

ENROLLED SENATE  
BILL NO. 318

By: Mazzei, Gumm, Aldridge,  
Jolley and Sparks of the  
Senate

and

Hickman, McCullough, Derby,  
Tibbs, Hilliard, Reynolds,  
Kern, Enns, Dank, Scott,  
Shelton, Ortega, Dorman,  
Williams and Kouplen of the  
House

An Act relating to revenue and taxation and motor vehicles; amending 47 O.S. 2001, Section 1113, as last amended by Section 14 of Enrolled Senate Bill No. 503 of the 1st Session of the 52nd Oklahoma Legislature, which relates to motor vehicle registration; requiring Oklahoma Tax Commission to issue monthly decal; directing design of such decal and development of certain abbreviation; requiring Tax Commission to issue certain decals first; amending 68 O.S. 2001, Sections 205, as last amended by Section 5, Chapter 378, O.S.L. 2008, 208, 255, as amended by Section 1, Chapter 223, O.S.L. 2006, Section 6, Chapter 278, O.S.L. 2008 (68 O.S. Supp. 2008, Sections 205, 255 and 265), which relate to tax administration and collection; authorizing the disclosure of certain otherwise confidential information for specified purpose; requiring Oklahoma Tax Commission to prepare and maintain list of persons owing delinquent taxes in excess of certain amount after specified time period; authorizing the posting of certain list on the Internet; specifying contents of Internet website; requiring periodic updates to website; prohibiting Tax Commission from

posting certain names under specified circumstances; requiring certain notice to be provided to specified taxpayers prior to publication of taxpayer's name on website; providing for removal of taxpayer's name from website under specified circumstances; limiting liability of Tax Commission regarding disclosure of certain information; modifying notice and mailing procedures; modifying percentage of fee paid by Tax Commission to debt collection agency; providing that certain fee be added to amount of delinquent taxes, penalty and interest collected from taxpayer; prohibiting the disclosure of certain information by debt collection agency employees or agents except under specified circumstances; authorizing certain deposit by Tax Commission; apportioning specified amount of income tax collections to certain fund for specified time period; amending 68 O.S. 2001, Section 500.10, as amended by Section 2, Chapter 267, O.S.L. 2007 (68 O.S. Supp. 2008, Section 500.10), which relates to motor fuel tax; providing exemption for rural irrigation districts and conservancy districts; amending 68 O.S. 2001, Section 1356, as last amended by Section 23 of Enrolled Senate Bill No. 764 of the 1st Session of the 52nd Oklahoma Legislature, which relates to sales tax; exempting from taxation sales to certain conservancy districts; amending 68 O.S. 2001, Sections 2357.4, as last amended by Section 29, Chapter 281, O.S.L. 2006, 2358, as last amended by Section 1 of Enrolled Senate Bill No. 916 of the 1st Session of the 52nd Oklahoma Legislature, Section 3, Chapter 503, O.S.L. 2002, as amended by Section 2, Chapter 395, O.S.L. 2008, 2385.3, as last amended by Section 20, Chapter 479, O.S.L. 2005 (68 O.S. Supp. 2008, Sections 2357.4, 2358, 2358.6 and 2385.3), which relate to income tax; authorizing carry over of investment tax credit when operating status changes; modifying tax treatment of net operating loss; requiring certain amount of federal small business expense deduction to be added into Oklahoma income; requiring adjustment of individual gross income for certain motor vehicle excise tax deduction; requiring taxable income to be increased by certain

unemployment compensation exemption; providing exemption for certain payments received as participation awards; providing for tax treatment of bonus depreciation resulting from certain federal legislation; modifying withholding requirements for employers; mandating that certain employers utilize electronic data interchange program; amending 68 O.S. 2001, Section 2902, as last amended by Section 28 of Enrolled Senate Bill No. 764 of the 1st Session of the 52nd Oklahoma Legislature, which relates to ad valorem taxes; providing waiver of certain payroll requirements relating to ad valorem exemption; establishing criteria for facility; providing for recapture of certain sums under specified circumstances; amending 68 O.S. 2001, Section 3624, as last amended by Section 15, Chapter 436, O.S.L. 2008 (68 O.S. Supp. 2008, Section 3624), which relates to the Oklahoma Film Enhancement Rebate Program; modifying rebate amount for certain expenditures; deleting graduated rebate provisions; conforming language; deleting rebate for certain minimum budget; deleting certain crew requirements; modifying certain filing requirement; modifying minimum budget requirements; deleting certain eligibility requirement; requiring certain notification; specifying when certain claims may be paid; providing legislative intent; creating Oklahoma Viticulture and Enology Center Development Revolving Fund; providing for distribution of revenue to fund and purposes for expenditure from fund; amending 37 O.S. 2001, Section 563, which relates to alcoholic beverage tax; modifying apportionment of tax on wine; limiting amount apportioned to certain revolving fund; requiring Oklahoma Tax Commission to conduct certain study of state and local communications taxes; requiring report to be presented to the Governor, President Pro Tempore and Speaker by certain date; amending 82 O.S. 2001, Section 277.17, which relates to irrigation districts; providing exemption from motor fuel taxes; amending 82 O.S. 2001, Section 688.1, which relates to conservancy districts; providing exemption from motor fuel taxes;

requiring CompSource Oklahoma to make certain report and specifying contents thereof; requiring CompSource Oklahoma to pay annual market equalization assessment based on specified amounts; prohibiting deduction from payment for dividends paid; specifying rate of assessment; providing for interest penalty for failure to remit assessment timely; providing for codification; providing for noncodification; providing effective dates; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 2001, Section 1113, as last amended by Section 14 of Enrolled Senate Bill No, 503 of the 1st Session of the 52nd Oklahoma Legislature, is amended to read as follows:

Section 1113. A. 1. Except for all-terrain vehicles, utility vehicles and motorcycles used exclusively off roads and highways, upon the filing of a registration application and the payment of the fees provided for in the Oklahoma Vehicle License and Registration Act, the Oklahoma Tax Commission or Corporation Commission, as applicable, shall assign to the vehicle described in the application a distinctive number, and issue to the owner of the vehicle a certificate of registration, one license plate and a yearly decal. The Oklahoma Tax Commission shall assign an all-terrain vehicle, utility vehicle or motorcycle used exclusively off roads and highways a distinctive number and issue to the owner a certificate of registration and a decal but not a license plate. For each subsequent registration year, the Tax Commission shall issue a yearly decal to be affixed to the license plate, except for an all-terrain vehicle, utility vehicle or motorcycle used exclusively off roads and highways. The initial decal for an all-terrain vehicle, utility vehicle or motorcycle shall be attached to the front of the vehicle and shall be in clear view. The decal shall be on the front or on the front fork of the motorcycle used exclusively off roads and highways and the decal shall be in clear view. The yearly decal shall have an identification number and the last two numbers of the registration year for which it shall expire. Except as provided by

Section 1113A of this title, the license plate shall be affixed to the exterior of the vehicle until a replacement license plate is applied for. If the owner applies for a replacement license plate, the Tax Commission shall charge the fee provided for in Section 1114 of this title. The yearly decal will validate the license plate for each registration period other than the year the license plate is issued. The license plate and decal shall be of such size, color, design and numbering as the Tax Commission may direct. However, yearly decals issued to the owner of a vehicle who has filed an affidavit with the appropriate motor license agent in accordance with Section 7-607 of this title shall be a separate and distinct color from all other decals issued under this section. The Tax Commission shall also issue a monthly decal which shall include a two-letter abbreviation corresponding to the county in which the vehicle is registered. The Tax Commission is hereby directed to develop the decal design to incorporate these requirements in a manner that will permit county abbreviation to be readily identified. The Tax Commission shall develop a unique two-letter abbreviation for each county to be used on the decals. The Tax Commission shall issue all decals in the possession of the Tax Commission on January 1, 2010, prior to issuing any of the county abbreviation decals created pursuant to this paragraph.

2. The license plate shall be securely attached to the rear of the vehicle, except truck-tractor plates which shall be attached to the front of the vehicle. The Tax Commission may, with the concurrence of the Department of Public Safety, by Joint Rule, change and direct the manner, place and location of display of any vehicle license plate when such action is deemed in the public interest. The license plate, decal and all letters and numbers shall be clearly visible at all times. The operation of a vehicle in this state, regardless of where such vehicle is registered, upon which the license plate is covered, overlaid or otherwise screened with any material, whether such material be clear, translucent, tinted or opaque, shall be a violation of this paragraph.

3. Upon payment of the annual registration fee provided in Section 1133 of this title, the Tax Commission or Corporation Commission, as applicable, or a motor license agent may issue a permanent nonexpiring license plate to an owner of one hundred or more commercial motor vehicles and for vehicles registered under the provisions of Section 1120 of this title. Upon payment of the

annual registration fee, the Tax Commission or Corporation Commission shall issue a certificate of registration that shall be carried at all times in the vehicle for which it is issued. Provided, if the registrant submits its application through electronic means, such qualified owners of one hundred or more commercial motor vehicles, properly registered pursuant to the provisions of Section 1133 of this title, may elect to receive a permanent certificate of registration that shall be carried at all times in the vehicle for which it is issued.

4. Every vehicle owned by an agency of this state shall be exempt from the payment of registration fees required by this title. Provided, such vehicle shall be registered and shall otherwise comply with the provisions of the Oklahoma Vehicle License and Registration Act.

B. The license plates required under the provisions of this title shall conform to the requirements and specifications listed hereinafter:

1. Each license plate shall have a space for the placement of the yearly decals for each succeeding year of registration after the initial issue;

2. The provisions of the Oklahoma Vehicle License and Registration Act regarding the issuance of yearly decals shall not apply to the issuance of apportioned license plates, including license plates for state vehicles, and exempt plates for governmental entities and fire departments organized pursuant to Section 592 of Title 18 of the Oklahoma Statutes;

3. Within the limits herein prescribed the Tax Commission shall redesign the official vehicle license plates which currently bear the legend "Oklahoma OK" or "Oklahoma is OK!" and substitute therefor the legend "Oklahoma Native America" as further described in this paragraph. Except for personalized license plates and license plates issued for motorcycles and mopeds, the emblem on the state flag of Oklahoma as provided for in Section 91 of Title 25 of the Oklahoma Statutes shall be a part of all license plates issued after December 31, 1988. The Tax Commission may continue to issue license plates with the legend "Oklahoma is OK!" or "Oklahoma OK" until any inventory of such license plates is depleted but the Tax

Commission shall not produce or cause to be produced any additional license plates with these legends. Except for personalized license plates, license plates issued for commercial vehicles, and license plates issued for motorcycles and mopeds, the "Oklahoma Native America" emblem shall be a part of all license plates issued after December 31, 1993. The specifications for lettering style and appearance for the legend "Oklahoma Native America" shall be provided to the Tax Commission by the Oklahoma Tourism and Recreation Department. All license plates and decals shall be made with reflectorized material as a background to the letters, numbers and characters displayed thereon. The reflectorized material shall be of such a nature as to provide effective and dependable brightness during the service period for which the license plate or decal is issued;

4. Except as otherwise provided in this subsection, the Tax Commission shall design appropriate official license plates for all state vehicles. Such license plates shall be permanent in nature and designed in such manner as to remain with the vehicle for the duration of the vehicle's life span or until the title is transferred to a nongovernmental owner;

5. Within the limits prescribed in this section, the Tax Commission shall design appropriate official license plates for vehicles of the Oklahoma Highway Patrol. The license plates shall have the legend "Oklahoma OK" and shall contain the letters "OHP" followed by the state seal and the badge number of the Highway Patrol officer to whom the vehicle is assigned. The words "Oklahoma Highway Patrol" shall also be included on such license plates;

6. Within the limits prescribed in this section, the Tax Commission shall design appropriate official license plates for vehicles of the Oklahoma Military Department. Such license plates shall have the legend "Oklahoma OK" and shall contain the letters "OMD" followed by the state seal and three numbers or letters as designated by the Adjutant General. The words "Oklahoma Military Department" shall also be included on such license plates; and

7. Within the limits prescribed in this section, the Oklahoma Tourism and Recreation Department shall design any license plates required by the initiation of a license plate reissuance by the Oklahoma Tax Commission at the request of the Department of Public

Safety pursuant to the provisions of Section 1 of this act. Any such new designs shall be submitted by the Oklahoma Tourism and Recreation Department to the Department of Public Safety for its approval prior to being issued by the Oklahoma Tax Commission.

C. Where the applicant has satisfactorily shown that the applicant owns the vehicle sought to be registered but is unable to produce documentary evidence of the ownership, a license plate may be issued upon approval by the Tax Commission or Corporation Commission, as applicable. In such instances the reason for not issuing a certificate of title shall be indicated on the receipt given to the applicant. It shall still be the duty of the applicant to immediately take all necessary steps to obtain the Oklahoma certificate of title and it shall be unlawful for the applicant to sell the vehicle until the certificate has been obtained in the applicant's name.

D. The certificate of registration provided for in this section shall be in convenient form, and the certificate of registration, or a certified copy or photostatic copy thereof, duly authenticated by the Tax Commission or Corporation Commission, as applicable, shall be carried at all times in or upon commercial vehicles so registered, in such manner as to permit a ready examination thereof upon demand by any peace officer of the state or duly authorized employee of the Department of Public Safety. Any such officer or agent may seize and hold such commercial vehicle when the operator of the same does not have the registration certificate in the operator's possession or when any such officer or agent determines that the registration certificate has been obtained by misrepresentation of any essential or material fact or when any number or identifying information appearing on such certificate has been changed, altered, obliterated or concealed in any way, until the proper registration or identification of such vehicle has been made or produced by the owner thereof.

E. The purchaser of a new or used manufactured home shall, within thirty (30) days of the date of purchase, register the home with the Tax Commission or a motor license agent pursuant to the provisions of Section 1117 of this title. For a new manufactured home, it shall be the responsibility of the dealer selling the home to place a temporary license plate on the home in the same manner as provided in Section 1128 of this title for other new motor vehicles.



For the first year that any manufactured home is registered in this state, the Tax Commission shall issue a metal license plate which shall be affixed to the manufactured home. The temporary dealer license plate or the metal license plate shall be displayed on the manufactured home at all times when upon a public roadway; provided, a repossession affidavit issued pursuant to Sections 1110 and 1126 of this title shall be permissible in lieu of a current license plate and decal for the purposes of removing a repossessed manufactured home to a secure location. Manufactured homes previously registered and subject to ad valorem taxation as provided by law shall have a decal affixed at the time ad valorem taxes are paid for such manufactured home; provided, for a manufactured home permanently affixed to real estate, no decal or license plate shall be required to be affixed and the owner thereof shall be given a receipt upon payment of ad valorem taxes due on the home. The Tax Commission shall make sufficient plates and decals available to the various motor license agents of the state in order for an owner of a manufactured home to acquire the plate or decal. A one-dollar fee shall be charged for issuance of any plate or decal. The fee shall be apportioned each month to the General Revenue Fund of the State Treasury.

F. The decal shall be easily visible for purposes of verification by a county assessor that the manufactured home is properly assessed for ad valorem taxation. In the first year of registration, a decal shall be issued for placement on the license plate indicating payment of applicable registration fees and excise taxes. A duplicate manufactured home registration decal shall be affixed inside the window nearest the front door of the manufactured home. In the second and all subsequent years for which the manufactured home is subject to ad valorem taxation, an annual decal shall be affixed inside the window nearest the front door as evidence of payment of ad valorem taxes. The Tax Commission shall issue decals to the various county treasurers of the state in order for a manufactured home owner to obtain such decal each year. Upon presentation of a valid ad valorem tax receipt, the manufactured home owner shall be issued the annual decal.

G. Upon the registration of a manufactured home in this state for the first time or upon discovery of a manufactured home previously registered within this state for which the information

required by this subsection is not known, the Tax Commission shall obtain:

1. The name of the owner of the manufactured home;
2. The serial number or identification number of the manufactured home;
3. A legal description or address of the location for the home;
4. The actual retail selling price of the manufactured home excluding Oklahoma taxes;
5. The certificate of title number for the home; and
6. Any other information which the Tax Commission deems to be necessary.

The application for registration shall also include the school district in which the manufactured home is located or is to be located. The information shall be entered into a computer data system which shall be used by the Tax Commission to provide information to county assessors upon request by the assessor. The assessor may request any information from the system in order to properly assess a manufactured home for ad valorem taxation.

SECTION 2. AMENDATORY 68 O.S. 2001, Section 205, as last amended by Section 5, Chapter 378, O.S.L. 2008 (68 O.S. Supp. 2008, Section 205), is amended to read as follows:

Section 205. A. The records and files of the Oklahoma Tax Commission concerning the administration of the Uniform Tax Procedure Code or of any state tax law shall be considered confidential and privileged, except as otherwise provided for by law, and neither the Tax Commission nor any employee engaged in the administration of the Tax Commission or charged with the custody of any such records or files nor any person who may have secured information from the Tax Commission shall disclose any information obtained from the records or files or from any examination or inspection of the premises or property of any person.

B. Except as provided in paragraph 26 of subsection C of this section, neither the Tax Commission nor any employee engaged in the administration of the Tax Commission or charged with the custody of any such records or files shall be required by any court of this state to produce any of the records or files for the inspection of any person or for use in any action or proceeding, except when the records or files or the facts shown thereby are directly involved in an action or proceeding pursuant to the provisions of the Uniform Tax Procedure Code or of the state tax law, or when the determination of the action or proceeding will affect the validity or the amount of the claim of the state pursuant to any state tax law, or when the information contained in the records or files constitutes evidence of violation of the provisions of the Uniform Tax Procedure Code or of any state tax law.

C. The provisions of this section shall not prevent the Tax Commission from disclosing the following information and no liability whatsoever, civil or criminal, shall attach to any member of the Tax Commission or any employee thereof for any error or omission in the disclosure of such information:

1. The delivery to a taxpayer or a duly authorized representative of the taxpayer of a copy of any report or any other paper filed by the taxpayer pursuant to the provisions of the Uniform Tax Procedure Code or of any state tax law;

2. The exchange of information that is not protected by the federal Privacy Protection Act, 42 U.S.C., Section 2000aa et seq., pursuant to reciprocal agreements entered into by the Tax Commission and other state agencies or agencies of the federal government;

3. The publication of statistics so classified as to prevent the identification of a particular report and the items thereof;

4. The examination of records and files by the State Auditor and Inspector or the duly authorized agents of the State Auditor and Inspector;

5. The disclosing of information or evidence to the Oklahoma State Bureau of Investigation, Attorney General, Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, any district attorney, or agent of any federal law enforcement agency when the

information or evidence is to be used by such officials to investigate or prosecute violations of the criminal provisions of the Uniform Tax Procedure Code or of any state tax law or of any federal crime committed against this state. Any information disclosed to the Oklahoma State Bureau of Investigation, Attorney General, Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, any district attorney, or agent of any federal law enforcement agency shall be kept confidential by such person and not be disclosed except when presented to a court in a prosecution for violation of the tax laws of this state or except as specifically authorized by law, and a violation by the Oklahoma State Bureau of Investigation, Attorney General, Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, district attorney, or agent of any federal law enforcement agency by otherwise releasing the information shall be a felony;

6. The use by any division of the Tax Commission of any information or evidence in the possession of or contained in any report or return filed with any other division of the Tax Commission;

7. The furnishing, at the discretion of the Tax Commission, of any information disclosed by its records or files to any official person or body of this state, any other state, the United States, or foreign country who is concerned with the administration or assessment of any similar tax in this state, any other state or the United States. The provisions of this paragraph shall include the furnishing of information by the Tax Commission to a county assessor to determine the amount of gross household income pursuant to the provisions of Section 8C of Article X of the Oklahoma Constitution or Section 2890 of this title. The Tax Commission shall promulgate rules to give guidance to the county assessors regarding the type of information which may be used by the county assessors in determining the amount of gross household income pursuant to Section 8C of Article X of the Oklahoma Constitution or Section 2890 of this title. The provisions of this paragraph shall also include the furnishing of information to the State Treasurer for the purpose of administration of the Uniform Unclaimed Property Act;

8. The furnishing of information to other state agencies for the limited purpose of aiding in the collection of debts owed by individuals to such requesting agencies;

9. The furnishing of information requested by any member of the general public and stated in the sworn lists or schedules of taxable property of public service corporations organized, existing, or doing business in this state which are submitted to and certified by the State Board of Equalization pursuant to the provisions of Section 2858 of this title and Section 21 of Article X of the Oklahoma Constitution, provided such information would be a public record if filed pursuant to Sections 2838 and 2839 of this title on behalf of a corporation other than a public service corporation;

10. The furnishing of information requested by any member of the general public and stated in the findings of the Tax Commission as to the adjustment and equalization of the valuation of real and personal property of the counties of the state, which are submitted to and certified by the State Board of Equalization pursuant to the provisions of Section 2865 of this title and Section 21 of Article X of the Oklahoma Constitution;

11. The furnishing of information to an Oklahoma wholesaler of low-point beer, licensed under the provisions of Section 163.1 et seq. of Title 37 of the Oklahoma Statutes, or an association or organization whose membership is comprised of such wholesalers, of the licensed retailers authorized by law to purchase low-point beer in this state or the furnishing of information to a licensed Oklahoma wholesaler of low-point beer of shipments by licensed manufacturers into this state;

12. The furnishing of information as to the issuance or revocation of any tax permit, license or exemption by the Tax Commission as provided for by law. Such information shall be limited to the name of the person issued the permit, license or exemption, the name of the business entity authorized to engage in business pursuant to the permit, license or exemption, the address of the business entity, and the grounds for revocation;

13. The posting of notice of revocation of any tax permit or license upon the premises of the place of business of any business entity which has had any tax permit or license revoked by the Tax Commission as provided for by law. Such notice shall be limited to the name of the person issued the permit or license, the name of the business entity authorized to engage in business pursuant to the

permit or license, the address of the business entity, and the grounds for revocation;

14. The furnishing of information upon written request by any member of the general public as to the outstanding and unpaid amount due and owing by any taxpayer of this state for any delinquent tax, together with penalty and interest, for which a tax warrant or a certificate of indebtedness has been filed pursuant to law;

15. After the filing of a tax warrant pursuant to law, the furnishing of information upon written request by any member of the general public as to any agreement entered into by the Tax Commission concerning a compromise of tax liability for an amount less than the amount of tax liability stated on such warrant;

16. The disclosure of information necessary to complete the performance of any contract authorized by this title to any person with whom the Tax Commission has contracted;

17. The disclosure of information to any person for a purpose as authorized by the taxpayer pursuant to a waiver of confidentiality. The waiver shall be in writing and shall be made upon such form as the Tax Commission may prescribe;

18. The disclosure of information required in order to comply with the provisions of Section 2369 of this title;

19. The disclosure to an employer, as defined in Sections 2385.1 and 2385.3 of this title, of information required in order to collect the tax imposed by Section 2385.2 of this title;

20. The disclosure to a plaintiff of a corporation's last-known address shown on the records of the Franchise Tax Division of the Tax Commission in order for such plaintiff to comply with the requirements of Section 2004 of Title 12 of the Oklahoma Statutes;

21. The disclosure of information directly involved in the resolution of the protest by a taxpayer to an assessment of tax or additional tax or the resolution of a claim for refund filed by a taxpayer, including the disclosure of the pendency of an administrative proceeding involving such protest or claim, to a person called by the Tax Commission as an expert witness or as a

witness whose area of knowledge or expertise specifically addresses the issue addressed in the protest or claim for refund. Such disclosure to a witness shall be limited to information pertaining to the specific knowledge of that witness as to the transaction or relationship between taxpayer and witness;

22. The disclosure of information necessary to implement an agreement authorized by Section 2702 of this title when such information is directly involved in the resolution of issues arising out of the enforcement of a municipal sales tax ordinance. Such disclosure shall be to the governing body or to the municipal attorney, if so designated by the governing body;

23. The furnishing of information regarding incentive payments made pursuant to the provisions of Sections 3601 through 3609 of this title or incentive payments made pursuant to the provisions of Sections 3501 through 3508 of this title;

24. The furnishing to a prospective purchaser of any business, or his or her authorized representative, of information relating to any liabilities, delinquencies, assessments or warrants of the prospective seller of the business which have not been filed of record, established, or become final and which relate solely to the seller's business. Any disclosure under this paragraph shall only be allowed upon the presentment by the prospective buyer, or the buyer's authorized representative, of the purchase contract and a written authorization between the parties;

25. The furnishing of information as to the amount of state revenue affected by the issuance or granting of any tax permit, license, exemption, deduction, credit or other tax preference by the Tax Commission as provided for by law. Such information shall be limited to the type of permit, license, exemption, deduction, credit or other tax preference issued or granted, the date and duration of such permit, license, exemption, deduction, credit or other tax preference and the amount of such revenue. The provisions of this paragraph shall not authorize the disclosure of the name of the person issued such permit, license, exemption, deduction, credit or other tax preference, or the name of the business entity authorized to engage in business pursuant to the permit, license, exemption, deduction, credit or other tax preference;

26. The examination of records and files of a person or entity by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control pursuant to a court order by a magistrate in whose territorial jurisdiction the person or entity resides, or where the Tax Commission records and files are physically located. Such an order may only be issued upon a sworn application by an agent of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, certifying that the person or entity whose records and files are to be examined is the target of an ongoing investigation of a felony violation of the Uniform Controlled Dangerous Substances Act and that information resulting from such an examination would likely be relevant to that investigation. Any records or information obtained pursuant to such an order may only be used by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control in the investigation and prosecution of a felony violation of the Uniform Controlled Dangerous Substances Act. Any such order issued pursuant to this paragraph, along with the underlying application, shall be sealed and not disclosed to the person or entity whose records were examined, for a period of ninety (90) days. The issuing magistrate may grant extensions of such period upon a showing of good cause in furtherance of the investigation. Upon the expiration of ninety (90) days and any extensions granted by the magistrate, a copy of the application and order shall be served upon the person or entity whose records were examined, along with a copy of the records or information actually provided by the Tax Commission;

27. The disclosure of information, as prescribed by this paragraph, which is related to the proposed or actual usage of tax credits pursuant to Section 2357.7 of this title, the Small Business Capital Formation Incentive Act or the Rural Venture Capital Formation Incentive Act. Unless the context clearly requires otherwise, the terms used in this paragraph shall have the same meaning as defined by Section 2357.7, 2357.61 or 2357.72 of this title. The disclosure of information authorized by this paragraph shall include:

- a. the legal name of any qualified venture capital company, qualified small business capital company, or qualified rural small business capital company,
- b. the identity or legal name of any person or entity that is a shareholder or partner of a qualified



venture capital company, qualified small business capital company, or qualified rural small business capital company,

- c. the identity or legal name of any Oklahoma business venture, Oklahoma small business venture, or Oklahoma rural small business venture in which a qualified investment has been made by a capital company, or
- d. the amount of funds invested in a qualified venture capital company, the amount of qualified investments in a qualified small business capital company or qualified rural small business capital company and the amount of investments made by a qualified venture capital company, qualified small business capital company, or qualified rural small business capital company; ~~or~~

28. The disclosure of specific information as required by Section 46 of Title 62 of the Oklahoma Statutes; or

29. The disclosure of specific information as required by Section 3 of this act.

D. The Tax Commission shall cause to be prepared and made available for public inspection in the office of the Tax Commission in such manner as it may determine an annual list containing the name and post office address of each person, whether individual, corporate, or otherwise, making and filing an income tax return with the Tax Commission.

It is specifically provided that no liability whatsoever, civil or criminal, shall attach to any member of the Tax Commission or any employee thereof for any error or omission of any name or address in the preparation and publication of the list.

E. The Tax Commission shall prepare or cause to be prepared a report on all provisions of state tax law that reduce state revenue through exclusions, deductions, credits, exemptions, deferrals or other preferential tax treatments. The report shall be prepared not later than October 1 of each even-numbered year and shall be submitted to the Governor, the President Pro Tempore of the Senate

and the Speaker of the House of Representatives. The Tax Commission may prepare and submit supplements to the report at other times of the year if additional or updated information relevant to the report becomes available. The report shall include, for the previous fiscal year, the Tax Commission's best estimate of the amount of state revenue that would have been collected but for the existence of each such exclusion, deduction, credit, exemption, deferral or other preferential tax treatment allowed by law. The Tax Commission may request the assistance of other state agencies as may be needed to prepare the report. The Tax Commission is authorized to require any recipient of a tax incentive or tax expenditure to report to the Tax Commission such information as requested so that the Tax Commission may provide the information to the Incentive Review Committee or fulfill its obligations as required by this subsection. The Tax Commission may require this information to be submitted in an electronic format. The Tax Commission may disallow any claim of a person for a tax incentive due to its failure to file a report as required under the authority of this subsection. The Tax Commission may consult with the Incentive Review Committee to develop a reporting system to obtain the information requested in a manner that is the least burdensome on the taxpayer.

F. It is further provided that the provisions of this section shall be strictly interpreted and shall not be construed as permitting the disclosure of any other information contained in the records and files of the Tax Commission relating to income tax or to any other taxes.

G. Unless otherwise provided for in this section, any violation of the provisions of this section shall constitute a misdemeanor and shall be punishable by the imposition of a fine not exceeding One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for a term not exceeding one (1) year, or by both such fine and imprisonment, and the offender shall be removed or dismissed from office.

H. Offenses described in Section 2376 of this title shall be reported to the appropriate district attorney of this state by the Tax Commission as soon as the offenses are discovered by the Tax Commission or its agents or employees. The Tax Commission shall make available to the appropriate district attorney or to the authorized agent of the district attorney its records and files

pertinent to prosecutions, and such records and files shall be fully admissible as evidence for the purpose of such prosecutions.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 205.5 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Tax Commission shall prepare and maintain a list of all persons who owe delinquent taxes, including interest, penalties, fees, and costs, in excess of Twenty-five Thousand Dollars (\$25,000.00), which are unpaid for more than ninety (90) days after all appeal rights have expired and for which a tax warrant has been filed. The Tax Commission shall cause the list to be posted on the Internet. After providing notice as described in subsection B of this section, the Internet site shall list the name, address, type of tax due, and amount of tax due, including interest, penalties, fees, and costs for each person who has one of the delinquent taxpayer accounts, and the Internet site shall contain a special page for those persons who have the one hundred (100) largest delinquent taxpayer accounts. Except as otherwise provided in this subsection, the Tax Commission shall update the Internet site on a quarterly basis. The Tax Commission shall not post on the Internet the name or related information of any person who has entered into a pay plan agreement with the Tax Commission and is in compliance with that agreement, or the name or related information of any person who is protected by a stay that is in effect under the Federal Bankruptcy Code. The Internet posting shall be updated each business day to comply with these prohibitions.

B. At least ninety (90) days before the disclosure of the name of a delinquent taxpayer prescribed in subsection A of this section, the Tax Commission shall mail a written notice to the delinquent taxpayer at the taxpayer's last known address informing the taxpayer that the failure to cure the tax delinquency could result in the taxpayer's name being included in a list of delinquent taxpayers that is published on the Internet on the website maintained pursuant to this section. If the delinquent tax has not been paid ninety (90) days after the notice was mailed, and the taxpayer has not, since the mailing of the notice, either entered into a written agreement with the Tax Commission for payment of the delinquency or corrected a default in an existing agreement to the satisfaction of

the Tax Commission, the Tax Commission may disclose the taxpayer information in the list of delinquent taxpayers.

C. The name of a taxpayer shall be removed within fifteen (15) days after the payment in full of the debt or entering into a pay plan agreement with the Tax Commission.

D. Any disclosure made by the Tax Commission or its employees, in a good faith effort to comply with the provisions of this section, shall not be considered a violation of Section 205 of Title 68 of the Oklahoma Statute or any other statute prohibiting disclosure of taxpayer information and no liability whatsoever, civil or criminal, shall attach to any member of the Tax Commission or any employee thereof for any error or omission in the disclosure of such information.

SECTION 4. AMENDATORY 68 O.S. 2001, Section 208, is amended to read as follows:

Section 208. Any notice required by this article, or any state tax law, to be given by the Tax Commission shall be in writing and may be served personally or by mail. If mailed, it shall be addressed to the person to be notified at the last-known address of such person. As used in this article or any other state tax law, "last-known address" shall mean the last address given for such person as it appears on the records of the division of the Tax Commission giving such notice, or if no address appears on the records of that division, the last address given as appears on the records of any other division of the Tax Commission. If no such address appears, the notice shall be mailed to such address as may reasonably be obtainable. If the Tax Commission receives an address from the United States Postal Service as a result of a change of address submitted to the United States Postal Service, "last-known address" shall mean the address provided to the United States Postal Service. The mailing of such notice shall be presumptive evidence of receipt of the same by the person to whom addressed. If the notice has been mailed as provided in this section, failure of the person to receive such notice shall neither invalidate nor be grounds for invalidating any action taken pursuant thereto, nor shall such failure relieve any taxpayer from any tax or addition to tax or any interest or penalties thereon.

SECTION 5. AMENDATORY 68 O.S. 2001, Section 255, as amended by Section 1, Chapter 223, O.S.L. 2006 (68 O.S. Supp. 2008, Section 255), is amended to read as follows:

Section 255. A. In order to facilitate and expedite the collection of taxes more than ninety (90) days overdue from any taxpayer, the Oklahoma Tax Commission may enter into a contract with a debt collection agency doing business in the State of Oklahoma or in any other state for the collection of such delinquent taxes in addition to all other taxes accrued or accruing, including penalties and interest thereon, from the taxpayer. The contract shall only authorize the debt collection agency to collect tax liabilities which are already established and the Tax Commission shall not refer accounts to the debt collection agency unless the Tax Commission has notified the taxpayer, by first class mail, of the liability and has made additional efforts to collect the debt.

B. If an account has been referred to a debt collection agency, the Tax Commission shall review all payments posted by the collection agency prior to commencing any further collection activity against the taxpayer. Further, the collection agency shall review all payments posted by the Tax Commission prior to commencing any collection activity. The Tax Commission or the collection agency shall, within ten (10) business days, provide the taxpayer with a written confirmation of all payments received and any balance due. In addition, the contract shall not authorize the debt collection agency to conduct audits or examine the books and records of a taxpayer in any manner. The Tax Commission may also enter into a contract with a person doing business in the State of Oklahoma or in any other state for the purpose of identifying and locating the assets of such delinquent taxpayer. Such contracts authorized by this section shall be subject to the provisions of the Oklahoma Central Purchasing Act.

C. In addition to the authority provided in subsection A of this section, the Tax Commission may enter into a contract for the purpose of identifying nonresident businesses and individuals who are required by law to file and pay Oklahoma state taxes and who are presently unknown to the Tax Commission.

D. Prior to entering into such a contract with a debt collection agency, the Tax Commission shall require that the debt

collection agency file a bond in the amount of One Hundred Thousand Dollars (\$100,000.00). The bond shall be a bond from a surety company chartered or authorized to do business in this state, cash bond, certificates of deposits, certificates of savings or U.S. Treasury bonds, as the Tax Commission may deem necessary to guarantee compliance with the terms of the contract.

E. Each contract entered into by the Tax Commission with a debt collection agency, pursuant to the provisions of this section, shall specify that fees for services rendered, reimbursements or other remuneration shall be based on the total amount of delinquent taxes, including accrued penalties and interest, which is actually collected. No costs shall be reimbursed unless authorized in the contract. Each contract entered into between the Tax Commission and a debt collection agency shall provide for the payment of fees for such services, reimbursements or other remuneration not in excess of ~~twenty percent (20%)~~ thirty-five percent (35%) of the total amount of delinquent taxes, penalty and interest actually collected. The debt collection agency contract fee shall be added to the amount of the delinquent taxes, accrued penalties and interest collected from the taxpayer. The total amount of the delinquent tax, accrued penalties and interest, and the debt collection agency contract fee shall be owed and collected from the taxpayer.

F. Each contract entered into by the Tax Commission with a person for the purpose of identifying and locating assets of delinquent taxpayers shall specify the amount of money to be paid for the performance of such services. No costs shall be reimbursed unless authorized in the contract.

G. All such funds collected by a debt collection agency, including the fees for collection services as provided for in such contract, shall be remitted to the Tax Commission within five (5) days from the date of collection from a taxpayer. The Tax Commission shall pay from such remitted fees the amount of fees to which such debt collecting agency is entitled for services performed pursuant to the provisions of such contract. All assets of such delinquent taxpayers which are identified and located shall be reported to the Tax Commission within five (5) days from the date of identification and location. Forms to be used for such remittances and reports shall be prescribed by the Tax Commission.

H. A debt collection agency entering into a contract with the Tax Commission or a person entering into a contract with the Tax Commission for asset location purposes pursuant to this section shall agree that it is receiving income from sources within this state or doing business in this state for purposes of the Oklahoma tax laws. Debt collection agency employees and/or their agents shall not disclose confidential tax information except as authorized by Section 205 of this title, subject to the penalties contained therein.

SECTION 6. AMENDATORY Section 6, Chapter 278, O.S.L. 2008 (68 O.S. Supp. 2008, Section 265), is amended to read as follows:

Section 265. A. There is hereby created in the State Treasury a fund for the Oklahoma Tax Commission to be known as the "Oklahoma Tax Commission and Office of State Finance Joint Computer Enhancement Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies deposited to the fund pursuant to law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended for the purposes authorized by subsection B of this section. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

B. Monies in the Oklahoma Tax Commission and Office of State Finance Joint Computer Enhancement Fund shall be expended for the following purposes:

1. To make payments on an agreement authorized by Section 5 of this act;

2. To make payments authorized by Section 41.5x of Title 62 of the Oklahoma Statutes; and

3. To the extent not needed for the above-listed purposes to be expended on other computer projects as specifically authorized by the Legislature.

C. Notwithstanding any other provision of law, there shall be apportioned to the Oklahoma Tax Commission and Office of State

Finance Joint Computer Enhancement Fund from the monies that would otherwise be apportioned by Sections 1353, 1403 and 2352 of Title 68 of the Oklahoma Statutes, the revenue received as a result of any contracts entered into by the Oklahoma Tax Commission pursuant to Section 264 of Title 68 of the Oklahoma Statutes.

D. The Tax Commission is hereby authorized to deposit to the credit of Oklahoma Tax Commission and Office of State Finance Joint Computer Enhancement Fund any monies in excess of the amounts necessary to pay all claims presented to its cash security reserve fund. When monies are deposited to the credit of the Computer Enhancement Fund, the right of any person to present a claim for refund of a cash security shall be preserved and the value thereof shall be paid from the cash security reserve fund.

E. For the fiscal year beginning July 1, 2010, and notwithstanding the provisions of Section 2352 of this title, the first Five Million Dollars (\$5,000,000.00) of revenue derived pursuant to the provisions of subsections A, B and E of Section 2355 of this title shall be apportioned to the Oklahoma Tax Commission and Office of State Finance Joint Computer Enhancement Fund. For the fiscal year beginning July 1, 2010, the Tax Commission shall apportion the first Five Million Dollars (\$5,000,000.00) that would be apportioned pursuant to subsection C of this section according to the provisions of Section 2352 of this title.

SECTION 7. AMENDATORY 68 O.S. 2001, Section 500.10, as amended by Section 2, Chapter 267, O.S.L. 2007 (68 O.S. Supp. 2008, Section 500.10), is amended to read as follows:

Section 500.10 Subject to the procedural requirements and conditions set out in this section and Sections 500.11 through 500.17 of this title, the following are exempt from the tax imposed by Section 500.4 of this title on motor fuel:

1. Motor fuel for which proof of export is available in the form of a terminal-issued destination state shipping paper:
  - a. exported by a supplier who is licensed in the destination state, or



- b. sold by a supplier to a licensed exporter for immediate export;

2. Motor fuel which was acquired by an unlicensed exporter and as to which the tax imposed by Section 500.4 of this title has previously been paid or accrued and was subsequently exported by transport truck by or on behalf of the licensed exporter in a diversion across state boundaries properly reported in conformity with Section 500.46 of this title;

3. Motor fuel exported out of a bulk plant in this state in a tank wagon if the destination of that vehicle does not exceed twenty-five (25) miles from the border of this state and as to which the tax imposed by Section 500.4 of this title has previously been paid or accrued, subject to gallonage limits and other conditions established by the Oklahoma Tax Commission;

4. K-1 kerosene sold at retail through dispensers which have been designed and constructed to prevent delivery directly from the dispenser into a vehicle fuel supply tank, and K-1 kerosene sold at retail through nonbarricaded dispensers in quantities of not more than twenty-one (21) gallons for use other than for highway purposes, under such rules as the Tax Commission shall reasonably require;

5. Motor fuel sold to the United States or any agency or instrumentality thereof;

6. Motor fuel used solely and exclusively in district-owned public school vehicles or FFA and 4-H Club trucks for the purpose of legally transporting public school children, and motor fuel purchased by any school district for use exclusively in school buses leased or hired for the purpose of legally transporting public school children, or in the operation of vehicles used in driver training;

7. Motor fuel used solely and exclusively as fuel to propel motor vehicles on the public roads and highways of this state, when leased or owned and being operated for the sole benefit of a county, city, town, a volunteer fire department with a state certification and rating, rural electric cooperatives, rural water and sewer districts, rural irrigation districts organized under the Oklahoma

Irrigation District Act, conservancy districts and master conservancy districts organized under the Conservancy Act of Oklahoma, rural ambulance service districts, or federally recognized Indian tribes;

8. Motor fuel used as fuel for farm tractors or stationary engines owned or leased and operated by any person and used exclusively for agricultural purposes, except as to two and eight one-hundredths cents (\$0.0208) per gallon of gasoline as provided in subsection C of Section 500.4 of this title;

9. Gasoline, diesel fuel and kerosene sold for use as fuel to generate power in aircraft engines, whether in aircraft or for training, testing or research purposes of aircraft engines, except as to eight one-hundredths of one cent (\$0.0008) per gallon as provided in subsection B of Section 500.4 of this title;

10. Motor fuel sold within an Indian reservation or within Indian country by a federally recognized Indian tribe to a member of that tribe and used in motor vehicles owned by that member of the tribe. This exemption does not apply to sales within an Indian reservation or within Indian country by a federally recognized Indian tribe to non-Indian consumers or to Indian consumers who are not members of the tribe selling the motor fuel;

11. Subject to determination by the Tax Commission, that portion of diesel fuel:

- a. used to operate equipment attached to a motor vehicle, if the diesel fuel was placed into the fuel supply tank of a motor vehicle that has a common fuel reservoir for travel on a highway and for the operation of equipment, or
- b. consumed by the vehicle while the vehicle is parked off the highways of this state;

12. Motor fuel acquired by a consumer out of state and carried into this state, retained within and consumed from the same vehicle fuel supply tank within which it was imported;

13. Diesel fuel used as heating oil, or in railroad locomotives or any other motorized flanged-wheel rail equipment, or used for other nonhighway purposes other than as expressly exempted under another provision;

14. Motor fuel which was lost or destroyed as a direct result of a sudden and unexpected casualty;

15. Taxable diesel which had been accidentally contaminated by dye so as to be unsaleable as highway fuel as proved by proper documentation;

16. Dyed diesel fuel;

17. Motor fuel sold to the Oklahoma Space Industry Development Authority or any spaceport user as defined in the Oklahoma Space Industry Development Act; and

18. Biofuels or biodiesel produced by an individual with crops grown on property owned by the same individual and used in a vehicle owned by the same individual on the public roads and highways of this state.

SECTION 8. AMENDATORY 68 O.S. 2001, Section 1356, as last amended by Section 23 of Enrolled Senate Bill No. 764 of the 1st Session of the 52nd Oklahoma Legislature, is amended to read as follows:

Section 1356. Exemptions - Governmental and nonprofit entities.

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

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

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

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

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

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

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

7. Sale of tangible personal property or services to or by churches, except sales made in the course of business for profit or savings, competing with other persons engaged in the same or a similar business or sale of tangible personal property or services by an organization exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, made on behalf of or at the request of a church or churches if the sale of such property is conducted not more than once each calendar year for a period not to exceed three (3) days by the organization and proceeds from the sale of such property are used by the church or churches or by the organization for charitable purposes;

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

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

10. Sale of tangible personal property or services to any county, municipality, rural water district, public school district, the institutions of The Oklahoma State System of Higher Education, the Grand River Dam Authority, the Northeast Oklahoma Public Facilities Authority, the Oklahoma Municipal Power Authority, City of Tulsa-Rogers County Port Authority, Muskogee City-County Port Authority, the Oklahoma Department of Veterans Affairs, the Broken Bow Economic Development Authority, Ardmore Development Authority, Durant Industrial Authority, Oklahoma Ordnance Works Authority,

Central Oklahoma Master Conservancy District, Arbuckle Master Conservancy District, Fort Cobb Master Conservancy District, Foss Reservoir Master Conservancy District, Mountain Park Master Conservancy District, Waurika Lake Master Conservancy District, Department of Central Services only when carrying out a public construction contract on behalf of the Oklahoma Department of Veterans Affairs or to any person with whom any of the above-named subdivisions or agencies of this state has duly entered into a public contract pursuant to law, necessary for carrying out such public contract or to any subcontractor to such a public contract. Any person making purchases on behalf of such subdivision or agency of this state shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such subdivision or agency of this state and set out the name of such public subdivision or agency. Any person who wrongfully or erroneously certifies that purchases are for any of the above-named subdivisions or agencies of this state or who otherwise violates this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both;

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

Any person, firm, agency or entity making purchases on behalf of any institution, agency or subdivision in this state, shall certify in writing, on the copy of the invoice or sales ticket the nature of the purchases, and violation of this paragraph shall be a misdemeanor as set forth in paragraph 10 of this section;

12. Tuition and educational fees paid to private institutions of higher education and private elementary and secondary

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

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

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

b. Sales of tangible personal property made by or to nonprofit parent-teacher associations or organizations exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and before July 1, 2014, nonprofit local public or private school foundations which solicit money or property in the name of any public or private school or public school district.

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

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

14. Sales of tangible personal property by:

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

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

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

16. Items or services which are subsequently given away by the Oklahoma Tourism and Recreation Department as promotional items pursuant to Section 1834 of Title 74 of the Oklahoma Statutes and the sale of advertising in travel brochures and other promotional materials produced at the direction of the Department;

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



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

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

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

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

21. Sales of tangible personal property or services to any organization, which takes court-adjudicated juveniles for purposes of rehabilitation, and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), provided that at least fifty percent (50%) of the juveniles served by such organization are court adjudicated and the organization receives state funds in an amount less than ten percent (10%) of the annual budget of the organization;

22. Sales of tangible personal property or services to:

- a. any federally qualified community health center as defined in Section 254c of Title 42 of the United States Code,
- b. any migrant health center as defined in Section 254b of Title 42 of the United States Code,
- c. any clinic receiving disbursements of state monies from the Indigent Health Care Revolving Fund pursuant to the provisions of Section 66 of Title 56 of the Oklahoma Statutes,
- d. any community based health center which meets all of the following criteria:
  - (1) provides primary care services at no cost to the recipient, and
  - (2) is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and
- e. any community mental health center as defined in Section 3-302 of Title 43A of the Oklahoma Statutes;

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

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

25. Sales of tangible personal property or services to museums or other entities which have been accredited by the American Association of Museums. Any person making purchases on behalf of any such museum or other entity shall certify, in writing, on the

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

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

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

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

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

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

31. Sales of tangible personal property or services to a municipality, county or school district pursuant to a lease or

lease-purchase agreement executed between the vendor and a municipality, county or school district. A copy of the lease or lease-purchase agreement shall be retained by the vendor;

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

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

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

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

35. The sale, lease, use, storage, consumption, or distribution in this state of tangible personal property, placed on or used aboard any space facility, space propulsion system or space vehicle, satellite, or station possessing space flight capacity, which is launched into space, irrespective of whether such tangible property is returned to this state for subsequent use, storage, or consumption in any manner;

36. The sale, lease, use, storage, consumption, or distribution in this state of tangible personal property meeting the definition of "section 38 property" as defined in Sections 48(a)(1)(A) and (B)(i) of the Internal Revenue Code of 1986, that is an integral part of and used primarily in support of space flight; however,

section 38 property used in support of space flight shall not include general office equipment, any boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States government, or any other property not specifically suited to supporting space activity. The term "in support of space flight", for purposes of this paragraph, means the altering, monitoring, controlling, regulating, adjusting, servicing, or repairing of any space facility, space propulsion systems or space vehicle, satellite, or station possessing space flight capacity, including the components thereof;

37. The purchase or lease of machinery and equipment for use at a fixed location in this state, which is used exclusively in the manufacturing, processing, compounding, or producing of any space facility, space propulsion system or space vehicle, satellite, or station of any kind possessing space flight capacity. Provided, the exemption provided for in this paragraph shall not be allowed unless the purchaser or lessee signs an affidavit stating that the item or items to be exempted are for the exclusive use designated herein. Any person furnishing a false affidavit to the vendor for the purpose of evading payment of any tax imposed by Section 1354 of this title shall be subject to the penalties provided by law. As used in this paragraph, "machinery and equipment" means "section 38 property" as defined in Sections 48(a)(1)(A) and (B)(i) of the Internal Revenue Code of 1986, which is used as an integral part of the manufacturing, processing, compounding, or producing of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph;

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

39. Sales of tangible personal property or services which are directly used in or for the benefit of a state park in this state, which are made to an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,

Section 501(c)(3) and which is organized primarily for the purpose of supporting one or more state parks located in this state;

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

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

42. Sales of tangible personal property or services by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), in the course of conducting a national championship sports event, but only if all or a portion of the payment in exchange therefor would qualify as the receipt of a qualified sponsorship payment described in Internal Revenue Code, 26 U.S.C., Section 513(i). Sales exempted pursuant to this paragraph shall be exempt from all Oklahoma sales, use, excise and gross receipts taxes;

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

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

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

45. Sales of tickets for admission to a collegiate athletic event that is held in a facility owned or operated by a municipality or a public trust of which the municipality is the sole beneficiary and that actually determines or is part of a tournament or tournament process for determining a conference tournament championship, a conference championship, or a national championship;

46. Sales of tangible personal property or services to or by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and is operating the Oklahoma City National Memorial and Museum, an affiliate of the National Park System;

47. Sales of tangible personal property or services to organizations which are exempt from federal taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), the memberships of which are limited to honorably discharged veterans, and which furnish financial support to area veterans' organizations to be used for the purpose of constructing a memorial or museum;

48. Sales of tangible personal property or services on or after January 1, 2003, to an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) that is expending monies received from a private foundation grant in conjunction with expenditures of local sales tax revenue to construct a local public library;

49. Sales of tangible personal property or services to a state that borders this state or any political subdivision of that state, but only to the extent that the other state or political subdivision exempts or does not impose a tax on similar sales of items to this state or a political subdivision of this state;

50. Effective July 1, 2005, sales of tangible personal property or services to the Career Technology Student Organizations under the direction and supervision of the Oklahoma Department of Career and Technology Education;

51. Sales of tangible personal property to a public trust having either a single city, town or county or multiple cities, towns or counties or combination thereof as beneficiary or beneficiaries or a nonprofit organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) for the purpose of constructing improvements to or expanding a hospital or nursing home owned and operated by any such public trust or nonprofit entity prior to the effective date of this act in counties with a population of less than one hundred thousand (100,000) persons, according to the most recent Federal Decennial Census. As used in this paragraph, "constructing improvements to or expanding" shall not mean any expense for routine maintenance or general repairs and shall require a project cost of at least One Hundred Thousand Dollars (\$100,000.00). For purposes of this paragraph, sales made to a contractor or subcontractor that enters into a contractual relationship with a public trust or nonprofit entity as described by this paragraph shall be considered sales made to the public trust or nonprofit entity. The exemption authorized by this paragraph shall be administered in the form of a refund from the sales tax revenues apportioned pursuant to Section 1353 of this title and the vendor shall be required to collect the sales tax otherwise applicable to the transaction. The purchaser may apply for a refund of the sales tax paid in the manner prescribed by this paragraph. Within thirty (30) days after the end of each fiscal year, any purchaser that is entitled to make application for a refund based upon the exempt treatment authorized by this paragraph may file an application for refund of the sales taxes paid during such preceding fiscal year. The Tax Commission shall prescribe a form for purposes of making the application for refund. The Tax Commission shall determine whether or not the total amount of sales tax exemptions claimed by all purchasers is equal to or less than Six Hundred Fifty Thousand Dollars (\$650,000.00). If such claims are less than or equal to that amount, the Tax Commission shall make refunds to the purchasers in the full amount of the documented and verified sales tax amounts. If such claims by all purchasers are in excess of Six Hundred Fifty Thousand Dollars (\$650,000.00), the Tax Commission shall determine



the amount of each purchaser's claim, the total amount of all claims by all purchasers, and the percentage each purchaser's claim amount bears to the total. The resulting percentage determined for each purchaser shall be multiplied by Six Hundred Fifty Thousand Dollars (\$650,000.00) to determine the amount of refundable sales tax to be paid to each purchaser. The pro rata refund amount shall be the only method to recover sales taxes paid during the preceding fiscal year and no balance of any sales taxes paid on a pro rata basis shall be the subject of any subsequent refund claim pursuant to this paragraph;

52. Effective July 1, 2006, sales of tangible personal property or services to any organization which assists, trains, educates, and provides housing for physically and mentally handicapped persons and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and that receives at least eighty-five percent (85%) of its annual budget from state or federal funds. In order to receive the benefit of the exemption authorized by this paragraph, the taxpayer shall be required to make payment of the applicable sales tax at the time of sale to the vendor in the manner otherwise required by law. Notwithstanding any other provision of the Oklahoma Uniform Tax Procedure Code to the contrary, the taxpayer shall be authorized to file a claim for refund of sales taxes paid that qualify for the exemption authorized by this paragraph for a period of one (1) year after the date of the sale transaction. The taxpayer shall be required to provide documentation as may be prescribed by the Oklahoma Tax Commission in support of the refund claim. The total amount of sales tax qualifying for exempt treatment pursuant to this paragraph shall not exceed One Hundred Seventy-five Thousand Dollars (\$175,000.00) each fiscal year. Claims for refund shall be processed in the order in which such claims are received by the Oklahoma Tax Commission. If a claim otherwise timely filed exceeds the total amount of refunds payable for a fiscal year, such claim shall be barred;

53. The first Two Thousand Dollars (\$2,000.00) each year of sales of tangible personal property or services to, by, or for the benefit of a qualified neighborhood watch organization that is endorsed or supported by or working directly with a law enforcement agency with jurisdiction in the area in which the neighborhood watch organization is located. As used in this paragraph, "qualified

neighborhood watch organization" means an organization that is a not-for-profit corporation under the laws of the State of Oklahoma that was created to help prevent criminal activity in an area through community involvement and interaction with local law enforcement and which is one of the first two thousand organizations which makes application to the Oklahoma Tax Commission for the exemption after the effective date of this act;

54. Sales of tangible personal property to a nonprofit organization, exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), organized primarily for the purpose of providing services to homeless persons during the day and located in a metropolitan area with a population in excess of five hundred thousand (500,000) persons according to the latest Federal Decennial Census. The exemption authorized by this paragraph shall be applicable to sales of tangible personal property to a qualified entity occurring on or after January 1, 2005;

55. Sales of tangible personal property or services to or by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) for events the principal purpose of which is to provide funding for the preservation of wetlands and habitat for wild ducks;

56. Sales of tangible personal property or services to or by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) for events the principal purpose of which is to provide funding for the preservation and conservation of wild turkeys;

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

- a. is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and
- b. is part of a network of community-based, autonomous member organizations that meets the following criteria:

- (1) serves people with workplace disadvantages and disabilities by providing job training and employment services, as well as job placement opportunities and post-employment support,
- (2) has locations in the United States and at least twenty other countries,
- (3) collects donated clothing and household goods to sell in retail stores and provides contract labor services to business and government, and
- (4) provides documentation to the Oklahoma Tax Commission that over seventy-five percent (75%) of its revenues are channeled into employment, job training and placement programs and other critical community services;

58. Sales of tickets made on or after September 21, 2005, and complimentary or free tickets for admission issued on or after September 21, 2005, which have a value equivalent to the charge that would have otherwise been made, for admission to a professional athletic event in which a team in the National Basketball Association is a participant, which is held in a facility owned or operated by a municipality, a county or a public trust of which a municipality or a county is the sole beneficiary, and sales of tickets made on or after the effective date of this act, and complimentary or free tickets for admission issued on or after the effective date of this act, which have a value equivalent to the charge that would have otherwise been made, for admission to a professional athletic event in which a team in the National Hockey League is a participant, which is held in a facility owned or operated by a municipality, a county or a public trust of which a municipality or a county is the sole beneficiary;

59. Sales of tickets for admission and complimentary or free tickets for admission which have a value equivalent to the charge that would have otherwise been made to a professional sporting event involving ice hockey, baseball, basketball, football or arena football, or soccer. As used in this paragraph, "professional sporting event" means an organized athletic competition between teams that are members of an organized league or association with

centralized management, other than a national league or national association, that imposes requirements for participation in the league upon the teams, the individual athletes or both, and which uses a salary structure to compensate the athletes;

60. Sales of tickets for admission to an annual event sponsored by an educational and charitable organization of women which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and has as its mission promoting volunteerism, developing the potential of women and improving the community through the effective action and leadership of trained volunteers;

61. Sales of tangible personal property or services to an organization, which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and which is itself a member of an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), if the membership organization is primarily engaged in advancing the purposes of its member organizations through fundraising, public awareness or other efforts for the benefit of its member organizations, and if the member organization is primarily engaged either in providing educational services and programs concerning health-related diseases and conditions to individuals suffering from such health-related diseases and conditions or their caregivers and family members or support to such individuals, or in health-related research as to such diseases and conditions, or both. In order to qualify for the exemption authorized by this paragraph, the member nonprofit organization shall be required to provide proof to the Oklahoma Tax Commission of its membership status in the membership organization;

62. Sales of tangible personal property or services to or by an organization which is part of a national volunteer women's service organization dedicated to promoting patriotism, preserving American history and securing better education for children and which has at least 168,000 members in 3,000 chapters across the United States;

63. Sales of tangible personal property or services to or by a YWCA or YMCA organization which is part of a national nonprofit community service organization working to meet the health and social service needs of its members across the United States;

64. Sales of tangible personal property or services to or by a veteran's organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c)(19) and which is known as the Veterans of Foreign Wars of the United States, Oklahoma Chapters;

65. Sales of boxes of food by a church or by an organization, which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c)(3). To qualify under the provisions of this paragraph, the organization must be organized for the primary purpose of feeding needy individuals or to encourage volunteer service by requiring such service in order to purchase food. These boxes shall only contain edible staple food items;

66. Sales of tangible personal property or services to any person with whom a church has duly entered into a construction contract, necessary for carrying out such contract or to any subcontractor to such a construction contract;

67. Sales of tangible personal property or services used exclusively for charitable or educational purposes, to or by an organization which:

- a. is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
- b. has filed a Not-for-Profit Certificate of Incorporation in this state, and
- c. is organized for the purpose of:
  - (1) providing training and education to developmentally disabled individuals,
  - (2) educating the community about the rights, abilities and strengths of developmentally disabled individuals, and

- (3) promoting unity among developmentally disabled individuals in their community and geographic area;

68. Sales of tangible personal property or services to any organization which is a shelter for abused, neglected, or abandoned children and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3); provided, until July 1, 2008, such exemption shall apply only to eligible shelters for children from birth to age twelve (12) and after July 1, 2008, such exemption shall apply to eligible shelters for children from birth to age eighteen (18);

69. Sales of tangible personal property or services to a child care center which is licensed pursuant to the Oklahoma Child Care Facilities Licensing Act and which:

- a. possesses a 3-star rating from the Department of Human Services Reaching for the Stars Program or a national accreditation, and
- b. allows on site universal pre-kindergarten education to be provided to four-year-old children through a contractual agreement with any public school or school district.

For the purposes of this paragraph, sales made to any person, firm, agency or entity that has entered previously into a contractual relationship with a child care center for construction and improvement of buildings and other structures owned by the child care center and operated for educational purposes shall be considered sales made to a child care center. Any such person, firm, agency or entity making purchases on behalf of a child care center shall certify in writing, on the copy of the invoice or sales ticket the nature of the purchase. Any such person, or person acting on behalf of a firm, agency or entity making purchases on behalf of a child care center in violation of this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both;

70. a. Sales of tangible personal property to a service organization of mothers who have children who are serving or who have served in the military, which service organization is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(19) and which is known as the Blue Star Mothers of America, Inc. The exemption provided by this paragraph shall only apply to the purchase of tangible personal property actually sent to United States military personnel overseas who are serving in a combat zone and not to any other tangible personal property purchased by the organization. Provided, this exemption shall not apply to any sales tax levied by a city, town, county, or any other jurisdiction in this state.
- b. The exemption authorized by this paragraph shall be administered in the form of a refund from the sales tax revenues apportioned pursuant to Section 1353 of this title, and the vendor shall be required to collect the sales tax otherwise applicable to the transaction. The purchaser may apply for a refund of the state sales tax paid in the manner prescribed by this paragraph. Within sixty (60) days after the end of each calendar quarter, any purchaser that is entitled to make application for a refund based upon the exempt treatment authorized by this paragraph may file an application for refund of the state sales taxes paid during such preceding calendar quarter. The Tax Commission shall prescribe a form for purposes of making the application for refund.
- c. A purchaser who applies for a refund pursuant to this paragraph shall certify that the items were actually sent to military personnel overseas in a combat zone. Any purchaser that applies for a refund for the purchase of items that are not authorized for exemption under this paragraph shall be subject to a penalty in the amount of Five Hundred Dollars (\$500.00);

71. Sales of food and snack items to or by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), whose primary and principal purpose is providing funding for scholarships in the medical field;

72. Sales of tangible personal property or services for use solely on construction projects for organizations which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and whose purpose is providing end-of-life care and access to hospice services to low-income individuals who live in a facility owned by the organization. The exemption provided by this paragraph applies to sales to the organization as well as to sales to any person with whom the organization has duly entered into a construction contract, necessary for carrying out such contract or to any subcontractor to such a construction contract. Any person making purchases on behalf of such organization shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such organization and set out the name of such organization. Any person who wrongfully or erroneously certifies that purchases are for any of the above-named organizations or who otherwise violates this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both;

73. Sales of tickets for admission to events held by organizations exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) that are organized for the purpose of supporting general hospitals licensed by the State Department of Health; and

74. Sales of tangible personal property or services:

- a. to a foundation which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and which raises tax-deductible contributions in support of a wide range of firearms-related public interest activities of the National Rifle Association of America and other



organizations that defend and foster Second Amendment rights, and

- b. to or by a grassroots fundraising program for sales related to events to raise funds for a foundation meeting the qualifications of subparagraph a of this paragraph.

SECTION 9. AMENDATORY 68 O.S. 2001, Section 2357.4, as last amended by Section 29, Chapter 281, O.S.L. 2006 (68 O.S. Supp. 2008, Section 2357.4), is amended to read as follows:

Section 2357.4 A. Except as otherwise provided in subsection F of Section 3658 of this title, for taxable years beginning after December 31, 1987, there shall be allowed a credit against the tax imposed by Section 2355 of this title for:

1. Investment in qualified depreciable property placed in service during those years for use in a manufacturing operation, as defined in Section 1352 of this title, which has received a manufacturer exemption permit pursuant to the provisions of Section 1359.2 of this title or a qualified aircraft maintenance or manufacturing facility as defined in paragraph 14 of Section 1357 of this title in this state or a qualified web search portal as defined paragraph 35 of Section 1357 of this title; or

2. A net increase in the number of full-time-equivalent employees engaged in manufacturing, processing or aircraft maintenance in this state including employees engaged in support services.

B. Except as otherwise provided in subsection F of Section 3658 of this title, for taxable years beginning after December 31, 1998, there shall be allowed a credit against the tax imposed by Section 2355 of this title for:

1. Investment in qualified depreciable property with a total cost equal to or greater than Forty Million Dollars (\$40,000,000.00) within three (3) years from the date of initial qualifying expenditure and placed in service in this state during those years for use in the manufacture of products described by any Industry

Number contained in Division D of Part I of the Standard Industrial Classification (SIC) Manual, latest revision; or

2. A net increase in the number of full-time-equivalent employees in this state engaged in the manufacture of any goods identified by any Industry Number contained in Division D of Part I of the Standard Industrial Classification (SIC) Manual, latest revision, if the total cost of qualified depreciable property placed in service by the business entity within the state equals or exceeds Forty Million Dollars (\$40,000,000.00) within three (3) years from the date of initial qualifying expenditure.

C. The business entity may claim the credit authorized by subsection B of this section for expenditures incurred or for a net increase in the number of full-time-equivalent employees after the business entity provides proof satisfactory to the Oklahoma Tax Commission that the conditions imposed pursuant to paragraph 1 or paragraph 2 of subsection B of this section have been satisfied.

D. If a business entity fails to expend the amount required by paragraph 1 or paragraph 2 of subsection B of this section within the time required, the business entity may not claim the credit authorized by subsection B of this section, but shall be allowed to claim a credit pursuant to subsection A of this section if the requirements of subsection A of this section are met with respect to the investment in qualified depreciable property or net increase in the number of full-time-equivalent employees.

E. The credit provided for in subsection A of this section, if based upon investment in qualified depreciable property, shall not be allowed unless the investment in qualified depreciable property is at least Fifty Thousand Dollars (\$50,000.00). The credit provided for in subsection A or B of this section shall not be allowed if the applicable investment is the direct cause of a decrease in the number of full-time-equivalent employees. Qualified property shall be limited to machinery, fixtures, equipment, buildings or substantial improvements thereto, placed in service in this state during the taxable year. The taxable years for which the credit may be allowed if based upon investment in qualified depreciable property shall be measured from the year in which the qualified property is placed in service. If the credit provided for in subsection A or B of this section is calculated on the basis of

the cost of the qualified property, the credit shall be allowed in each of the four (4) subsequent years. If the qualified property on which a credit has previously been allowed is acquired from a related party, the date such property is placed in service by the transferor shall be considered to be the date such property is placed in service by the transferee, for purposes of determining the aggregate number of years for which credit may be allowed.

F. The credit provided for in subsection A or B of this section, if based upon an increase in the number of full-time-equivalent employees, shall be allowed in each of the four (4) subsequent years only if the level of new employees is maintained in the subsequent year. In calculating the credit by the number of new employees, only those employees whose paid wages or salary were at least Seven Thousand Dollars (\$7,000.00) during each year the credit is claimed shall be included in the calculation. Provided, that the first year a credit is claimed for a new employee, such employee may be included in the calculation notwithstanding paid wages of less than Seven Thousand Dollars (\$7,000.00) if the employee was hired in the last three quarters of the tax year, has wages or salary which will result in annual paid wages in excess of Seven Thousand Dollars (\$7,000.00) and the taxpayer submits an affidavit stating that the employee's position will be retained in the following tax year and will result in the payment of wages in excess of Seven Thousand Dollars (\$7,000.00). The number of new employees shall be determined by comparing the monthly average number of full-time employees subject to Oklahoma income tax withholding for the final quarter of the taxable year with the corresponding period of the prior taxable year, as substantiated by such reports as may be required by the Tax Commission.

G. The credit allowed by subsection A of this section shall be the greater amount of either:

1. One percent (1%) of the cost of the qualified property in the year the property is placed in service; or

2. Five Hundred Dollars (\$500.00) for each new employee. No credit shall be allowed in any taxable year for a net increase in the number of full-time-equivalent employees if such increase is a result of an investment in qualified depreciable property for which an income tax credit has been allowed as authorized by this section.

H. The credit allowed by subsection B of this section shall be the greater amount of either:

1. Two percent (2%) of the cost of the qualified property in the year the property is placed in service; or
2. One Thousand Dollars (\$1,000.00) for each new employee.

No credit shall be allowed in any taxable year for a net increase in the number of full-time-equivalent employees if such increase is a result of an investment in qualified depreciable property for which an income tax credit has been allowed as authorized by this section.

I. Except as provided by subsection G of Section 3658 of this title, any credits allowed but not used in any taxable year may be carried over in order as follows:

1. To each of the four (4) years following the year of qualification; ~~and~~
2. To the extent not used in those years in order to each of the fifteen (15) years following the initial five-year period; and
3. If a C corporation that otherwise qualified for the credits under subsection A of this section subsequently changes its operating status to that of a pass-through entity which is being treated as the same entity for federal tax purposes, the credits will continue to be available as if the pass-through entity had originally qualified for the credits subject to the limitations of this section.

To the extent not used in paragraphs 1 and 2 of this subsection, such credits from qualified depreciable property placed in service on or after January 1, 2000, may be utilized in any subsequent tax years after the initial twenty-year period.

SECTION 10. AMENDATORY 68 O.S. 2001, Section 2358, as last amended by Section 1 of Enrolled Senate Bill No. 916 of the 1st Session of the 52nd Oklahoma Legislature, is amended to read as follows:

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

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

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

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

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

- a. For carryovers and carrybacks to taxable years beginning before January 1, 1981, the amount of any net operating loss deduction allowed to a taxpayer for federal income tax purposes shall be reduced to an amount which is the same portion thereof as the loss from sources within this state, as determined pursuant to this section and Section 2362 of this title, for the taxable year in which such loss is sustained is of the total loss for such year;
- b. For carryovers and carrybacks to taxable years beginning after December 31, 1980, the amount of any net operating loss deduction allowed for the taxable year shall be an amount equal to the aggregate of the Oklahoma net operating loss carryovers and carrybacks to such year. Oklahoma net operating losses shall be separately determined by reference to Section 172 of the Internal Revenue Code, 26 U.S.C., Section 172, as

modified by the Oklahoma Income Tax Act, Section 2351 et seq. of this title, and shall be allowed without regard to the existence of a federal net operating loss. For tax years beginning after December 31, 2000, and ending before January 1, 2008, the years to which such losses may be carried shall be determined solely by reference to Section 172 of the Internal Revenue Code, 26 U.S.C., Section 172, with the exception that the terms "net operating loss" and "taxable income" shall be replaced with "Oklahoma net operating loss" and "Oklahoma taxable income". For tax years beginning after December 31, 2007, and ending before January 1, 2009, years to which such losses may be carried back shall be limited to two (2) years. For tax years beginning after December 31, 2008, the years to which such losses may be carried back shall be determined solely by reference to Section 172 of the Internal Revenue Code, 26 U.S.C., Section 172, with the exception that the terms "net operating loss" and "taxable income" shall be replaced with "Oklahoma net operating loss" and "Oklahoma taxable income".

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

- a. Income from real and tangible personal property, such as rents, oil and mining production or royalties, and gains or losses from sales of such property, shall be allocated in accordance with the situs of such property;
- b. Income from intangible personal property, such as interest, dividends, patent or copyright royalties, and gains or losses from sales of such property, shall be allocated in accordance with the domiciliary situs of the taxpayer, except that:

- (1) where such property has acquired a nonunitary business or commercial situs apart from the domicile of the taxpayer such income shall be allocated in accordance with such business or commercial situs; interest income from investments held to generate working capital for a unitary business enterprise shall be included in apportionable income; a resident trust or resident estate shall be treated as having a separate commercial or business situs insofar as undistributed income is concerned, but shall not be treated as having a separate commercial or business situs insofar as distributed income is concerned,
  
- (2) for taxable years beginning after December 31, 2003, capital or ordinary gains or losses from the sale of an ownership interest in a publicly traded partnership, as defined by Section 7704(b) of the Internal Revenue Code of 1986, as amended, shall be allocated to this state in the ratio of the original cost of such partnership's tangible property in this state to the original cost of such partnership's tangible property everywhere, as determined at the time of the sale; if more than fifty percent (50%) of the value of the partnership's assets consists of intangible assets, capital or ordinary gains or losses from the sale of an ownership interest in the partnership shall be allocated to this state in accordance with the sales factor of the partnership for its first full tax period immediately preceding its tax period during which the ownership interest in the partnership was sold; the provisions of this division shall only apply if the capital or ordinary gains or losses from the sale of an ownership interest in a partnership do not constitute qualifying gain receiving capital treatment as defined in subparagraph a of paragraph 2 of subsection F of this section,

- (3) income from such property which is required to be allocated pursuant to the provisions of paragraph 5 of this subsection shall be allocated as herein provided;
- c. Net income or loss from a business activity which is not a part of business carried on within or without the state of a unitary character shall be separately allocated to the state in which such activity is conducted;
  - d. In the case of a manufacturing or processing enterprise the business of which in Oklahoma consists solely of marketing its products by:
    - (1) sales having a situs without this state, shipped directly to a point from without the state to a purchaser within the state, commonly known as interstate sales,
    - (2) sales of the product stored in public warehouses within the state pursuant to "in transit" tariffs, as prescribed and allowed by the Interstate Commerce Commission, to a purchaser within the state,
    - (3) sales of the product stored in public warehouses within the state where the shipment to such warehouses is not covered by "in transit" tariffs, as prescribed and allowed by the Interstate Commerce Commission, to a purchaser within or without the state,

the Oklahoma net income shall, at the option of the taxpayer, be that portion of the total net income of the taxpayer for federal income tax purposes derived from the manufacture and/or processing and sales everywhere as determined by the ratio of the sales defined in this section made to the purchaser within the state to the total sales everywhere. The term "public warehouse" as used in this subparagraph means



a licensed public warehouse, the principal business of which is warehousing merchandise for the public;

- e. In the case of insurance companies, Oklahoma taxable income shall be taxable income of the taxpayer for federal tax purposes, as adjusted for the adjustments provided pursuant to the provisions of paragraphs 1 and 2 of this subsection, apportioned as follows:
  - (1) except as otherwise provided by division (2) of this subparagraph, taxable income of an insurance company for a taxable year shall be apportioned to this state by multiplying such income by a fraction, the numerator of which is the direct premiums written for insurance on property or risks in this state, and the denominator of which is the direct premiums written for insurance on property or risks everywhere. For purposes of this subsection, the term "direct premiums written" means the total amount of direct premiums written, assessments and annuity considerations as reported for the taxable year on the annual statement filed by the company with the Insurance Commissioner in the form approved by the National Association of Insurance Commissioners, or such other form as may be prescribed in lieu thereof,
  - (2) if the principal source of premiums written by an insurance company consists of premiums for reinsurance accepted by it, the taxable income of such company shall be apportioned to this state by multiplying such income by a fraction, the numerator of which is the sum of (a) direct premiums written for insurance on property or risks in this state, plus (b) premiums written for reinsurance accepted in respect of property or risks in this state, and the denominator of which is the sum of (c) direct premiums written for insurance on property or risks everywhere, plus (d) premiums written for reinsurance accepted in respect of property or risks

everywhere. For purposes of this paragraph, premiums written for reinsurance accepted in respect of property or risks in this state, whether or not otherwise determinable, may at the election of the company be determined on the basis of the proportion which premiums written for insurance accepted from companies commercially domiciled in Oklahoma bears to premiums written for reinsurance accepted from all sources, or alternatively in the proportion which the sum of the direct premiums written for insurance on property or risks in this state by each ceding company from which reinsurance is accepted bears to the sum of the total direct premiums written by each such ceding company for the taxable year.

5. The net income or loss remaining after the separate allocation in paragraph 4 of this subsection, being that which is derived from a unitary business enterprise, shall be apportioned to this state on the basis of the arithmetical average of three factors consisting of property, payroll and sales or gross revenue enumerated as subparagraphs a, b and c of this paragraph. Net income or loss as used in this paragraph includes that derived from patent or copyright royalties, purchase discounts, and interest on accounts receivable relating to or arising from a business activity, the income from which is apportioned pursuant to this subsection, including the sale or other disposition of such property and any other property used in the unitary enterprise. Deductions used in computing such net income or loss shall not include taxes based on or measured by income. Provided, for corporations whose property for purposes of the tax imposed by Section 2355 of this title has an initial investment cost equaling or exceeding Two Hundred Million Dollars (\$200,000,000.00) and such investment is made on or after July 1, 1997, or for corporations which expand their property or facilities in this state and such expansion has an investment cost equaling or exceeding Two Hundred Million Dollars (\$200,000,000.00) over a period not to exceed three (3) years, and such expansion is commenced on or after January 1, 2000, the three factors shall be apportioned with property and payroll, each comprising twenty-five percent (25%) of the apportionment factor and sales comprising fifty

percent (50%) of the apportionment factor. The apportionment factors shall be computed as follows:

- a. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property everywhere owned or rented and used during the tax period.
  - (1) Property, the income from which is separately allocated in paragraph 4 of this subsection, shall not be included in determining this fraction. The numerator of the fraction shall include a portion of the investment in transportation and other equipment having no fixed situs, such as rolling stock, buses, trucks and trailers, including machinery and equipment carried thereon, airplanes, salespersons' automobiles and other similar equipment, in the proportion that miles traveled in Oklahoma by such equipment bears to total miles traveled,
  - (2) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer, less any annual rental rate received by the taxpayer from subrentals,
  - (3) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the Oklahoma Tax Commission may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property;
- b. The payroll factor is a fraction, the numerator of which is the total compensation for services rendered

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

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

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

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

(1) Sales of tangible personal property have a situs in this state if the property is delivered or shipped to a purchaser other than the United States government, within this state regardless of the FOB point or other conditions of the sale; or the property is shipped from an office, store, warehouse, factory or other place of storage in

this state and (a) the purchaser is the United States government or (b) the taxpayer is not doing business in the state of the destination of the shipment.

- (2) In the case of a railroad or interurban railway enterprise, the numerator of the fraction shall not be less than the allocation of revenues to this state as shown in its annual report to the Corporation Commission.
- (3) In the case of an airline, truck or bus enterprise or freight car, tank car, refrigerator car or other railroad equipment enterprise, the numerator of the fraction shall include a portion of revenue from interstate transportation in the proportion that interstate mileage traveled in Oklahoma bears to total interstate mileage traveled.
- (4) In the case of an oil, gasoline or gas pipeline enterprise, the numerator of the fraction shall be either the total of traffic units of the enterprise within Oklahoma or the revenue allocated to Oklahoma based upon miles moved, at the option of the taxpayer, and the denominator of which shall be the total of traffic units of the enterprise or the revenue of the enterprise everywhere as appropriate to the numerator. A "traffic unit" is hereby defined as the transportation for a distance of one (1) mile of one (1) barrel of oil, one (1) gallon of gasoline or one thousand (1,000) cubic feet of natural or casinghead gas, as the case may be.
- (5) In the case of a telephone or telegraph or other communication enterprise, the numerator of the fraction shall include that portion of the interstate revenue as is allocated pursuant to the accounting procedures prescribed by the Federal Communications Commission; provided that in respect to each corporation or business entity

required by the Federal Communications Commission to keep its books and records in accordance with a uniform system of accounts prescribed by such Commission, the intrastate net income shall be determined separately in the manner provided by such uniform system of accounts and only the interstate income shall be subject to allocation pursuant to the provisions of this subsection. Provided further, that the gross revenue factors shall be those as are determined pursuant to the accounting procedures prescribed by the Federal Communications Commission.

In any case where the apportionment of the three factors prescribed in this paragraph attributes to Oklahoma a portion of net income of the enterprise out of all appropriate proportion to the property owned and/or business transacted within this state, because of the fact that one or more of the factors so prescribed are not employed to any appreciable extent in furtherance of the enterprise; or because one or more factors not so prescribed are employed to a considerable extent in furtherance of the enterprise; or because of other reasons, the Tax Commission is empowered to permit, after a showing by taxpayer that an excessive portion of net income has been attributed to Oklahoma, or require, when in its judgment an insufficient portion of net income has been attributed to Oklahoma, the elimination, substitution, or use of additional factors, or reduction or increase in the weight of such prescribed factors. Provided, however, that any such variance from such prescribed factors which has the effect of increasing the portion of net income attributable to Oklahoma must not be inherently arbitrary, and application of the recomputed final apportionment to the net income of the enterprise must attribute to Oklahoma only a reasonable portion thereof.

6. For calendar years 1997 and 1998, the owner of a new or expanded agricultural commodity processing facility in this state may exclude from Oklahoma taxable income, or in the case of an individual, the Oklahoma adjusted gross income, fifteen percent (15%) of the investment by the owner in the new or expanded agricultural commodity processing facility. For calendar year 1999, and all subsequent years, the percentage, not to exceed fifteen percent (15%), available to the owner of a new or expanded

agricultural commodity processing facility in this state claiming the exemption shall be adjusted annually so that the total estimated reduction in tax liability does not exceed One Million Dollars (\$1,000,000.00) annually. The Tax Commission shall promulgate rules for determining the percentage of the investment which each eligible taxpayer may exclude. The exclusion provided by this paragraph shall be taken in the taxable year when the investment is made. In the event the total reduction in tax liability authorized by this paragraph exceeds One Million Dollars (\$1,000,000.00) in any calendar year, the Tax Commission shall permit any excess over One Million Dollars (\$1,000,000.00) and shall factor such excess into the percentage for subsequent years. Any amount of the exemption permitted to be excluded pursuant to the provisions of this paragraph but not used in any year may be carried forward as an exemption from income pursuant to the provisions of this paragraph for a period not exceeding six (6) years following the year in which the investment was originally made.

For purposes of this paragraph:

- a. "Agricultural commodity processing facility" means building, structures, fixtures and improvements used or operated primarily for the processing or production of marketable products from agricultural commodities. The term shall also mean a dairy operation that requires a depreciable investment of at least Two Hundred Fifty Thousand Dollars (\$250,000.00) and which produces milk from dairy cows. The term does not include a facility that provides only, and nothing more than, storage, cleaning, drying or transportation of agricultural commodities, and
- b. "Facility" means each part of the facility which is used in a process primarily for:
  - (1) the processing of agricultural commodities, including receiving or storing agricultural commodities, or the production of milk at a dairy operation,

- (2) transporting the agricultural commodities or product before, during or after the processing, or
- (3) packaging or otherwise preparing the product for sale or shipment.

7. Despite any provision to the contrary in paragraph 3 of this subsection, for taxable years beginning after December 31, 1999, in the case of a taxpayer which has a farming loss, such farming loss shall be considered a net operating loss carryback in accordance with and to the extent of the Internal Revenue Code, 26 U.S.C., Section 172(b)(G). However, the amount of the net operating loss carryback shall not exceed the lesser of:

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

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

9. In taxable years beginning after December 31, 2005, an employer that is eligible for and utilizes the Safety Pays OSHA Consultation Service provided by the Oklahoma Department of Labor shall receive an exemption from taxable income in the amount of One Thousand Dollars (\$1,000.00) for the tax year that the service is utilized.

B. 1. The taxable income of any corporation shall be further adjusted to arrive at Oklahoma taxable income, except those corporations electing treatment as provided in subchapter S of the Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section



2365 of this title, deductions pursuant to the provisions of the Accelerated Cost Recovery System as defined and allowed in the Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C., Section 168, for depreciation of assets placed into service after December 31, 1981, shall not be allowed in calculating Oklahoma taxable income. Such corporations shall be allowed a deduction for depreciation of assets placed into service after December 31, 1981, in accordance with provisions of the Internal Revenue Code, 26 U.S.C., Section 1 et seq., in effect immediately prior to the enactment of the Accelerated Cost Recovery System. The Oklahoma tax basis for all such assets placed into service after December 31, 1981, calculated in this section shall be retained and utilized for all Oklahoma income tax purposes through the final disposition of such assets.

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

For assets placed in service and held by a corporation in which accelerated cost recovery system was previously disallowed, an adjustment to taxable income is required in the first taxable year beginning after December 31, 1982, to reconcile the basis of such assets to the basis allowed in the Internal Revenue Code. The purpose of this adjustment is to equalize the basis and allowance for depreciation accounts between that reported to the Internal Revenue Service and that reported to Oklahoma.

2. For tax years beginning on or after January 1, 2009, and ending on or before December 31, 2009, there shall be added to Oklahoma taxable income any amount in excess of One Hundred Seventy-five Thousand Dollars (\$175,000.00) which has been deducted as a small business expense under Internal Revenue Code, Section 179 as provided in the American Recovery and Reinvestment Act of 2009.

C. 1. For taxable years beginning after December 31, 1987, the taxable income of any corporation shall be further adjusted to arrive at Oklahoma taxable income for transfers of technology to qualified small businesses located in Oklahoma. Such transferor corporation shall be allowed an exemption from taxable income of an

amount equal to the amount of royalty payment received as a result of such transfer; provided, however, such amount shall not exceed ten percent (10%) of the amount of gross proceeds received by such transferor corporation as a result of the technology transfer. Such exemption shall be allowed for a period not to exceed ten (10) years from the date of receipt of the first royalty payment accruing from such transfer. No exemption may be claimed for transfers of technology to qualified small businesses made prior to January 1, 1988.

2. For purposes of this subsection:

- a. "Qualified small business" means an entity, whether organized as a corporation, partnership, or proprietorship, organized for profit with its principal place of business located within this state and which meets the following criteria:
  - (1) Capitalization of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00),
  - (2) Having at least fifty percent (50%) of its employees and assets located in Oklahoma at the time of the transfer, and
  - (3) Not a subsidiary or affiliate of the transferor corporation;
- b. "Technology" means a proprietary process, formula, pattern, device or compilation of scientific or technical information which is not in the public domain;
- c. "Transferor corporation" means a corporation which is the exclusive and undisputed owner of the technology at the time the transfer is made; and
- d. "Gross proceeds" means the total amount of consideration for the transfer of technology, whether the consideration is in money or otherwise.

D. 1. For taxable years beginning after December 31, 2005, the taxable income of any corporation, estate or trust, shall be further adjusted for qualifying gains receiving capital treatment. Such corporations, estates or trusts shall be allowed a deduction from Oklahoma taxable income for the amount of qualifying gains receiving capital treatment earned by the corporation, estate or trust during the taxable year and included in the federal taxable income of such corporation, estate or trust.

2. As used in this subsection:

a. "qualifying gains receiving capital treatment" means the amount of net capital gains, as defined in Section 1222(11) of the Internal Revenue Code, included in the federal income tax return of the corporation, estate or trust that result from:

- (1) the sale of real property or tangible personal property located within Oklahoma that has been directly or indirectly owned by the corporation, estate or trust for a holding period of at least five (5) years prior to the date of the transaction from which such net capital gains arise,
- (2) the sale of stock or on the sale of an ownership interest in an Oklahoma company, limited liability company, or partnership where such stock or ownership interest has been directly or indirectly owned by the corporation, estate or trust for a holding period of at least three (3) years prior to the date of the transaction from which the net capital gains arise, or
- (3) the sale of real property, tangible personal property or intangible personal property located within Oklahoma as part of the sale of all or substantially all of the assets of an Oklahoma company, limited liability company, or partnership where such property has been directly or indirectly owned by such entity owned by the owners of such entity, and used in or derived

from such entity for a period of at least three (3) years prior to the date of the transaction from which the net capital gains arise,

- b. "holding period" means an uninterrupted period of time. The holding period shall include any additional period when the property was held by another individual or entity, if such additional period is included in the taxpayer's holding period for the asset pursuant to the Internal Revenue Code,
- c. "Oklahoma company", "limited liability company", or "partnership" means an entity whose primary headquarters have been located in Oklahoma for at least three (3) uninterrupted years prior to the date of the transaction from which the net capital gains arise,
- d. "direct" means the taxpayer directly owns the asset, and
- e. "indirect" means the taxpayer owns an interest in a pass-through entity (or chain of pass-through entities) that sells the asset that gives rise to the qualifying gains receiving capital treatment.
  - (1) With respect to sales of real property or tangible personal property located within Oklahoma, the deduction described in this subsection shall not apply unless the pass-through entity that makes the sale has held the property for not less than five (5) uninterrupted years prior to the date of the transaction that created the capital gain, and each pass-through entity included in the chain of ownership has been a member, partner, or shareholder of the pass-through entity in the tier immediately below it for an uninterrupted period of not less than five (5) years.
  - (2) With respect to sales of stock or ownership interest in or sales of all or substantially all

of the assets of an Oklahoma company, limited liability company, or partnership, the deduction described in this subsection shall not apply unless the pass-through entity that makes the sale has held the stock or ownership interest or the assets for not less than three (3) uninterrupted years prior to the date of the transaction that created the capital gain, and each pass-through entity included in the chain of ownership has been a member, partner or shareholder of the pass-through entity in the tier immediately below it for an uninterrupted period of not less than three (3) years.

E. The Oklahoma adjusted gross income of any individual taxpayer shall be further adjusted as follows to arrive at Oklahoma taxable income:

1. a. In the case of individuals, there shall be added or deducted, as the case may be, the difference necessary to allow personal exemptions of One Thousand Dollars (\$1,000.00) in lieu of the personal exemptions allowed by the Internal Revenue Code.
- b. There shall be allowed an additional exemption of One Thousand Dollars (\$1,000.00) for each taxpayer or spouse who is blind at the close of the tax year. For purposes of this subparagraph, an individual is blind only if the central visual acuity of the individual does not exceed 20/200 in the better eye with correcting lenses, or if the visual acuity of the individual is greater than 20/200, but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty (20) degrees.
- c. There shall be allowed an additional exemption of One Thousand Dollars (\$1,000.00) for each taxpayer or spouse who is sixty-five (65) years of age or older at the close of the tax year based upon the filing status and federal adjusted gross income of the taxpayer. Taxpayers with the following filing status may claim

this exemption if the federal adjusted gross income does not exceed:

- (1) Twenty-five Thousand Dollars (\$25,000.00) if married and filing jointly;
- (2) Twelve Thousand Five Hundred Dollars (\$12,500.00) if married and filing separately;
- (3) Fifteen Thousand Dollars (\$15,000.00) if single; and
- (4) Nineteen Thousand Dollars (\$19,000.00) if a qualifying head of household.

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

- d. For taxable years beginning after December 31, 1990, and beginning before January 1, 1992, there shall be allowed a one-time additional exemption of Four Hundred Dollars (\$400.00) for each taxpayer or spouse who is a member of the National Guard or any reserve unit of the Armed Forces of the United States and who was at any time during such taxable year deployed in active service during a time of war or conflict with an enemy of the United States.
2. a. For taxable years beginning on or before December 31, 2005, in the case of individuals who use the standard deduction in determining taxable income, there shall be added or deducted, as the case may be, the difference necessary to allow a standard deduction in lieu of the standard deduction allowed by the Internal Revenue Code, in an amount equal to the larger of fifteen percent (15%) of the Oklahoma adjusted gross

income or One Thousand Dollars (\$1,000.00), but not to exceed Two Thousand Dollars (\$2,000.00), except that in the case of a married individual filing a separate return such deduction shall be the larger of fifteen percent (15%) of such Oklahoma adjusted gross income or Five Hundred Dollars (\$500.00), but not to exceed the maximum amount of One Thousand Dollars (\$1,000.00),

- b. For taxable years beginning on or after January 1, 2006, and before January 1, 2007, in the case of individuals who use the standard deduction in determining taxable income, there shall be added or deducted, as the case may be, the difference necessary to allow a standard deduction in lieu of the standard deduction allowed by the Internal Revenue Code, in an amount equal to:
  - (1) Three Thousand Dollars (\$3,000.00), if the filing status is married filing joint, head of household or qualifying widow; or
  - (2) Two Thousand Dollars (\$2,000.00), if the filing status is single or married filing separate.
  
- c. For the taxable year beginning on January 1, 2007, and ending December 31, 2007, in the case of individuals who use the standard deduction in determining taxable income, there shall be added or deducted, as the case may be, the difference necessary to allow a standard deduction in lieu of the standard deduction allowed by the Internal Revenue Code, in an amount equal to:
  - (1) Five Thousand Five Hundred Dollars (\$5,500.00), if the filing status is married filing joint or qualifying widow; or
  - (2) Four Thousand One Hundred Twenty-five Dollars (\$4,125.00) for a head of household; or

- (3) Two Thousand Seven Hundred Fifty Dollars (\$2,750.00), if the filing status is single or married filing separate.
  
- d. For the taxable year beginning on January 1, 2008, and ending December 31, 2008, in the case of individuals who use the standard deduction in determining taxable income, there shall be added or deducted, as the case may be, the difference necessary to allow a standard deduction in lieu of the standard deduction allowed by the Internal Revenue Code, in an amount equal to:
  - (1) Six Thousand Five Hundred Dollars (\$6,500.00), if the filing status is married filing joint or qualifying widow, or
  - (2) Four Thousand Eight Hundred Seventy-five Dollars (\$4,875.00) for a head of household, or
  - (3) Three Thousand Two Hundred Fifty Dollars (\$3,250.00), if the filing status is single or married filing separate.
  
- e. For the taxable year beginning on January 1, 2009, and ending December 31, 2009, in the case of individuals who use the standard deduction in determining taxable income, there shall be added or deducted, as the case may be, the difference necessary to allow a standard deduction in lieu of the standard deduction allowed by the Internal Revenue Code, in an amount equal to:
  - (1) Eight Thousand Five Hundred Dollars (\$8,500.00), if the filing status is married filing joint or qualifying widow, or
  - (2) Six Thousand Three Hundred Seventy-five Dollars (\$6,375.00) for a head of household, or
  - (3) Four Thousand Two Hundred Fifty Dollars (\$4,250.00), if the filing status is single or married filing separate.



Oklahoma adjusted gross income shall be increased by any amounts paid for motor vehicle excise taxes which were deducted as allowed by the Internal Revenue Code.

- f. For taxable years beginning on or after January 1, 2010, in the case of individuals who use the standard deduction in determining taxable income, there shall be added or deducted, as the case may be, the difference necessary to allow a standard deduction equal to the standard deduction allowed by the Internal Revenue Code of 1986, as amended, based upon the amount and filing status prescribed by such Code for purposes of filing federal individual income tax returns.

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

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

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

- a. absence from the United States, which term includes only the states and the District of Columbia;
- b. absence from the State of Oklahoma while on active duty; or
- c. confinement in a hospital within the United States for treatment of wounds, injuries or disease,

the time for filing a return and paying an income tax shall be and is hereby extended without incurring liability for interest or penalties, to the fifteenth day of the third month following the month in which:

- (1) Such individual shall return to the United States if the extension is granted pursuant to subparagraph a of this paragraph, return to the State of Oklahoma if the extension is granted pursuant to subparagraph b of this paragraph or be discharged from such hospital if the extension is granted pursuant to subparagraph c of this paragraph; or
- (2) An executor, administrator, or conservator of the estate of the taxpayer is appointed, whichever event occurs the earliest.

Provided, that the Tax Commission may, in its discretion, grant any member of the Armed Forces of the United States an extension of time for filing of income tax returns and payment of income tax without incurring liabilities for interest or penalties. Such extension may be granted only when in the judgment of the Tax Commission a good cause exists therefor and may be for a period in

excess of six (6) months. A record of every such extension granted, and the reason therefor, shall be kept.

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

7. Notwithstanding anything in the Internal Revenue Code or in the Oklahoma Income Tax Act to the contrary, it is expressly provided that, in the case of resident individuals, amounts received as dividends or distributions of earnings from savings and loan associations or credit unions located in Oklahoma, and interest received on savings accounts and time deposits from such sources or from state and national banks or trust companies located in Oklahoma, shall qualify as dividends for the purpose of the dividend exclusion, and taxable income shall be adjusted accordingly to arrive at Oklahoma taxable income; provided, however, that the dividend, distribution of earnings and/or interest exclusion provided for hereinabove shall not be cumulative to the maximum dividend exclusion allowed by the Internal Revenue Code. Any dividend exclusion already allowed by the Internal Revenue Code and reflected in the taxpayer's Oklahoma taxable income together with exclusion allowed herein shall not exceed the total of One Hundred Dollars (\$100.00) per individual or Two Hundred Dollars (\$200.00) per couple filing a joint return.

8. a. An individual taxpayer, whether resident or nonresident, may deduct an amount equal to the federal income taxes paid by the taxpayer during the taxable year.
- b. Federal taxes as described in subparagraph a of this paragraph shall be deductible by any individual taxpayer, whether resident or nonresident, only to the extent they relate to income subject to taxation pursuant to the provisions of the Oklahoma Income Tax Act. The maximum amount allowable in the preceding paragraph shall be prorated on the ratio of the Oklahoma adjusted gross income to federal adjusted gross income.

- c. For the purpose of this paragraph, "federal income taxes paid" shall mean federal income taxes, surtaxes imposed on incomes or excess profits taxes, as though the taxpayer was on the accrual basis. In determining the amount of deduction for federal income taxes for tax year 2001, the amount of the deduction shall not be adjusted by the amount of any accelerated ten percent (10%) tax rate bracket credit or advanced refund of the credit received during the tax year provided pursuant to the federal Economic Growth and Tax Relief Reconciliation Act of 2001, P.L. No. 107-16, and the advanced refund of such credit shall not be subject to taxation.
- d. The provisions of this paragraph shall apply to all taxable years ending after December 31, 1978, and beginning before January 1, 2006.

9. Retirement benefits not to exceed Five Thousand Five Hundred Dollars (\$5,500.00) for the 2004 tax year, Seven Thousand Five Hundred Dollars (\$7,500.00) for the 2005 tax year and Ten Thousand Dollars (\$10,000.00) for the 2006 tax year and all subsequent tax years, which are received by an individual from the civil service of the United States, the Oklahoma Public Employees Retirement System, the Teachers' Retirement System of Oklahoma, the Oklahoma Law Enforcement Retirement System, the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the employee retirement systems created by counties pursuant to Section 951 et seq. of Title 19 of the Oklahoma Statutes, the Uniform Retirement System for Justices and Judges, the Oklahoma Wildlife Conservation Department Retirement Fund, the Oklahoma Employment Security Commission Retirement Plan, or the employee retirement systems created by municipalities pursuant to Section 48-101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt from taxable income.

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

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

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

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

14. a. In taxable years beginning after December 31, 2002, nonrecurring adoption expenses paid by a resident individual taxpayer in connection with:

- (1) the adoption of a minor, or
- (2) a proposed adoption of a minor which did not result in a decreed adoption,

may be deducted from the Oklahoma adjusted gross income.

- b. The deductions for adoptions and proposed adoptions authorized by this paragraph shall not exceed Twenty Thousand Dollars (\$20,000.00) per calendar year.
  - c. The Tax Commission shall promulgate rules to implement the provisions of this paragraph which shall contain a specific list of nonrecurring adoption expenses which may be presumed to qualify for the deduction. The Tax Commission shall prescribe necessary requirements for verification.
  - d. "Nonrecurring adoption expenses" means adoption fees, court costs, medical expenses, attorney fees and expenses which are directly related to the legal process of adoption of a child including, but not limited to, costs relating to the adoption study, health and psychological examinations, transportation and reasonable costs of lodging and food for the child or adoptive parents which are incurred to complete the adoption process and are not reimbursed by other sources. The term "nonrecurring adoption expenses" shall not include attorney fees incurred for the purpose of litigating a contested adoption, from and after the point of the initiation of the contest, costs associated with physical remodeling, renovation and alteration of the adoptive parents' home or property, except for a special needs child as authorized by the court.
15. a. In taxable years beginning before January 1, 2005, retirement benefits not to exceed the amounts specified in this paragraph, which are received by an individual sixty-five (65) years of age or older and whose Oklahoma adjusted gross income is Twenty-five Thousand Dollars (\$25,000.00) or less if the filing status is single, head of household, or married filing separate, or Fifty Thousand Dollars (\$50,000.00) or less if the filing status is married filing joint or

qualifying widow, shall be exempt from taxable income. In taxable years beginning after December 31, 2004, retirement benefits not to exceed the amounts specified in this paragraph, which are received by an individual whose Oklahoma adjusted gross income is less than the qualifying amount specified in this paragraph, shall be exempt from taxable income.

- b. For purposes of this paragraph, the qualifying amount shall be as follows:
- (1) in taxable years beginning after December 31, 2004, and prior to January 1, 2007, the qualifying amount shall be Thirty-seven Thousand Five Hundred Dollars (\$37,500.00) or less if the filing status is single, head of household, or married filing separate, or Seventy-Five Thousand Dollars (\$75,000.00) or less if the filing status is married filing jointly or qualifying widow,
  - (2) in the taxable year beginning January 1, 2007, the qualifying amount shall be Fifty Thousand Dollars (\$50,000.00) or less if the filing status is single, head of household, or married filing separate, or One Hundred Thousand Dollars (\$100,000.00) or less if the filing status is married filing jointly or qualifying widow,
  - (3) in the taxable year beginning January 1, 2008, the qualifying amount shall be Sixty-two Thousand Five Hundred Dollars (\$62,500.00) or less if the filing status is single, head of household, or married filing separate, or One Hundred Twenty-five Thousand Dollars (\$125,000.00) or less if the filing status is married filing jointly or qualifying widow,
  - (4) in the taxable year beginning January 1, 2009, the qualifying amount shall be One Hundred Thousand Dollars (\$100,000.00) or less if the filing status is single, head of household, or married filing separate, or Two Hundred Thousand

Dollars (\$200,000.00) or less if the filing status is married filing jointly or qualifying widow, and

(5) in the taxable year beginning January 1, 2010, and subsequent taxable years, there shall be no limitation upon the qualifying amount.

c. For purposes of this paragraph, "retirement benefits" means the total distributions or withdrawals from the following:

(1) an employee pension benefit plan which satisfies the requirements of Section 401 of the Internal Revenue Code, 26 U.S.C., Section 401,

(2) an eligible deferred compensation plan that satisfies the requirements of Section 457 of the Internal Revenue Code, 26 U.S.C., Section 457,

(3) an individual retirement account, annuity or trust or simplified employee pension that satisfies the requirements of Section 408 of the Internal Revenue Code, 26 U.S.C., Section 408,

(4) an employee annuity subject to the provisions of Section 403(a) or (b) of the Internal Revenue Code, 26 U.S.C., Section 403(a) or (b),

(5) United States Retirement Bonds which satisfy the requirements of Section 86 of the Internal Revenue Code, 26 U.S.C., Section 86, or

(6) lump-sum distributions from a retirement plan which satisfies the requirements of Section 402(e) of the Internal Revenue Code, 26 U.S.C., Section 402(e).

d. The amount of the exemption provided by this paragraph shall be limited to Five Thousand Five Hundred Dollars (\$5,500.00) for the 2004 tax year, Seven Thousand Five Hundred Dollars (\$7,500.00) for the 2005 tax year and



Ten Thousand Dollars (\$10,000.00) for the tax year 2006 and for all subsequent tax years. Any individual who claims the exemption provided for in paragraph 9 of this subsection shall not be permitted to claim a combined total exemption pursuant to this paragraph and paragraph 9 of this subsection in an amount exceeding Five Thousand Five Hundred Dollars (\$5,500.00) for the 2004 tax year, Seven Thousand Five Hundred Dollars (\$7,500.00) for the 2005 tax year and Ten Thousand Dollars (\$10,000.00) for the 2006 tax year and all subsequent tax years.

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

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

18. a. In taxable years beginning after December 31, 2001, and before January 1, 2005, there shall be allowed a deduction in the amount of contributions to accounts established pursuant to the Oklahoma College Savings Plan Act. The deduction shall equal the amount of contributions to accounts, but in no event shall the deduction for each contributor exceed Two Thousand Five Hundred Dollars (\$2,500.00) each taxable year for each account.

b. In taxable years beginning after December 31, 2004, each taxpayer shall be allowed a deduction for contributions to accounts established pursuant to the Oklahoma College Savings Plan Act. The maximum annual deduction shall equal the amount of contributions to

all such accounts plus any contributions to such accounts by the taxpayer for prior taxable years after December 31, 2004, which were not deducted, but in no event shall the deduction for each tax year exceed Ten Thousand Dollars (\$10,000.00) for each individual taxpayer or Twenty Thousand Dollars (\$20,000.00) for taxpayers filing a joint return. Any amount of a contribution that is not deducted by the taxpayer in the year for which the contribution is made may be carried forward as a deduction from income for the succeeding five (5) years. For taxable years beginning after December 31, 2005, deductions may be taken for contributions and rollovers made during a taxable year and up to April 15 of the succeeding year, or the due date of a taxpayer's state income tax return, excluding extensions, whichever is later. Provided, a deduction for the same contribution may not be taken for two (2) different taxable years.

- c. In taxable years beginning after December 31, 2006, deductions for contributions made pursuant to subparagraph b of this paragraph shall be limited as follows:
- (1) for a taxpayer who qualified for the five-year carryforward election and who takes a rollover or nonqualified withdrawal during that period, the tax deduction otherwise available pursuant to subparagraph b of this paragraph shall be reduced by the amount which is equal to the rollover or nonqualified withdrawal, and
  - (2) for a taxpayer who elects to take a rollover or nonqualified withdrawal within the same tax year in which a contribution was made to the taxpayer's account, the tax deduction otherwise available pursuant to subparagraph b of this paragraph shall be reduced by the amount of the contribution which is equal to the rollover or nonqualified withdrawal.

- d. If a taxpayer elects to take a rollover on a contribution for which a deduction has been taken pursuant to subparagraph b of this paragraph within one year of the date of contribution, the amount of such rollover shall be included in the adjusted gross income of the taxpayer in the taxable year of the rollover.
- e. If a taxpayer makes a nonqualified withdrawal of contributions for which a deduction was taken pursuant to subparagraph b of this paragraph, such nonqualified withdrawal and any earnings thereon shall be included in the adjusted gross income of the taxpayer in the taxable year of the nonqualified withdrawal.
- f. As used in this paragraph:
  - (1) "non-qualified withdrawal" means a withdrawal from an Oklahoma College Savings Plan account other than one of the following:
    - (a) a qualified withdrawal,
    - (b) a withdrawal made as a result of the death or disability of the designated beneficiary of an account,
    - (c) a withdrawal that is made on the account of a scholarship or the allowance or payment described in Section 135(d)(1)(B) or (C) or by the Internal Revenue Code, received by the designated beneficiary to the extent the amount of the refund does not exceed the amount of the scholarship, allowance, or payment, or
    - (d) a rollover or change of designated beneficiary as permitted by subsection F of Section 3970.7 of Title 70 of Oklahoma Statutes, and

- (2) "rollover" means the transfer of funds from the Oklahoma College Savings Plan to any other plan under Section 529 of the Internal Revenue Code.

19. For taxable years beginning after December 31, 2005, retirement benefits received by an individual from any component of the Armed Forces of the United States in an amount not to exceed the greater of seventy-five percent (75%) of such benefits or Ten Thousand Dollars (\$10,000.00) shall be exempt from taxable income but in no case less than the amount of the exemption provided by paragraph 15 of this subsection.

20. For taxable years beginning after December 31, 2006, retirement benefits received by federal civil service retirees, including survivor annuities, paid in lieu of Social Security benefits shall be exempt from taxable income to the extent such benefits are included in the federal adjusted gross income pursuant to the provisions of Section 86 of the Internal Revenue Code, 26 U.S.C., Section 86, according to the following schedule:

- a. in the taxable year beginning January 1, 2007, twenty percent (20%) of such benefits shall be exempt,
- b. in the taxable year beginning January 1, 2008, forty percent (40%) of such benefits shall be exempt,
- c. in the taxable year beginning January 1, 2009, sixty percent (60%) of such benefits shall be exempt,
- d. in the taxable year beginning January 1, 2010, eighty percent (80%) of such benefits shall be exempt, and
- e. in the taxable year beginning January 1, 2011, and subsequent taxable years, one hundred percent (100%) of such benefits shall be exempt.

21. a. For taxable years beginning after December 31, 2007, a resident individual may deduct up to Ten Thousand Dollars (\$10,000.00) from Oklahoma adjusted gross income if the individual, or the dependent of the individual, while living, donates one or more human organs of the individual to another human being for

human organ transplantation. As used in this paragraph, "human organ" means all or part of a liver, pancreas, kidney, intestine, lung, or bone marrow. A deduction that is claimed under this paragraph may be claimed in the taxable year in which the human organ transplantation occurs.

- b. An individual may claim this deduction only once, and the deduction may be claimed only for unreimbursed expenses that are incurred by the individual and related to the organ donation of the individual.
- c. The Oklahoma Tax Commission shall promulgate rules to implement the provisions of this paragraph which shall contain a specific list of expenses which may be presumed to qualify for the deduction. The Tax Commission shall prescribe necessary requirements for verification.

22. For taxable years beginning after December 31, 2008, there shall be exempt from taxable income any amount received by the beneficiary of the death benefit for an emergency medical technician provided by Section 1-2505.1 of Title 63 of the Oklahoma Statutes.

23. For taxable years beginning after December 31, 2008, taxable income shall be increased by any unemployment compensation exempted under Section 85 (c) of the Internal Revenue Code, 26 U.S.C., Section 85(c) (2009).

24. For taxable years beginning after December 31, 2008, there shall be exempt from taxable income any payment in an amount less than Six Hundred Dollars (\$600.00) received by a person as an award for participation in a competitive livestock show event. For purposes of this paragraph, the payment shall be treated as a scholarship amount paid by the entity sponsoring the event and the sponsoring entity shall cause the payment to be catagorized as a scholarship in its books and records.

F. 1. For taxable years beginning after December 31, 2004, a deduction from the Oklahoma adjusted gross income of any individual taxpayer shall be allowed for qualifying gains receiving capital

treatment that are included in the federal adjusted gross income of such individual taxpayer during the taxable year.

2. As used in this subsection:

a. "qualifying gains receiving capital treatment" means the amount of net capital gains, as defined in Section 1222(11) of the Internal Revenue Code, included in an individual taxpayer's federal income tax return that result from:

- (1) the sale of real property or tangible personal property located within Oklahoma that has been directly or indirectly owned by the individual taxpayer for a holding period of at least five (5) years prior to the date of the transaction from which such net capital gains arise,
- (2) the sale of stock or the sale of a direct or indirect ownership interest in an Oklahoma company, limited liability company, or partnership where such stock or ownership interest has been directly or indirectly owned by the individual taxpayer for a holding period of at least two (2) years prior to the date of the transaction from which the net capital gains arise, or
- (3) the sale of real property, tangible personal property or intangible personal property located within Oklahoma as part of the sale of all or substantially all of the assets of an Oklahoma company, limited liability company, or partnership or an Oklahoma proprietorship business enterprise where such property has been directly or indirectly owned by such entity or business enterprise or owned by the owners of such entity or business enterprise for a period of at least two (2) years prior to the date of the transaction from which the net capital gains arise,

- b. "holding period" means an uninterrupted period of time. The holding period shall include any additional period when the property was held by another individual or entity, if such additional period is included in the taxpayer's holding period for the asset pursuant to the Internal Revenue Code,
- c. "Oklahoma company," "limited liability company," or "partnership" means an entity whose primary headquarters have been located in Oklahoma for at least three (3) uninterrupted years prior to the date of the transaction from which the net capital gains arise,
- d. "direct" means the individual taxpayer directly owns the asset,
- e. "indirect" means the individual taxpayer owns an interest in a pass-through entity (or chain of pass-through entities) that sells the asset that gives rise to the qualifying gains receiving capital treatment.
  - (1) With respect to sales of real property or tangible personal property located within Oklahoma, the deduction described in this subsection shall not apply unless the pass-through entity that makes the sale has held the property for not less than five (5) uninterrupted years prior to the date of the transaction that created the capital gain, and each pass-through entity included in the chain of ownership has been a member, partner, or shareholder of the pass-through entity in the tier immediately below it for an uninterrupted period of not less than five (5) years.
  - (2) With respect to sales of stock or ownership interest in or sales of all or substantially all of the assets of an Oklahoma company, limited liability company, partnership or Oklahoma proprietorship business enterprise, the deduction described in this subsection shall not apply

unless the pass-through entity that makes the sale has held the stock or ownership interest for not less than two (2) uninterrupted years prior to the date of the transaction that created the capital gain, and each pass-through entity included in the chain of ownership has been a member, partner or shareholder of the pass-through entity in the tier immediately below it for an uninterrupted period of not less than two (2) years. For purposes of this division, uninterrupted ownership prior to the effective date of this act shall be included in the determination of the required holding period prescribed by this division, and

- f. "Oklahoma proprietorship business enterprise" means a business enterprise whose income and expenses have been reported on Schedule C or F of an individual taxpayer's federal income tax return, or any similar successor schedule published by the Internal Revenue Service and whose primary headquarters have been located in Oklahoma for at least three (3) uninterrupted years prior to the date of the transaction from which the net capital gains arise.

G. 1. For purposes of computing its Oklahoma taxable income under this section, the dividends-paid deduction otherwise allowed by federal law in computing net income of a real estate investment trust that is subject to federal income tax shall be added back in computing the tax imposed by this state under this title if the real estate investment trust is a captive real estate investment trust.

2. For purposes of computing its Oklahoma taxable income under this section, a taxpayer shall add back otherwise deductible rents and interest expenses paid to a captive real estate investment trust that is not subject to the provisions of paragraph 1 of this subsection. As used in this subsection:

- a. the term "real estate investment trust" or "REIT" means the meaning ascribed to such term in Section 856 of the Internal Revenue Code of 1986, as amended,



- b. the term "captive real estate investment trust" means a real estate investment trust, the shares or beneficial interests of which are not regularly traded on an established securities market and more than fifty percent (50%) of the voting power or value of the beneficial interests or shares of which are owned or controlled, directly or indirectly, or constructively, by a single entity that is:
- (1) treated as an association taxable as a corporation under the Internal Revenue Code of 1986, as amended, and
  - (2) not exempt from federal income tax pursuant to the provisions of Section 501(a) of the Internal Revenue Code of 1986, as amended.

The term shall not include a real estate investment trust that is intended to be regularly traded on an established securities market, and that satisfies the requirements of Section 856(a)(5) and (6) of the U.S. Internal Revenue Code by reason of Section 856(h)(2) of the Internal Revenue Code,

- c. the term "association taxable as a corporation" shall not include the following entities:
- (1) any real estate investment trust as defined in paragraph a of this subsection other than a "captive real estate investment trust", or
  - (2) any qualified real estate investment trust subsidiary under Section 856(i) of the Internal Revenue Code of 1986, as amended, other than a qualified REIT subsidiary of a "captive real estate investment trust", or
  - (3) any Listed Australian Property Trust (meaning an Australian unit trust registered as a "Managed Investment Scheme" under the Australian Corporations Act in which the principal class of units is listed on a recognized stock exchange in

Australia and is regularly traded on an established securities market), or an entity organized as a trust, provided that a Listed Australian Property Trust owns or controls, directly or indirectly, seventy-five percent (75%) or more of the voting power or value of the beneficial interests or shares of such trust, or

- (4) any Qualified Foreign Entity, meaning a corporation, trust, association or partnership organized outside the laws of the United States and which satisfies the following criteria:
  - (a) at least seventy-five percent (75%) of the entity's total asset value at the close of its taxable year is represented by real estate assets, as defined in Section 856(c)(5)(B) of the Internal Revenue Code of 1986, as amended, thereby including shares or certificates of beneficial interest in any real estate investment trust, cash and cash equivalents, and U.S. Government securities,
  - (b) the entity receives a dividend-paid deduction comparable to Section 561 of the Internal Revenue Code of 1986, as amended, or is exempt from entity level tax,
  - (c) the entity is required to distribute at least eighty-five percent (85%) of its taxable income, as computed in the jurisdiction in which it is organized, to the holders of its shares or certificates of beneficial interest on an annual basis,
  - (d) not more than ten percent (10%) of the voting power or value in such entity is held directly or indirectly or constructively by a single entity or individual, or the shares or beneficial interests of such entity are

regularly traded on an established securities market, and

- (e) the entity is organized in a country which has a tax treaty with the United States.

3. For purposes of this subsection, the constructive ownership rules of Section 318(a) of the Internal Revenue Code of 1986, as amended, as modified by Section 856(d)(5) of the Internal Revenue Code of 1986, as amended, shall apply in determining the ownership of stock, assets, or net profits of any person.

4. A real estate investment trust that does not become regularly traded on an established securities market within one (1) year of the date on which it first becomes a real estate investment trust shall be deemed not to have been regularly traded on an established securities market, retroactive to the date it first became a real estate investment trust, and shall file an amended return reflecting such retroactive designation for any tax year or part year occurring during its initial year of status as a real estate investment trust. For purposes of this subsection, a real estate investment trust becomes a real estate investment trust on the first day it has both met the requirements of Section 856 of the Internal Revenue Code and has elected to be treated as a real estate investment trust pursuant to Section 856(c)(1) of the Internal Revenue Code.

SECTION 11. AMENDATORY Section 3, Chapter 503, O.S.L. 2002, as amended by Section 2, Chapter 395, O.S.L. 2008 (68 O.S. Supp. 2008, Section 2358.6), is amended to read as follows:

Section 2358.6 A. For income tax returns filed after September 10, 2001, by corporations and fiduciaries, federal taxable income shall be increased by eighty percent (80%) of any amount of bonus depreciation received under the federal Job Creation and Worker Assistance Act of 2002, under Section 168(k) or Section 1400L of the Internal Revenue Code of 1986, as amended, for assets placed in service after September 10, 2001, and before September 11, 2004.

B. For income tax returns filed after December 31, 2007, by corporations and fiduciaries, federal taxable income shall be increased by eighty percent (80%) of any amount of bonus

depreciation received under the federal Economic Stimulus Act of 2008, or under the American Recovery and Reinvestment Act of 2009, under Section 168(k) or Section 1400L of the Internal Revenue Code of 1986, as amended, for assets placed in service after December 31, 2007, and before ~~January 1, 2009~~ January 1, 2010.

C. For a corporation with a unitary business having activity both inside and outside the state, the increase shall be apportioned to Oklahoma in the same manner as income is apportioned to the state under Section 2358 and Section 2362 of this title.

D. The amount of bonus depreciation added to federal taxable income by this section shall be subtracted in a later taxable year as herein provided. Twenty-five percent (25%) of the total amount of bonus depreciation added back may be subtracted in the first taxable year following the year of the addition and twenty-five percent (25%) may be subtracted in each of the next three following taxable years.

E. A corporation or fiduciary filing a return for which federal taxable income is not increased as provided in subsection A of this section prior to October 1, 2002, shall file an amended return reflecting such increase not later than June 30, 2003. The Oklahoma Tax Commission shall not assess penalties or interest with respect to the failure to reflect such increase if a correct amended return is filed as required herein. A corporation or fiduciary filing a return for which federal taxable income is not increased as provided for in subsection B of this section prior to October 1, 2008, shall file an amended return reflecting such increase not later than June 30, 2009. The Tax Commission shall not assess penalties or interest with respect to the failure to reflect such increase if a correct amended return is filed as required herein.

SECTION 12. AMENDATORY 68 O.S. 2001, Section 2385.3, as last amended by Section 20, Chapter 479, O.S.L. 2005 (68 O.S. Supp. 2008, Section 2385.3), is amended to read as follows:

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

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

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

2. Effective March 1, 2010, every employer required to remit federal withholding under the Federal Semiweekly Deposit Schedule shall pay over the amount so withheld under subsection A of this section on the same dates as required under the Federal Semiweekly Deposit Schedule for federal withholding taxes. For employers making payments other than by electronic funds transfer, a withholding return shall be filed with each payment. For employers making payments by electronic funds transfer, a withholding return shall not be required to be filed with each payment. A withholding return for payments made by electronic funds transfer shall be filed monthly on or before the twentieth day of the month following the close of each monthly period;

3. Every employer owing an average of Five Hundred Dollars (\$500.00) or more per quarter in taxes in the previous fiscal year

who is not subject to the provisions of paragraph 1 or 2 of this subsection shall pay over the amount so withheld on or before the twentieth day of each succeeding month and shall file a monthly return together with the payment; and

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

B. Effective October 1, 2003, every employer owing an average of Five Thousand Dollars (\$5,000.00) or more per month in taxes in the previous fiscal year shall file returns pursuant to the Tax Commission's electronic data interchange program. Effective March 1, 2010, every employer subject to the provisions of paragraph 2 of subsection A of this section shall file returns pursuant to the Tax Commission's electronic data interchange program.

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

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

E. Every employer who fails to withhold or pay to the Tax Commission any sums herein required to be withheld or paid shall be personally and individually liable therefor to the State of Oklahoma. The term "employer" as used in this subsection and in Section 2385.6 of this title includes an officer or employee of a

corporation, manager or member of a limited liability company or a member or employee of a partnership, who as an officer or employee of a corporation, or manager or member of a limited liability company or member or employee of a partnership is under a duty to act for a corporation, limited liability company or partnership to withhold and remit withholding taxes in accordance with this section and Section 2385.2 of this title. Any sum or sums withheld in accordance with the provisions of Section 2385.2 of this title shall be deemed to be held in trust for the State of Oklahoma, and, as trustee, the employer shall have a fiduciary duty to the State of Oklahoma in regard to such sums and shall be subject to the trust laws of this state.

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

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

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

SECTION 13. AMENDATORY 68 O.S. 2001, Section 2902, as last amended by Section 28 of Enrolled Senate Bill No. 764 of the 1st Session of the 52nd Oklahoma Legislature, is amended to read as follows:

Section 2902. A. Except as otherwise provided by subsection H of Section 3658 of this title pursuant to which the exemption authorized by this section may not be claimed, a qualifying manufacturing concern, as defined by Section 6B of Article X of the

Oklahoma Constitution, and as further defined herein, shall be exempt from the levy of any ad valorem taxes upon new, expanded or acquired manufacturing facilities, including facilities engaged in research and development, for a period of five (5) years. The provisions of Section 6B of Article X of the Oklahoma Constitution requiring an existing facility to have been unoccupied for a period of twelve (12) months prior to acquisition shall be construed as a qualification for a facility to initially receive an exemption, and shall not be deemed to be a qualification for that facility to continue to receive an exemption in each of the four (4) years following the initial year for which the exemption was granted. Such facilities are hereby classified for the purposes of taxation as provided in Section 22 of Article X of the Oklahoma Constitution.

B. For purposes of this section, the following definitions shall apply:

1. "Manufacturing facilities" means facilities engaged in the mechanical or chemical transformation of materials or substances into new products and shall include:

- a. establishments which have received a manufacturer exemption permit pursuant to the provisions of Section 1359.2 of this title,
- b. facilities, including repair and replacement parts, primarily engaged in aircraft repair, building and rebuilding whether or not on a factory basis,
- c. establishments primarily engaged in computer services and data processing as defined under Industrial Group Numbers 5112 and 5415, and U.S. Industry Number 334611 and 519130 of the NAICS Manual, latest revision, and which derive at least fifty percent (50%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer, and as defined under Industrial Group Number 5142 of the NAICS Manual, latest revision, which derive at least eighty percent (80%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer. Eligibility as a manufacturing facility pursuant to this subparagraph



shall be established, subject to review by the Oklahoma Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and such other information as required by the Tax Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers, all sales to the federal government shall be considered to be an out-of-state buyer,

- d. for which the investment cost of the construction, acquisition or expansion of the manufacturing facility is Two Hundred Fifty Thousand Dollars (\$250,000.00) or more. Provided, "investment cost" shall not include the cost of direct replacement, refurbish, repair or maintenance of existing machinery or equipment, and
- e. establishments primarily engaged in distribution as defined under Industry Numbers 49311, 49312, 49313 and 49319 and Industry Sector Number 42 of the NAICS Manual, latest revision, and which meet the following qualifications;
  - (1) construction with an initial capital investment of at least Five Million Dollars (\$5,000,000.00),
  - (2) employment of at least one hundred (100) full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission,
  - (3) payment of wages or salaries to its employees at a wage which equals or exceeds one hundred seventy-five percent (175%) of the federally mandated minimum wage, as certified by the Oklahoma Employment Security Commission, and
  - (4) commencement of construction on or after November 1, 2007, with construction to be completed within three (3) years from the date of the commencement of construction.

Eligibility as a manufacturing facility pursuant to this subparagraph shall be established, subject to review by the Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and containing such other information as required by the Tax Commission.

Provided, eating and drinking places, as well as other retail establishments, shall not qualify as manufacturing facilities for purposes of this section, nor shall centrally assessed properties.

Eligibility as a manufacturing facility pursuant to this subparagraph shall be established, subject to review by the Tax Commission, by annually filing an application with the Tax Commission stating that the facility so qualifies and containing such other information as required by the Tax Commission;

2. "Facility" and "facilities" means and includes the land, buildings, structures, improvements, machinery, fixtures, equipment and other personal property used directly and exclusively in the manufacturing process; and

3. "Research and development" means activities directly related to and conducted for the purpose of discovering, enhancing, increasing or improving future or existing products or processes or productivity.

C. The following provisions shall apply:

1. A manufacturing concern shall be entitled to the exemption herein provided for each new manufacturing facility constructed, each existing manufacturing facility acquired and the expansion of existing manufacturing facilities on the same site, as such terms are defined by Section 6B of Article X of the Oklahoma Constitution and by this section;

2. Except as otherwise provided in paragraph 5 of this subsection, no manufacturing concern shall receive more than one five-year exemption for any one manufacturing facility unless the expansion which qualifies the manufacturing facility for an additional five-year exemption meets the requirements of paragraph 4 of this subsection and the employment level established for any previous exemption is maintained;

3. Any exemption as to the expansion of an existing manufacturing facility shall be limited to the increase in ad valorem taxes directly attributable to the expansion;

4. Except as provided in paragraphs 5 and 6 of this subsection, all initial applications for any exemption for a new, acquired or expanded manufacturing facility shall be granted only if:

- a. there is a net increase in annualized payroll of at least Two Hundred Fifty Thousand Dollars (\$250,000.00) if the facility is located in a county with a population of fewer than seventy-five thousand (75,000), according to the most recent federal decennial census, while maintaining or increasing payroll in subsequent years, or at least One Million Dollars (\$1,000,000.00) if the facility is located in a county with a population of seventy-five thousand (75,000) or more, according to the most recent federal decennial census, while maintaining or increasing payroll in subsequent years.

The Tax Commission shall verify payroll information through the Oklahoma Employment Security Commission by using reports from the Oklahoma Employment Security Commission for the calendar year immediately preceding the year for which initial application is made for base-line payroll, which must be maintained or increased for each subsequent year; provided, a manufacturing facility shall have the option of excluding from its payroll, for purposes of this section, payments to sole proprietors, members of a partnership, members of a limited liability company who own at least ten percent (10%) of the capital of the limited liability company or stockholder-employees of a corporation who own at least ten percent (10%) of the stock in the corporation. A manufacturing facility electing this option shall indicate such election upon its application for an exemption under this section. Any manufacturing facility electing this option shall submit such information as the Tax Commission may require in order to verify payroll

information. Payroll information submitted pursuant to the provisions of this paragraph shall be submitted to the Tax Commission and shall be subject to the provisions of Section 205 of this title, and

- b. the facility offers, or will offer within one hundred eighty (180) days of the date of employment, a basic health benefits plan to the full-time-equivalent employees of the facility, which is determined by the Department of Commerce to consist of the elements specified in subparagraph b of paragraph 1 of subsection A of Section 3603 of this title or elements substantially equivalent thereto.

For purposes of this section, calculation of the amount of increased payroll shall be measured from the start of initial construction or expansion to the completion of such construction or expansion or for three (3) years from the start of initial construction or expansion, whichever occurs first. The amount of increased payroll shall include payroll for full-time-equivalent employees in this state who are employed by an entity other than the facility which has previously or is currently qualified to receive an exemption pursuant to the provisions of this section and who are leased or otherwise provided to the facility, if such employment did not exist in this state prior to the start of initial construction or expansion of the facility. The manufacturing concern shall submit an affidavit to the Tax Commission, signed by an officer, stating that the construction, acquisition or expansion of the facility will result in a net increase in the annualized payroll as required by this paragraph and that full-time-equivalent employees of the facility are or will be offered a basic health benefits plan as required by this paragraph. If, after the completion of such construction or expansion or after three (3) years from the start of initial construction or expansion, whichever occurs first, the construction, acquisition or expansion has not resulted in a net increase in the amount of annualized payroll, if required, or any other qualification specified in this paragraph has not been met, the manufacturing concern shall pay an amount equal to the amount of any exemption granted, including penalties and interest thereon, to the Tax Commission for deposit to the Ad Valorem Reimbursement Fund;

5. If a facility fails to meet the payroll requirement of subparagraph a of paragraph 4 of this subsection, the payroll requirement shall be waived for claims for exemptions, including claims previously denied or on appeal on the effective date of this act, for all initial applications for exemption filed on or after January 1, 2004, and on or before March 31, 2009, and all subsequent annual exemption applications filed related to such initial application for exemption, for an applicant, if the facility:

- a. has been located for at least five (5) years as of March 31, 2009, in a county in Oklahoma with a population of six hundred thousand (600,000) or more;
- b. is owned by an applicant that has been engaged in manufacturing as defined under U.S. Industry Numbers 323110, 323111, 323121 and 323122 of the NAICS Manual, latest revision;
- c. is owned by an applicant that maintains a workforce of at least three hundred (300) employees on the effective date of this act;
- d. is owned by an applicant that has filed multiple applications for exemption pursuant to this section; and
- e. is owned by an applicant that operates at least one facility in this state of at least seven hundred thirty thousand (730,000) square feet on the effective date of this act.

In the event that any applicant obtaining a waiver of the payroll requirement pursuant to this paragraph ceases to operate all of its facilities in this state on or before a date that is four years after any initial application for an exemption is filed by such applicant, all sums of property taxes exempted under this paragraph through a waiver of the payroll requirement that relate to such application shall become due and payable as if such sums were assessed in the year in which the applicant ceases to operate all of its facilities in the state.

6. Any new, acquired or expanded automotive final assembly manufacturing facility which does not meet the requirements of paragraph 4 of this subsection shall be granted an exemption only if all other requirements of this section are met and only if the investment cost of the construction, acquisition or expansion of the manufacturing facility is Three Hundred Million Dollars (\$300,000,000.00) or more and the manufacturing facility retains an average employment of one thousand seven hundred fifty (1,750) or more full-time-equivalent employees in the year in which the exemption is initially granted and in each of the four (4) subsequent years only if an average employment of one thousand seven hundred fifty (1,750) or more full-time-equivalent employees is maintained in the subsequent year. Any property installed to replace property damaged by the tornado or natural disaster that occurred May 8, 2003, may continue to receive the exemption provided in this paragraph for the full five-year period based on the value of the previously qualifying assets as of January 1, 2003. The exemption shall continue in effect as long as all other qualifications in this paragraph are met. If the average employment of one thousand seven hundred fifty (1,750) or more full-time-equivalent employees is reduced as a result of temporary layoffs because of a tornado or natural disaster on May 8, 2003, then the average employment requirement shall be waived for year 2003 of the exemption period. Calculation of the number of employees shall be made in the same manner as required under Section 2357.4 of this title for an investment tax credit. As used in this paragraph, "expand" and "expansion" shall mean and include any increase to the size or scope of a facility as well as any renovation, restoration, replacement or remodeling of a facility which permits the manufacturing of a new or redesigned product;

~~6.~~ 7. Any new, acquired, or expanded computer data processing, data preparation, or information processing services provider classified in Industrial Group Number 7374 of the SIC Manual, latest revision, and U.S. Industry Number 514210 of the North American Industrial Classification System (NAICS) Manual, latest revision, may apply for exemptions under this section for each year in which new, acquired, or expanded capital improvements to the facility are made if:

- a. there is a net increase in annualized payroll of the applicant at any facility or facilities of the

applicant in this state of at least Two Hundred Fifty Thousand Dollars (\$250,000.00), which is attributable to the capital improvements, or a net increase of Seven Million Dollars (\$7,000,000.00) or more in capital improvements, while maintaining or increasing payroll at the facility or facilities in this state which are included in the application, and

- b. the facility offers, or will offer within one hundred eighty (180) days of the date of employment of new employees attributable to the capital improvements, a basic health benefits plan to the full-time-equivalent employees of the facility, which is determined by the Department of Commerce to consist of the elements specified in subparagraph b of paragraph 1 of subsection A of Section 3603 of this title or elements substantially equivalent thereto; and

~~7.~~ 8. An entity engaged in electric power generation by means of wind, as described by the North American Industry Classification System, No. 221119, which does not meet the requirements of paragraph 4 of this subsection shall be granted an exemption only if all other requirements of this section are met and only if there is a net increase in annualized payroll at the facility of at least Two Hundred Fifty Thousand Dollars (\$250,000.00) or a net increase of Two Million Dollars (\$2,000,000.00) or more in capital improvements while maintaining or increasing payroll.

D. 1. Except as provided in paragraph 2 of this subsection, the five-year period of exemption from ad valorem taxes for any qualifying manufacturing facility property shall begin on January 1 following the initial qualifying use of the property in the manufacturing process.

2. The five-year period of exemption from ad valorem taxes for any qualifying manufacturing facility, as defined in subparagraph c of paragraph 1 of subsection B of this section which is located within a tax incentive district created pursuant to the Local Development Act by a county having a population of at least five hundred thousand (500,000), according to the most recent federal decennial census, shall begin on January 1 following the expiration

or termination of the ad valorem exemption, abatement, or other incentive provided through the tax incentive district.

E. Any person, firm or corporation claiming the exemption herein provided for shall file each year for which exemption is claimed, an application therefor with the county assessor of the county in which the new, expanded or acquired facility is located. The application shall be on a form or forms prescribed by the Tax Commission, and shall be filed on or before March 15, except as provided in Section 2902.1 of this title, of each year in which the facility desires to take the exemption or within thirty (30) days from and after receipt by such person, firm or corporation of notice of valuation increase, whichever is later. In a case where completion of the facility or facilities will occur after January 1 of a given year, a facility may apply to claim the ad valorem tax exemption for that year. If such facility is found to be qualified for exemption, the ad valorem tax exemption provided for herein shall be granted for that entire year and shall apply to the ad valorem valuation as of January 1 of that given year. For applicants which qualify under the provisions of subparagraph b of paragraph 1 of subsection B of this section, the application shall include a copy of the affidavit and any other information required to be filed with the Tax Commission.

F. The application shall be examined by the county assessor and approved or rejected in the same manner as provided by law for approval or rejection of claims for homestead exemptions. The taxpayer shall have the same right of review by and appeal from the county board of equalization, in the same manner and subject to the same requirements as provided by law for review and appeals concerning homestead exemption claims. Approved applications shall be filed by the county assessor with the Tax Commission no later than June 15, except as provided in Section 2902.1 of this title, of the year in which the facility desires to take the exemption. Incomplete applications and applications filed after June 15 will be declared null and void by the Tax Commission. In the event that a taxpayer qualified to receive an exemption pursuant to the provisions of this section shall make payment of ad valorem taxes in excess of the amount due, the county treasurer shall have the authority to credit the taxpayer's real or personal property tax overpayment against current taxes due. The county treasurer may



establish a schedule of up to five (5) years of credit to resolve the overpayment.

G. Nothing herein shall in any manner affect, alter or impair any law relating to the assessment of property, and all property, real or personal, which may be entitled to exemption hereunder shall be valued and assessed as is other like property and as provided by law. The valuation and assessment of property for which an exemption is granted hereunder shall be performed by the Tax Commission.

H. The Tax Commission shall have the authority and duty to prescribe forms and to promulgate rules as may be necessary to carry out and administer the terms and provisions of this section.

SECTION 14. AMENDATORY 68 O.S. 2001, Section 3624, as last amended by Section 15, Chapter 436, O.S.L. 2008 (68 O.S. Supp. 2008, Section 3624), is amended to read as follows:

Section 3624. A. There is hereby created the Oklahoma Film Enhancement Rebate Program. A rebate in the amount of up to seventeen percent (17%) of documented expenditures made in Oklahoma directly attributable to the production of a film, television production, or television commercial, as defined in Section 3623 of this title, in this state, may be paid to the production company responsible for the production ~~if the Office of the Oklahoma Film and Music Commission determines that the proposed project has a reasonable chance of economic success.~~ Provided, for documented expenditures made after July 1, 2009, the rebate amount shall be thirty-five percent (35%), except as provided in subsection B of this section.

B. ~~1-~~ The amount of rebate paid to the production company as provided for in subsection A of this section shall be ~~determined as follows:~~

- ~~a. fifteen percent (15%) if fifty percent (50%) or more of the crew are residents of Oklahoma and are employed in this state,~~

- ~~b. ten percent (10%) if twenty five percent (25%) to forty nine percent (49%) of the crew are residents of Oklahoma and are employed in this state, and~~
- ~~c. five percent (5%) if less than twenty five percent (25%) of the crew are residents of Oklahoma and are employed in this state~~

~~2. For increased by an additional two percent (2%) of documented expenditures if a production company that spends at least Twenty Thousand Dollars (\$20,000.00) for the use of music created by an Oklahoma resident that is recorded in Oklahoma or for the cost of recording songs or music in Oklahoma for use in the production, a two percent rebate shall be paid which shall be in addition to the rebate paid as provided for in paragraph 1 of this subsection.~~

~~3. For a production company with a minimum budget for a film of Five Million Dollars (\$5,000,000.00) or more, the amount of rebate paid as provided for in subsection A of this section shall be fifteen percent (15%). The Oklahoma crew requirements set forth in paragraph 1 of this subsection shall not apply to production companies that meet the minimum budget requirements of this paragraph.~~

~~4. The Oklahoma crew requirements set forth in paragraph 1 of this subsection shall not apply if it is determined there is a lack of available Oklahoma personnel to serve as crew. The lack of available Oklahoma personnel to serve as crew shall be verified in writing by the Office of the Oklahoma Film and Music Commission. The amount of rebate paid as provided for in subsection A of this section to a production company where the Oklahoma crew requirements have been waived pursuant to this paragraph shall be fifteen percent (15%).~~

C. The rebate program shall be administered by the Office of the Oklahoma Film and Music Commission and the Oklahoma Tax Commission, as provided in the Compete with Canada Film Act.

D. To be eligible for a rebate payment:

1. The production company responsible for a film, television production, or television commercial, as defined in Section 3623 of

this title, made in this state shall submit documentation to the Office of the Oklahoma Film and Music Commission of the amount of wages paid for employment in this state to residents of this state directly relating to the production and the amount of other production costs incurred in this state directly relating to the production;

2. The production company ~~shall also file an Oklahoma income tax return~~ has filed or will file any Oklahoma tax return or tax document which may be required by law;

3. Except major studio productions, the production company shall provide the name of the completion guarantor and a copy of the bond guaranteeing the completion of the project or if a film has not secured a completion bond, the production company shall provide evidence that all Oklahoma crew and local vendors have been paid and there are no liens against the production company pending in the state;

4. The minimum budget for the film shall be ~~Five Hundred Thousand Dollars (\$500,000.00)~~ Fifty Thousand Dollars (\$50,000.00) of which not less than ~~Three Hundred Thousand Dollars (\$300,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00) shall be expended in this state. ~~The minimum budget requirements of this paragraph shall be met by any film, television, or commercial production company that produces multiple film, television, or commercial projects within one (1) year, if each project meets a minimum budget of Two Hundred Fifty Thousand Dollars (\$250,000.00) and the total budget of all projects in one (1) year is not less than Five Hundred Thousand Dollars (\$500,000.00) of which not less than Three Hundred Thousand Dollars (\$300,000.00) shall be expended in this state;~~

5. ~~The production company shall provide evidence of a recognizable domestic or foreign distribution agreement, provide evidence of being selected as a pilot for a nationally recognized network or cable television outlet, or provide evidence of being accepted to at least one of the top fifteen film festivals or two or more of the top thirty film festivals in the United States as determined by the Office of the Oklahoma Film and Music Commission within one (1) year from the end of principal photography;~~

~~6.~~ The production company shall provide evidence of ~~complete~~ financing for production prior to the commencement of principal photography; and

~~7.~~ 6. The production company shall provide evidence of a certificate of general liability insurance with a minimum coverage of One Million Dollars (\$1,000,000.00) and a workers' compensation policy pursuant to state law, which shall include coverage of employer's liability.

E. A production company shall not be eligible to receive both a rebate payment pursuant to the provisions of this act and an exemption from sales taxes pursuant to the provisions of paragraph 21 of Section 1357 of this title. If a production company has received such an exemption from sales taxes and submits a claim for rebate pursuant to the provisions of the Compete with Canada Film Act, the company shall be required to fully repay the amount of the exemption to the Tax Commission. A claim for a rebate shall include documentation from the Tax Commission that repayment has been made as required herein or shall include an affidavit from the production company that the company has not received an exemption from sales taxes pursuant to the provisions of paragraph 21 of Section 1357 of this title.

F. The Office shall approve or disapprove all claims for rebate and shall notify the Tax Commission. The Tax Commission shall, upon notification of approval from the Office of the Film and Music Commission, issue payment for all approved claims from funds in the Oklahoma Film Enhancement Rebate Program Revolving Fund created in Section 3625 of this title ~~on or after July 1, 2006, and on or after each July 1 thereafter following the fiscal year in which the documented expenditures were made.~~ Provided, no claims for rebate for expenditures made on or after July 1, 2009, shall be paid prior to July 1, 2010. The amount of payments in any single fiscal year shall not exceed Five Million Dollars (\$5,000,000.00). If the amount of approved claims exceeds the amount specified in this subsection in a fiscal year, payments shall be made in the order in which the claims are approved by the Office. If an approved claim is not paid in whole or in part, the unpaid claim or unpaid portion may be paid in the following fiscal year subject to the limitations specified in this subsection.

SECTION 15. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The Legislature finds and declares that:

1. The wine and grape industry in Oklahoma has grown from one winery to well over fifty wineries from 1999 to 2009;

2. The wine industry creates jobs and tax revenues, encourages rural development and tourism, and provides alternative crops for Oklahoma farmers; and

3. It is in the best interest of this state to further develop and encourage growth in Oklahoma's wine industry.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 563.1 of Title 37, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Department of Commerce to be designated the "Oklahoma Viticulture and Enology Center Development Revolving Fund".

B. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies distributed to the fund:

1. From the apportionment provided in paragraph 1 of Section 563 of Title 37 of the Oklahoma Statutes; and

2. From any other source in accordance with state and federal law.

C. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department for the purpose of:

1. Establishing a Viticulture and Enology Center on the campus of Redlands Community College;

2. Developing viticulture-related and enology-related education programs;

3. Developing technologies, strategies, or practices that aid in the production of grapes and wine in Oklahoma; and

4. Increasing the positive economic impact of the Oklahoma wine industry on this state.

D. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 17. AMENDATORY 37 O.S. 2001, Section 563, is amended to read as follows:

Section 563. All revenue accruing from the excise tax levied by Section 553 of this title shall be collected by the Oklahoma Tax Commission and distributed as follows:

1. Two-thirds of ninety-seven percent (2/3 of 97%) of such tax revenue shall be paid to the State Treasurer and placed to the credit of the General Revenue Fund of the state; provided, beginning July 1, 2010, any amounts derived from the tax levied pursuant to paragraphs 2 and 3 of subsection A of Section 553 of this title that exceed an amount equal to the total amount collected from such tax levy for the fiscal year ending on June 30, 2010, shall be distributed to the Oklahoma Viticulture and Enology Center Development Revolving Fund created pursuant to Section 16 of this act, but in no event shall the distribution to the Oklahoma Viticulture and Enology Center Development Revolving Fund in any fiscal year exceed Three Hundred Fifty Thousand Dollars (\$350,000.00);

2. One-third of ninety-seven percent (1/3 of 97%) of such revenue is hereby allocated to the counties of this state and shall be paid to the county treasurers on the basis of area and population (giving equal weight to area and population) wherein the sale of alcoholic beverages is lawful, and all of said funds shall be appropriated by the county commissioners of each county and apportioned by the county treasurer to all incorporated cities and towns in said county on the basis of population within each city and

town on a per capita basis based on the last preceding Federal Decennial Census. For the purpose of appropriating and paying the excise taxes collected under the Oklahoma Alcoholic Beverage Control Act, or any act which is amendatory thereof or supplemental thereto, to the incorporated cities and towns in any county, city or town, the corporate limits of which include territory within more than one county, shall be considered and treated as being a city or town in only the county within which more than fifty percent (50%) of the entire population of such city or town, as shown by the last preceding Federal Decennial Census, reside, and, for such purpose, shall not be considered or treated as being a city or town in any other county; and, in the event that the last preceding Federal Decennial Census fails to disclose information from which such fact may be determined by the board of county commissioners which is appropriating the tax money then involved to the cities and towns in its county, said board of county commissioners shall make an estimate, from the best information then available to it, as to the percentage of the entire population of such city or town then residing in said county. If such board of county commissioners determines, either from information disclosed by the last preceding Federal Decennial Census, or from the best information then available to said board (when such information is not disclosed by the last preceding Federal Decennial Census), that more than fifty percent (50%) of the population of such a city or town resides in that county, such city or town shall receive its pro rata share of such tax money, on the basis of its entire population according to the last preceding Federal Decennial Census; but if such board of county commissioners so determines that more than fifty percent (50%) of the population of such city or town does not reside in that county, no part of such tax money shall be appropriated or paid to such city or town; and

3. The remaining three percent (3%) of such excise tax revenue shall be paid to the State Treasurer and placed to the credit of the Oklahoma Tax Commission Fund to be paid out of said fund pursuant to appropriations made by the State Legislature.

SECTION 18. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The Oklahoma Tax Commission shall conduct a study of the administrative issues concerning state and local communications

taxes. The study shall focus on identifying the administrative simplifications and law changes that would be required in Oklahoma to comply with national proposals impacting these taxes. The Tax Commission shall work with impacted local government entities and businesses while conducting this study. The Tax Commission shall prepare a report outlining its findings and identifying costs to the state and to local government entities associated with implementing any proposed changes. The report shall be presented to the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives prior to December 1, 2009.

SECTION 19. AMENDATORY 82 O.S. 2001, Section 277.17, is amended to read as follows:

Section 277.17 A. All property, owned or purchased by a district, both real and personal and reasonably necessary to accomplish the purposes of the district, shall be exempt from taxation by this state, or by any municipal corporation, county or other political subdivision or taxing district of this state. All property, products and benefits sold, leased or furnished by a district shall be exempt from sales tax.

B. All bonds, notes and warrants and the interest thereon issued pursuant to the provisions of the Oklahoma Irrigation District Act shall be exempt from taxation by this state or by any municipal corporation, county or other political subdivision or taxing district of this state.

C. 1. All districts organized under the provisions of the Oklahoma Irrigation District Act shall be exempt from the payment of sales and use taxes on purchases and use of tangible personal property in this state.

2. Districts shall be exempt from payment of the vehicle excise tax levied on the transfer for first registration of vehicles purchased and used in this state.

3. All districts organized under the provisions of the Oklahoma Irrigation District Act shall be exempt from the payment of motor fuel excise taxes, as provided in Section 500.10 of Title 68 of the Oklahoma Statutes.



SECTION 20. AMENDATORY 82 O.S. 2001, Section 688.1, is amended to read as follows:

Section 688.1 Conservancy districts and master conservancy districts organized under the provisions of the "Conservancy Act of Oklahoma" ~~contained in Chapter 5 of Title 82 of the Oklahoma Statutes,~~ shall be exempt from the payment of sales and use taxes on purchases and use of tangible personal property in this state, from the payment of motor fuel taxes as provided in Section 500.10 of Title 68 of the Oklahoma Statutes and from payment of the vehicle excise tax levied on the transfer or first registration of vehicles purchased and used in Oklahoma, and the vehicles of such districts shall be registered each year for a nominal fee of One Dollar (\$1.00), after having obtained the proper Oklahoma certificate of title.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 154 of Title 85, unless there is created a duplication in numbering, reads as follows:

A. CompSource Oklahoma shall, annually, on or before the first day of March, report under oath of the President and Chief Executive Officer of CompSource Oklahoma to the State Treasurer, the total amount of direct written premiums and membership, application, policy and registration fees charged by CompSource Oklahoma during the preceding calendar year for insurance covering one or more of the following:

1. Insuring employers against liability for compensation under Sections 131 through 151 of Title 85 of the Oklahoma Statutes;

2. Assuring for the persons entitled thereto compensation provided by the workers' compensation law;

3. Insuring persons, firms and corporations against loss, expense or liability by reason of bodily injury, death by accident, occupational disability, or occupational disease suffered by employees, for which the insured may be liable or have assumed liability; and

4. Insuring employers against liability incurred as the result of injuries sustained by employees engaged in employment subject to

the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C., Section 901 et seq., or employees engaged in employment subject to Title IV of the Federal Coal Mine Health and Safety Act of 1969 as amended by the Black Lung Benefits Act of 1972, as enacted or as may be amended by the Congress of the United States.

B. CompSource Oklahoma, at the time the report required by subsection A of this section is filed, shall pay to the State Treasury to the credit of the General Revenue Fund, an annual market equalization assessment on all of the direct written premiums after all returned premiums are deducted, on all membership, application, policy and registration fees, and installment and finance fees or charges collected by CompSource Oklahoma, relating to written, continued and serviced insurance for purposes listed in paragraphs 1 through 4 of subsection A of this section; provided, no deduction shall be made from premiums for dividends paid to policyholders. The rate of assessment shall be two and twenty-five-one-hundredths percent (2.25%). If CompSource Oklahoma fails to remit the assessments in a timely manner, it shall remain liable therefor together with interest thereon at an annual rate equal to the average United States Treasury Bill rate of the preceding calendar year as certified by the State Treasurer on the first regular business day in January of each year, plus four (4) percentage points.

SECTION 22. Sections 5, 6, 7, 8, 14, 15, 16, 18, 19 and 20 of this act shall become effective July 1, 2009.

SECTION 23. Sections 1, 2, 3 and 12 of this act shall become effective November 1, 2009.

SECTION 24. Sections 9 and 21 of this act shall become effective January 1, 2010.

SECTION 25. Section 17 of this act shall become effective July 1, 2010.

SECTION 26. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 21st day of May, 2009.

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Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of May, 2009.

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Presiding Officer of the House  
of Representatives