ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE BILL NO. 2959

By: Pope (Clay), Bonny, Begley, Beutler, Deutschendorf, Ervin, Hefner, Hiett, Leist, Maddux, Reese, Taylor, Voskuhl and Widener of the House

and

Price of the Senate

(revenue and taxation - credit against income tax - agricultural cooperative marketing associations - codification - effective date)

AUTHOR: Add the following Senate Coauthor: Kerr

AMENDMENT NO. 1. strike the stricken title, enacting clause and entire bill and insert

[revenue and taxation - amending 68 O.S., Section 2358 - Oklahoma taxable income and Oklahoma adjusted gross income - effective date]

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 2358, as last amended by Section 15 of Enrolled House Bill No. 2428 of the 2nd Session of the 45th Oklahoma Legislature, is amended to read as follows:

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

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

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

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

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

a. For carryovers and carrybacks to taxable years beginning before January 1, 1981, the amount of any net operating loss deduction allowed to a taxpayer for federal income tax purposes shall be reduced to an amount which is the same portion thereof as the loss from sources within this state, as determined pursuant to this section and Section 2362 of this title, for the taxable year in which such loss is sustained is of the total loss for such year;

b. For carryovers and carrybacks to taxable years beginning after December 31, 1980, the amount of any net operating loss deduction allowed for the taxable year shall be an amount equal to the aggregate of the Oklahoma net operating loss carryovers and carrybacks

to such year. Oklahoma net operating losses shall be separately determined by reference to Section 172 of the Internal Revenue Code, 26 U.S.C., Section 172, as modified by the Oklahoma Income Tax Act, Section 2351 et seq. of this title, and shall be allowed without regard to the existence of a federal net operating loss. The years to which such losses may be carried shall be determined by reference to Section 172 of the Internal Revenue Code, except that losses which are not actually utilized shall not reduce the carryover; provided, for net operating losses incurred for tax years beginning after December 31, 1992, and before December 31, 1993, the loss carryback shall be for a period of three (3) years; for tax years beginning after December 31, 1993, and before December 31, 1994, the carryback period shall be two (2) years; for tax years beginning after December 31, 1994, and before December 31, 1995, the carryback period shall be one (1) year; and for tax years beginning after December 31, 1995, no net operating loss carryback shall be allowable. For tax years beginning after December 31, 1992, the net operating loss carryforward shall not exceed fifteen (15) years.

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

a. Income from real and tangible personal property, such as rents, oil and mining production or royalties, and gains or losses from sales of such property, shall be

allocated in accordance with the situs of such property;

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

(1) where such property has acquired a nonunitary business or commercial situs apart from the domicile of the taxpayer such income shall be allocated in accordance with such business or commercial situs; a resident trust or resident estate shall be treated as having a separate commercial or business situs insofar as undistributed income is concerned, but shall not be treated as having a separate commercial or business situs insofar as distributed income is concerned,

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

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

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

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

purchaser within the state, commonly known as interstate sales,

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

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

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

e. In the case of insurance companies, Oklahoma taxable income shall be taxable income of the taxpayer for federal tax purposes, as adjusted for the adjustments provided pursuant to the provisions of paragraphs 1 and 2 of this subsection, apportioned as follows:

(1) except as otherwise provided by division (2) of this subparagraph, taxable income of an insurance company for a taxable year shall be apportioned to this state by multiplying such income by a

fraction, the numerator of which is the direct premiums written for insurance on property or risks in this state, and the denominator of which is the direct premiums written for insurance on property or risks everywhere. For purposes of this subsection, the term "direct premiums written" means the total amount of direct premiums written, assessments and annuity considerations as reported for the taxable year on the annual statement filed by the company with the Oklahoma Insurance Commissioner in the form approved by the National Association of Insurance Commissioners, or such other form as may be prescribed in lieu thereof,

(2) if the principal source of premiums written by an insurance company consists of premiums for reinsurance accepted by it, the taxable income of such company shall be apportioned to this state by multiplying such income by a fraction, the numerator of which is the sum of (a) direct premiums written for insurance on property or risks in this state, plus (b) premiums written for reinsurance accepted in respect of property or risks in this state, and the denominator of which is the sum of (c) direct premiums written for insurance on property or risks everywhere, plus (d) premiums written for reinsurance accepted in respect of property or risks everywhere. For purposes of this paragraph, premiums written for reinsurance accepted in respect of property or risks in this state, whether or not otherwise determinable, may at the

election of the company be determined on the basis of the proportion which premiums written for insurance accepted from companies commercially domiciled in Oklahoma bears to premiums written for reinsurance accepted from all sources, or alternatively in the proportion which the sum of the direct premiums written for insurance on property or risks in this state by each ceding company from which reinsurance is accepted bears to the sum of the total direct premiums written by each such ceding company for the taxable year.

5. The net income or loss remaining after the separate allocation in paragraph 4 of this subsection, being that which is derived from a unitary business enterprise, shall be apportioned to this state on the basis of the arithmetical average of three factors consisting of property, payroll and sales or gross revenue enumerated as subparagraphs a, b and c of this paragraph. Net income or loss as used in this paragraph includes that derived from patent or copyright royalties, purchase discounts, and interest on accounts receivable relating to or arising from a business activity, the income from which is apportioned pursuant to this subsection, including the sale or other disposition of such property and any other property used in the unitary enterprise. Deductions used in computing such net income or loss shall not include taxes based on or measured by income.

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

real and tangible personal property everywhere owned or rented and used during the tax period.

(1) Property, the income from which is separately allocated in paragraph 4 of this subsection, shall not be included in determining this fraction. The numerator of the fraction shall include a portion of the investment in transportation and other equipment having no fixed situs, such as rolling stock, buses, trucks and trailers, including machinery and equipment carried thereon, airplanes, ~~salesmen's~~ salesperson's automobiles and other similar equipment, in the proportion that miles traveled in Oklahoma by such equipment bears to total miles traveled,

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

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

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

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

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

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

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

(1) Sales of tangible personal property have a situs in this state if the property is delivered or shipped to a purchaser other than the United States Government, within this state regardless of the FOB point or other conditions of the sale; or the property is shipped from an office, store, warehouse, factory or other place of storage in this state and (a) the purchaser is the United States Government or (b) the taxpayer is not doing business in the state of the destination of the shipment.

(2) In the case of a railroad or interurban railway enterprise, the numerator of the fraction shall not be less than the allocation of revenues to this state as shown in its annual report to the Oklahoma Corporation Commission.

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

(4) In the case of an oil, gasoline or gas pipeline enterprise, the numerator of the fraction shall be either the total of traffic units of the enterprise within Oklahoma or the revenue allocated to Oklahoma based upon miles moved, at the option of the taxpayer, and the denominator of which shall be the total of traffic units of the enterprise or the revenue of the enterprise

everywhere as appropriate to the numerator. A "traffic unit" is hereby defined as the transportation for a distance of one (1) mile of one (1) barrel of oil, one (1) gallon of gasoline or one thousand (1,000) cubic feet of natural or casinghead gas, as the case may be.

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

In any case where the use of the arithmetical average of three factors prescribed in this paragraph attributes to Oklahoma a portion of net income of the enterprise out of all appropriate proportion to the property owned and/or business transacted within this state, because of the fact that one or more of the factors so prescribed are not employed to any appreciable extent in furtherance of the enterprise; or because one or more factors not so prescribed

are employed to a considerable extent in furtherance of the enterprise; or because of other reasons, the Tax Commission is empowered to permit, after a showing by taxpayer that an excessive portion of net income has been attributed to Oklahoma, or require, when in its judgment an insufficient portion of net income has been attributed to Oklahoma, the elimination, substitution, or use of additional factors, or reduction or increase in the weight of such prescribed factors. Provided, however, that any such variance from such prescribed factors which has the effect of increasing the portion of net income attributable to Oklahoma must not be inherently arbitrary, and application of the recomputed final arithmetical average ratio to the net income of the enterprise must attribute to Oklahoma only a reasonable portion thereof.

6. For taxable years beginning after December 31, 1996, the owner of a new or expanded agricultural commodity processing facility in this state may exclude from Oklahoma taxable income, or in the case of an individual, the Oklahoma adjusted gross income, the first Fifty Thousand Dollars ($50,000.00) of income earned. If the exclusion allowed by this paragraph exceeds the Oklahoma taxable income of such owner, or in the case of an individual, the Oklahoma adjusted gross income, the amount of the exclusion that is in excess of such income may be carried forward as an exclusion against subsequent Oklahoma taxable income or in the case of an individual, subsequent Oklahoma adjusted gross income, for a period not to exceed four (4) years. The Oklahoma Tax Commission shall promulgate rules to implement the provisions of this paragraph. For purposes of this paragraph:

a. "agricultural commodity processing facility" means buildings, structures, fixtures and improvements used or operated primarily for the processing or production of marketable products from agricultural commodities. The term does not include a facility that provides

only storage, cleaning, drying or transportation of agricultural commodities, and

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

(1) the processing of agricultural commodities, including receiving or storing agricultural commodities,

(2) transporting the agricultural commodities or product before, during or after the processing, or

(3) packaging or otherwise preparing the product for sale or shipment.

B. The taxable income of any corporation shall be further adjusted to arrive at Oklahoma taxable income, except those corporations electing treatment as provided in subchapter S of the Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section 2365 of this title, deductions pursuant to the provisions of the Accelerated Cost Recovery System as defined and allowed in the Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C., Section 168, for depreciation of assets placed into service after December 31, 1981, shall not be allowed in calculating Oklahoma taxable income. Such corporations shall be allowed a deduction for depreciation of assets placed into service after December 31, 1981, in accordance with provisions of the Internal Revenue Code, 26 U.S.C., Section 1 et seq., in effect immediately prior to the enactment of the Accelerated Cost Recovery System. The Oklahoma tax basis for all such assets placed into service after December 31, 1981, calculated in this section shall be retained and utilized for all Oklahoma income tax purposes through the final disposition of said assets.

Notwithstanding any other provisions of the Oklahoma Income Tax Act, Sections 2351 et seq. of this title or of the Internal Revenue

Code to the contrary, this subsection shall control calculation of depreciation of assets placed into service after December 31, 1981, and before January 1, 1983.

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

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

2. For purposes of this subsection:

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

(1) Capitalization of not more than Two Hundred Fifty Thousand Dollars ($250,000.00),

(2) Having at least fifty percent (50%) of its employees and assets located in Oklahoma at the time of the transfer, and

(3) Not a subsidiary or affiliate of the transferor corporation;

b. "Technology" means a proprietary process, formula, pattern, device or compilation of scientific or technical information which is not in the public domain;

c. "Transferor corporation" means a corporation which is the exclusive and undisputed owner of the technology at the time the transfer is made; and

d. "Gross proceeds" means the total amount of consideration for the transfer of technology, whether the consideration is in money or otherwise.

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

1. a. In the case of individuals, there shall be added or deducted, as the case may be, the difference necessary to allow personal exemptions of One Thousand Dollars ($1,000.00) in lieu of the personal exemptions allowed by the Internal Revenue Code.

b. There shall be allowed an additional exemption of One Thousand Dollars ($1,000.00) for each taxpayer or spouse who is blind at the close of the tax year. For purposes of this subparagraph, an individual is blind only if his <u>or her</u> central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his <u>or her</u> visual acuity is greater than

20/200, but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty (20) degrees.

c. For taxable years beginning after December 31, 1987, there shall be allowed an additional exemption of One Thousand Dollars ($1,000.00) for each taxpayer or spouse who is sixty-five (65) years of age or older at the close of the tax year based upon the filing status and federal adjusted gross income of the taxpayer. Taxpayers with the following filing status may claim this exemption if the federal adjusted gross income does not exceed:

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

(2) Twelve Thousand Five Hundred Dollars ($12,500.00) if married and filing separately;

(3) Fifteen Thousand Dollars ($15,000.00) if single; and

(4) Nineteen Thousand Dollars ($19,000.00) if a qualifying head of household.

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

2. In the case of individuals who use the standard deduction in determining taxable income, there shall be added or deducted, as the

case may be, the difference necessary to allow a standard deduction in lieu of the standard deduction allowed by the Internal Revenue Code, in an amount equal to the larger of fifteen percent (15%) of the Oklahoma adjusted gross income or One Thousand Dollars ($1,000.00), but not to exceed Two Thousand Dollars ($2,000.00), except that in the case of a married individual filing a separate return such deduction shall be the larger of fifteen percent (15%) of such Oklahoma adjusted gross income or Five Hundred Dollars ($500.00), but not to exceed the maximum amount of One Thousand Dollars ($1,000.00).

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

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

presumed to qualify for this deduction. The Commission shall prescribe necessary requirements for verification.

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

a. absence from the United States, which term includes only the states and the District of Columbia;

b. absence from the State of Oklahoma while on active duty; or

c. confinement in a hospital within the United States for treatment of wounds, injuries or disease,

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

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

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

Provided, that the Tax Commission may, in its discretion, grant any member of the Armed Forces of the United States an extension of time for filing of income tax returns and payment of income tax without incurring liabilities for interest or penalties. Such extension may be granted only when in the judgment of the Tax Commission a good cause exists therefor and may be for a period in excess of six (6) months. A record of every such extension granted, and the reason therefor, shall be kept.

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

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

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

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

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

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

9. Retirement benefits not to exceed Five Thousand Five Hundred Dollars ($5,500.00), which are received by an individual from the civil service of the United States, any component of the Armed Forces of the United States, the Oklahoma Public Employees Retirement System, the Teachers' Retirement System of Oklahoma, the Oklahoma Law Enforcement Retirement System, the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the employee retirement systems created by counties pursuant to Sections 951 et seq. of Title 19 of the Oklahoma Statutes, the Uniform Retirement System for Justices and Judges, the Oklahoma Wildlife Conservation Department Retirement Fund, the Oklahoma Employment Security Commission Retirement Plan, or the employee retirement systems created by municipalities

pursuant to Sections 48-101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt from taxable income.

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

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

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

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2367.4A of Title 68, unless there is created a duplication in numbering, reads as follows:

A. 1. For taxable years beginning after December 31, 1996, there shall be allowed a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes for direct investments by Oklahoma agricultural producers in Oklahoma producer-owned

agricultural processing cooperatives created and designed to develop and advance the production, processing, handling and marketing of agricultural commodities grown, made or manufactured in Oklahoma.

2. a. The credit authorized by this subsection shall be allowed for the direct investment in an Oklahoma producer-owned agricultural processing cooperative within this state by Oklahoma agricultural producers.

b. The total amount of credits authorized by this subsection per tax year for all agricultural joint ventures shall not exceed Two Million Dollars ($2,000,000.00) per year.

c. The credit shall be subject to a maximum amount of Ten Thousand Dollars ($10,000.00) per taxpayer for investment in any one Oklahoma producer-owned agricultural processing cooperative. In no event shall the credit be claimed more than once by a taxpayer per year except for carryovers, or be used to reduce the liability of any taxpayer below zero ($0.00) for any taxable year.

3. In the event that the total tax credits exceed Two Million Dollars ($2,000,000.00) for all Oklahoma producer-owned agricultural processing cooperatives in this state, the Oklahoma Tax Commission shall promulgate rules for determining the percentage of credit to which each such taxpayer is entitled.

4. Any credits allowed but not used in any taxable year may be carried over in order to each of the four (4) years following the year in which the investment was originally made.

5. The credit authorized by this subsection shall be claimed upon the income tax return of each taxpayer who directly invests in Oklahoma producer-owned agricultural processing cooperatives.

B. The Oklahoma Tax Commission shall have the authority to prescribe forms for purposes of claiming the credit authorized by

this section. The Oklahoma Tax Commission shall be authorized to conduct such investigation of the relevant facts as may be required in order to verify the eligibility of a claimant to receive a credit for any applicable income tax year.

C. 1. For any taxable year during which a taxpayer sells or otherwise disposes of the ownership interest for which a tax credit has previously been allowed to the taxpayer or for which a tax credit will be allowed to the taxpayer for the year in which the sale or other disposition of the ownership interest is made, the taxpayer shall be required to reduce the cost of the ownership interest in the Oklahoma producer-owned agricultural processing cooperative, as reported upon the applicable income tax return, by the amount of the tax credit which has previously been granted or for which the taxpayer is claiming credit if the credit is allowable for the year during which the sale or other disposition is made.

2. If a taxpayer sells or otherwise disposes of an ownership interest in the Oklahoma producer-owned agricultural processing cooperative for which the tax credit authorized by this section may be taken in a taxable year following the year in which the ownership interest in the Oklahoma producer-owned agricultural processing cooperative is sold or otherwise disposed of, the credit authorized by this section shall be reduced to account for the prior sale or other disposition.

D. The Oklahoma Tax Commission, on or before January 31 of each year, shall submit a report regarding the tax credit authorized by this section to the Speaker of the House of Representatives and the President Pro Tempore of the Senate of the Oklahoma Legislature. The report shall summarize the total amount of tax credits claimed and likely to be claimed and allowed pursuant to this section.

E. The tax credit authorized by this section shall not be available or taken for any calendar year during which the claimant

of the credit received any incentive payments pursuant to the Oklahoma Quality Jobs Program Act or the Saving Quality Jobs Act.

F. As used in this section:

a. "direct investment" means the payment of money in an Oklahoma producer-owned agricultural processing cooperative or the transfer of any form of economic value, whether tangible or intangible, other than money,

b. "Oklahoma producer-owned agricultural processing cooperative" means a legal entity in the nature of a partnership or business undertaking agricultural transactions or agricultural commercial enterprises for mutual profit which are owned and controlled by Oklahoma agricultural producers. An Oklahoma producer-owned agricultural processing cooperative requires a community of interest in the performance of the undertaking, transaction or enterprise, a right to direct and govern the policy in connection therewith and the duty, which may be altered by agreement, to share both in profit and losses,

c. "Oklahoma agricultural producer" means a person who produces agricultural commodities in this state, and

d. "agricultural commodities" means a farm or ranch product including but not limited to wheat, corn, soybeans, cotton, cattle, hogs, sheep, horses or poultry produced in farming or ranching operations or a product of such crop or livestock in its unmanufactured state such as ginned cotton, wool-dip, maple syrup, milk and eggs.

G. For purposes of this section, an agricultural commodity shall be deemed to be produced within this state if it is

substantially produced, by any person, partnership, company, association or corporation:

1. Authorized to do and doing business under the laws of this state;

2. Paying all taxes duly assessed; and

3. Domiciled within this state by having a location of production within this state.

SECTION 3. This act shall become effective November 1, 1996."

Passed the Senate the 1st day of April, 1996.

President of the Senate

Passed the House of Representatives the ____ day of _____, 1996.

Speaker of the House of Representatives