

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 764

By: Anderson of the Senate

4 and

5 Duncan of the House

6
7 AS INTRODUCED

8
9 An Act relating to duplicate sections; amending,
10 merging, consolidating, and repealing multiple
11 versions of statutes; amending 21 O.S. 2001, Section
12 644, as last amended by Section 1, Chapter 318,
13 O.S.L. 2008 (21 O.S. Supp. 2008, Section 644);
14 repealing 21 O.S. 2001, Section 644, as last amended
15 by Section 1, Chapter 403, O.S.L. 2008 (21 O.S. Supp.
16 2008, Section 644); amending 21 O.S. 2001, Section
17 1051, as last amended by Section 4, Chapter 275,
18 O.S.L. 2004 (21 O.S. Supp. 2008, Section 1051);
19 repealing 21 O.S. 2001, Section 1051, as amended by
20 Section 37, Chapter 58, O.S.L. 2003 (21 O.S. Supp.
21 2008, Section 1051); amending 21 O.S. 2001, Section
22 1738, as last amended by Section 4, Chapter 438,
23 O.S.L. 2008 (21 O.S. Supp. 2008, Section 1738);
24 repealing 21 O.S. 2001, Section 1738, as last amended
by Section 3, Chapter 134, O.S.L. 2008 (21 O.S. Supp.
2008, Section 1738); amending 22 O.S. 2001, Section
18, as last amended by Section 1, Chapter 46, O.S.L.
2008 (22 O.S. Supp. 2008, Section 18); repealing 22
O.S. 2001, Section 18, as last amended by Section 1,
Chapter 75, O.S.L. 2008 (22 O.S. Supp. 2008, Section
18); repealing Section 13, Chapter 132, O.S.L. 2008
(40 O.S. Supp. 2008, Section 3-119); repealing 47
O.S. 2001, Section 6-111, as last amended by Section
1, Chapter 1, O.S.L. 2008 (47 O.S. Supp. 2008,
Section 6-111); repealing 47 O.S. 2001, Section 1102,
as last amended by Section 2, Chapter 297, O.S.L.
2008 (47 O.S. Supp. 2008, Section 1102); repealing
Section 4, Chapter 297, O.S.L. 2008 (47 O.S. Supp.
2008, Section 1151.4); amending Section 9, Chapter
469, O.S.L. 2002, as last amended by Section 1,

1 Chapter 215, O.S.L. 2008 (59 O.S. Supp. 2008, Section
2 2093); repealing Section 9, Chapter 469, O.S.L. 2002,
3 as last amended by Section 2, Chapter 213, O.S.L.
4 2008 (59 O.S. Supp. 2008, Section 2093); amending
5 Section 2, Chapter 207, O.S.L. 2006, as last amended
6 by Section 16, Chapter 312, O.S.L. 2008 (59 O.S.
7 Supp. 2008, Section 3021); repealing Section 2,
8 Chapter 207, O.S.L. 2006, as last amended by Section
9 4, Chapter 260, O.S.L. 2008 (59 O.S. Supp. 2008,
10 Section 3021); repealing 62 O.S. 2001, Section 2004,
11 as last amended by Section 1, Chapter 317, O.S.L.
12 2006 (62 O.S. Supp. 2008, Section 2004); repealing 62
13 O.S. 2001, Section 2006, as last amended by Section
14 2, Chapter 317, O.S.L. 2006 (62 O.S. Supp. 2008,
15 Section 2006); repealing Section 11, Chapter 170,
16 O.S.L. 2008 (63 O.S. Supp. 2008, Section 2-106.2);
17 repealing Section 12, Chapter 170, O.S.L. 2008 (63
18 O.S. Supp. 2008, Section 2-111); amending 68 O.S.
19 2001, Section 1001, as last amended by Section 1,
20 Chapter 278, O.S.L. 2008 (68 O.S. Supp. 2008, Section
21 1001); repealing 68 O.S. 2001, Section 1001, as last
22 amended by Section 1, Chapter 380, O.S.L. 2008 (68
23 O.S. Supp. 2008, Section 1001); amending 68 O.S.
24 2001, Section 1356, as last amended by Section 2,
Chapter 278, O.S.L. 2008 (68 O.S. Supp. 2008, Section
1356); repealing 68 O.S. 2001, Section 1356, as last
amended by Section 12, Chapter 378, O.S.L. 2008 (68
O.S. Supp. 2008, Section 1356); repealing 68 O.S.
2001, Section 1356, as last amended by Section 2,
Chapter 436, O.S.L. 2008 (68 O.S. Supp. 2008, Section
1356); amending 68 O.S. 2001, Section 1357, as last
amended by Section 3, Chapter 436, O.S.L. 2008 (68
O.S. Supp. 2008, Section 1357); repealing 68 O.S.
2001, Section 1357, as last amended by Section 1,
Chapter 406, O.S.L. 2008 (68 O.S. Supp. 2008, Section
1357); amending 68 O.S. 2001, Section 2902, as last
amended by Section 12, Chapter 440, O.S.L. 2008 (68
O.S. Supp. 2008, Section 2902); repealing 68 O.S.
2001, Section 2902, as last amended by Section 2,
Chapter 406, O.S.L. 2008 (68 O.S. Supp. 2008, Section
2902); amending 70 O.S. 2001, Section 6-101.48, as
last amended by Section 3, Chapter 347, O.S.L. 2008
(70 O.S. Supp. 2008, Section 6-101.48); repealing 70
O.S. 2001, Section 6-101.48, as last amended by
Section 4, Chapter 162, O.S.L. 2008 (70 O.S. Supp.
2008, Section 6-101.48); amending 70 O.S. 2001,
Section 2603, as last amended by Section 1, Chapter

1 409, O.S.L. 2008 (70 O.S. Supp. 2008, Section 2603);
2 repealing 70 O.S. 2001, Section 2603, as last amended
3 by Section 2, Chapter 350, O.S.L. 2008 (70 O.S. Supp.
4 2008, Section 2603); amending 70 O.S. 2001, Section
5 2605, as last amended by Section 2, Chapter 409,
6 O.S.L. 2008 (70 O.S. Supp. 2008, Section 2605);
7 repealing 70 O.S. 2001, Section 2605, as last amended
8 by Section 4, Chapter 350, O.S.L. 2008 (70 O.S. Supp.
9 2008, Section 2605); repealing 74 O.S. 2001, Section
10 1303, as last amended by Section 11, Chapter 344,
11 O.S.L. 2008 (74 O.S. Supp. 2008, Section 1303);
12 repealing Section 4, Chapter 231, O.S.L. 2006, as
13 amended by Section 12, Chapter 344, O.S.L. 2008 (74
14 O.S. Supp. 2008, Section 1309.1); providing an
15 effective date; and declaring an emergency.

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

17 SECTION 1. AMENDATORY 21 O.S. 2001, Section 644, as last
18 amended by Section 1, Chapter 318, O.S.L. 2008 (21 O.S. Supp. 2008,
19 Section 644), is amended to read as follows:

20 Section 644. A. Assault shall be punishable by imprisonment in
21 a county jail not exceeding thirty (30) days, or by a fine of not
22 more than Five Hundred Dollars (\$500.00), or by both such fine and
23 imprisonment.

24 B. Assault and battery shall be punishable by imprisonment in a
county jail not exceeding ninety (90) days, or by a fine of not more
than One Thousand Dollars (\$1,000.00), or by both such fine and
imprisonment.

C. Any person who commits any assault and battery against a
current or former spouse, a present spouse of a former spouse,
parents, a foster parent, a child, a person otherwise related by

1 blood or marriage, a person with whom the defendant is in a dating
2 relationship as defined by Section 60.1 of Title 22 of the Oklahoma
3 Statutes, an individual with whom the defendant has had a child, a
4 person who formerly lived in the same household as the defendant, or
5 a person living in the same household as the defendant shall be
6 guilty of domestic abuse. Upon conviction, the defendant shall be
7 punished by imprisonment in the county jail for not more than one
8 (1) year, or by a fine not exceeding Five Thousand Dollars
9 (\$5,000.00), or by both such fine and imprisonment. Upon conviction
10 for a second or subsequent offense, the person shall be punished by
11 imprisonment in the custody of the Department of Corrections for not
12 more than four (4) years, or by a fine not exceeding Five Thousand
13 Dollars (\$5,000.00), or by both such fine and imprisonment. The
14 provisions of Section 51.1 of this title shall not apply to any
15 second or subsequent offense.

16 D. Any person convicted of domestic abuse committed against a
17 pregnant woman with knowledge of the pregnancy shall be guilty of a
18 misdemeanor, punishable by imprisonment in the county jail for not
19 more than one (1) year.

20 Any person convicted of a second or subsequent offense of
21 domestic abuse against a pregnant woman with knowledge of the
22 pregnancy shall be guilty of a felony, punishable by imprisonment in
23 the custody of the Department of Corrections for not less than ten
24 (10) years.

1 Any person convicted of domestic abuse committed against a
2 pregnant woman with knowledge of the pregnancy and a miscarriage
3 occurs or injury to the unborn child occurs shall be guilty of a
4 felony, punishable by imprisonment in the custody of the Department
5 of Corrections for not less than twenty (20) years.

6 E. Any person convicted of domestic abuse as defined in
7 subsection C of this section that results in great bodily injury to
8 the victim shall be guilty of a felony and punished by imprisonment
9 in the custody of the Department of Corrections for not more than
10 ten (10) years, or by imprisonment in the county jail for not more
11 than one (1) year. The provisions of Section 51.1 of this title
12 shall apply to any second or subsequent conviction of a violation of
13 this subsection.

14 F. Any person convicted of domestic abuse as defined in
15 subsection C of this section that was committed in the presence of a
16 child shall be punished by imprisonment in the county jail for not
17 less than six (6) months nor more than one (1) year, or by a fine
18 not exceeding Five Thousand Dollars (\$5,000.00), or by both such
19 fine and imprisonment. Any person convicted of a second or
20 subsequent domestic abuse as defined in subsection C of this section
21 that was committed in the presence of a child shall be punished by
22 imprisonment in the custody of the Department of Corrections for not
23 less than one (1) year nor more than five (5) years, or by a fine
24 not exceeding Seven Thousand Dollars (\$7,000.00), or by both such

1 fine and imprisonment. The provisions of Section 51.1 of this title
2 shall not apply to any second or subsequent offense. For every
3 conviction of domestic abuse, the court shall:

4 1. Specifically order as a condition of a suspended sentence or
5 probation that a defendant participate in counseling or undergo
6 treatment to bring about the cessation of domestic abuse as
7 specified in paragraph 2 of this subsection;

8 2. a. The court shall require the defendant to participate
9 in counseling or undergo treatment for domestic abuse
10 by an individual licensed practitioner or a domestic
11 abuse treatment program certified by the Attorney
12 General. If the defendant is ordered to participate
13 in a domestic abuse counseling or treatment program,
14 the order shall require the defendant to attend the
15 program for a minimum of fifty-two (52) weeks,
16 complete the program, and be evaluated before and
17 after attendance of the program by a program counselor
18 or a private counselor. Three unexcused absences in
19 succession or seven unexcused absences in a period of
20 fifty-two (52) weeks from any court-ordered domestic
21 abuse counseling or treatment program shall be prima
22 facie evidence of the violation of the conditions of
23 probation for the district attorney to seek
24

1 acceleration or revocation of any probation entered by
2 the court.

3 b. A program for anger management, couples counseling, or
4 family and marital counseling shall not solely qualify
5 for the counseling or treatment requirement for
6 domestic abuse pursuant to this subsection. The
7 counseling may be ordered in addition to counseling
8 specifically for the treatment of domestic abuse or
9 per evaluation as set forth below. If, after
10 sufficient evaluation and attendance at required
11 counseling sessions, the domestic violence treatment
12 program or licensed professional determines that the
13 defendant does not evaluate as a perpetrator of
14 domestic violence or does evaluate as a perpetrator of
15 domestic violence and should complete other programs
16 of treatment simultaneously or prior to domestic
17 violence treatment, including but not limited to
18 programs related to the mental health, apparent
19 substance or alcohol abuse or inability or refusal to
20 manage anger, the defendant shall be ordered to
21 complete the counseling as per the recommendations of
22 the domestic violence treatment program or licensed
23 professional;

1 3. a. The court shall set a review hearing no more than one
2 hundred twenty (120) days after the defendant is
3 ordered to participate in a domestic abuse counseling
4 program or undergo treatment for domestic abuse to
5 assure the attendance and compliance of the defendant
6 with the provisions of this subsection and the
7 domestic abuse counseling or treatment requirements.
8 The court may suspend sentencing of the defendant
9 until the defendant has presented proof to the court
10 of enrollment in a program of treatment for domestic
11 abuse by an individual licensed practitioner or a
12 domestic abuse treatment program certified by the
13 Attorney General and attendance at weekly sessions of
14 such program. Such proof shall be presented to the
15 court by the defendant no later than one hundred
16 twenty (120) days after the defendant is ordered to
17 such counseling or treatment. At such time, the court
18 may complete sentencing, beginning the period of the
19 sentence from the date that proof of enrollment is
20 presented to the court, and schedule reviews as
21 required by subparagraphs a and b of this paragraph
22 and paragraphs 4 and 5 of this subsection. Three
23 unexcused absences in succession or seven unexcused
24 absences in a period of fifty-two (52) weeks from any

1 court-ordered domestic abuse counseling or treatment
2 program shall be prima facie evidence of the violation
3 of the conditions of probation for the district
4 attorney to seek acceleration or revocation of any
5 probation entered by the court.

6 b. The court shall set a second review hearing after the
7 completion of the counseling or treatment to assure
8 the attendance and compliance of the defendant with
9 the provisions of this subsection and the domestic
10 abuse counseling or treatment requirements. The court
11 shall retain continuing jurisdiction over the
12 defendant during the course of ordered counseling
13 through the final review hearing;

14 4. The court may set subsequent or other review hearings as the
15 court determines necessary to assure the defendant attends and fully
16 complies with the provisions of this subsection and the domestic
17 abuse counseling or treatment requirements;

18 5. At any review hearing, if the defendant is not
19 satisfactorily attending individual counseling or a domestic abuse
20 counseling or treatment program or is not in compliance with any
21 domestic abuse counseling or treatment requirements, the court may
22 order the defendant to further or continue counseling, treatment, or
23 other necessary services. The court may revoke all or any part of a
24 suspended sentence, deferred sentence, or probation pursuant to

1 Section 991b of Title 22 of the Oklahoma Statutes and subject the
2 defendant to any or all remaining portions of the original sentence;

3 6. At the first review hearing, the court shall require the
4 defendant to appear in court. Thereafter, for any subsequent review
5 hearings, the court may accept a report on the progress of the
6 defendant from individual counseling, domestic abuse counseling, or
7 the treatment program. There shall be no requirement for the victim
8 to attend review hearings; and

9 7. If funding is available, a referee may be appointed and
10 assigned by the presiding judge of the district court to hear
11 designated cases set for review under this subsection. Reasonable
12 compensation for the referees shall be fixed by the presiding judge.
13 The referee shall meet the requirements and perform all duties in
14 the same manner and procedure as set forth in Sections 7003-8.6 and
15 7303-7.5 of Title 10 of the Oklahoma Statutes pertaining to referees
16 appointed in juvenile proceedings.

17 The defendant may be required to pay all or part of the cost of
18 the counseling or treatment, in the discretion of the court.

19 G. As used in subsection F of this section, "in the presence of
20 a child" means in the physical presence of a child; or having
21 knowledge that a child is present and may see or hear an act of
22 domestic violence. For the purposes of subsections C and F of this
23 section, "child" may be any child whether or not related to the
24 victim or the defendant.

1 H. For the purposes of subsections C and F of this section, any
2 conviction for assault and battery against a current or former
3 spouse, a present spouse of a former spouse, parents, a foster
4 parent, a child, a person otherwise related by blood or marriage, a
5 person with whom the defendant is in a dating relationship as
6 defined by Section 60.1 of Title 22 of the Oklahoma Statutes, an
7 individual with whom the defendant has had a child, a person who
8 formerly lived in the same household as the defendant, or any person
9 living in the same household as the defendant, shall constitute a
10 sufficient basis for a felony charge:

11 1. If that conviction is rendered in any state, county or
12 parish court of record of this or any other state; or

13 2. If that conviction is rendered in any municipal court of
14 record of this or any other state for which any jail time was
15 served; provided, no conviction in a municipal court of record
16 entered prior to November 1, 1997, shall constitute a prior
17 conviction for purposes of a felony charge.

18 I. Any person who commits any assault and battery with intent
19 to cause great bodily harm by strangulation or attempted
20 strangulation against a current or former spouse, a present spouse
21 of a former spouse, parents, a foster parent, a child, a person
22 otherwise related by blood or marriage, a person with whom the
23 defendant is in a dating relationship as defined by Section 60.1 of
24 Title 22 of the Oklahoma Statutes, an individual with whom the

1 defendant has had a child, a person who formerly lived in the same
2 household as the defendant, or a person living in the same household
3 as the defendant shall, upon conviction, be guilty of domestic abuse
4 by strangulation and shall be punished by imprisonment in the
5 custody of the Department of Corrections for a period of not less
6 than one (1) year nor more than three (3) years, or by a fine of not
7 more than Three Thousand Dollars (\$3,000.00), or by both such fine
8 and imprisonment. Upon a second or subsequent conviction, the
9 defendant shall be punished by imprisonment in the custody of the
10 Department of Corrections for a period of not less than three (3)
11 years nor more than ten (10) years, or by a fine of not more than
12 Twenty Thousand Dollars (\$20,000.00), or by both such fine and
13 imprisonment. As used in this subsection, "strangulation" means a
14 form of asphyxia characterized by closure of the blood vessels or
15 air passages of the neck as a result of external pressure on the
16 neck.

17 J. Any district court of this state and any judge thereof shall
18 be immune from any liability or prosecution for issuing an order
19 that requires a defendant to:

20 1. Attend a treatment program for domestic abusers certified by
21 the Attorney General;

22 2. Attend counseling or treatment services ordered as part of
23 any suspended or deferred sentence or probation; and
24

1 3. Attend, complete, and be evaluated before and after
2 attendance by a treatment program for domestic abusers, certified by
3 the Attorney General.

4 K. There shall be no charge of fees or costs to any victim of
5 domestic violence, stalking, or sexual assault in connection with
6 the prosecution of a domestic violence, stalking, or sexual assault
7 offense in this state.

8 L. In the course of prosecuting any charge of domestic abuse,
9 stalking, harassment, rape, or violation of a protective order, the
10 prosecutor shall provide the court, prior to sentencing or any plea
11 agreement, a local history and any other available history of past
12 convictions of the defendant within the last ten (10) years relating
13 to domestic abuse, stalking, harassment, rape, violation of a
14 protective order, or any other violent misdemeanor or felony
15 convictions.

16 M. Any plea of guilty or finding of guilt for a violation of
17 subsection C, E, F, H or I of this section shall constitute a
18 conviction of the offense for the purpose of this act or any other
19 criminal statute under which the existence of a prior conviction is
20 relevant.

21 N. For purposes of subsection E of this section, "great bodily
22 injury" means bone fracture, protracted and obvious disfigurement,
23 protracted loss or impairment of the function of a body part, organ
24 or mental faculty, or substantial risk of death.

1 SECTION 2. REPEALER 21 O.S. 2001, Section 644, as last
2 amended by Section 1, Chapter 403, O.S.L. 2008 (21 O.S. Supp. 2008,
3 Section 644), is hereby repealed.

4 SECTION 3. AMENDATORY 21 O.S. 2001, Section 1051, as last
5 amended by Section 4, Chapter 275, O.S.L. 2004 (21 O.S. Supp. 2008,
6 Section 1051), is amended to read as follows:

7 Section 1051. A. A lottery is any scheme for the disposal or
8 distribution of property by chance among persons who have paid, or
9 promised, or agreed to pay any valuable consideration for the chance
10 of obtaining such property, or a portion of it, or for any share of
11 or interest in such property, upon any agreement, understanding or
12 expectation that it is to be distributed or disposed of by a lot or
13 chance, whether called a lottery, a raffle, or a gift enterprise, or
14 by whatever name the same may be known. "Valuable consideration"
15 shall be construed to mean money or goods of actual pecuniary value.
16 Provided, it shall not be a violation of the lottery or gambling
17 laws of this state for:

18 1. The Oklahoma Lottery Commission to conduct a lottery
19 pursuant to the provisions of the Oklahoma Education Lottery Act;

20 2. A bona fide resident merchant or merchants of a city or
21 town, acting in conjunction with the Chamber of Commerce or
22 Commercial Club of this state thereof, to issue free of charge
23 numbered tickets on sales of merchandise, the corresponding stub of
24 one or more of which tickets to be drawn or chosen by lot by a

1 representative or representatives of ~~said~~ the Chamber of Commerce or
2 of ~~said~~ the Commercial Club in the manner set forth on ~~said~~ the
3 tickets, the numbered stub or stubs so drawn to entitle the holder
4 of the corresponding numbered issued ticket to a valuable prize
5 donated by ~~said~~ the merchant;

6 ~~2.~~ 3. A bona fide community chest welfare fund on a military
7 post or reservation to issue numbered tickets in conjunction with
8 voluntary contributions to ~~said~~ the fund, the corresponding stub or
9 stubs of one or more of ~~said~~ the tickets to be drawn by lot under
10 the supervision of a military commander, the stub or stubs so drawn
11 entitling the ticket holder to a prize of some value. Provided,
12 however, that no person shall sell tickets or receive contributions
13 to ~~said~~ the fund off the military reservation; or

14 ~~3.~~ 4. a. A qualified organization to raise funds by
15 issuing numbered tickets in conjunction with voluntary
16 contributions to the qualified organization, the
17 corresponding stub or stubs of one or more of the
18 tickets to be drawn by lot under the supervision of an
19 official of the qualified organization, the stub or
20 stubs so drawn entitling the ticket holder to a prize.
21 As used in this paragraph, "qualified organization"
22 means:

23 (1) a church,
24

- (2) a public or private school accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs,
- (3) a student group or organization affiliated with a public or private school qualified pursuant to division (2) of this subparagraph,
- (4) a parent-teacher association or organization affiliated with a public or private school qualified pursuant to division (2) of this subparagraph,
- (5) fire departments,
- (6) police departments,
- (7) organizations that are exempt from taxation pursuant to the provisions of subsection (c) of Section 501 of the United States Internal Revenue Code, as amended, 26 U.S.C., Section 501(c) et seq., or
- (8) an "organization" as such term is defined in paragraph 20 of Section 402 of Title 3A of the Oklahoma Statutes.

b. Any raffle conducted by a qualified organization shall be conducted by members of the qualified organization without compensation to any member. The organization

1 shall not hire or contract with any person or business
2 association, corporation, partnership, limited
3 partnership or limited liability company to conduct a
4 raffle, to sell raffle tickets or to solicit
5 contributions in connection with a raffle on behalf of
6 the organization.

7 B. If the Oklahoma Education Lottery Act ceases to have the
8 force and effect of law pursuant to Section 36 of the Oklahoma
9 Education Lottery Act, the provisions of paragraph 3 of subsection A
10 of this section shall cease to have the force and effect of law.

11 SECTION 4. REPEALER 21 O.S. 2001, Section 1051, as
12 amended by Section 37, Chapter 58, O.S.L. 2003 (21 O.S. Supp. 2008,
13 Section 1051), is hereby repealed.

14 SECTION 5. AMENDATORY 21 O.S. 2001, Section 1738, as last
15 amended by Section 4, Chapter 438, O.S.L. 2008 (21 O.S. Supp. 2008,
16 Section 1738), is amended to read as follows:

17 Section 1738. A. Any commissioned peace officer of this state
18 is authorized to seize any vehicle owned by or registered to the
19 defendant used in the commission of any armed robbery offense
20 defined in Section 801 of this title, or any vehicle owned by or
21 registered to the defendant when such vehicle is used to facilitate
22 the intentional discharge of any kind of firearm in violation of
23 Section 652 of this title, or any vehicle, airplane, vessel,
24 vehicles or parts of vehicles whose numbers have been removed,

1 altered or obliterated so as to prevent determination of the true
2 identity or ownership of said property and parts of vehicles which
3 probable cause indicates are stolen but whose true ownership cannot
4 be determined, or any vehicle owned by or registered to the
5 defendant used in violation of the Trademark Anti-Counterfeiting
6 Act, or any equipment owned by or registered to the defendant which
7 is used in the attempt or commission of any act of burglary in the
8 first or second degree, motor vehicle theft, unauthorized use of a
9 vehicle, obliteration of distinguishing numbers on vehicles or
10 criminal possession of vehicles with altered, removed or obliterated
11 numbers as defined by Sections 1431, 1435, 1716, 1719 and 1720 of
12 this title or Sections 4-104 and 4-107 of Title 47 of the Oklahoma
13 Statutes, or any equipment owned by or registered to the defendant
14 used in violation of the Trademark Anti-Counterfeiting Act, or any
15 vehicle, airplane, vessel or equipment owned by or registered to the
16 defendant used in the commission of any arson offense defined in
17 Section 1401, 1402, 1403, 1404 or 1405 of this title. Said property
18 may be held as evidence until a forfeiture has been declared or a
19 release ordered. Forfeiture actions under this section may be
20 brought by the district attorney in the proper county of venue as
21 petitioner; provided, in the event the district attorney elects not
22 to file such action, or fails to file such action within ninety (90)
23 days of the date of the seizure of such equipment, the property
24 shall be returned to the owner.

1 B. In addition to the property described in subsection A of
2 this section, the following property is also subject to forfeiture
3 pursuant to this section:

4 1. Property used in the commission of theft of livestock or in
5 any manner to facilitate the theft of livestock;

6 2. The proceeds gained from the commission of theft of
7 livestock;

8 3. Personal property acquired with proceeds gained from the
9 commission of theft of livestock;

10 4. All conveyances, including aircraft, vehicles or vessels,
11 and horses or dogs which are used to transport or in any manner to
12 facilitate the transportation for the purpose of the commission of
13 theft of livestock;

14 5. Any items having a counterfeit mark and all property that is
15 owned by or registered to the defendant that is employed or used in
16 connection with any violation of the Trademark Anti-Counterfeiting
17 Act;

18 6. Any weapon possessed, used or available for use in any
19 manner during the commission of a felony within the State of
20 Oklahoma, or any firearm that is possessed by a convicted felon;

21 7. Any police scanner used in violation of Section 1214 of this
22 title;

23 8. Any computer and its components and peripherals, including
24 but not limited to the central processing unit, monitor, keyboard,

1 printers, scanners, software, and hardware, when it is used in the
2 commission of any crime in this state;

3 9. All property used in the commission of, or in any manner to
4 facilitate, a violation of Section 2 of this act; ~~and~~

5 10. All conveyances, including aircraft, vehicles or vessels,
6 monies, coins and currency, or other instrumentality used or
7 intended to be used, in any manner or part, to commit a violation of
8 paragraph 1 of subsection A of Section 1021 of this title, where the
9 victim of the crime is a minor child, subsection B of Section 1021
10 of this title, Section 1021.2 of this title, paragraph 1 of
11 subsection A of Section 1111 of this title, or paragraphs 2 and 3 of
12 subsection A of Section 1123 of this title; and

13 11. All conveyances, including aircraft, vehicles or vessels,
14 monies, coins and currency, or other instrumentality used in any
15 manner or part, to commit any violation of the provisions set forth
16 in Section 748 of this title.

17 C. Notice of seizure and intended forfeiture proceeding shall
18 be filed in the office of the clerk of the district court for the
19 county wherein such property is seized and shall be given all owners
20 and parties in interest.

21 D. Notice shall be given according to one of the following
22 methods:

23 1. Upon each owner or party in interest whose right, title, or
24 interest is of record in the Oklahoma Tax Commission or with the

1 county clerk for filings under the Uniform Commercial Code, served
2 in the manner of service of process in civil cases prescribed by
3 Section 2004 of Title 12 of the Oklahoma Statutes;

4 2. Upon each owner or party in interest whose name and address
5 is known, served in the manner of service of process in civil cases
6 prescribed by Section 2004 of Title 12 of the Oklahoma Statutes; or

7 3. Upon all other owners, whose addresses are unknown, but who
8 are believed to have an interest in the property by one publication
9 in a newspaper of general circulation in the county where the
10 seizure was made.

11 E. Within sixty (60) days after the mailing or publication of
12 the notice, the owner of the property and any other party in
13 interest or claimant may file a verified answer and claim to the
14 property described in the notice of seizure and of the intended
15 forfeiture proceeding.

16 F. If at the end of sixty (60) days after the notice has been
17 mailed or published there is no verified answer on file, the court
18 shall hear evidence upon the fact of the unlawful use and may order
19 the property forfeited to the state, if such fact is proven.

20 G. If a verified answer is filed, the forfeiture proceeding
21 shall be set for hearing.

22 H. At the hearing the petitioner shall prove by clear and
23 convincing evidence that property was used in the attempt or
24 commission of an act specified in subsection A of this section or is

1 property described in subsection B of this section with knowledge by
2 the owner of the property.

3 I. The claimant of any right, title, or interest in the
4 property may prove the lien, mortgage, or conditional sales contract
5 to be bona fide and that the right, title, or interest created by
6 the document was created without any knowledge or reason to believe
7 that the property was being, or was to be, used for the purpose
8 charged.

9 J. In the event of such proof, the court may order the property
10 released to the bona fide or innocent owner, lien holder, mortgagee,
11 or vendor if the amount due such person is equal to, or in excess
12 of, the value of the property as of the date of the seizure, it
13 being the intention of this section to forfeit only the right,
14 title, or interest of the purchaser, except for items bearing a
15 counterfeit mark or used exclusively to manufacture a counterfeit
16 mark.

17 K. If the amount due to such person is less than the value of
18 the property, or if no bona fide claim is established, the property
19 may be forfeited to the state and may be sold pursuant to judgment
20 of the court, as on sale upon execution, and as provided in Section
21 2-508 of Title 63 of the Oklahoma Statutes, except as otherwise
22 provided for by law and for property bearing a counterfeit mark
23 which shall be destroyed.

24

1 L. Property taken or detained pursuant to this section shall
2 not be repleviable, but shall be deemed to be in the custody of the
3 petitioner or in the custody of the law enforcement agency as
4 provided in the Trademark Anti-Counterfeiting Act. Except for
5 property required to be destroyed pursuant to the Trademark Anti-
6 Counterfeiting Act, the petitioner shall release said property to
7 the owner of the property if it is determined that the owner had no
8 knowledge of the illegal use of the property or if there is
9 insufficient evidence to sustain the burden of showing illegal use
10 of such property. If the owner of the property stipulates to the
11 forfeiture and waives the hearing, the petitioner may determine if
12 the value of the property is equal to or less than the outstanding
13 lien. If such lien exceeds the value of the property, the property
14 may be released to the lien holder. Property which has not been
15 released by the petitioner shall be subject to the orders and
16 decrees of the court or the official having jurisdiction thereof.

17 M. The petitioner, or the law enforcement agency holding
18 property pursuant to the Trademark Anti-Counterfeiting Act, shall
19 not be held civilly liable for having custody of the seized property
20 or proceeding with a forfeiture action as provided for in this
21 section.

22 N. Attorney fees shall not be assessed against the state or the
23 petitioner for any actions or proceeding pursuant to Section 1701 et
24 seq. of this title.

1 0. The proceeds of the sale of any property shall be
2 distributed as follows, in the order indicated:

3 1. To the bona fide or innocent purchaser, conditional sales
4 vendor, or mortgagee of the property, if any, up to the amount of
5 such person's interest in the property, when the court declaring the
6 forfeiture orders a distribution to such person;

7 2. To the payment of the actual reasonable expenses of
8 preserving the property;

9 3. To the victim of the crime to compensate said victim for any
10 loss incurred as a result of the act for which such property was
11 forfeited; and

12 4. The balance to a revolving fund in the office of the county
13 treasurer of the county wherein the property was seized, to be
14 distributed as follows: one-third (1/3) to the investigating law
15 enforcement agency; one-third (1/3) of said fund to be used and
16 maintained as a revolving fund by the district attorney for the
17 victim-witness fund, a reward fund or the evidence fund; and one-
18 third (1/3) to go to the jail maintenance fund, with a yearly
19 accounting to the board of county commissioners in whose county the
20 fund is established. If the petitioner is not the district
21 attorney, then the one-third (1/3) which would have been designated
22 to that office shall be distributed to the petitioner. Monies
23 distributed to the jail maintenance fund shall be used to pay costs
24 for the storage of such property if such property is ordered

1 released to a bona fide or innocent owner, lien holder, mortgagee,
2 or vendor and if such funds are available in said fund.

3 P. Monies distributed into the revolving fund in the office of
4 the county treasurer from forfeitures initiated under this section
5 by the district attorney shall be limited to One Hundred Thousand
6 Dollars (\$100,000.00) at any one time in counties with population in
7 excess of three hundred thousand (300,000) and Twenty-five Thousand
8 Dollars (\$25,000.00) at any one time in counties with population
9 less than three hundred thousand (300,000). Any amount in excess of
10 these figures shall be placed in the general fund of the county.

11 Q. If the court finds that the property was not used in the
12 attempt or commission of an act specified in subsection A of this
13 section and was not property subject to forfeiture pursuant to
14 subsection B of this section and is not property bearing a
15 counterfeit mark, the court shall order the property released to the
16 owner as the right, title, or interest appears on record in the Tax
17 Commission as of the seizure.

18 R. No vehicle, airplane, or vessel used by a person as a common
19 carrier in the transaction of business as a common carrier shall be
20 forfeited pursuant to the provisions of this section unless it shall
21 be proven that the owner or other person in charge of such
22 conveyance was a consenting party or privy to the attempt or
23 commission of an act specified in subsection A or B of this section.
24 No property shall be forfeited pursuant to the provisions of this

1 section by reason of any act or omission established by the owner
2 thereof to have been committed or omitted without the knowledge or
3 consent of such owner, and by any person other than such owner while
4 such property was unlawfully in the possession of a person other
5 than the owner in violation of the criminal laws of the United
6 States or of any state.

7 S. Whenever any property is forfeited pursuant to this section,
8 the district court having jurisdiction of the proceeding may order
9 that the forfeited property may be retained for its official use by
10 the state, county, or municipal law enforcement agency which seized
11 the property.

12 SECTION 6. REPEALER 21 O.S. 2001, Section 1738, as last
13 amended by Section 3, Chapter 134, O.S.L. 2008 (21 O.S. Supp. 2008,
14 Section 1738), is hereby repealed.

15 SECTION 7. AMENDATORY 22 O.S. 2001, Section 18, as last
16 amended by Section 1, Chapter 46, O.S.L. 2008 (22 O.S. Supp. 2008,
17 Section 18), is amended to read as follows:

18 Section 18. Persons authorized to file a motion for
19 expungement, as provided herein, must be within one of the following
20 categories:

- 21 1. The person has been acquitted;
- 22 2. The conviction was reversed with instructions to dismiss by
23 an appellate court of competent jurisdiction, or an appellate court

24

1 of competent jurisdiction reversed the conviction and the district
2 attorney subsequently dismissed the charge;

3 3. The factual innocence of the person was established by the
4 use of deoxyribonucleic acid (DNA) evidence subsequent to
5 conviction, including a person who has been released from prison at
6 the time innocence was established;

7 4. The person has received a full pardon on the basis of a
8 written finding by the Governor of actual innocence for the crime
9 for which the claimant was sentenced;

10 5. The person was arrested and no charges of any type,
11 including charges for an offense different than that for which the
12 person was originally arrested are filed or charges are dismissed
13 within one (1) year of the arrest, or all charges are dismissed on
14 the merits;

15 6. The statute of limitations on the offense had expired and no
16 charges were filed;

17 7. The person was under eighteen (18) years of age at the time
18 the offense was committed and the person has received a full pardon
19 for the offense;

20 8. The offense was a misdemeanor, the person has not been
21 convicted of any other misdemeanor or felony, no felony or
22 misdemeanor charges are pending against the person, and at least ten
23 (10) years have passed since the judgment was entered;

24

1 9. The offense was a nonviolent felony, as defined in Section
2 571 of Title 57 of the Oklahoma Statutes, the person has received a
3 full pardon for the offense, the person has not been convicted of
4 any other misdemeanor or felony, no felony or misdemeanor charges
5 are pending against the person, and at least ten (10) years have
6 passed since the conviction; or

7 10. The person has been charged or arrested or is the subject
8 of an arrest warrant for a crime that was committed by another
9 person who has appropriated or used the person's name or other
10 identification without the person's consent or authorization.

11 For purposes of this act, "expungement" shall mean the sealing
12 of criminal records. Records expunged pursuant to paragraph 10 of
13 this section shall be sealed to the public but not to law
14 enforcement agencies for law enforcement purposes.

15 SECTION 8. REPEALER 22 O.S. 2001, Section 18, as last
16 amended by Section 1, Chapter 75, O.S.L. 2008 (22 O.S. Supp. 2008,
17 Section 18), is hereby repealed.

18 SECTION 9. REPEALER Section 13, Chapter 132, O.S.L. 2008
19 (40 O.S. Supp. 2008, Section 3-119), is hereby repealed.

20 SECTION 10. REPEALER 47 O.S. 2001, Section 6-111, as
21 last amended by Section 1, Chapter 1, O.S.L. 2008 (47 O.S. Supp.
22 2008, Section 6-111), is hereby repealed.

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1 SECTION 11. REPEALER 47 O.S. 2001, Section 1102, as last
2 amended by Section 2, Chapter 297, O.S.L. 2008 (47 O.S. Supp. 2008,
3 Section 1102), is hereby repealed.

4 SECTION 12. REPEALER Section 4, Chapter 297, O.S.L. 2008
5 (47 O.S. Supp. 2008, Section 1151.4), is hereby repealed.

6 SECTION 13. AMENDATORY Section 9, Chapter 469, O.S.L.
7 2002, as last amended by Section 1, Chapter 215, O.S.L. 2008 (59
8 O.S. Supp. 2008, Section 2093), is amended to read as follows:

9 Section 2093. A. As a condition of renewal or reactivation of
10 the mortgage broker license or the mortgage loan originator license,
11 each licensee shall submit to the Administrator of Consumer Credit
12 evidence of completion of a specified number of hours of continuing
13 education courses which examine the individual to the satisfaction
14 of the standards as established by the National Association of
15 Mortgage Brokers in relation to the course material presented during
16 the offering and are approved by the Administrator, within the
17 preceding term for which the license is to be issued. The number of
18 hours, or its equivalent, required for each licensed term shall be
19 determined by the Mortgage Broker Advisory Committee and promulgated
20 by rule. Each licensee shall be required to complete and include as
21 part of the continuing education a certain number of required
22 subjects as prescribed by rule.

23
24

1 B. The continuing education courses required by this section
2 shall be satisfied by courses approved by the Administrator and
3 offered by:

4 1. The Commission on Consumer Credit;

5 2. A technology center school;

6 3. A college or university;

7 4. A private school;

8 5. The Oklahoma Association of Mortgage ~~Brokers~~ Professionals,
9 the National Association of Mortgage Brokers, or any affiliate
10 thereof;

11 6. The Oklahoma Bar Association, American Bar Association, or
12 any affiliate thereof; or

13 7. An education provider.

14 C. The Administrator shall maintain a list of courses which are
15 approved by the Administrator.

16 D. The Administrator shall not issue an active renewal license
17 or reactivate a license unless the continuing education requirement
18 set forth in this section is satisfied within the prescribed time
19 period.

20 E. The provisions of this section do not apply:

21 1. During the period a license is on inactive status; or

22 2. To a nonresident licensee licensed in this state if the
23 licensee maintains a current license in another state and has
24

1 satisfied the continuing education requirement for license renewal
2 in that state.

3 SECTION 14. REPEALER Section 9, Chapter 469, O.S.L.
4 2002, as last amended by Section 2, Chapter 213, O.S.L. 2008 (59
5 O.S. Supp. 2008, Section 2093), is hereby repealed.

6 SECTION 15. AMENDATORY Section 2, Chapter 207, O.S.L.
7 2006, as last amended by Section 16, Chapter 312, O.S.L. 2008 (59
8 O.S. Supp. 2008, Section 3021), is amended to read as follows:

9 Section 3021. A. The Legislature, finding that the protection
10 of public health and safety requires that elevators and similar
11 devices be installed, maintained, and regularly inspected in
12 compliance with recognized safety standards and codes, declares that
13 elevator contractors, elevator mechanics, and elevator inspectors
14 shall be licensed by this state pursuant to the Elevator Safety Act.

15 B. 1. Effective November 1, 2006, except as otherwise provided
16 for by the Elevator Safety Act or rules promulgated pursuant
17 thereto, no person shall erect, construct, install, wire, alter,
18 replace, maintain, remove, repair, or dismantle any elevator unless
19 the person holds a valid elevator mechanic's license pursuant to the
20 Elevator Safety Act and is employed by a person or business entity
21 licensed as an elevator contractor pursuant to the Elevator Safety
22 Act. Any person violating the provisions of this subsection shall
23 be guilty of a misdemeanor and, upon conviction, subject to a fine
24 of not more than Five Hundred Dollars (\$500.00) for the first

1 offense and up to One Thousand Dollars (\$1,000.00) for each
2 additional offense, or imprisonment in the county jail for not more
3 than ten (10) days, or both such fine and imprisonment. Each day's
4 violation shall constitute a separate offense. Conviction as
5 provided herein shall not preclude any filing of a civil action.

6 2. Whenever an emergency exists in this state due to disaster,
7 act of God or work stoppage, and the number of persons in the state
8 holding licenses issued by the Commissioner of Labor is insufficient
9 to cope with the emergency, licensed elevator contractors shall
10 respond as necessary to assure the safety of the public. Any person
11 certified by a licensed elevator contractor to have an acceptable
12 combination of documented experience and education to perform
13 elevator work without direct and immediate supervision shall apply
14 for an emergency elevator mechanic license from the Department of
15 Labor within five (5) business days after commencing work requiring
16 a license. The Commissioner shall issue emergency elevator mechanic
17 licenses. The licensed elevator contractor shall furnish proof of
18 competency as the Commissioner may require. Each such license shall
19 state that it is valid for a period of forty-five (45) days from the
20 date thereof and for such particular elevators or geographical areas
21 as the Commissioner may designate and otherwise shall entitle the
22 licensee to the rights and privileges of an elevator mechanic
23 license issued pursuant to the Elevator Safety Act. The
24 Commissioner shall renew an emergency elevator mechanic license upon

1 proper application during the existence of an emergency. No fee
2 shall be charged for any emergency elevator mechanic license or
3 renewal thereof.

4 3. A licensed elevator contractor shall notify the Commissioner
5 of Labor when there are no licensed personnel available to perform
6 elevator work. The licensed elevator contractor may request that
7 the Commissioner issue temporary elevator mechanic licenses to
8 persons certified by the licensed elevator contractor to have an
9 acceptable combination of documented experience and education to
10 perform elevator work without direct and immediate supervision. Any
11 person certified by a licensed elevator contractor to have any
12 combination of documented experience and education to perform
13 elevator work without direct and immediate supervision shall
14 immediately apply for a temporary elevator mechanic license from the
15 Commissioner and shall pay such fee as the Commissioner shall
16 determine. Each such license shall state that it is valid for a
17 period not to exceed forty-five (45) days and while employed by the
18 licensed elevator contractor that certified the individual as
19 qualified. The Commissioner shall renew such licenses upon proper
20 application and payment of any required fees as long as the shortage
21 of license holders shall continue.

22 4. The Commissioner of Labor or an authorized representative
23 may issue a written order for the temporary cessation of operation
24 of an elevator if it has been determined after inspection to be

1 hazardous, unsafe, or in violation of any provisions of the Elevator
2 Safety Act or rules promulgated by the Commissioner. Operations
3 shall not resume until such conditions are corrected to the
4 satisfaction of the Commissioner. The Commissioner or an authorized
5 representative may inspect any elevator without notice. The
6 Commissioner or an authorized representative may issue a written
7 order for the temporary cessation of any licensing violations and/or
8 any violations of any rule or order promulgated pursuant to the
9 provisions of the Elevator Safety Act.

10 5. Any alleged violator of paragraph 2 of this subsection shall
11 be afforded an opportunity for a fair and swift administrative
12 hearing. The hearing may be conducted by the Commissioner or
13 his/her designated hearing officer in conformity with, and records
14 made thereof as provided by, Sections 308a through 323 of Title 75
15 of the Oklahoma Statutes.

16 6. Any order issued by the Commissioner or an authorized
17 representative may be enforced in the district court in an action
18 for an injunction or writ of mandamus upon the petition of the
19 district attorney or Attorney General, upon the request of the
20 Commissioner. Provided further, an injunction without bond may be
21 granted by the district court to the Commissioner, for the purpose
22 of enforcing the Elevator Safety Act.

23 C. Effective November 1, 2006, except as otherwise provided by
24 the Elevator Safety Act, every elevator in this state shall be

1 subject to the provisions as required by this act. Within six (6)
2 months of November 1, 2006, the owner or lessee of every elevator
3 already in service or put into service by November 1, 2006, shall
4 register the elevator with the Department of Labor, giving the type,
5 rated load and speed, name of manufacturer, location of the
6 elevator, and purpose for which used, as well as such other
7 information as the Commissioner of Labor may require. Elevators
8 newly constructed or installed on or after November 1, 2006, shall
9 be registered and inspected before being put into service.

10 D. The provisions of the Elevator Safety Act shall not apply to
11 elevators that are:

12 1. In or adjacent to buildings or excavations owned by and/or
13 under the operational control of the government of the United States
14 or located on federal property and/or a sovereign tribal nation.

15 Such elevators shall be inspected if the authorized representative
16 of the owner request such an inspection in writing and agrees to pay
17 inspection fees established pursuant to the Elevator Safety Act;

18 2. In an existing owner-occupied private residence; provided,
19 such elevators shall be inspected if the property owner so requests
20 and pays inspection fees established pursuant to the Elevator Safety
21 Act. Inspection of an elevator in a private residence pursuant to
22 this paragraph shall not cause any other provision of the Elevator
23 Safety Act to apply to the owner with respect to the private
24 residence; or

1 3. Located in or adjacent to a building or structure within a
2 manufacturing, utility or industrial facility. Such elevators shall
3 be inspected if the authorized representative of the facility
4 requests such an inspection in writing and agrees to pay inspection
5 fees established pursuant to the Elevator Safety Act.

6 E. Nothing in the Elevator Safety Act shall be construed as
7 prohibiting municipalities, counties, or other political
8 subdivisions of the state from enacting and enforcing licensure
9 requirements or safety standards exceeding those required by the
10 Elevator Safety Act.

11 F. Provisions of ~~Sections~~ Section 863.1 et seq. of Title 19 of
12 the Oklahoma Statutes that are in conflict with provisions of the
13 Elevator Safety Act shall prevail over provisions of the Elevator
14 Safety Act unless the provisions of Section 863.1 et seq. of Title
15 19 of the Oklahoma Statutes are less stringent than the provisions
16 of the Elevator Safety Act.

17 G. No person, firm, or corporation shall interfere with,
18 obstruct, or hinder by force or otherwise the Commissioner of Labor
19 or an authorized representative while in the performance of their
20 duties, or refuse to properly answer questions asked by such
21 officers pertaining to the laws over which he or she has supervision
22 under the provisions of the Elevator Safety Act, or refuse them
23 admittance to any place where an elevator is located which is
24 affected by the act.

1 SECTION 16. REPEALER Section 2, Chapter 207, O.S.L.
2 2006, as last amended by Section 4, Chapter 260, O.S.L. 2008 (59
3 O.S. Supp. 2008, Section 3021), is hereby repealed.

4 SECTION 17. REPEALER 62 O.S. 2001, Section 2004, as last
5 amended by Section 1, Chapter 317, O.S.L. 2006 (62 O.S. Supp. 2008,
6 Section 2004), is hereby repealed.

7 SECTION 18. REPEALER 62 O.S. 2001, Section 2006, as last
8 amended by Section 2, Chapter 317, O.S.L. 2006 (62 O.S. Supp. 2008,
9 Section 2006), is hereby repealed.

10 SECTION 19. REPEALER Section 11, Chapter 170, O.S.L.
11 2008 (63 O.S. Supp. 2008, Section 2-106.2), is hereby repealed.

12 SECTION 20. REPEALER Section 12, Chapter 170, O.S.L.
13 2008 (63 O.S. Supp. 2008, Section 2-111), is hereby repealed.

14 SECTION 21. AMENDATORY 68 O.S. 2001, Section 1001, as
15 last amended by Section 1, Chapter 278, O.S.L. 2008 (68 O.S. Supp.
16 2008, Section 1001), is amended to read as follows:

17 Section 1001. A. There is hereby levied upon the production of
18 asphalt, ores bearing lead, zinc, jack, gold, silver and copper a
19 tax equal to three-fourths of one percent (3/4 of 1%) on the gross
20 value thereof.

21 B. 1. Effective January 1, 1999, through June 30, 2010, except
22 as otherwise exempted pursuant to subsections D, E, F, G, H, I and J
23 of this section, there is hereby levied upon the production of oil a
24 tax as set forth in this subsection on the gross value of the

1 production of oil based on a per barrel measurement of forty-two
2 (42) U.S. gallons of two hundred thirty-one (231) cubic inches per
3 gallon, computed at a temperature of sixty (60) degrees Fahrenheit.
4 If the average price of Oklahoma oil as determined by the Oklahoma
5 Tax Commission pursuant to the provisions of paragraph 3 of this
6 subsection equals or exceeds Seventeen Dollars (\$17.00) per barrel,
7 then the tax shall be seven percent (7%). If the average price of
8 Oklahoma oil as determined by the Tax Commission pursuant to
9 paragraph 3 of this subsection is less than Seventeen Dollars
10 (\$17.00) but is equal to or exceeds Fourteen Dollars (\$14.00) per
11 barrel, then the tax shall be four percent (4%). If the average
12 price of Oklahoma oil as determined by the Tax Commission pursuant
13 to paragraph 3 of this subsection is less than Fourteen Dollars
14 (\$14.00) per barrel, then the tax shall be one percent (1%).

15 2. Effective July 1, 2010, except as otherwise exempted
16 pursuant to subsections D, E, F, G, H, I and J of this section,
17 there shall be levied upon the production of oil a tax equal to
18 seven percent (7%) of the gross value of the production of oil based
19 on a per barrel measurement of forty-two (42) U.S. gallons of two
20 hundred thirty-one (231) cubic inches per gallon, computed at a
21 temperature of sixty (60) degrees Fahrenheit.

22 3. Effective January 1, 1999, through June 30, 2010, the
23 average price of Oklahoma oil for purposes of this section shall be
24 computed by the Tax Commission based on the total value of oil

1 reported each month that is subject to the tax levied under this
2 section. At the first of each month, the Tax Commission shall
3 compute the average price paid per barrel of oil reported on the
4 monthly tax report for the most current production month on file.
5 The average price as computed by the Tax Commission shall be used to
6 determine the applicable tax rate for the third month following
7 production. Effective July 1, 2002, through June 30, 2010, the
8 average price of gas for purposes of this section shall be computed
9 by the Tax Commission based on the total value of gas reported each
10 month that is subject to the tax levied by this section. At the
11 first of each month, the Tax Commission shall compute the average
12 price paid per thousand cubic feet (mcf) of gas as reported on the
13 monthly tax report for the most current production month on file.
14 The average price as computed by the Tax Commission shall be used to
15 determine the applicable tax rate for the third month following
16 production.

17 4. Effective July 1, 2002, through June 30, 2010, except as
18 otherwise exempted pursuant to subsections D, E, F, G, H, I and J of
19 this section, there is hereby levied upon the production of gas a
20 tax as set forth in this subsection on the gross value of the
21 production of gas. If the average price of gas as determined by the
22 Tax Commission pursuant to the provisions of paragraph 3 of this
23 subsection equals or exceeds Two Dollars and ten cents (\$2.10) per
24 thousand cubic feet (mcf), then the tax shall be seven percent (7%).

1 If the average price of gas as determined by the Tax Commission
2 pursuant to the provisions of paragraph 3 of this subsection is less
3 than Two Dollars and ten cents (\$2.10) per thousand cubic feet (mcf)
4 but is equal to or exceeds One Dollar and seventy-five cents (\$1.75)
5 per thousand cubic feet (mcf), then the tax shall be four percent
6 (4%). If the average price of gas as determined by the Tax
7 Commission pursuant to the provisions of paragraph 3 of this
8 subsection is less than One Dollar and seventy-five cents (\$1.75)
9 per thousand cubic feet (mcf), then the tax shall be one percent
10 (1%).

11 5. Effective July 1, 2010, except as otherwise exempted
12 pursuant to subsections D, E, F, G, H, I and J of this section,
13 there shall be levied a tax equal to seven percent (7%) of the gross
14 value of the production of gas.

15 C. The taxes hereby levied shall also attach to, and are levied
16 on, what is known as the royalty interest, and the amount of such
17 tax shall be a lien on such interest.

18 D. 1. Except as otherwise provided in this section, any
19 incremental production attributable to the working interest owners
20 which results from an enhanced recovery project shall be exempt from
21 the gross production tax levied pursuant to this section from the
22 project beginning date until project payback is achieved for new
23 enhanced recovery projects or until project payback is achieved but
24 not to exceed a period of thirty-six (36) months for tertiary

1 enhanced recovery projects existing on July 1, 1988. This exemption
2 shall take effect July 1, 1988, and shall apply to enhanced recovery
3 projects approved or having a project beginning date prior to July
4 1, 1993. Project payback pursuant to this paragraph for enhanced
5 recovery projects qualifying for this exemption on or after July 1,
6 1990, and on or before June 30, 1993, shall be determined by
7 appropriate payback indicators which will not include any expenses
8 beyond the completion date of the well. Project payback pursuant to
9 this paragraph for enhanced recovery projects qualifying for this
10 exemption on or after October 17, 1987, and on or before June 30,
11 1990, shall be determined by appropriate payback indicators as
12 previously established and allowed by the Tax Commission for
13 projects qualifying during such period.

14 2. Except as otherwise provided in this section, for secondary
15 recovery projects approved and having a project beginning date on or
16 after July 1, 1993, and before July 1, 2000, any incremental
17 production attributable to the working interest owners which results
18 from such secondary recovery projects shall be exempt from the gross
19 production tax levied pursuant to this section from the project
20 beginning date until project payback is achieved but not to exceed a
21 period of ten (10) years. Project payback pursuant to this
22 paragraph shall be determined by appropriate payback indicators
23 which will provide for the recovery of capital expenses and fifty
24 percent (50%) of operating expenses, in determining project payback.

1 3. Except as otherwise provided in this section, for secondary
2 recovery projects approved or having an initial project beginning
3 date on or after July 1, 2000, and before July 1, 2009, any
4 incremental production attributable to the working interest owners
5 which results from such secondary recovery projects shall be exempt
6 from the gross production tax levied pursuant to this section for a
7 period not to exceed five (5) years from the initial project
8 beginning date or for a period ending upon the termination of the
9 secondary recovery process, whichever occurs first.

10 4. Except as otherwise provided in this section, for tertiary
11 recovery projects approved and having a project beginning date on or
12 after July 1, 1993, and before July 1, 2009, any incremental
13 production attributable to the working interest owners which results
14 from such tertiary recovery projects shall be exempt from the gross
15 production tax levied pursuant to this section from the project
16 beginning date until project payback is achieved, but not to exceed
17 a period of ten (10) years. Project payback pursuant to this
18 paragraph shall be determined by appropriate payback indicators
19 which will provide for the recovery of capital expenses and
20 operating expenses, excluding administrative expenses, in
21 determining project payback. The capital expenses of pipelines
22 constructed to transport carbon dioxide to a tertiary recovery
23 project shall not be included in determining project payback
24 pursuant to this paragraph.

1 5. The provisions of this subsection shall also not apply to
2 any enhanced recovery project using fresh water as the primary
3 injectant, except when using steam.

4 6. For purposes of this subsection:

- 5 a. "incremental production" means the amount of crude oil
6 or other liquid hydrocarbons which is produced during
7 an enhanced recovery project and which is in excess of
8 the base production amount of crude oil or other
9 liquid hydrocarbons. The base production amount shall
10 be the average monthly amount of production for the
11 twelve-month period immediately prior to the project
12 beginning date minus the monthly rate of production
13 decline for the project for each month beginning one
14 hundred eighty (180) days prior to the project
15 beginning date. The monthly rate of production
16 decline shall be equal to the average extrapolated
17 monthly decline rate for the twelve-month period
18 immediately prior to the project beginning date as
19 determined by the Corporation Commission based on the
20 production history of the field, its current status,
21 and sound reservoir engineering principles, and
- 22 b. "project beginning date" means the date on which the
23 injection of liquids, gases, or other matter begins on
24 an enhanced recovery project.

1 7. The Corporation Commission shall promulgate rules for the
2 qualification for this exemption which shall include, but not be
3 limited to, procedures for determining incremental production as
4 defined in subparagraph a of paragraph 6 of this subsection, and the
5 establishment of appropriate payback indicators as approved by the
6 Tax Commission for the determination of project payback for each of
7 the exemptions authorized by this subsection.

8 8. For new secondary recovery projects and tertiary recovery
9 projects approved by the Corporation Commission on or after July 1,
10 1993, and before July 1, 2009, such approval shall constitute
11 qualification for an exemption.

12 9. Any person seeking an exemption shall file an application
13 for such exemption with the Tax Commission which, upon determination
14 of qualification by the Corporation Commission, shall approve the
15 application for such exemption.

16 10. The Tax Commission may require any person requesting such
17 exemption to furnish information or records concerning the exemption
18 as is deemed necessary by the Tax Commission.

19 11. Upon the expiration of the exemption granted pursuant to
20 this subsection, the Tax Commission shall collect the gross
21 production tax levied pursuant to this section.

22 E. 1. Except as otherwise provided in this section, the
23 production of oil, gas or oil and gas from a horizontally drilled
24 well producing prior to July 1, 2002, which production commenced

1 after July 1, 1995, shall be exempt from the gross production tax
2 levied pursuant to subsection B of this section from the project
3 beginning date until project payback is achieved but not to exceed a
4 period of twenty-four (24) months commencing with the month of
5 initial production from the horizontally drilled well. Except as
6 otherwise provided in this section, the production of oil, gas or
7 oil and gas from a horizontally drilled well producing prior to July
8 1, 2009, which production commenced after July 1, 2002, shall be
9 exempt from the gross production tax levied pursuant to subsection B
10 of this section from the project beginning date until project
11 payback is achieved but not to exceed a period of forty-eight (48)
12 months commencing with the month of initial production from the
13 horizontally drilled well. Provided, any incremental production
14 which results from a horizontally drilled well producing prior to
15 July 1, 1994, shall be exempt from the gross production tax levied
16 pursuant to subsection B of this section from the project beginning
17 date until project payback is achieved but not to exceed a period of
18 twenty-four (24) months commencing with the month of initial
19 production from the horizontally drilled well. For purposes of
20 subsection D of this section and this subsection, project payback
21 shall be determined as of the date of the completion of the well and
22 shall not include any expenses beyond the completion date of the
23 well, and subject to the approval of the Tax Commission.

24

1 2. As used in this subsection, "horizontally drilled well"
2 shall mean an oil, gas or oil and gas well drilled or recompleted in
3 a manner which encounters and subsequently produces from a
4 geological formation at an angle in excess of seventy (70) degrees
5 from vertical and which laterally penetrates a minimum of one
6 hundred fifty (150) feet into the pay zone of the formation.

7 F. 1. Except as otherwise provided by this section, the
8 severance or production of oil, gas or oil and gas from an inactive
9 well shall be exempt from the gross production tax levied pursuant
10 to subsection B of this section for a period of twenty-eight (28)
11 months from the date upon which production is reestablished. This
12 exemption shall take effect July 1, 1994, and shall apply to wells
13 for which work to reestablish or enhance production began on or
14 after July 1, 1994, and for which production is reestablished prior
15 to July 1, 2009. For all such production, a refund against gross
16 production taxes shall be issued as provided in subsection L of this
17 section.

18 2. As used in this subsection, for wells for which production
19 is reestablished prior to July 1, 1997, "inactive well" means any
20 well that has not produced oil, gas or oil and gas for a period of
21 not less than two (2) years as evidenced by the appropriate forms on
22 file with the Corporation Commission reflecting the well's status.
23 As used in this subsection, for wells for which production is
24 reestablished on or after July 1, 1997, and prior to July 1, 2009,

1 "inactive well" means any well that has not produced oil, gas or oil
2 and gas for a period of not less than one (1) year as evidenced by
3 the appropriate forms on file with the Corporation Commission
4 reflecting the well's status. Wells which experience mechanical
5 failure or loss of mechanical integrity, as defined by the
6 Corporation Commission, including but not limited to, casing leaks,
7 collapse of casing or loss of equipment in a wellbore, or any
8 similar event which causes cessation of production, shall also be
9 considered inactive wells.

10 G. 1. Except as otherwise provided by this section, any
11 incremental production which results from a production enhancement
12 project shall be exempt from the gross production tax levied
13 pursuant to subsection B of this section for a period of twenty-
14 eight (28) months from the date of first sale after project
15 completion of the production enhancement project. This exemption
16 shall take effect July 1, 1994, and shall apply to production
17 enhancement projects having a project beginning date on or after
18 July 1, 1994, and prior to July 1, 2009. For all such production, a
19 refund against gross production taxes shall be issued as provided in
20 subsection L of this section.

21 2. As used in this subsection:

22 a. (1) for production enhancement projects having a
23 project beginning date prior to July 1, 1997,
24 "production enhancement project" means any

1 workover as defined in this paragraph,
2 recompletion as defined in this paragraph, or
3 fracturing of a producing well, and

4 (2) for production enhancement projects having a
5 project beginning date on or after July 1, 1997,
6 and prior to July 1, 2009, "production
7 enhancement project" means any workover as
8 defined in this paragraph, recompletion as
9 defined in this paragraph, reentry of plugged and
10 abandoned wellbores, or addition of a well or
11 field compression,

12 b. "incremental production" means the amount of crude
13 oil, natural gas or other hydrocarbons which are
14 produced as a result of the production enhancement
15 project in excess of the base production,

16 c. "base production" means the average monthly amount of
17 production for the twelve-month period immediately
18 prior to the commencement of the project or the
19 average monthly amount of production for the twelve-
20 month period immediately prior to the commencement of
21 the project less the monthly rate of production
22 decline for the project for each month beginning one
23 hundred eighty (180) days prior to the commencement of
24 the project. The monthly rate of production decline

1 shall be equal to the average extrapolated monthly
2 decline rate for the twelve-month period immediately
3 prior to the commencement of the project based on the
4 production history of the well. If the well or wells
5 covered in the application had production for less
6 than the full twelve-month period prior to the filing
7 of the application for the production enhancement
8 project, the base production shall be the average
9 monthly production for the months during that period
10 that the well or wells produced,

- 11 d. (1) for production enhancement projects having a
12 project beginning date prior to July 1, 1997,
13 "recompletion" means any downhole operation in an
14 existing oil or gas well that is conducted to
15 establish production of oil or gas from any
16 geological interval not currently completed or
17 producing in such existing oil or gas well, and
- 18 (2) for production enhancement projects having a
19 project beginning date on or after July 1, 1997,
20 and prior to July 1, 2009, "recompletion" means
21 any downhole operation in an existing oil or gas
22 well that is conducted to establish production of
23 oil or gas from any geologic interval not
24 currently completed or producing in such existing

1 oil or gas well within the same or a different
2 geologic formation, and

3 e. "workover" means any downhole operation in an existing
4 oil or gas well that is designed to sustain, restore
5 or increase the production rate or ultimate recovery
6 in a geologic interval currently completed or
7 producing in the existing oil or gas well. For
8 production enhancement projects having a project
9 beginning date prior to July 1, 1997, "workover"
10 includes, but is not limited to, acidizing,
11 reperforating, fracture treating, sand/paraffin
12 removal, casing repair, squeeze cementing, or setting
13 bridge plugs to isolate water productive zones from
14 oil or gas productive zones, or any combination
15 thereof. For production enhancement projects having a
16 project beginning date on or after July 1, 1997, and
17 prior to July 1, 2009, "workover" includes, but is not
18 limited to:

- 19 (1) acidizing,
- 20 (2) reperforating,
- 21 (3) fracture treating,
- 22 (4) sand/paraffin/scale removal or other wellbore
23 cleanouts,
- 24 (5) casing repair,

- 1 (6) squeeze cementing,
- 2 (7) installation of compression on a well or group of
- 3 wells or initial installation of artificial lifts
- 4 on gas wells, including plunger lifts, rod pumps,
- 5 submersible pumps and coiled tubing velocity
- 6 strings,
- 7 (8) downsizing existing tubing to reduce well
- 8 loading,
- 9 (9) downhole commingling,
- 10 (10) bacteria treatments,
- 11 (11) upgrading the size of pumping unit equipment,
- 12 (12) setting bridge plugs to isolate water production
- 13 zones, or
- 14 (13) any combination thereof.

15 "Workover" shall not mean the routine maintenance,
16 routine repair, or like for like replacement of
17 downhole equipment such as rods, pumps, tubing,
18 packers, or other mechanical devices.

19 H. 1. For purposes of this subsection, "depth" means the
20 length of the maximum continuous string of drill pipe utilized
21 between the drill bit face and the drilling rig's kelly bushing.

22 2. Except as otherwise provided in subsection K of this
23 section:
24

1 a. the production of oil, gas or oil and gas from wells
2 spudded between July 1, 1997, and July 1, 2005, and
3 drilled to a depth of twelve thousand five hundred
4 (12,500) feet or greater and wells spudded between
5 July 1, 2005, and July 1, 2009, and drilled to a depth
6 between twelve thousand five hundred (12,500) feet and
7 fourteen thousand nine hundred ninety-nine (14,999)
8 feet shall be exempt from the gross production tax
9 levied pursuant to subsection B of this section from
10 the date of first sales for a period of twenty-eight
11 (28) months;

12 b. the production of oil, gas or oil and gas from wells
13 spudded between July 1, 2002, and July 1, 2005, and
14 drilled to a depth of fifteen thousand (15,000) feet
15 or greater and wells spudded between July 1, 2005, and
16 ~~July 1, 2008~~ July 1, 2011, and drilled to a depth
17 between fifteen thousand (15,000) feet and seventeen
18 thousand four hundred ninety-nine (17,499) feet shall
19 be exempt from the gross production tax levied
20 pursuant to subsection B of this section from the date
21 of first sales for a period of forty-eight (48)
22 months; and

23 c. the production of oil, gas or oil and gas from wells
24 spudded between July 1, 2002, and ~~July 1, 2008~~ July 1,

1 2011, and drilled to a depth of seventeen thousand
2 five hundred (17,500) feet or greater shall be exempt
3 from the gross production tax levied pursuant to
4 subsection B of this section from the date of first
5 sales for a period of sixty (60) months.

6 3. Except as otherwise provided for in this subsection, for all
7 such wells spudded, a refund against gross production taxes shall be
8 issued as provided in subsection L of this section.

9 4. For all wells spudded after July 1, 2005, and which are
10 exempt from gross production tax pursuant to subparagraphs b and c
11 of paragraph 2 of this subsection, the amount of refunds paid by the
12 Tax Commission shall be limited as follows:

13 a. for the fiscal year ending June 30, 2006, no claims
14 for refunds shall be paid,

15 b. for the fiscal year ending June 30, 2007, the total
16 amount of refunds paid shall be equal to or less than
17 Seventeen Million Dollars (\$17,000,000.00),

18 c. for the fiscal year ending June 30, 2008, the total
19 amount of refunds paid shall be equal to or less than
20 Twenty Million Dollars (\$20,000,000.00), and

21 d. for the fiscal year ending June 30, 2009, and any
22 fiscal year thereafter, the total amount of refunds
23 paid each fiscal year shall be equal to or less than
24 Twenty-five Million Dollars (\$25,000,000.00).

1 5. Except as otherwise provided for in paragraph 7 of this
2 subsection and paragraph 2 of subsection L of this section, for the
3 fiscal year ending June 30, 2006, and each fiscal year thereafter,
4 in order to qualify for a refund of gross production tax on wells
5 which are exempt pursuant to subparagraphs b and c of paragraph 2 of
6 this subsection, claims for refunds shall be filed within six (6)
7 months after the first day of the fiscal year in which the refund is
8 first available pursuant to subsection L of this section. When
9 processing applications for qualification for an exemption as
10 provided for in paragraph 2 of subsection M of this section, the
11 Corporation Commission shall give priority to those applications
12 filed for an exemption pursuant to subparagraphs b and c of
13 paragraph 2 of this subsection in order for applicants to comply
14 with the six-month filing period as provided for in this paragraph.

15 6. If the total amount of claims for refunds made during any
16 fiscal year are greater than the total amount of refunds allowed for
17 that fiscal year as provided for in paragraph 4 of this subsection,
18 the Tax Commission shall proportionately reduce the amount of each
19 claim so that the total amount of claims equal the total amount
20 allowed for refunds.

21 7. If the total amount of claims for a refund filed within the
22 six-month filing period for a fiscal year is less than the total
23 amount of refunds allowed for that fiscal year as provided for in
24 paragraph 4 of this subsection, the Tax Commission shall pay the

1 claims that have been filed. Then for any remaining funds, the Tax
2 Commission shall extend the claims-filing period for three (3)
3 months and shall pay any claims filed during the extended filing
4 period up to the total amount of remaining funds. If the amount of
5 claims for refunds filed during the extended filing period is
6 greater than the total amount of remaining funds, the Tax Commission
7 shall proportionately reduce the amount of each claim as provided
8 for in paragraph 6 of this subsection.

9 I. 1. Except as otherwise provided by this section, the
10 production of oil, gas or oil and gas from wells spudded or
11 reentered between July 1, 1995, and July 1, 2009, which qualify as a
12 new discovery pursuant to this subsection shall be exempt from the
13 gross production tax levied pursuant to subsection B of this section
14 from the date of first sales for a period of twenty-eight (28)
15 months. For all such wells spudded or reentered, a refund against
16 gross production taxes shall be issued as provided in subsection L
17 of this section. As used in this subsection, "new discovery" means
18 production of oil, gas or oil and gas from:

19 a. (1) for wells spudded or reentered on or after July
20 1, 1997, a well that discovers crude oil in
21 paying quantities that is more than one (1) mile
22 from the nearest oil well producing from the same
23 producing formation, and

24

1 (2) for wells spudded or reentered on or after July
2 1, 1997, and prior to July 1, 2009, a well that
3 discovers crude oil in paying quantities that is
4 more than one (1) mile from the nearest oil well
5 producing from the same producing interval of the
6 same formation,

7 b. (1) for wells spudded or reentered prior to July 1,
8 1997, a well that discovers crude oil in paying
9 quantities beneath current production in a deeper
10 producing formation that is more than one (1)
11 mile from the nearest oil well producing from the
12 same deeper producing formation, and

13 (2) for wells spudded or reentered on or after July
14 1, 1997, and prior to July 1, 2009, a well that
15 discovers crude oil in paying quantities beneath
16 current production in a deeper producing interval
17 that is more than one (1) mile from the nearest
18 oil well producing from the same deeper producing
19 interval,

20 c. (1) for wells spudded or reentered prior to July 1,
21 1997, a well that discovers natural gas in paying
22 quantities that is more than two (2) miles from
23 the nearest gas well producing from the same
24 producing formation, and

1 (2) for wells spudded or reentered on or after July
2 1, 1997, and prior to July 1, 2009, a well that
3 discovers natural gas in paying quantities that
4 is more than two (2) miles from the nearest gas
5 well producing from the same producing interval,
6 or

7 d. (1) for wells spudded or reentered prior to July 1,
8 1997, a well that discovers natural gas in paying
9 quantities beneath current production in a deeper
10 producing formation that is more than two (2)
11 miles from the nearest gas well producing from
12 the same deeper producing formation, and

13 (2) for wells spudded or reentered on and after July
14 1, 1997, and prior to July 1, 2009, a well that
15 discovers natural gas in paying quantities
16 beneath current production in a deeper producing
17 interval that is more than two (2) miles from the
18 nearest gas well producing from the same deeper
19 producing interval.

20 2. The Corporation Commission shall deliver to the Legislature
21 a report on the number of wells as defined by paragraph 1 of this
22 subsection that are drilled and the amount of production from those
23 wells. The first such report shall be delivered to the Legislature
24

1 no later than February 1, 1997, and each February 1, thereafter,
2 until the conclusion of the program.

3 J. Except as otherwise provided by this section, the production
4 of oil, gas or oil and gas from any well, drilling of which is
5 commenced after July 1, 2000, and prior to July 1, 2009, located
6 within the boundaries of a three-dimensional seismic shoot and
7 drilled based on three-dimensional seismic technology, shall be
8 exempt from the gross production tax levied pursuant to subsection B
9 of this section from the date of first sales as follows:

10 1. If the three-dimensional seismic shoot is shot prior to July
11 1, 2000, for a period of eighteen (18) months; and

12 2. If the three-dimensional seismic shoot is shot on or after
13 July 1, 2000, for a period of twenty-eight (28) months.

14 For all such production, a refund against gross production taxes
15 shall be issued as provided in subsection L of this section.

16 K. 1. The exemptions provided for in subsections F, G, I and J
17 of this section, the exemption provided for in subparagraph a of
18 paragraph 2 of subsection H of this section, and the exemptions
19 provided for in subparagraphs b and c of paragraph 2 of subsection H
20 of this section for production from wells spudded before July 1,
21 2005, shall not apply:

22 a. to the severance or production of oil, upon
23 determination by the Tax Commission that the average
24 annual index price of Oklahoma oil exceeds Thirty

1 Dollars (\$30.00) per barrel calculated on an annual
2 calendar year basis.

3 (1) The "average annual index price" will be
4 calculated by multiplying the West Texas
5 Intermediate closing price by the "index price
6 ratio". The index price ratio is defined as the
7 immediate preceding three-year historical average
8 ratio of the actual weighted average wellhead
9 price to the West Texas Intermediate close price
10 published on the last business day of each month.

11 (2) The average annual index price will be updated
12 annually by the Oklahoma Tax Commission no later
13 than March 31 of each year.

14 (3) If the West Texas Intermediate Crude price is
15 unavailable for any reason, an industry benchmark
16 price may be substituted and used for the
17 calculation of the index price as determined by
18 the Oklahoma Tax Commission,

19 b. to the severance or production of oil or gas upon
20 which gross production taxes are paid at a rate of one
21 percent (1%) pursuant to the provisions of subsection
22 B of this section, and

23 c. to the severance or production of gas, upon
24 determination by the Tax Commission that the average

1 annual index price of Oklahoma gas exceeds Five
2 Dollars (\$5.00) per thousand cubic feet (mcf)
3 calculated on an annual calendar year basis.

4 (1) The "average annual index price" will be
5 calculated by multiplying the Henry Hub 3-Day
6 Average Close price by the "index price ratio".
7 The index price ratio is defined as the immediate
8 preceding three-year historical average ratio of
9 the actual weighted average wellhead price to the
10 Henry Hub 3-Day Average Close price published on
11 the last business day of each month.

12 (2) The average annual index price will be updated
13 annually by the Oklahoma Tax Commission no later
14 than March 31 of each year.

15 (3) If the Henry Hub 3-Day Average Close price is
16 unavailable for any reason, an industry benchmark
17 price may be substituted and used for the
18 calculation of the index price as determined by
19 the Oklahoma Tax Commission.

20 2. Notwithstanding the exemptions granted pursuant to
21 subsections E, F, G, H, I and J of this section, there shall
22 continue to be levied upon the production of petroleum or other
23 crude or mineral oil or natural gas or casinghead gas, as provided
24 in subsection B of this section, from any wells provided for in

1 subsection E, F, G, H, I or J of this section, a tax equal to one
2 percent (1%) of the gross value of the production of petroleum or
3 other crude or mineral oil or natural gas or casinghead gas. The
4 tax hereby levied shall be apportioned as follows:

5 a. fifty percent (50%) of the sum collected shall be
6 apportioned to the County Highway Fund as provided in
7 subparagraph b of paragraph 1 of Section 1004 of this
8 title, and

9 b. fifty percent (50%) of the sum collected shall be
10 apportioned to the appropriate school district as
11 provided in subparagraph c of paragraph 1 of Section
12 1004 of this title.

13 Upon the expiration of the exemption granted pursuant to
14 subsection E, F, G, H, I or J of this section, the provisions of
15 this paragraph shall have no force or effect.

16 L. For all oil and gas production exempt from gross production
17 taxes pursuant to subsections E, F, G, H, I and J of this section
18 during a given fiscal year, a refund of gross production taxes shall
19 be issued to the well operator or a designee in the amount of such
20 gross production taxes paid during such period, subject to the
21 following provisions:

22 1. A refund shall not be claimed until after the end of such
23 fiscal year. As used in this subsection, a fiscal year shall be
24

1 deemed to begin on July 1 of one calendar year and shall end on June
2 30 of the subsequent calendar year;

3 2. No claims for refunds pursuant to the provisions of this
4 subsection shall be filed more than eighteen (18) months after the
5 first day of the fiscal year in which the refund is first available;

6 3. No claims for refunds pursuant to the provisions of this
7 subsection shall be filed by or on behalf of persons other than the
8 operator or a working interest owner of record at the time of
9 production;

10 4. No refunds shall be claimed or paid pursuant to the
11 provisions of this subsection for oil or gas production upon which a
12 tax is paid at a rate of one percent (1%) as specified in subsection
13 B of this section; and

14 5. No refund shall be paid unless the person making the claim
15 for refund demonstrates by affidavit or other means prescribed by
16 the Tax Commission that an amount equal to or greater than the
17 amount of the refund has been invested in the exploration for or
18 production of crude oil or natural gas in this state by such person
19 not more than three (3) years prior to the date of the claim. No
20 amount of investment used to qualify for a refund pursuant to the
21 provisions of this paragraph may be used to qualify for another
22 refund pursuant to the provisions of this paragraph.

23 If there are insufficient funds collected from the production of
24 oil to satisfy the refunds claimed for oil production pursuant to

1 subsection E, F, G, H, I or J of this section, the Tax Commission
2 shall pay the balance of the refund claims out of the gross
3 production taxes collected from the production of gas.

4 M. 1. The Corporation Commission and the Tax Commission shall
5 promulgate joint rules for the qualification for the exemptions
6 provided for in subsections E, F, G, H, I and J of this section and
7 the rules shall contain provisions for verification of any wells
8 from which production may be qualified for the exemptions.

9 2. Any person requesting any exemption shall file an
10 application for qualification for the exemption with the Corporation
11 Commission which, upon finding that the well meets the requirements
12 of subsection E, F, G, H, I or J of this section, shall approve the
13 application for qualification.

14 3. Any person seeking an exemption shall:

15 a. file an application for the exemption with the Tax
16 Commission which, upon determination of qualification
17 by the Corporation Commission, shall approve the
18 application for an exemption, and

19 b. provide a copy of the approved application to the
20 remitter of the gross production tax.

21 4. The Tax Commission may require any person requesting an
22 exemption to furnish necessary financial and other information or
23 records in order to determine and justify the refund.

24

1 5. Upon the expiration of the exemption granted pursuant to
2 subsection E, F, G, H, I or J of this section, the Tax Commission
3 shall collect the gross production tax levied pursuant to this
4 section. If a person who qualifies for the exemption elects to
5 remit his or her own gross production tax during the exemption
6 period, the first purchaser shall not be liable to withhold or remit
7 the tax until the first day of the month following the receipt of
8 written notification from the person who is qualified for such
9 exemption stating that such exemption has expired and directing the
10 first purchaser to resume tax remittance on his or her behalf.

11 N. All persons shall only be entitled to either the exemption
12 granted pursuant to subsection D of this section or the exemption
13 granted pursuant to subsection E, F, G, H, I or J of this section
14 for each oil, gas or oil and gas well drilled or recompleted in this
15 state. However, any person who qualifies for the exemption granted
16 pursuant to subsection E, F, G, H, I or J of this section shall not
17 be prohibited from qualification for the exemption granted pursuant
18 to subsection D of this section, if the exemption granted pursuant
19 to subsection E, F, G, H, I or J of this section has expired.

20 O. The Tax Commission shall have the power to require any such
21 person engaged in mining or the production or the purchase of such
22 asphalt, mineral ores aforesaid, oil, or gas, or the owner of any
23 royalty interest therein to furnish any additional information by it
24 deemed to be necessary for the purpose of correctly computing the

1 amount of the tax; and to examine the books, records and files of
2 such person; and shall have power to conduct hearings and compel the
3 attendance of witnesses, and the production of books, records and
4 papers of any person.

5 P. Any person or any member of any firm or association, or any
6 officer, official, agent or employee of any corporation who shall
7 fail or refuse to testify; or who shall fail or refuse to produce
8 any books, records or papers which the Tax Commission shall require;
9 or who shall fail or refuse to furnish any other evidence or
10 information which the Tax Commission may require; or who shall fail
11 or refuse to answer any competent questions which may be put to him
12 or her by the Tax Commission, touching the business, property,
13 assets or effects of any such person relating to the gross
14 production tax imposed by this article or exemption authorized
15 pursuant to this section or other laws, shall be guilty of a
16 misdemeanor, and, upon conviction thereof, shall be punished by a
17 fine of not more than Five Hundred Dollars (\$500.00), or
18 imprisonment in the jail of the county where such offense shall have
19 been committed, for not more than one (1) year, or by both such fine
20 and imprisonment; and each day of such refusal on the part of such
21 person shall constitute a separate and distinct offense.

22 Q. The Tax Commission shall have the power and authority to
23 ascertain and determine whether or not any report herein required to
24 be filed with it is a true and correct report of the gross products,

1 and of the value thereof, of such person engaged in the mining or
2 production or purchase of asphalt and ores bearing minerals
3 aforesaid and of oil and gas. If any person has made an untrue or
4 incorrect report of the gross production or value or volume thereof,
5 or shall have failed or refused to make such report, the Tax
6 Commission shall, under the rules prescribed by it, ascertain the
7 correct amount of either, and compute the tax.

8 R. The payment of the taxes herein levied shall be in full, and
9 in lieu of all taxes by the state, counties, cities, towns, school
10 districts and other municipalities upon any property rights attached
11 to or inherent in the right to the minerals, upon producing leases
12 for the mining of asphalt and ores bearing lead, zinc, jack, gold,
13 silver or copper, or for oil, or for gas, upon the mineral rights
14 and privileges for the minerals aforesaid belonging or appertaining
15 to land, upon the machinery, appliances and equipment used in and
16 around any well producing oil, or gas, or any mine producing asphalt
17 or any of the mineral ores aforesaid and actually used in the
18 operation of such well or mine. The payment of gross production tax
19 shall also be in lieu of all taxes upon the oil, gas, asphalt or
20 ores bearing minerals hereinbefore mentioned during the tax year in
21 which the same is produced, and upon any investment in any of the
22 leases, rights, privileges, minerals or other property described
23 herein. Any interest in the land, other than that herein
24 enumerated, and oil in storage, asphalt and ores bearing minerals

1 hereinbefore named, mined, produced and on hand at the date as of
2 which property is assessed for general and ad valorem taxation for
3 any subsequent tax year, shall be assessed and taxed as other
4 property within the taxing district in which such property is
5 situated at the time.

6 S. No equipment, material or property shall be exempt from the
7 payment of ad valorem tax by reason of the payment of the gross
8 production tax except such equipment, machinery, tools, material or
9 property as is actually necessary and being used and in use in the
10 production of asphalt or of ores bearing lead, zinc, jack, gold,
11 silver or copper or of oil or gas. It is expressly declared that no
12 ice plants, hospitals, office buildings, garages, residences,
13 gasoline extraction or absorption plants, water systems, fuel
14 systems, rooming houses and other buildings, nor any equipment or
15 material used in connection therewith, shall be exempt from ad
16 valorem tax.

17 T. The exemption from ad valorem tax set forth in subsections R
18 and S of this section shall continue to apply to all property from
19 which production of oil, gas or oil and gas is exempt from gross
20 production tax pursuant to subsection D, E, F, G, H, I or J of this
21 section.

22 SECTION 22. REPEALER 68 O.S. 2001, Section 1001, as last
23 amended by Section 1, Chapter 380, O.S.L. 2008 (68 O.S. Supp. 2008,
24 Section 1001), is hereby repealed.

1 SECTION 23. AMENDATORY 68 O.S. 2001, Section 1356, as
2 last amended by Section 2, Chapter 278, O.S.L. 2008 (68 O.S. Supp.
3 2008, Section 1356), is amended to read as follows:

4 Section 1356. Exemptions - Governmental and nonprofit entities.

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

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

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

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

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

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

16 6. Dues paid to fraternal, religious, civic, charitable or
17 educational societies or organizations by regular members thereof,
18 provided, such societies or organizations operate under what is
19 commonly termed the lodge plan or system, and provided such
20 societies or organizations do not operate for a profit which inures
21 to the benefit of any individual member or members thereof to the
22 exclusion of other members and dues paid monthly or annually to
23 privately owned scientific and educational libraries by members
24 sharing the use of services rendered by such libraries with students

1 interested in the study of geology, petroleum engineering or related
2 subjects;

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

14 8. The amount of proceeds received from the sale of admission
15 tickets which is separately stated on the ticket of admission for
16 the repayment of money borrowed by any accredited state-supported
17 college or university or any public trust of which a county in this
18 state is the beneficiary, for the purpose of constructing or
19 enlarging any facility to be used for the staging of an athletic
20 event, a theatrical production, or any other form of entertainment,
21 edification or cultural cultivation to which entry is gained with a
22 paid admission ticket. Such facilities include, but are not limited
23 to, athletic fields, athletic stadiums, field houses, amphitheaters
24 and theaters. To be eligible for this sales tax exemption, the

1 amount separately stated on the admission ticket shall be a
2 surcharge which is imposed, collected and used for the sole purpose
3 of servicing or aiding in the servicing of debt incurred by the
4 college or university to effect the capital improvements
5 hereinbefore described;

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

9 10. Sale of tangible personal property or services to any
10 county, municipality, rural water district, public school district,
11 the institutions of The Oklahoma State System of Higher Education,
12 the Grand River Dam Authority, the Northeast Oklahoma Public
13 Facilities Authority, the Oklahoma Municipal Power Authority, City
14 of Tulsa-Rogers County Port Authority, Muskogee City-County Port
15 Authority, the Oklahoma Department of Veterans Affairs, the Broken
16 Bow Economic Development Authority, Ardmore Development Authority,
17 Durant Industrial Authority, Oklahoma Ordnance Works Authority,
18 Central Oklahoma Master Conservancy District, Department of Central
19 Services only when carrying out a public construction contract on
20 behalf of the Oklahoma Department of Veterans Affairs or to any
21 person with whom any of the above-named subdivisions or agencies of
22 this state has duly entered into a public contract pursuant to law,
23 necessary for carrying out such public contract or to any
24 subcontractor to such a public contract. Any person making

1 purchases on behalf of such subdivision or agency of this state
2 shall certify, in writing, on the copy of the invoice or sales
3 ticket to be retained by the vendor that the purchases are made for
4 and on behalf of such subdivision or agency of this state and set
5 out the name of such public subdivision or agency. Any person who
6 wrongfully or erroneously certifies that purchases are for any of
7 the above-named subdivisions or agencies of this state or who
8 otherwise violates this section shall be guilty of a misdemeanor and
9 upon conviction thereof shall be fined an amount equal to double the
10 amount of sales tax involved or incarcerated for not more than sixty
11 (60) days or both;

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

23 Any person, firm, agency or entity making purchases on behalf of
24 any institution, agency or subdivision in this state, shall certify

1 in writing, on the copy of the invoice or sales ticket the nature of
2 the purchases, and violation of this paragraph shall be a
3 misdemeanor as set forth in paragraph 10 of this section;

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

12 13. a. Sales of tangible personal property made by:
13 (1) a public school,
14 (2) a private school offering instruction for grade
15 levels kindergarten through twelfth grade,
16 (3) a public school district,
17 (4) a public or private school board,
18 (5) a public or private school student group or
19 organization,
20 (6) a parent-teacher association or organization
21 other than as specified in subparagraph b of this
22 paragraph, or
23 (7) public or private school personnel for purposes
24 of raising funds for the benefit of a public or

1 private school, public school district, public or
2 private school board or public or private school
3 student group or organization, or

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

12 The exemption provided by this paragraph for sales made by a
13 public or private school shall be limited to those public or private
14 schools accredited by the State Department of Education or
15 registered by the State Board of Education for purposes of
16 participating in federal programs. Sale of tangible personal
17 property in this paragraph shall include sale of admission tickets
18 and concessions at athletic events;

19 14. Sales of tangible personal property by:

- 20 a. local 4-H clubs,
21 b. county, regional or state 4-H councils,
22 c. county, regional or state 4-H committees,
23 d. 4-H leader associations,
24 e. county, regional or state 4-H foundations, and

1 f. authorized 4-H camps and training centers.

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

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

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

15 17. Sales of tangible personal property or services to fire
16 departments organized pursuant to Section 592 of Title 18 of the
17 Oklahoma Statutes which items are to be used for the purposes of the
18 fire department. Any person making purchases on behalf of any such
19 fire department shall certify, in writing, on the copy of the
20 invoice or sales ticket to be retained by the vendor that the
21 purchases are made for and on behalf of such fire department and set
22 out the name of such fire department. Any person who wrongfully or
23 erroneously certifies that the purchases are for any such fire
24 department or who otherwise violates the provisions of this section

1 shall be deemed guilty of a misdemeanor and upon conviction thereof,
2 shall be fined an amount equal to double the amount of sales tax
3 involved or incarcerated for not more than sixty (60) days, or both;

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

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

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

23 21. Sales of tangible personal property or services to any
24 organization, which takes court-adjudicated juveniles for purposes

1 of rehabilitation, and which is exempt from taxation pursuant to the
2 provisions of the Internal Revenue Code, 26 U.S.C., Section
3 501(c)(3), provided that at least fifty percent (50%) of the
4 juveniles served by such organization are court adjudicated and the
5 organization receives state funds in an amount less than ten percent
6 (10%) of the annual budget of the organization;

7 22. Sales of tangible personal property or services to:

8 a. any federally qualified community health center as
9 defined in Section 254c of Title 42 of the United
10 States Code,

11 b. any migrant health center as defined in Section 254b
12 of Title 42 of the United States Code,

13 c. any clinic receiving disbursements of state monies
14 from the Indigent Health Care Revolving Fund pursuant
15 to the provisions of Section 66 of Title 56 of the
16 Oklahoma Statutes,

17 d. any community based health center which meets all of
18 the following criteria:

19 (1) provides primary care services at no cost to the
20 recipient, and

21 (2) is exempt from taxation pursuant to the
22 provisions of Section 501(c)(3) of the Internal
23 Revenue Code, 26 U.S.C., Section 501(c)(3), and
24

1 e. any community mental health center as defined in
2 Section 3-302 of Title 43A of the Oklahoma Statutes;

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

7 24. The first Fifteen Thousand Dollars (\$15,000.00) each year
8 from sales of tangible personal property or services to or by a
9 cultural organization established to sponsor and promote
10 educational, charitable and cultural events for disadvantaged
11 children, and which organization is exempt from taxation pursuant to
12 the provisions of the Internal Revenue Code, 26 U.S.C., Section
13 501(c)(3);

14 25. Sales of tangible personal property or services to museums
15 or other entities which have been accredited by the American
16 Association of Museums. Any person making purchases on behalf of
17 any such museum or other entity shall certify, in writing, on the
18 copy of the invoice or sales ticket to be retained by the vendor
19 that the purchases are made for and on behalf of such museum or
20 other entity and set out the name of such museum or other entity.
21 Any person who wrongfully or erroneously certifies that the
22 purchases are for any such museum or other entity or who otherwise
23 violates the provisions of this paragraph shall be deemed guilty of
24 a misdemeanor and, upon conviction thereof, shall be fined an amount

1 equal to double the amount of sales tax involved or incarcerated for
2 not more than sixty (60) days, or by both such fine and
3 incarceration;

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

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

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

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

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

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

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

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

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

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

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

12 36. The sale, lease, use, storage, consumption, or distribution
13 in this state of tangible personal property meeting the definition
14 of "section 38 property" as defined in Sections 48(a)(1)(A) and
15 (B)(i) of the Internal Revenue Code of 1986, that is an integral
16 part of and used primarily in support of space flight; however,
17 section 38 property used in support of space flight shall not
18 include general office equipment, any boat, mobile home, motor
19 vehicle, or other vehicle of a class or type required to be
20 registered, licensed, titled, or documented in this state or by the
21 United States government, or any other property not specifically
22 suited to supporting space activity. The term "in support of space
23 flight", for purposes of this paragraph, means the altering,
24 monitoring, controlling, regulating, adjusting, servicing, or

1 repairing of any space facility, space propulsion systems or space
2 vehicle, satellite, or station possessing space flight capacity,
3 including the components thereof;

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

22 38. The amount of a surcharge or any other amount which is
23 separately stated on an admission ticket which is imposed, collected
24 and used for the sole purpose of constructing, remodeling or

1 enlarging facilities of a public trust having a municipality or
2 county as its sole beneficiary;

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

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

11 41. Sales of tangible personal property or services for use on
12 campus or school construction projects for the benefit of
13 institutions of The Oklahoma State System of Higher Education,
14 private institutions of higher education accredited by the Oklahoma
15 State Regents for Higher Education or any public school or school
16 district when such projects are financed by or through the use of
17 nonprofit entities which are exempt from taxation pursuant to the
18 provisions of the Internal Revenue Code, 26 U.S.C., Section
19 501(c)(3);

20 42. Sales of tangible personal property or services by an
21 organization which is exempt from taxation pursuant to the
22 provisions of the Internal Revenue Code, 26 U.S.C., Section
23 501(c)(3), in the course of conducting a national championship
24 sports event, but only if all or a portion of the payment in

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

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

8 a. is exempt from taxation pursuant to the provisions of
9 the Internal Revenue Code, 26 U.S.C., Section
10 501(c)(3),

11 b. is affiliated with a comprehensive university within
12 The Oklahoma State System of Higher Education, and

13 c. has been organized primarily for the purpose of
14 providing education and teacher training and
15 conducting events relating to robotics;

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

22 45. Sales of tickets for admission to a collegiate athletic
23 event that is held in a facility owned or operated by a municipality
24 or a public trust of which the municipality is the sole beneficiary

1 and that actually determines or is part of a tournament or
2 tournament process for determining a conference tournament
3 championship, a conference championship, or a national championship;

4 46. Sales of tangible personal property or services to or by an
5 organization which is exempt from taxation pursuant to the
6 provisions of the Internal Revenue Code, 26 U.S.C., Section
7 501(c)(3) and is operating the Oklahoma City National Memorial and
8 Museum, an affiliate of the National Park System;

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

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

22 49. Sales of tangible personal property or services to a state
23 that borders this state or any political subdivision of that state,
24 but only to the extent that the other state or political subdivision

1 exempts or does not impose a tax on similar sales of items to this
2 state or a political subdivision of this state;

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

7 51. Sales of tangible personal property to a public trust
8 having either a single city, town or county or multiple cities,
9 towns or counties or combination thereof as beneficiary or
10 beneficiaries or a nonprofit organization which is exempt from
11 taxation pursuant to the provisions of the Internal Revenue Code, 26
12 U.S.C., Section 501(c)(3) for the purpose of constructing
13 improvements to or expanding a hospital or nursing home owned and
14 operated by any such public trust or nonprofit entity prior to the
15 effective date of this act in counties with a population of less
16 than one hundred thousand (100,000) persons, according to the most
17 recent Federal Decennial Census. As used in this paragraph,
18 "constructing improvements to or expanding" shall not mean any
19 expense for routine maintenance or general repairs and shall require
20 a project cost of at least One Hundred Thousand Dollars
21 (\$100,000.00). For purposes of this paragraph, sales made to a
22 contractor or subcontractor that enters into a contractual
23 relationship with a public trust or nonprofit entity as described by
24 this paragraph shall be considered sales made to the public trust or

1 nonprofit entity. The exemption authorized by this paragraph shall
2 be administered in the form of a refund from the sales tax revenues
3 apportioned pursuant to Section 1353 of this title and the vendor
4 shall be required to collect the sales tax otherwise applicable to
5 the transaction. The purchaser may apply for a refund of the sales
6 tax paid in the manner prescribed by this paragraph. Within thirty
7 (30) days after the end of each fiscal year, any purchaser that is
8 entitled to make application for a refund based upon the exempt
9 treatment authorized by this paragraph may file an application for
10 refund of the sales taxes paid during such preceding fiscal year.
11 The Tax Commission shall prescribe a form for purposes of making the
12 application for refund. The Tax Commission shall determine whether
13 or not the total amount of sales tax exemptions claimed by all
14 purchasers is equal to or less than Six Hundred Fifty Thousand
15 Dollars (\$650,000.00). If such claims are less than or equal to
16 that amount, the Tax Commission shall make refunds to the purchasers
17 in the full amount of the documented and verified sales tax amounts.
18 If such claims by all purchasers are in excess of Six Hundred Fifty
19 Thousand Dollars (\$650,000.00), the Tax Commission shall determine
20 the amount of each purchaser's claim, the total amount of all claims
21 by all purchasers, and the percentage each purchaser's claim amount
22 bears to the total. The resulting percentage determined for each
23 purchaser shall be multiplied by Six Hundred Fifty Thousand Dollars
24 (\$650,000.00) to determine the amount of refundable sales tax to be

1 paid to each purchaser. The pro rata refund amount shall be the
2 only method to recover sales taxes paid during the preceding fiscal
3 year and no balance of any sales taxes paid on a pro rata basis
4 shall be the subject of any subsequent refund claim pursuant to this
5 paragraph;

6 52. Effective July 1, 2006, sales of tangible personal property
7 or services to any organization which assists, trains, educates, and
8 provides housing for physically and mentally handicapped persons and
9 which is exempt from taxation pursuant to the provisions of the
10 Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and that
11 receives at least eighty-five percent (85%) of its annual budget
12 from state or federal funds. In order to receive the benefit of the
13 exemption authorized by this paragraph, the taxpayer shall be
14 required to make payment of the applicable sales tax at the time of
15 sale to the vendor in the manner otherwise required by law.
16 Notwithstanding any other provision of the Oklahoma Uniform Tax
17 Procedure Code to the contrary, the taxpayer shall be authorized to
18 file a claim for refund of sales taxes paid that qualify for the
19 exemption authorized by this paragraph for a period of one (1) year
20 after the date of the sale transaction. The taxpayer shall be
21 required to provide documentation as may be prescribed by the
22 Oklahoma Tax Commission in support of the refund claim. The total
23 amount of sales tax qualifying for exempt treatment pursuant to this
24 paragraph shall not exceed One Hundred Seventy-five Thousand Dollars

1 (\$175,000.00) each fiscal year. Claims for refund shall be
2 processed in the order in which such claims are received by the
3 Oklahoma Tax Commission. If a claim otherwise timely filed exceeds
4 the total amount of refunds payable for a fiscal year, such claim
5 shall be barred;

6 53. The first Two Thousand Dollars (\$2,000.00) each year of
7 sales of tangible personal property or services to, by, or for the
8 benefit of a qualified neighborhood watch organization that is
9 endorsed or supported by or working directly with a law enforcement
10 agency with jurisdiction in the area in which the neighborhood watch
11 organization is located. As used in this paragraph, "qualified
12 neighborhood watch organization" means an organization that is a
13 not-for-profit corporation under the laws of the State of Oklahoma
14 that was created to help prevent criminal activity in an area
15 through community involvement and interaction with local law
16 enforcement and which is one of the first two thousand organizations
17 which makes application to the Oklahoma Tax Commission for the
18 exemption after the effective date of this act;

19 54. Sales of tangible personal property to a nonprofit
20 organization, exempt from taxation pursuant to the provisions of the
21 Internal Revenue Code, 26 U.S.C., Section 501(c)(3), organized
22 primarily for the purpose of providing services to homeless persons
23 during the day and located in a metropolitan area with a population
24 in excess of five hundred thousand (500,000) persons according to

1 the latest Federal Decennial Census. The exemption authorized by
2 this paragraph shall be applicable to sales of tangible personal
3 property to a qualified entity occurring on or after January 1,
4 2005;

5 55. Sales of tangible personal property or services to or by an
6 organization which is exempt from taxation pursuant to the
7 provisions of the Internal Revenue Code, 26 U.S.C., Section
8 501(c)(3) for events the principal purpose of which is to provide
9 funding for the preservation of wetlands and habitat for wild ducks;

10 56. Sales of tangible personal property or services to or by an
11 organization which is exempt from taxation pursuant to the
12 provisions of the Internal Revenue Code, 26 U.S.C., Section
13 501(c)(3) for events the principal purpose of which is to provide
14 funding for the preservation and conservation of wild turkeys;

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

17 a. is exempt from taxation pursuant to the provisions of
18 the Internal Revenue Code, 26 U.S.C., Section
19 501(c)(3), and

20 b. is part of a network of community-based, autonomous
21 member organizations that meets the following
22 criteria:

23 (1) serves people with workplace disadvantages and
24 disabilities by providing job training and

1 employment services, as well as job placement
2 opportunities and post-employment support,

3 (2) has locations in the United States and at least
4 twenty other countries,

5 (3) collects donated clothing and household goods to
6 sell in retail stores and provides contract labor
7 services to business and government, and

8 (4) provides documentation to the Oklahoma Tax
9 Commission that over seventy-five percent (75%)
10 of its revenues are channeled into employment,
11 job training and placement programs and other
12 critical community services;

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

1 professional athletic event in which a team in the National Hockey
2 League is a participant, which is held in a facility owned or
3 operated by a municipality, a county or a public trust of which a
4 municipality or a county is the sole beneficiary;

5 59. Sales of tickets for admission and complimentary or free
6 tickets for admission which have a value equivalent to the charge
7 that would have otherwise been made to a professional sporting event
8 involving ice hockey, baseball, basketball, football or arena
9 football, or soccer. As used in this paragraph, "professional
10 sporting event" means an organized athletic competition between
11 teams that are members of an organized league or association with
12 centralized management, other than a national league or national
13 association, that imposes requirements for participation in the
14 league upon the teams, the individual athletes or both, and which
15 uses a salary structure to compensate the athletes;

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

23 61. Sales of tangible personal property or services to an
24 organization, which is exempt from taxation pursuant to the

1 provisions of the Internal Revenue Code, 26 U.S.C., Section
2 501(c)(3), and which is itself a member of an organization which is
3 exempt from taxation pursuant to the provisions of the Internal
4 Revenue Code, 26 U.S.C., Section 501(c)(3), if the membership
5 organization is primarily engaged in advancing the purposes of its
6 member organizations through fundraising, public awareness or other
7 efforts for the benefit of its member organizations, and if the
8 member organization is primarily engaged either in providing
9 educational services and programs concerning health-related diseases
10 and conditions to individuals suffering from such health-related
11 diseases and conditions or their caregivers and family members or
12 support to such individuals, or in health-related research as to
13 such diseases and conditions, or both. In order to qualify for the
14 exemption authorized by this paragraph, the member nonprofit
15 organization shall be required to provide proof to the Oklahoma Tax
16 Commission of its membership status in the membership organization;

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

22 63. Sales of tangible personal property or services to or by a
23 YWCA or YMCA organization which is part of a national nonprofit
24 community service organization working to meet the health and social

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

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

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

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

22 a. is exempt from taxation pursuant to the provisions of
23 the Internal Revenue Code, 26 U.S.C., Section
24 501(c) (3),

1 b. has filed a Not-for-Profit Certificate of
2 Incorporation in this state, and

3 c. is organized for the purpose of:

4 (1) providing training and education to
5 developmentally disabled individuals,

6 (2) educating the community about the rights,
7 abilities and strengths of developmentally
8 disabled individuals, and

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

12 68. Sales of tangible personal property or services to any
13 organization which is a shelter for abused, neglected, or abandoned
14 children and which is exempt from taxation pursuant to the
15 provisions of the Internal Revenue Code, 26 U.S.C., Section
16 501(c)(3); provided, until July 1, 2008, such exemption shall apply
17 only to eligible shelters for children from birth to age twelve (12)
18 and after July 1, 2008, such exemption shall apply to eligible
19 shelters for children from birth to age eighteen (18);

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

1 a. possesses a 3-star rating from the Department of Human
2 Services Reaching for the Stars Program or a national
3 accreditation, and

4 b. allows on site universal pre-kindergarten education to
5 be provided to four-year-old children through a
6 contractual agreement with any public school or school
7 district.

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

22 70. a. Sales of tangible personal property to a service
23 organization of mothers who have children who are
24 serving or who have served in the military, which

1 service organization is exempt from taxation pursuant
2 to the provisions of the Internal Revenue Code, 26
3 U.S.C., Section 501(c)(19) and which is known as the
4 Blue Star Mothers of America, Inc. The exemption
5 provided by this paragraph shall only apply to the
6 purchase of tangible personal property actually sent
7 to United States military personnel overseas who are
8 serving in a combat zone and not to any other tangible
9 personal property purchased by the organization.
10 Provided, this exemption shall not apply to any sales
11 tax levied by a city, town, county, or any other
12 jurisdiction in this state.

- 13 b. The exemption authorized by this paragraph shall be
14 administered in the form of a refund from the sales
15 tax revenues apportioned pursuant to Section 1353 of
16 this title, and the vendor shall be required to
17 collect the sales tax otherwise applicable to the
18 transaction. The purchaser may apply for a refund of
19 the state sales tax paid in the manner prescribed by
20 this paragraph. Within sixty (60) days after the end
21 of each calendar quarter, any purchaser that is
22 entitled to make application for a refund based upon
23 the exempt treatment authorized by this paragraph may
24 file an application for refund of the state sales

1 taxes paid during such preceding calendar quarter.

2 The Tax Commission shall prescribe a form for purposes
3 of making the application for refund.

4 c. A purchaser who applies for a refund pursuant to this
5 paragraph shall certify that the items were actually
6 sent to military personnel overseas in a combat zone.
7 Any purchaser that applies for a refund for the
8 purchase of items that are not authorized for
9 exemption under this paragraph shall be subject to a
10 penalty in the amount of Five Hundred Dollars
11 (\$500.00);

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

17 72. Sales of tangible personal property or services for use
18 solely on construction projects for organizations which are exempt
19 from taxation pursuant to the provisions of the Internal Revenue
20 Code, 26 U.S.C., Section 501(c)(3) and whose purpose is providing
21 end-of-life care and access to hospice services to low-income
22 individuals who live in a facility owned by the organization. The
23 exemption provided by this paragraph applies to sales to the
24 organization as well as to sales to any person with whom the

1 organization has duly entered into a construction contract,
2 necessary for carrying out such contract or to any subcontractor to
3 such a construction contract. Any person making purchases on behalf
4 of such organization shall certify, in writing, on the copy of the
5 invoice or sales ticket to be retained by the vendor that the
6 purchases are made for and on behalf of such organization and set
7 out the name of such organization. Any person who wrongfully or
8 erroneously certifies that purchases are for any of the above-named
9 organizations or who otherwise violates this section shall be guilty
10 of a misdemeanor and upon conviction thereof shall be fined an
11 amount equal to double the amount of sales tax involved or
12 incarcerated for not more than sixty (60) days or both;

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

18 74. Sales of tangible personal property or services:

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

1 organizations that defend and foster Second Amendment
2 rights, and

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

7 SECTION 24. REPEALER 68 O.S. 2001, Section 1356, as last
8 amended by Section 12, Chapter 378, O.S.L. 2008 (68 O.S. Supp. 2008,
9 Section 1356), is hereby repealed.

10 SECTION 25. REPEALER 68 O.S. 2001, Section 1356, as last
11 amended by Section 2, Chapter 436, O.S.L. 2008 (68 O.S. Supp. 2008,
12 Section 1356), is hereby repealed.

13 SECTION 26. AMENDATORY 68 O.S. 2001, Section 1357, as
14 last amended by Section 3, Chapter 436, O.S.L. 2008 (68 O.S. Supp.
15 2008, Section 1357), is amended to read as follows:

16 Section 1357. Exemptions - General.

17 There are hereby specifically exempted from the tax levied by
18 the Oklahoma Sales Tax Code:

19 1. Transportation of school pupils to and from elementary
20 schools or high schools in motor or other vehicles;

21 2. Transportation of persons where the fare of each person does
22 not exceed One Dollar (\$1.00), or local transportation of persons
23 within the corporate limits of a municipality except by taxicabs;

1 3. Sales for resale to persons engaged in the business of
2 reselling the articles purchased, whether within or without the
3 state, provided that such sales to residents of this state are made
4 to persons to whom sales tax permits have been issued as provided in
5 the Oklahoma Sales Tax Code. This exemption shall not apply to the
6 sales of articles made to persons holding permits when such persons
7 purchase items for their use and which they are not regularly
8 engaged in the business of reselling; neither shall this exemption
9 apply to sales of tangible personal property to peddlers, solicitors
10 and other salespersons who do not have an established place of
11 business and a sales tax permit. The exemption provided by this
12 paragraph shall apply to sales of motor fuel or diesel fuel to a
13 Group Five vendor, but the use of such motor fuel or diesel fuel by
14 the Group Five vendor shall not be exempt from the tax levied by the
15 Oklahoma Sales Tax Code. The purchase of motor fuel or diesel fuel
16 is exempt from sales tax when the motor fuel is for shipment outside
17 this state and consumed by a common carrier by rail in the conduct
18 of its business. The sales tax shall apply to the purchase of motor
19 fuel or diesel fuel in Oklahoma by a common carrier by rail when
20 such motor fuel is purchased for fueling, within this state, of any
21 locomotive or other motorized flanged wheel equipment;

22 4. Sales of advertising space in newspapers and periodicals;

23 5. Sales of programs relating to sporting and entertainment
24 events, and sales of advertising on billboards (including signage,

1 posters, panels, marquees, or on other similar surfaces, whether
2 indoors or outdoors) or in programs relating to sporting and
3 entertainment events, and sales of any advertising, to be displayed
4 at or in connection with a sporting event, via the Internet,
5 electronic display devices, or through public address or broadcast
6 systems. The exemption authorized by this paragraph shall be
7 effective for all sales made on or after January 1, 2001;

8 6. Sales of any advertising, other than the advertising
9 described by paragraph 5 of this section, via the Internet,
10 electronic display devices, or through the electronic media,
11 including radio, public address or broadcast systems, television
12 (whether through closed circuit broadcasting systems or otherwise),
13 and cable and satellite television, and the servicing of any
14 advertising devices;

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

1 business. The vendor shall certify to the Oklahoma Tax Commission
2 that the price of the items has been reduced to grant the full
3 benefit of the exemption. Violation hereof by the purchaser or
4 vendor shall be a misdemeanor;

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

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

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

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

23 12. Sales of food or food products for home consumption which
24 are purchased in whole or in part with coupons issued pursuant to

1 the federal food stamp program as authorized by Sections 2011
2 through 2029 of Title 7 of the United States Code, as to that
3 portion purchased with such coupons. The exemption provided for
4 such sales shall be inapplicable to such sales upon the effective
5 date of any federal law that removes the requirement of the
6 exemption as a condition for participation by the state in the
7 federal food stamp program;

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

11 a. is exempt from taxation pursuant to the provisions of
12 Section 501(c)(3) of the Internal Revenue Code, 26
13 U.S.C., Section 501(c)(3), and which provides and
14 delivers prepared meals for home consumption to
15 elderly or homebound persons as part of a program
16 commonly known as "Meals on Wheels" or "Mobile Meals",
17 or

18 b. is exempt from taxation pursuant to the provisions of
19 Section 501(c)(3) of the Internal Revenue Code, 26
20 U.S.C., Section 501(c)(3), and which receives federal
21 funding pursuant to the Older Americans Act of 1965,
22 as amended, for the purpose of providing nutrition
23 programs for the care and benefit of elderly persons;

24

1 14. a. Sales of tangible personal property or services to or
2 by organizations which are exempt from taxation
3 pursuant to the provisions of Section 501(c)(3) of the
4 Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
5 and:

6 (1) are primarily involved in the collection and
7 distribution of food and other household products
8 to other organizations that facilitate the
9 distribution of such products to the needy and
10 such distributee organizations are exempt from
11 taxation pursuant to the provisions of Section
12 501(c)(3) of the Internal Revenue Code, 26
13 U.S.C., Section 501(c)(3), or

14 (2) facilitate the distribution of such products to
15 the needy.

16 b. Sales made in the course of business for profit or
17 savings, competing with other persons engaged in the
18 same or similar business shall not be exempt under
19 this paragraph;

20 15. Sales of tangible personal property or services to
21 children's homes which are located on church-owned property and are
22 operated by organizations exempt from taxation pursuant to the
23 provisions of the Internal Revenue Code, 26 U.S.C., Section
24 501(c)(3);

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

16 17. Sales of tangible personal property consumed or
17 incorporated in the construction or expansion of a qualified
18 aircraft maintenance or manufacturing facility as defined in
19 paragraph 16 of this section. For purposes of this paragraph, sales
20 made to a contractor or subcontractor that has previously entered
21 into a contractual relationship with a qualified aircraft
22 maintenance or manufacturing facility for construction or expansion
23 of such a facility shall be considered sales made to a qualified
24 aircraft maintenance or manufacturing facility;

1 18. Sales of the following telecommunications services:

2 a. Interstate and International "800 service". "800
3 service" means a "telecommunications service" that
4 allows a caller to dial a toll-free number without
5 incurring a charge for the call. The service is
6 typically marketed under the name "800", "855", "866",
7 "877", and "888" toll-free calling, and any subsequent
8 numbers designated by the Federal Communications
9 Commission, or

10 b. Interstate and International "900 service". "900
11 service" means an inbound toll "telecommunications
12 service" purchased by a subscriber that allows the
13 subscriber's customers to call in to the subscriber's
14 prerecorded announcement or live service. "900
15 service" does not include the charge for: collection
16 services provided by the seller of the
17 "telecommunications services" to the subscriber, or
18 service or product sold by the subscriber to the
19 subscriber's customer. The service is typically
20 marketed under the name "900" service, and any
21 subsequent numbers designated by the Federal
22 Communications Commission,

23 c. Interstate and International "private communications
24 service". "Private communications service" means a

1 "telecommunications service" that entitles the
2 customer to exclusive or priority use of a
3 communications channel or group of channels between or
4 among termination points, regardless of the manner in
5 which such channel or channels are connected, and
6 includes switching capacity, extension lines,
7 stations, and any other associated services that are
8 provided in connection with the use of such channel or
9 channels,

10 d. "Value-added nonvoice data service". "Value-added
11 nonvoice data service" means a service that otherwise
12 meets the definition of "telecommunications services"
13 in which computer processing applications are used to
14 act on the form, content, code, or protocol of the
15 information or data primarily for a purpose other than
16 transmission, conveyance or routing,

17 e. Interstate and International telecommunications
18 service which is:

19 (1) rendered by a company for private use within its
20 organization, or

21 (2) used, allocated, or distributed by a company to
22 its affiliated group,

23 f. Regulatory assessments and charges, including charges
24 to fund the Oklahoma Universal Service Fund, the

1 Oklahoma Lifeline Fund and the Oklahoma High Cost
2 Fund, and

3 g. Telecommunications nonrecurring charges, including but
4 not limited to the installation, connection, change or
5 initiation of telecommunications services which are
6 not associated with a retail consumer sale;

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

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

1 21. Sales of machinery and equipment purchased and used by
2 persons and establishments primarily engaged in computer services
3 and data processing:

4 a. as defined under Industrial Group Numbers 7372 and
5 7373 of the Standard Industrial Classification (SIC)
6 Manual, latest version, which derive at least fifty
7 percent (50%) of their annual gross revenues from the
8 sale of a product or service to an out-of-state buyer
9 or consumer, and

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

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

23 22. Sales of prosthetic devices to an individual for use by
24 such individual. For purposes of this paragraph, "prosthetic

1 device" shall have the same meaning as provided in Section 1357.6 of
2 this title, but shall not include corrective eye glasses, contact
3 lenses or hearing aids;

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

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

21 25. Sales of tangible personal property or services to tax-
22 exempt independent nonprofit biomedical research foundations that
23 provide educational programs for Oklahoma science students and
24

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

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

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

11 28. Beginning July 1, 2005, sales of aircraft engine repairs,
12 modification, and replacement parts, sales of aircraft frame repairs
13 and modification, aircraft interior modification, and paint, and
14 sales of services employed in the repair, modification and
15 replacement of parts of aircraft engines, aircraft frame and
16 interior repair and modification, and paint;

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

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

1 30. Sales of tangible personal property made at estate sales at
2 which such property is offered for sale on the premises of the
3 former residence of the decedent by a person who is not required to
4 be licensed pursuant to the Transient Merchant Licensing Act, or who
5 is not otherwise required to obtain a sales tax permit for the sale
6 of such property pursuant to the provisions of Section 1364 of this
7 title; provided:

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

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

23 32. Sales of prewritten computer software that is delivered
24 electronically. For purposes of this paragraph, "delivered

1 electronically" means delivered to the purchaser by means other than
2 tangible storage media;

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

12 34. Sales of tangible personal property or services to persons
13 who are residents of Oklahoma and have been honorably discharged
14 from active service in any branch of the Armed Forces of the United
15 States or Oklahoma National Guard and who have been certified by the
16 United States Department of Veterans Affairs or its successor to be
17 in receipt of disability compensation at the one-hundred-percent
18 rate and the disability shall be permanent and have been sustained
19 through military action or accident or resulting from disease
20 contracted while in such active service; provided, sales for the
21 benefit of the person to a spouse of the eligible person or to a
22 member of the household in which the eligible person resides and who
23 is authorized to make purchases on the person's behalf, when such
24 eligible person is not present at the sale, shall also be exempt for

1 purposes of this paragraph. Sales qualifying for the exemption
2 authorized by this paragraph shall not exceed Twenty-five Thousand
3 Dollars (\$25,000.00) per year per individual. Upon request of the
4 Tax Commission, a person asserting or claiming the exemption
5 authorized by this paragraph shall provide a statement, executed
6 under oath, that the total sales amounts for which the exemption is
7 applicable have not exceeded Twenty-five Thousand Dollars
8 (\$25,000.00) per year. If the amount of such exempt sales exceeds
9 such amount, the sales tax in excess of the authorized amount shall
10 be treated as a direct sales tax liability and may be recovered by
11 the Tax Commission in the same manner provided by law for other
12 taxes, including penalty and interest;

13 35. Sales of electricity to the operator, specifically
14 designated by the Oklahoma Corporation Commission, of a spacing unit
15 or lease from which oil is produced or attempted to be produced
16 using enhanced recovery methods, including, but not limited to,
17 increased pressure in a producing formation through the use of water
18 or saltwater if the electrical usage is associated with and
19 necessary for the operation of equipment required to inject or
20 circulate fluids in a producing formation for the purpose of forcing
21 oil or petroleum into a wellbore for eventual recovery and
22 production from the wellhead. In order to be eligible for the sales
23 tax exemption authorized by this paragraph, the total content of oil
24 recovered after the use of enhanced recovery methods shall not

1 exceed one percent (1%) by volume. The exemption authorized by this
2 paragraph shall be applicable only to the state sales tax rate and
3 shall not be applicable to any county or municipal sales tax rate;

4 36. Sales of intrastate charter and tour bus transportation.

5 As used in this paragraph, "intrastate charter and tour bus
6 transportation" means the transportation of persons from one
7 location in this state to another location in this state in a motor
8 vehicle which has been constructed in such a manner that it may
9 lawfully carry more than eighteen persons, and which is ordinarily
10 used or rented to carry persons for compensation. Provided, this
11 exemption shall not apply to regularly scheduled bus transportation
12 for the general public;

13 37. Sales of vitamins, minerals and dietary supplements by a
14 licensed chiropractor to a person who is the patient of such
15 chiropractor at the physical location where the chiropractor
16 provides chiropractic care or services to such patient. The
17 provisions of this paragraph shall not be applicable to any drug,
18 medicine or substance for which a prescription by a licensed
19 physician is required;

20 38. Sales of goods, wares, merchandise, tangible personal
21 property, machinery and equipment to a web search portal located in
22 this state which derives at least eighty percent (80%) of its annual
23 gross revenue from the sale of a product or service to an out-of-
24 state buyer or consumer. For purposes of this paragraph, "web

1 search portal" means an establishment classified under NAICS code
2 ~~518112~~ 519130 which operates web sites that use a search engine to
3 generate and maintain extensive databases of Internet addresses and
4 content in an easily searchable format;

5 39. Sales of tangible personal property consumed or
6 incorporated in the construction or expansion of a facility for a
7 corporation organized under Section 437 et seq. of Title 18 of the
8 Oklahoma Statutes as a rural electric cooperative. For purposes of
9 this paragraph, sales made to a contractor or subcontractor that has
10 previously entered into a contractual relationship with a rural
11 electric cooperative for construction or expansion of a facility
12 shall be considered sales made to a rural electric cooperative;

13 40. Sales of tangible personal property or services to a
14 business primarily engaged in the repair of consumer electronic
15 goods, including, but not limited to, cell phones, compact disc
16 players, personal computers, MP3 players, digital devices for the
17 storage and retrieval of information through hard-wired or wireless
18 computer or Internet connections, if the devices are sold to the
19 business by the original manufacturer of such devices and the
20 devices are repaired, refitted or refurbished for sale by the entity
21 qualifying for the exemption authorized by this paragraph directly
22 to retail consumers or if the devices are sold to another business
23 entity for sale to retail consumers; and

24

1 41. Before July 1, 2014, sales of rolling stock when sold or
2 leased by the manufacturer, regardless of whether the purchaser is a
3 public services corporation engaged in business as a common carrier
4 of property or passengers by railway, for use or consumption by a
5 common carrier directly in the rendition of public service. For
6 purposes of this paragraph, "rolling stock" means locomotives,
7 autocars and railroad cars.

8 SECTION 27. REPEALER 68 O.S. 2001, Section 1357, as last
9 amended by Section 1, Chapter 406, O.S.L. 2008 (68 O.S. Supp. 2008,
10 Section 1357), is hereby repealed.

11 SECTION 28. AMENDATORY 68 O.S. 2001, Section 2902, as
12 last amended by Section 12, Chapter 440, O.S.L. 2008 (68 O.S. Supp.
13 2008, Section 2902), is amended to read as follows:

14 Section 2902. A. Except as otherwise provided by subsection H
15 of Section 3658 of this title pursuant to which the exemption
16 authorized by this section may not be claimed, a qualifying
17 manufacturing concern, as defined by Section 6B of Article X of the
18 Oklahoma Constitution, and as further defined herein, shall be
19 exempt from the levy of any ad valorem taxes upon new, expanded or
20 acquired manufacturing facilities, including facilities engaged in
21 research and development, for a period of five (5) years. The
22 provisions of Section 6B of Article X of the Oklahoma Constitution
23 requiring an existing facility to have been unoccupied for a period
24 of twelve (12) months prior to acquisition shall be construed as a

1 qualification for a facility to initially receive an exemption, and
2 shall not be deemed to be a qualification for that facility to
3 continue to receive an exemption in each of the four (4) years
4 following the initial year for which the exemption was granted.
5 Such facilities are hereby classified for the purposes of taxation
6 as provided in Section 22 of Article X of the Oklahoma Constitution.

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

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

- 12 a. establishments which have received a manufacturer
13 exemption permit pursuant to the provisions of Section
14 1359.2 of this title,
- 15 b. facilities, including repair and replacement parts,
16 primarily engaged in aircraft repair, building and
17 rebuilding whether or not on a factory basis,
- 18 c. establishments primarily engaged in computer services
19 and data processing as defined under Industrial Group
20 Numbers 5112 and 5415, and U.S. Industry Number 334611
21 and ~~518112~~ 519130 of the NAICS Manual, latest
22 revision, and which derive at least fifty percent
23 (50%) of their annual gross revenues from the sale of
24 a product or service to an out-of-state buyer or

1 consumer, and as defined under Industrial Group Number
2 5142 of the NAICS Manual, latest revision, which
3 derive at least eighty percent (80%) of their annual
4 gross revenues from the sale of a product or service
5 to an out-of-state buyer or consumer. Eligibility as
6 a manufacturing facility pursuant to this subparagraph
7 shall be established, subject to review by the
8 Oklahoma Tax Commission, by annually filing an
9 affidavit with the Tax Commission stating that the
10 facility so qualifies and such other information as
11 required by the Tax Commission. For purposes of
12 determining whether annual gross revenues are derived
13 from sales to out-of-state buyers, all sales to the
14 federal government shall be considered to be an out-
15 of-state buyer,

- 16 d. for which the investment cost of the construction,
17 acquisition or expansion of the manufacturing facility
18 is Two Hundred Fifty Thousand Dollars (\$250,000.00) or
19 more. Provided, "investment cost" shall not include
20 the cost of direct replacement, refurbish, repair or
21 maintenance of existing machinery or equipment, and
22 e. establishments primarily engaged in distribution as
23 defined under Industry Numbers 49311, 49312, 49313 and
24 49319 and Industry Sector Number 42 of the NAICS

1 Manual, latest revision, and which meet the following
2 qualifications;

- 3 (1) construction with an initial capital investment
4 of at least Five Million Dollars (\$5,000,000.00),
- 5 (2) employment of at least one hundred (100) full-
6 time-equivalent employees, as certified by the
7 Oklahoma Employment Security Commission,
- 8 (3) payment of wages or salaries to its employees at
9 a wage which equals or exceeds one hundred
10 seventy-five percent (175%) of the federally
11 mandated minimum wage, as certified by the
12 Oklahoma Employment Security Commission, and
- 13 (4) commencement of construction on or after November
14 1, 2007, with construction to be completed within
15 three (3) years from the date of the commencement
16 of construction.

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

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

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

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

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

14 C. The following provisions shall apply:

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

21 2. Except as otherwise provided in paragraph 5 of this
22 subsection, no manufacturing concern shall receive more than one
23 five-year exemption for any one manufacturing facility unless the
24 expansion which qualifies the manufacturing facility for an

1 additional five-year exemption meets the requirements of paragraph 4
2 of this subsection and the employment level established for any
3 previous exemption is maintained;

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

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

10 a. there is a net increase in annualized payroll of at
11 least Two Hundred Fifty Thousand Dollars (\$250,000.00)
12 if the facility is located in a county with a
13 population of fewer than seventy-five thousand
14 (75,000), according to the most recent federal
15 decennial census, while maintaining or increasing
16 payroll in subsequent years, or at least One Million
17 Dollars (\$1,000,000.00) if the facility is located in
18 a county with a population of seventy-five thousand
19 (75,000) or more, according to the most recent federal
20 decennial census, while maintaining or increasing
21 payroll in subsequent years.

22 The Tax Commission shall verify payroll information
23 through the Oklahoma Employment Security Commission by
24 using reports from the Oklahoma Employment Security

1 Commission for the calendar year immediately preceding
2 the year for which initial application is made for
3 base-line payroll, which must be maintained or
4 increased for each subsequent year; provided, a
5 manufacturing facility shall have the option of
6 excluding from its payroll, for purposes of this
7 section, payments to sole proprietors, members of a
8 partnership, members of a limited liability company
9 who own at least ten percent (10%) of the capital of
10 the limited liability company or stockholder-employees
11 of a corporation who own at least ten percent (10%) of
12 the stock in the corporation. A manufacturing
13 facility electing this option shall indicate such
14 election upon its application for an exemption under
15 this section. Any manufacturing facility electing
16 this option shall submit such information as the Tax
17 Commission may require in order to verify payroll
18 information. Payroll information submitted pursuant
19 to the provisions of this paragraph shall be submitted
20 to the Tax Commission and shall be subject to the
21 provisions of Section 205 of this title, and
22 b. the facility offers, or will offer within one hundred
23 eighty (180) days of the date of employment, a basic
24 health benefits plan to the full-time-equivalent

1 employees of the facility, which is determined by the
2 Department of Commerce to consist of the elements
3 specified in subparagraph b of paragraph 1 of
4 subsection A of Section 3603 of this title or elements
5 substantially equivalent thereto.

6 For purposes of this section, calculation of the amount of
7 increased payroll shall be measured from the start of initial
8 construction or expansion to the completion of such construction or
9 expansion or for three (3) years from the start of initial
10 construction or expansion, whichever occurs first. The amount of
11 increased payroll shall include payroll for full-time-equivalent
12 employees in this state who are employed by an entity other than the
13 facility which has previously or is currently qualified to receive
14 an exemption pursuant to the provisions of this section and who are
15 leased or otherwise provided to the facility, if such employment did
16 not exist in this state prior to the start of initial construction
17 or expansion of the facility. The manufacturing concern shall
18 submit an affidavit to the Tax Commission, signed by an officer,
19 stating that the construction, acquisition or expansion of the
20 facility will result in a net increase in the annualized payroll as
21 required by this paragraph and that full-time-equivalent employees
22 of the facility are or will be offered a basic health benefits plan
23 as required by this paragraph. If, after the completion of such
24 construction or expansion or after three (3) years from the start of

1 initial construction or expansion, whichever occurs first, the
2 construction, acquisition or expansion has not resulted in a net
3 increase in the amount of annualized payroll, if required, or any
4 other qualification specified in this paragraph has not been met,
5 the manufacturing concern shall pay an amount equal to the amount of
6 any exemption granted, including penalties and interest thereon, to
7 the Tax Commission for deposit to the Ad Valorem Reimbursement Fund;

8 5. Any new, acquired or expanded automotive final assembly
9 manufacturing facility which does not meet the requirements of
10 paragraph 4 of this subsection shall be granted an exemption only if
11 all other requirements of this section are met and only if the
12 investment cost of the construction, acquisition or expansion of the
13 manufacturing facility is Three Hundred Million Dollars
14 (\$300,000,000.00) or more and the manufacturing facility retains an
15 average employment of one thousand seven hundred fifty (1,750) or
16 more full-time-equivalent employees in the year in which the
17 exemption is initially granted and in each of the four (4)
18 subsequent years only if an average employment of one thousand seven
19 hundred fifty (1,750) or more full-time-equivalent employees is
20 maintained in the subsequent year. Any property installed to
21 replace property damaged by the tornado or natural disaster that
22 occurred May 8, 2003, may continue to receive the exemption provided
23 in this paragraph for the full five-year period based on the value
24 of the previously qualifying assets as of January 1, 2003. The

1 exemption shall continue in effect as long as all other
2 qualifications in this paragraph are met. If the average employment
3 of one thousand seven hundred fifty (1,750) or more full-time-
4 equivalent employees is reduced as a result of temporary layoffs
5 because of a tornado or natural disaster on May 8, 2003, then the
6 average employment requirement shall be waived for year 2003 of the
7 exemption period. Calculation of the number of employees shall be
8 made in the same manner as required under Section 2357.4 of this
9 title for an investment tax credit. As used in this paragraph,
10 "expand" and "expansion" shall mean and include any increase to the
11 size or scope of a facility as well as any renovation, restoration,
12 replacement or remodeling of a facility which permits the
13 manufacturing of a new or redesigned product;

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

22 a. there is a net increase in annualized payroll of the
23 applicant at any facility or facilities of the
24 applicant in this state of at least Two Hundred Fifty

1 Thousand Dollars (\$250,000.00), which is attributable
2 to the capital improvements, or a net increase of
3 Seven Million Dollars (\$7,000,000.00) or more in
4 capital improvements, while maintaining or increasing
5 payroll at the facility or facilities in this state
6 which are included in the application, and

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

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

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

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

15 E. Any person, firm or corporation claiming the exemption
16 herein provided for shall file each year for which exemption is
17 claimed, an application therefor with the county assessor of the
18 county in which the new, expanded or acquired facility is located.
19 The application shall be on a form or forms prescribed by the Tax
20 Commission, and shall be filed on or before March 15, except as
21 provided in Section 2902.1 of this title, of each year in which the
22 facility desires to take the exemption or within thirty (30) days
23 from and after receipt by such person, firm or corporation of notice
24 of valuation increase, whichever is later. In a case where

1 completion of the facility or facilities will occur after January 1
2 of a given year, a facility may apply to claim the ad valorem tax
3 exemption for that year. If such facility is found to be qualified
4 for exemption, the ad valorem tax exemption provided for herein
5 shall be granted for that entire year and shall apply to the ad
6 valorem valuation as of January 1 of that given year. For
7 applicants which qualify under the provisions of subparagraph b of
8 paragraph 1 of subsection B of this section, the application shall
9 include a copy of the affidavit and any other information required
10 to be filed with the Tax Commission.

11 F. The application shall be examined by the county assessor and
12 approved or rejected in the same manner as provided by law for
13 approval or rejection of claims for homestead exemptions. The
14 taxpayer shall have the same right of review by and appeal from the
15 county board of equalization, in the same manner and subject to the
16 same requirements as provided by law for review and appeals
17 concerning homestead exemption claims. Approved applications shall
18 be filed by the county assessor with the Tax Commission no later
19 than June 15, except as provided in Section 2902.1 of this title, of
20 the year in which the facility desires to take the exemption.
21 Incomplete applications and applications filed after June 15 will be
22 declared null and void by the Tax Commission. In the event that a
23 taxpayer qualified to receive an exemption pursuant to the
24 provisions of this section shall make payment of ad valorem taxes in

1 excess of the amount due, the county treasurer shall have the
2 authority to credit the taxpayer's real or personal property tax
3 overpayment against current taxes due. The county treasurer may
4 establish a schedule of up to five (5) years of credit to resolve
5 the overpayment.

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

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

16 SECTION 29. REPEALER 68 O.S. 2001, Section 2902, as last
17 amended by Section 2, Chapter 406, O.S.L. 2008 (68 O.S. Supp. 2008,
18 Section 2902), is hereby repealed.

19 SECTION 30. AMENDATORY 70 O.S. 2001, Section 6-101.48, as
20 last amended by Section 3, Chapter 347, O.S.L. 2008 (70 O.S. Supp.
21 2008, Section 6-101.48), is amended to read as follows:

22 Section 6-101.48. A. No person or business having a contract
23 with a school or school district to perform work on a full-time or
24 part-time basis that would otherwise be performed by school district

1 employees shall allow any employee to work on school premises if the
2 employee is convicted in this state, the United States or another
3 state of any felony offense unless ten (10) years has elapsed since
4 the date of the criminal conviction or the employee has received a
5 presidential or gubernatorial pardon for the criminal offense.

6 B. Every person or business performing services not subject to
7 subsection A of this section on the property of a school or school
8 district shall at the time of contracting be required to sign a
9 statement declaring that no employee working on school premises
10 under the authority of the business is currently registered or
11 required to register under the provisions of the Oklahoma Sex
12 Offenders Registration Act or the Mary Rippy Violent Crime Offenders
13 Registration Act. Compliance with this statute shall be required of
14 the person or private business, and there shall be no obligation
15 placed upon a school district to ascertain the truthfulness of the
16 affidavit.

17 C. A person or business having a written contract with a school
18 or school district to perform work on a full-time or part-time basis
19 that would otherwise be performed by school district employees may
20 conduct a felony search of the employees of the person or entity who
21 would be assigned that work through a request to the State Board of
22 Education in the same manner as a felony search is afforded school
23 districts by Section 5-142 of this title.

24

1 SECTION 31. REPEALER 70 O.S. 2001, Section 6-101.48, as
2 last amended by Section 4, Chapter 162, O.S.L. 2008 (70 O.S. Supp.
3 2008, Section 6-101.48), is hereby repealed.

4 SECTION 32. AMENDATORY 70 O.S. 2001, Section 2603, as
5 last amended by Section 1, Chapter 409, O.S.L. 2008 (70 O.S. Supp.
6 2008, Section 2603), is amended to read as follows:

7 Section 2603. A. Except as otherwise provided for in this
8 section, to be eligible to participate in the Oklahoma Higher
9 Learning Access Program and to qualify for an award which includes
10 payment of an amount equivalent to resident tuition or other tuition
11 pursuant to Section 2604 of this title for the first semester or
12 other academic unit of postsecondary enrollment, a student shall:

13 1. Be a resident of this state or be enrolled in a school
14 district located in this state that serves students who reside in
15 both this state and an adjacent state pursuant to a contract as
16 authorized in Section 5-117.1 of this title;

17 2. Be a United States citizen or lawfully present in the United
18 States. A student who is not a United States citizen or lawfully
19 present in the United States shall not be eligible to participate in
20 the Oklahoma Higher Learning Access Program and to qualify for an
21 award notwithstanding the provisions of Section 3242 of this title.
22 The provisions of this paragraph shall not apply to any student who
23 was enrolled in the Oklahoma Higher Learning Access Program prior to
24 the end of the 2006-2007 school year;

1 3. Have a record of satisfactory compliance with agreements
2 executed pursuant to Section 2605 of this title;

3 4. a. have graduated within the previous three (3) years
4 from a high school accredited by the State Board of
5 Education, or the Oklahoma School of Science and
6 Mathematics with a minimum 2.5 cumulative grade point
7 average on a 4.0 scale for all work attempted in
8 grades nine through twelve,

9 b. have graduated within the previous three (3) years
10 from a high school not accredited by the State Board
11 of Education with a minimum 2.5 cumulative grade point
12 average on a 4.0 scale for all work attempted in
13 grades nine through twelve and have achieved a

14 composite score of 22 or higher on the ACT test, or

15 c. have satisfactorily completed within the previous
16 three (3) years an educational program that was
17 provided through a means other than a public or
18 private school and have achieved a composite score of
19 22 or higher on the ACT test;

20 5. Have completed the curricular requirements for admission to
21 an institution within The Oklahoma State System of Higher Education
22 and one additional unit or set of competencies in a course that
23 meets college admission requirements. The curriculum requirements
24 shall include two units or sets of competencies in foreign or non-

1 English language or technology courses that meet the college
2 admission requirements and one unit or set of competencies of a fine
3 arts course. Students shall also have attained a 2.5 grade point
4 average in the core curriculum courses. Students who attended a
5 high school which did not offer all the core curriculum courses or
6 students who were educated by other means and were not offered all
7 the core curriculum courses shall be allowed to satisfy this
8 curriculum requirement by participating in a program approved by the
9 State Regents for remediation of high school curricular
10 deficiencies;

11 6. Have satisfied admission standards as determined by the
12 Oklahoma State Regents for Higher Education for first-time-entering
13 students for the appropriate type of institution, or, if attending a
14 private institution, have satisfied admission standards as
15 determined by the private institution. No student participating in
16 the Oklahoma Higher Learning Access Program shall be admitted into
17 an institution of higher education by special admission standards;

18 7. Have secured admission to, and enrolled in, an institution
19 which is a member of The Oklahoma State System of Higher Education,
20 a postsecondary vocational-technical program offered pursuant to a
21 duly approved cooperative agreement between a technology center
22 school and an institution of The Oklahoma State System of Higher
23 Education, or a private institution of higher learning located
24

1 within this state and accredited pursuant to Section 4103 of this
2 title; and

3 8. a. have established financial need according to the
4 provisions of subsection D of Section 2605 of this
5 title and standards and provisions promulgated by the
6 Oklahoma State Regents for Higher Education,

7 b. if the student was adopted between birth and twelve
8 (12) years of age while in the permanent custody of
9 the Department of Human Services, in the court-ordered
10 custody of a licensed private nonprofit child-placing
11 agency, or federally recognized Indian tribe, as
12 defined by the federal Indian Child Welfare Act, have
13 established financial need according to the provisions
14 of paragraph 1 of subsection E of Section 2605 of this
15 title and standards and provisions promulgated by the
16 Oklahoma State Regents for Higher Education, or

17 c. if the student was adopted between thirteen (13) and
18 seventeen (17) years of age while in the permanent
19 custody of the Department of Human Services, in the
20 court-ordered custody of a licensed private nonprofit
21 child-placing agency, or federally recognized Indian
22 tribe, as defined by the federal Indian Child Welfare
23 Act, have established financial need according to the
24 provisions of paragraph 2 of subsection E of Section

1 2605 of this title and standards and provisions
2 promulgated by the Oklahoma State Regents for Higher
3 Education.

4 B. To retain eligibility while pursuing the program of higher
5 learning in which enrolled, the student shall:

6 1. Achieve a minimum cumulative grade point average of 2.0 on a
7 4.0 scale or its equivalent for courses taken ~~during~~ through the
8 student's sophomore year and achieve a minimum grade point average
9 of 2.5 on a 4.0 scale or its equivalent for courses taken during the
10 student's junior year and thereafter. The provisions of this
11 paragraph shall not apply to any student who has received an
12 Oklahoma Higher Learning Access Program benefit award prior to the
13 ~~2009-2010~~ 2010-2011 school year;

14 2. Maintain good academic standing and satisfactory academic
15 progress according to standards of the Oklahoma State Regents for
16 Higher Education;

17 3. Comply with the standards related to maintenance of
18 eligibility as promulgated by the Oklahoma State Regents for Higher
19 Education; and

20 4. Refrain from conduct that leads to expulsion or suspension
21 of more than one semester from an institution of higher education.
22 A student who violates the provisions of this paragraph shall
23 permanently lose eligibility for program benefits. The provisions
24 of this paragraph shall become effective January 1, 2008.

1 C. The Oklahoma State Regents for Higher Education and the
2 State Board of Career and Technology Education shall promulgate
3 rules relating to maintenance of eligibility under this act by a
4 student.

5 D. It is the intent of the Legislature that students in the
6 ninth grade for the 1992-93 school year who are determined to be
7 eligible Oklahoma Higher Learning Access students pursuant to this
8 act shall be the first students eligible for benefits from the
9 Oklahoma Higher Learning Access Trust Fund.

10 E. The Oklahoma State Regents for Higher Education are
11 authorized to study, develop and propose criteria for determining
12 award eligibility based upon the completion of seven (7) semesters
13 of high school coursework by a student.

14 SECTION 33. REPEALER 70 O.S. 2001, Section 2603, as last
15 amended by Section 2, Chapter 350, O.S.L. 2008 (70 O.S. Supp. 2008,
16 Section 2603), is hereby repealed.

17 SECTION 34. AMENDATORY 70 O.S. 2001, Section 2605, as
18 last amended by Section 2, Chapter 409, O.S.L. 2008 (70 O.S. Supp.
19 2008, Section 2605), is amended to read as follows:

20 Section 2605. A. Each school year, every fifth- through ninth-
21 grade student in the public and private schools of this state and
22 students who are educated by other means and are in the equivalent
23 of the fifth through ninth grade shall be apprised, together with
24 the parent, custodial parent, or guardian of the student, of the

1 opportunity for access to higher learning under the Oklahoma Higher
2 Learning Access Program. The Oklahoma State Regents for Higher
3 Education and the State Board of Education shall develop, promote,
4 and coordinate a public awareness program to be utilized in making
5 students and parents aware of the Oklahoma Higher Learning Access
6 Program.

7 B. On a form provided by the Oklahoma State Regents for Higher
8 Education, every public school district shall designate at least one
9 Oklahoma Higher Learning Access Program contact person, who shall be
10 a counselor or teacher, at each public school site in this state in
11 which eighth-, ninth- or tenth-grade classes are taught. When
12 requested by the State Regents, the State Board of Education shall
13 assist the State Regents to ensure the designation of contact
14 persons. Private schools shall also designate at least one school
15 official as a contact person. For students who are educated by
16 other means, a parent or guardian or other person approved by the
17 State Regents shall be designated the contact person.

18 C. Students who qualify on the basis of financial need
19 according to subsections D or E of this section and the standards
20 and provisions promulgated by the Oklahoma State Regents for Higher
21 Education shall be given the opportunity throughout the eighth-,
22 ninth-, and tenth-grade years, for students enrolled in a public or
23 private school, or between the ages of thirteen (13) and fifteen
24 (15), for students who are educated by other means, to enter into

1 participation in the program by agreeing to, throughout the
2 remainder of their school years or educational program:

3 1. Attend school or an educational program regularly and do
4 homework regularly;

5 2. Refrain from substance abuse;

6 3. Refrain from commission of crimes or delinquent acts;

7 4. Have school work and school records reviewed by mentors
8 designated pursuant to the program;

9 5. Provide information requested by the Oklahoma State Regents
10 for Higher Education or the State Board of Education; and

11 6. Participate in program activities.

12 The contact person shall maintain the agreements, which shall be
13 executed on forms provided by the Oklahoma State Regents for Higher
14 Education and managed according to regulations promulgated by the
15 Oklahoma State Regents for Higher Education, and the contact person
16 shall monitor compliance of the student with the terms of the
17 agreement. The Oklahoma State Regents for Higher Education are
18 authorized to process student agreements and verify compliance with
19 the agreements. Students failing to comply with the terms of the
20 agreement shall not be eligible for the awards provided in Section
21 2604 of this title.

22 D. Except as otherwise provided for in subsection E of this
23 section, a student shall not be found to be in financial need for
24 purposes of the Oklahoma Higher Learning Access Program if:

1 1. At the time the student applies for participation in the
2 Program during the eighth, ninth or tenth grade for students
3 enrolled in a public or private school, or between the ages of
4 thirteen (13) and fifteen (15), for students who are educated by
5 other means, the income from taxable and nontaxable sources of the
6 student's parent(s) exceeds Fifty Thousand Dollars (\$50,000.00) per
7 year; and

8 2. At the time the student begins postsecondary education and
9 prior to receiving any Oklahoma Higher Learning Access Program
10 benefit award, the income from taxable and nontaxable sources of the
11 student's parent(s) exceeds One Hundred Thousand Dollars
12 (\$100,000.00) per year.

13 The determination of financial qualification as set forth in
14 this paragraph shall be based on the income of the student, not the
15 income of the parent(s), if a student:

- 16 a. is determined to be independent of the student's
17 parents for federal financial aid purposes,
- 18 b. was in the permanent custody of the Department of
19 Human Services at the time the student enrolled in the
20 program, or
- 21 c. was in the court-ordered custody of a federally
22 recognized Indian tribe, as defined by the federal
23 Indian Child Welfare Act, at the time the student
24 enrolled in the program.

1 The provisions of this paragraph shall not apply to any student
2 who has received an Oklahoma Higher Learning Access Program benefit
3 award prior to the ~~2009-2010~~ 2010-2011 school year.

4 E. 1. A student who was adopted between birth and twelve (12)
5 years of age while in the permanent custody of the Department of
6 Human Services, in the court-ordered custody of a licensed private
7 nonprofit child-placing agency, or federally recognized Indian
8 tribe, as defined by the federal Indian Child Welfare Act, shall not
9 be found to be in financial need for purposes of the Oklahoma Higher
10 Learning Access Program if at the time the student begins
11 postsecondary education and prior to receiving any Oklahoma Higher
12 Learning Access Program benefit award, the income from taxable and
13 nontaxable sources of the student's parent(s) exceeds One Hundred
14 Fifty Thousand Dollars (\$150,000.00) per year.

15 2. A student who was adopted between thirteen (13) and
16 seventeen (17) years of age while in the permanent custody of the
17 Department of Human Services, in the court-ordered custody of a
18 licensed private nonprofit child-placing agency, or federally
19 recognized Indian tribe, as defined by the federal Indian Child
20 Welfare Act, shall not be found to be in financial need for purposes
21 of the Oklahoma Higher Learning Access Program if at the time the
22 student begins postsecondary education and prior to receiving any
23 Oklahoma Higher Learning Access Program benefit award, the income
24

1 from taxable and nontaxable sources of the student's parent(s)
2 exceeds Two Hundred Thousand Dollars (\$200,000.00) per year.

3 3. The determination of financial qualification as set forth in
4 this subsection shall be based on the income of the student, not the
5 income of the parent(s), if the student is determined to be
6 independent of the student's parents for federal financial aid
7 purposes. A determination of financial qualification shall not be
8 required for the student who meets the criteria set forth in this
9 subsection at the time the student applies for participation in the
10 program. The provisions of this subsection shall not apply to any
11 student who has received an Oklahoma Higher Learning Access Program
12 benefit award prior to the 2008-2009 school year.

13 F. The financial qualification of a student as set forth in
14 subsections D and E of this section shall be certified by the
15 contact person or by the Oklahoma State Regents for Higher Education
16 on the agreement form provided by the Oklahoma State Regents for
17 Higher Education. The form shall be retained in the permanent
18 record of the student and a copy forwarded to the Oklahoma State
19 Regents for Higher Education.

20 G. Agreements shall be witnessed by the parent, custodial
21 parent, or guardian of the student, who shall further agree to:

22 1. Assist the student in achieving compliance with the
23 agreements;

24

1 2. Confer, when requested to do so, with the school contact
2 person, other school personnel, and program mentors;

3 3. Provide information requested by the Oklahoma State Regents
4 for Higher Education or the State Board of Education; and

5 4. Assist the student in completing forms and reports required
6 for program participation, making applications to institutions and
7 schools of higher learning, and filing applications for student
8 grants and scholarships.

9 H. Students who are enrolled in a school district located in
10 this state that serves students who reside in both this state and an
11 adjacent state pursuant to a contract as authorized in Section 5-
12 117.1 of this title, are in the eleventh and twelfth grades during
13 the 2006-2007 school year, and who were denied participation in the
14 program shall be allowed to enter or reenter into participation in
15 the program by entering into agreements as set forth in subsections
16 C and D of this section by June 1, 2008.

17 I. The Oklahoma State Regents for Higher Education shall
18 promulgate rules for the determination of student compliance with
19 agreements made pursuant to this section.

20 J. The Oklahoma State Regents for Higher Education shall
21 designate personnel to coordinate tracking of program records for
22 the years when students participating in the program are still in
23 the schools or are being educated by other means, provide staff
24 development for contact persons in the schools, and provide liaison

1 with the State Board of Education and local organizations and
2 individuals participating in the program.

3 K. The school district where an Oklahoma Higher Learning Access
4 Program student is enrolled when the student begins participation in
5 the program and any subsequent school district where the student
6 enrolls shall forward information regarding participation by the
7 student in the program to a school to which the student transfers
8 upon the request of the school for the records of the student.

9 L. Students participating in the Oklahoma Higher Learning
10 Access Program shall provide their social security number or their
11 student identification number used by their school to the Oklahoma
12 State Regents for Higher Education. The Regents shall keep the
13 numbers confidential and use them only for administrative purposes.

14 SECTION 35. REPEALER 70 O.S. 2001, Section 2605, as last
15 amended by Section 4, Chapter 350, O.S.L. 2008 (70 O.S. Supp. 2008,
16 Section 2605), is hereby repealed.

17 SECTION 36. REPEALER 74 O.S. 2001, Section 1303, as last
18 amended by Section 11, Chapter 344, O.S.L. 2008 (74 O.S. Supp. 2008,
19 Section 1303), is hereby repealed.

20 SECTION 37. REPEALER Section 4, Chapter 231, O.S.L.
21 2006, as amended by Section 12, Chapter 344, O.S.L. 2008 (74 O.S.
22 Supp. 2008, Section 1309.1), is hereby repealed.

23 SECTION 38. Sections 23 through 27 of this act shall become
24 effective July 1, 2009.

1 SECTION 39. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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