received by an individual from any component of
6 the Armed Forces of the United States in an amount not to exceed the
7 greater of fifty percent (50%) of such benefits or Ten Thousand
8 Dollars (\$10,000.00) shall be exempt from taxable income but in no
9 case less than the amount of the exemption provided by paragraph 15
10 of this subsection.

11 20. For taxable years beginning after December 31, 2006,
12 Dependency and Indemnity Compensation (DIC) payments received by a
13 survivor of any honorably discharged veteran from any branch of the
14 United States Armed Forces or from the Oklahoma National Guard in
15 amount not to exceed fifty percent (50%) of such benefits or Ten
16 Thousand Dollars (\$10,000.00) shall be exempt from taxable income.

17 E. 1. For taxable years beginning after December 31, 2004, a
18 deduction from the Oklahoma adjusted gross income of any individual
19 taxpayer shall be allowed for qualifying gains receiving capital
20 treatment earned by the individual taxpayer during the taxable year
21 and included in the federal taxable income of such individual
22 taxpayer.

23 2. As used in this subsection:

- 1 a. "qualifying gains receiving capital treatment" means
2 the amount of net capital gains, as defined in Section
3 1222(11) of the Internal Revenue Code, included in an
4 individual taxpayer's federal income tax return that
5 was:
6 (1) earned by the individual taxpayer on real or
7 tangible personal property located within
8 Oklahoma that has been owned by the individual
9 taxpayer for a holding period of at least five
10 (5) years prior to the date of the transaction
11 from which such net capital gains arise, or
12 (2) earned on the sale of stock or on the sale of an
13 ownership interest in an Oklahoma company,
14 limited liability company, or partnership where
15 such stock or ownership interest has been owned
16 by the individual taxpayer for a holding period
17 of at least three (3) years prior to the date of
18 the transaction from which the net capital gains
19 arise,
20 b. "holding period" means an uninterrupted period of
21 time, and
22 c. "Oklahoma company," "limited liability company," or
23 "partnership" means an entity whose primary

1 headquarters have been located in Oklahoma for at
2 least three (3) uninterrupted years prior to the date
3 of the transaction from which the net capital gains
4 arise.

5 SECTION 5. Sections 1, 2 and 3 of this act shall become
6 effective July 1, 2006.

7 SECTION 6. Section 4 of this act shall become effective January
8 1, 2007.

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

13 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 4-4-06 - DO PASS,
14 As Amended.