ENGROSSED HOUSE
BILL NO. 2102

By: Boyd (Laura), Voskuhl, Kirby and Satterfield of the House

and

Henry of the Senate

(Oklahoma Tuition Savings Account Act - commingling of contributions - unqualified disbursement of funds - amending 68 O.S., Section 2358 - codification - effective date - emergency)

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6020 of Title 70, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 4 of this act shall be known and may be cited as the "Oklahoma Tuition Savings Account Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6021 of Title 70, unless there is created a duplication in numbering, reads as follows:

It is the intent of the Legislature that the purposes of the Oklahoma Tuition Savings Account Act shall be to:

1. Encourage postsecondary education and the means by which education can be paid;

2. Provide wide and affordable assistance in financing postsecondary education for the residents of this state;

3. Help provide the benefits of postsecondary education to the people of this state; and

4. Encourage people in the state to understand the importance of postsecondary and vocational education and the need to develop a financial plan to pay for such education.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6022 of Title 70, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Tuition Savings Account Act:

1. "Account purchaser" means the individual who is a resident of this state at the time the tuition savings account is established and who establishes the account for the benefit of a beneficiary;

2. "Beneficiary" means the individual who is a resident of the state at the time the tuition savings account is established or is the child of a parent who is a resident of the state at the time the tuition savings account is established and for whose benefit the custodial account is established;

3. "Bursar" means the treasurer of an institution of higher education or vocational-technical school;

4. "Contribution" means a payment made to establish a tuition savings account or made to an existing account;

5. "Custodial agreement" means documentation signed by the account purchaser reflecting the terms and conditions as set forth by the custodian and this act;

6. "Custodial property" means property transferred to an agent for the benefit of a third party. For purposes of this act, the agent shall be referred to as the "custodian". The custodian shall have full rights to deal with the property to the same extent as the owner, but all transactions shall be for the use and benefit of the beneficiary and shall be consistent with the terms of the custodial agreement, as well as the law applicable to custodianships;

7. "Custodian" means any bank, branch bank, savings association, savings association branch or out-of-state bank as defined in Section 102 of Title 6 of the Oklahoma Statutes or a licensed security dealer;

8. "Eligible expenses" means an expense paid by the custodian on behalf of the qualified beneficiary consistent with the terms of this act;

9. "Institution of higher education" means an institution of higher education which is accredited by the Regents as an institution of higher education for purposes of the Oklahoma Tuition Savings Account Act;

10. "Qualified beneficiary" means a beneficiary who is eligible and entitled to attend an institution of higher education or a vocational-technical course or program in this state and is enrolled on a full-time basis as defined by the Regents. A qualified beneficiary shall be considered a resident for purposes of tuition regardless of the residence of the beneficiary on the date of enrollment;

11. "Qualified disbursement" means a payment to the office of the bursar at an institution of higher education or vocational-technical school or program in which the beneficiary is enrolled, or payment to the beneficiary for eligible expenses;

12. "Qualified expense disbursement" means a payment to the custodian, beneficiary or Internal Revenue Service for taxes paid as a result of interest earned on the account, back-up withholding or custodial management fees;

13. "Regents" means the Oklahoma State Regents for Higher Education;

14. "Tuition" means the general enrollment or course fees imposed upon residents of this state to attend an institution of higher education as determined by the Regents or a vocational-

technical course or program including all mandatory special fees required as a condition of enrollment;

15. "Tuition savings account" or "account" means an account established in this state pursuant to a tuition savings account program to pay the eligible expenses of a qualified beneficiary;

16. "Tuition savings account program" or "program" means a program that includes the establishment of a tuition savings account by an account purchaser and contribution on behalf of a beneficiary into the account which shall not exceed the amount provided for in Section 4 of this act, and which account shall be administered by a custodian who shall make qualified disbursements consistent with the provisions of this act;

17. "Unqualified disbursement" means a distribution from an account which is not a qualified disbursement; and

18. "Vocational-technical course or program" means any postsecondary course, training or program offered by the State Department of Vocational and Technical Education for which tuition or a fee is charged.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6023 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. For taxable years beginning after December 31, 1997, an individual who is a resident of this state shall be allowed to establish and make contributions to one or more tuition savings accounts. The amount of deposit for the first taxable year subsequent to the effective date of this act and each taxable year thereafter shall not exceed Five Thousand Dollars ($5,000.00) for each separate account.

B. No contributions shall be accepted by the account custodian after the first qualified disbursement from the account.

C. Contributions made to and interest earned on a tuition savings account shall be exempt from taxation as adjusted gross income in this state as provided for in Section 5 of this act.

D. Contributions deposited in a tuition savings account by an account purchaser may be commingled with contributions deposited by other individuals to the account. The total amount of contributions to an account shall not exceed the amount established in subsection A of this section. The custodian shall maintain records of individual contributions to the account consistent with generally accepted industry record retention procedures.

E. A tuition savings account established pursuant to the Oklahoma Tuition Savings Account Act shall be established as a custodial property. The custodian shall act as agent of the account. The custodian of the account is entitled to receive an administration fee in an amount as provided for in the custodial agreement, or if not stipulated in the custodial agreement, the custodian may charge and deduct a reasonable administration fee as a qualified expense disbursement for services rendered and responsibilities assumed. The custodial agreement may contain provisions relieving the custodian of the account from any or all liability which would otherwise be imposed upon the agent to the extent allowed by law. Absent any such provision, a custodian who, in good faith, has complied with the provisions of this act shall be relieved of any or all liability which would otherwise be imposed upon the custodian to the extent allowed by law.

The custodian shall utilize the funds held in a tuition savings account solely for the purpose of paying disbursements as follows:

1. The qualified beneficiary may submit to the custodian, no more than three times in a calendar year, a "request for qualified disbursement" on a form provided by the custodian. The form shall include a place for the following information:

a. the full name, age and social security number of the beneficiary,

b. current mailing address of the beneficiary,

c. name and address of the institution of higher education or vocational-technical course or program for which the beneficiary is enrolled on a full-time basis as defined by the Regents,

d. a statement outlining the requested disbursement amount,

e. signature of the beneficiary attesting to the validity of the information given, and

f. any other information required by the custodian.

Attached to said form shall be a copy of some proof of enrollment of the beneficiary for the semester which indicates the amount owed for tuition for the upcoming semester or for the course or program.

2. Upon receipt of a completed qualified disbursement request form, the custodian shall have ten (10) business days to submit and mail to the institution of higher education or vocational-technical course or program a check drawn from the account of the beneficiary and made payable to both the bursar and beneficiary.

3. Within five (5) business days of receipt of the check, the bursar or a representative of the bursar shall endorse the check and apply the proceeds to the amount owed for tuition for the semester. Any remaining proceeds shall be delivered in a timely fashion directly to the account beneficiary by the bursar or the representative. The beneficiary may utilize the remainder of the proceeds for payment of any expense associated with postsecondary education while remaining consistent with the legislative intent of this act.

F. An account beneficiary may request an unqualified disbursement from the tuition savings account at any time.

If the custodian makes an unqualified disbursement to an account beneficiary, all of the following shall apply:

1. The amount of the unqualified disbursement shall be considered income for income tax purposes and shall not be eligible for the tax exemption provided for in Section 5 of this act;

2. The custodian shall withhold and shall pay on behalf of the account purchaser a penalty to the Oklahoma Tax Commission equal to ten percent (10%) of the amount of the disbursement; and

3. All interest earned on the account during the tax year in which a withdrawal occurs shall be considered income for income tax purposes.

G. No more than once each year the account beneficiary may request a qualified expense disbursement in an amount less than or equal to twenty percent (20%) of the interest earned from the account for that year which shall be paid to the beneficiary by the custodian.

H. The principal and any accumulated interest from a tuition savings account established for the benefit of a beneficiary, shall be excluded from any calculation of eligibility of the beneficiary for any state student financial aid.

I. Any remaining balance of an account established for a beneficiary shall be distributed to the beneficiary not later than thirty (30) days after the thirtieth birthday of the beneficiary or graduation of the beneficiary from an institution of higher education or vocational-technical course or program, whichever date occurs first.

J. At the request of the beneficiary, all or part of the balance of one account may be transferred to one or more other accounts established for another beneficiary. If the money is transferred directly from one account into another account, the amount transferred shall be exempt from taxation and shall not be subject to a penalty.

K. Upon the death of the beneficiary, the custodian shall distribute the principal and accumulated interest of the tuition savings account to the estate of the beneficiary.

L. The custodian shall distribute the principal and accumulated interest from a tuition savings account to the beneficiary if any of the following occurs:

1. The beneficiary is not admitted to a state institution of higher education after making proper application; or

2. The beneficiary certifies to the custodian, after attaining the age of thirty (30) years, that the beneficiary has decided not to attend a state institution of higher education, and requests, in writing, that the tuition savings account be distributed.

M. If the custodian distributes the funds from a tuition savings account pursuant to subsection L of this section, the total amount of money distributed shall be considered income for income tax purposes and shall not be eligible for the exemption provided for in Section 5 of this act.

N. If at any time the custodian determines that the beneficiary has willfully misrepresented an eligible expense, the custodian may freeze the account upon sufficient notice to the beneficiary and notify the beneficiary of the choice to either:

1. Take a complete unqualified disbursement; or

2. Transfer the balance of the account to another custodian.

O. The provisions of this act shall not preclude the custodian from assessing an early withdraw penalty in the event of any unqualified disbursement in addition to other penalties provided for in this act.

SECTION 5. AMENDATORY 68 O.S. 1991, Section 2358, as last amended by Section 1, Chapter 296, O.S.L. 1996 (68 O.S. Supp. 1996, Section 2358), 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, salespersons' automobiles and other similar equipment, in the proportion that miles traveled in Oklahoma by such equipment bears to total miles traveled,

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

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

b. The payroll factor is a fraction, the numerator of which is the total compensation for services rendered in the state during the tax period, and the denominator of which is the total compensation for services rendered everywhere during the tax period. Compensation as used in this subsection means those

paid-for services to the extent related to the unitary business but does not include officers' salaries, wages and other compensation.

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

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

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

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

or the property is shipped from an office, store, warehouse, factory or other place of storage in this state and (a) the purchaser is the United States government or (b) the taxpayer is not doing business in the state of the destination of the shipment.

(2) In the case of a railroad or interurban railway enterprise, the numerator of the fraction shall not be less than the allocation of revenues to this state as shown in its annual report to the 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 calendar years 1997 and 1998, the owner of a new or expanded agricultural commodity processing facility in this state may exclude from Oklahoma taxable income, or in the case of an individual, the Oklahoma adjusted gross income, fifteen percent (15%) of the investment by the owner in the new or expanded agricultural commodity processing facility. For calendar year 1999, and all subsequent years, the percentage, not to exceed fifteen percent (15%), available to the owner of a new or expanded agricultural commodity processing facility in this state claiming the exemption shall be adjusted annually so that the total estimated reduction in tax liability does not exceed One Million Dollars ($1,000,000.00) annually. The Oklahoma Tax Commission shall promulgate rules for determining the percentage of the investment which each eligible taxpayer may exclude. The exclusion provided by this paragraph shall be taken in the taxable year when the investment is made. In the event the total reduction in tax liability authorized by this paragraph exceeds One Million Dollars ($1,000,000.00) in any calendar year, the Oklahoma Tax Commission shall permit any excess over One Million Dollars ($1,000,000.00) and shall factor such excess into the percentage for subsequent years. Any amount of the exemption permitted to be excluded pursuant to the provisions of this paragraph but not used in any year may be carried forward as an exemption from income pursuant to the provisions of

this paragraph for a period not exceeding six (6) years following the year in which the investment was originally made.

For purposes of this paragraph:

a. "agricultural commodity processing facility" means building, structures, fixtures and improvements used or operated primarily for the processing or production of marketable products from agricultural commodities. The term does not include a facility that provides only, and nothing more than, storage, cleaning, drying or transportation of agricultural commodities, and

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

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

(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 the central visual acuity of the individual does not exceed 20/200 in the better eye with correcting lenses, or if the visual acuity of the individual is greater than 20/200, but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty (20) degrees.

c. 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 or her 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.

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

14. Contributions made to and interest received from a tuition savings account established pursuant to Sections 1 through 4 of this act shall be exempt from taxable income. The exemption shall be claimed as follows: For contributions made and interest earned prior to January 1, 2000, the exemption shall be claimed in the taxable year beginning after December 31, 1998. For subsequent contributions made and interest earned, the exemption shall be claimed in the taxable year in which the contribution was made or interest was earned.

SECTION 6. This act shall become effective July 1, 1997.

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

Passed the House of Representatives the 10th day of March, 1997.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1997.

President of the Senate