

SHORT TITLE: Family Savings Initiative Act; providing for individual development accounts; tax exemptions and credits; matching funds. Effective date.

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

SENATE BILL NO. 1350

By: Brown

AS INTRODUCED

An Act relating to individual development accounts; creating the Family Savings Initiative Act; providing short title; stating purposes; stating legislative findings; defining terms; authorizing Oklahoma Department of Commerce to enter into certain contracts with fiduciary organizations relating to establishment of individual development accounts; providing procedures therefor; stating criteria for awarding of such contracts; providing responsibilities of fiduciary organizations; providing for certain grants; providing procedures for opening of individual development accounts; providing for disbursement of certain matching funds and limiting amounts thereof; providing that account holder not eligible for certain provisions if income exceeds certain amount; stating purposes for which individual development accounts may be used; prohibiting unauthorized withdrawals and providing penalties; providing procedures in case of unauthorized withdrawal; requiring establishment of grievance committee and procedure; requiring Department of Commerce to implement act and promulgate rules; creating Individual Development Account Revolving Fund; providing for deposits to and expenditures from Fund; providing for income tax credit for contributions to Fund; specifying

amount thereof and allowing credit to be carried forward for certain period; limiting total amount of credit; providing that certain entities not eligible for credit; amending 31 O.S. 1991, Section 1, which relates to property exempt from attachment, execution or forced sale; exempting funds in individual development account therefrom; amending Sections 3 and 5, Chapter 414, O.S.L. 1997 (56 O.S. Supp. 1997, Sections 230.52 and 230.54), which relate to the Temporary Assistance for Needy Families Program; exempting individual development accounts from resource determination criteria for purposes of TANF Program; modifying definition; amending 68 O.S. 1991, Section 2358, as last amended by Section 4, Chapter 190, O.S.L. 1997 (68 O.S. Supp. 1997, Section 2358), which relates to income taxes; exempting contributions made to individual development account and capital gains and interest earned on deposits to individual development account from taxable income; providing for codification; and providing an effective date.

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 2357.33 of Title 68, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Family Savings Initiative Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.34 of Title 68, unless there is created a duplication in numbering, reads as follows:

The purpose of the Family Savings Initiative Act is to provide for the establishment of individual development accounts designed to:

1. Provide individuals and families with limited means an opportunity to accumulate assets;
2. Facilitate and mobilize savings;
3. Promote home ownership, microenterprise development, education, saving for retirement, and automobile purchase; and
4. Stabilize families and build communities.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.35 of Title 68, unless there is created a duplication in numbering, reads as follows:

The Legislature hereby finds that:

1. Americans of most economic classes are having increasing difficulty climbing the economic ladder. Fully half of all Americans have no, negligible or negative investable assets just as the price of entry to the economic mainstream, such as the cost of a house, starting a business, an adequate education, establishing a retirement account, or purchasing an automobile, is increasing;
2. Economic well-being does not come solely from income, spending, and consumption, but also requires savings, investment, and accumulation of assets, since assets can improve economic stability, connect people with a viable and hopeful future, stimulate development of human and other capital, enable people to focus and specialize, yield personal and social dividends, and enhance the welfare of offspring;
3. There is an urgent need for new means for Americans to navigate the labor market and to provide incentives and means for employment, upgrading, mobility, and retention;

4. The household savings rate of the United States lags far behind other industrial nations, presenting a barrier to economic growth. The State of Oklahoma should develop policies, such as individual development accounts, that promote higher rates of personal savings and net private domestic investment;

5. In the current fiscal environment, the State of Oklahoma should invest existing resources in high-yielding initiatives. There is reason to believe that the financial returns, including increased income, tax revenue, and decreased welfare cash assistance, of individual development accounts will far exceed the cost of investment;

6. Tens of thousands of Oklahomans continue to live in poverty and receive public assistance. Poverty is a loss of human resources, an assault on human dignity, and a drain on social and fiscal resources of this state. Traditional public assistance programs, concentrating on income and consumption, have rarely been successful in promoting and supporting the transition to economic self-sufficiency; and

7. Income-based social policy should be complemented with asset-based social policy, because while income-based policies ensure that consumption needs, including food, child care, rent, clothing, and health care, are met, asset-based policies provide the means to achieve economic self-sufficiency and climb the economic ladder.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.36 of Title 68, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Department" means the Oklahoma Department of Commerce;
2. "Eligible educational institution" means the following:

- a. an institution described in 20 U.S.C., Section 1088(a)(1) or 1141(a), as such sections are in effect on November 1, 1998, and
- b. an area vocational education school, as defined in 20 U.S.C., Section 2471(4), subparagraph (C) or (D), as such section is in effect on November 1, 1998;

3. "Federal poverty level" means the poverty income guidelines published for a calendar year by the United States Department of Health and Human Services;

4. "Fiduciary organization" means the organization that will serve as an intermediary between an individual account holder and a financial institution holding account funds. Fiduciary organizations may include:

- a. not-for-profit organizations described in Section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C., Section 501(c)(3),
- b. state or local government agencies submitting an application jointly with another entity described in this paragraph,
- c. community development financial institutions as defined pursuant to federal law,
- d. for-profit financial institutions and community development corporations,
- e. credit unions, or
- f. partnerships involving any of the above;

5. "Financial institution" means an organization authorized to do business under state or federal laws relating to financial institutions, and includes but is not limited to a bank, trust company, savings bank, building and loan association, savings and loan company or association, or credit union;

6. "Individual development account" or "IDA" means an account created pursuant to this act exclusively for the purpose of paying

the expenses of an eligible individual or family for the purposes set forth in Section 7 of this act;

7. "Operating costs" includes, but is not limited to, administrative costs and costs of training IDA participants in economic and financial literacy and IDA uses;

8. "Postsecondary educational expenses" means:

- a. tuition and fees required for the enrollment or attendance of an IDA account holder or immediate family member thereof who is a student at an eligible educational institution, and
- b. fees, books, supplies, and equipment required for courses of instruction for an IDA account holder or immediate family member thereof who is a student at an eligible educational institution;

9. "Qualified acquisition costs" means the costs of acquiring, constructing, or reconstructing a residence to be occupied by an IDA account holder or an immediate family member thereof, including, but not limited to, any usual or reasonable settlement, financing, or other closing costs;

10. "Qualified business" means any business that does not contravene any law or public policy;

11. "Qualified business capitalization expenses" means qualified expenditures for the capitalization of a qualified business pursuant to a qualified plan;

12. "Qualified expenditures" means expenditures included in a qualified plan, including but not limited to capital, plant, equipment, working capital, and inventory expenses;

13. "Qualified plan" means a plan for the operation of a business by an IDA account holder or an immediate family member thereof which:

- a. is approved by a financial institution, or by a nonprofit microenterprise program having demonstrated business expertise,
- b. includes a description of services or goods to be sold, a marketing plan, and projected financial statements,
- c. may require the eligible individual to obtain the assistance of an experienced entrepreneurial advisor, and
- d. is approved by the Oklahoma Department of Commerce; and

14. "Qualified principal residence" means a principal residence within the meaning of Section 1034 of the Internal Revenue Code of 1986, 26 U.S.C., Section 1034, of an IDA account holder or an immediate family member thereof, the qualified acquisition costs of which do not exceed the average area purchase price applicable to such residence, determined in accordance with paragraphs (2) and (3) of Section 143(e) of the Internal Revenue Code, 26 U.S.C., Section 143(e)(2) and (3).

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.37 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Department of Commerce shall enter into contracts with at least four (4) fiduciary organizations pursuant to the provisions of this section, in such a manner that every qualified resident of the state has access to one fiduciary organization for the purpose of opening an individual development account. An organization based in this state which desires to enter into such a contract shall submit a proposal to the Department for the right to be approved as a fiduciary organization. Such proposals shall be made upon forms prescribed by the Department and shall contain such information as the Department may require.

B. Organizations' proposals shall be evaluated and contracts awarded by the Department on the basis of such items as geographic diversity and an organization's:

1. Ability to market the project to potential account holders;
2. Ability to leverage additional matching and operating funds;
3. Ability to provide safe and secure investments for individual accounts;
4. Overall administrative capacity, including but not limited to the certifications or verifications required to assure compliance with eligibility requirements, authorized uses of the accounts, matching contributions by individuals or businesses, and penalties for unauthorized distributions;
5. Capacity to provide financial counseling and other related service to potential participations;
6. Links to other activities designed to increase the independence of individuals and families through home ownership, small business development, enhanced education and training, saving for retirement, and automobile purchase; and
7. Operating costs.

Responsibilities of a fiduciary organization shall include, but not be limited to, marketing participation, soliciting matching contributions, counseling project participants, conducting basic economic and financial literacy training and IDA use training for project participants, and conducting required verification and compliance activities. Neither a fiduciary organization nor an employee of or person associated with a fiduciary organization shall receive anything of value, other than compensation for services, for any act performed in connection with the establishment of an IDA or in furtherance of the provisions of this act.

C. For each contract entered into pursuant to the provisions of this section, the Department shall make a grant to the qualified fiduciary organization not later than April 1 of each year in an

amount not to exceed one-fourth of the amount of funds in the IDA Revolving Fund created in Section 10 of this act, of which not less than eighty-five percent (85%) shall be used for matching funds and not more than fifteen percent (15%) shall be used for operating costs.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.38 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. An individual who is a resident of this state may submit an application to open an individual development account to a fiduciary organization approved by the Oklahoma Department of Commerce pursuant to the provisions of Section 5 of this act. Such application shall be made upon a form prescribed by the Department. The fiduciary organization shall approve the application only if the individual has gross household income from all sources for the calendar year preceding the year in which the application is made which does not exceed two hundred percent (200%) of the federal poverty level.

B. An individual opening an IDA shall be required to enter into an IDA agreement with the fiduciary organization. Not more than one individual from a single household may open an IDA.

C. The fiduciary organization shall be responsible for coordinating arrangements between the individual and a financial institution to open the individual's IDA.

D. Each fiduciary organization shall provide written notification to each of its eligible IDA account holders of the amount of matching funds provided by the Department pursuant to the provisions of subsection C of Section 5 of this act to which each such IDA account holder is entitled. Such notification shall be made at such intervals as the fiduciary organization deems appropriate, but shall be required to be made at least once each

calendar year. The amount of such matching funds for each IDA account holder shall be as follows:

1. For an IDA account holder who had gross household income from all sources for the preceding calendar year less than or equal to one hundred percent (100%) of the federal poverty level, One Dollar (\$1.00) for each dollar contributed to the IDA by the IDA account holder during the preceding calendar year, not to exceed Five Hundred Dollars (\$500.00) per IDA account holder per year;

2. For an IDA account holder who had gross household income from all sources for the preceding calendar year of more than one hundred percent (100%) of the federal poverty level but less than or equal to one hundred fifty percent (150%) of the federal poverty level, seventy-five cents (\$0.75) for each dollar contributed to the IDA by the IDA account holder during the preceding calendar year, not to exceed Five Hundred Dollars (\$500.00) per IDA account holder per year; and

3. For an IDA account holder who had gross household income from all sources for the preceding calendar year of more than one hundred fifty percent (150%) of the federal poverty level but less than or equal to two hundred percent (200%) of the federal poverty level, fifty cents (\$0.50) for each dollar contributed to the IDA by the IDA account holder during the preceding calendar year, not to exceed Five Hundred Dollars (\$500.00) per IDA account holder per year.

If the amount provided by the Department pursuant to the provisions of subsection C of Section 5 of this act is insufficient to disburse the maximum amounts specified in this subsection, amounts of disbursements shall be reduced proportionally based upon available funds. If the amount provided by the Department pursuant to the provisions of subsection C of Section 5 of this act is in excess of the amount required to disburse the maximum amounts specified in this subsection, such excess funds shall be returned to

the Department and deposited to the Individual Development Account Revolving Fund.

Nothing in this subsection shall be construed to prohibit or limit a fiduciary organization from providing matching funds from sources other than the Department to its IDA account holder on such terms and under such conditions as it deems appropriate.

E. If an IDA account holder has gross household income from all sources for a calendar year which exceeds two hundred percent (200%) of the federal poverty level, the IDA account holder shall not be eligible to receive funds pursuant to the provisions of subsection D of this section in the following year and shall not be eligible for the tax exemption provided in subparagraph a of paragraph 16 of subsection D of Section 2358 of Title 68 of the Oklahoma Statutes for the calendar year in which gross household income exceeded two hundred percent (200%) of the federal poverty level.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.39 of Title 68, unless there is created a duplication in numbering, reads as follows:

Individual development accounts may be used for any of the following qualified purposes:

1. Qualified acquisition costs with respect to a qualified principal residence for a qualified home buyer, or the costs of major repairs or improvements to a qualified principal residence, if paid directly to the persons to whom the amounts are due;
2. Amounts paid directly to a business capitalization account which is established in a federally insured financial institution and is restricted to use solely for qualified business capitalization expenses consistent with a qualified plan;
3. Postsecondary educational expenses paid directly to an eligible educational institution;

4. Amounts paid directly to an individual retirement account or education IRA established pursuant to federal law in the name of the IDA account holder or an immediate family member thereof; and

5. Qualified acquisition costs with respect to purchase of an automobile, or costs of repair of an automobile, if paid directly to a licensed automobile dealer or repair shop.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.40 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. If the fiduciary organization receives evidence that monies withdrawn from IDAs are withdrawn under false pretenses or are used for purposes other than for the approved purposes indicated at the time of the withdrawal, the fiduciary organization shall make arrangements with the financial institution to impose a penalty of ten percent (10%) of the amount of the monies withdrawn or loss of matches and may, at its discretion, close the account. If the fiduciary organization is unable to impose the penalty specified herein, it shall notify the Oklahoma Tax Commission and the amount of such penalty shall be added to the income tax liability of the IDA account holder. All penalties collected by fiduciary organizations or the Tax Commission shall be deposited to the Individual Development Account Revolving Fund created pursuant to the provisions of Section 10 of this act.

B. The amount of any withdrawal for purposes other than those set forth in Section 7 of this act, or any withdrawal for purposes other than for the approved purposes indicated at the time of the withdrawal, shall be taxed as income during the year in which the withdrawal is made. The fiduciary organization shall notify the Tax Commission of any such withdrawals made.

C. The fiduciary organization shall establish a grievance committee and a procedure to hear, review, and decide in writing any

grievance made by an IDA account holder who disputes a decision of the operating organization that a withdrawal is subject to penalty.

D. Each fiduciary organization shall establish such regulations as are necessary, including prohibiting eligibility for further matching funds, to ensure compliance with this section.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.41 of Title 68, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Department of Commerce shall be responsible for implementation of this act and shall promulgate rules as necessary in accordance with the provisions of this act.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.42 of Title 68, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Oklahoma Department of Commerce to be designated the "Individual Development Account (IDA) Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies appropriated or contributed thereto. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department for grants awarded pursuant to the provisions of subsection C of Section 5 of this act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.43 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For taxable years beginning after December 31, 1998, and before January 1, 2006, there shall be allowed a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes for

contributions to the Individual Development Account Revolving Fund created pursuant to the provisions of Section 10 of this act.

B. The credit provided for in subsection A of this section shall be fifty percent (50%) of the amount contributed to the Fund. If the tax credit exceeds the amount of taxes due or if there are no state taxes due from the taxpayer, the amount of the credit not used as an offset against the taxes of a taxable year may be carried forward for a period not to exceed four (4) taxable years. The total amount of credits allowed pursuant to the provisions of this section shall not exceed One Million Dollars (\$1,000,000.00) annually.

C. No financial institution or fiduciary organization shall be eligible to claim the credit provided for in this section.

SECTION 12. AMENDATORY 31 O.S. 1991, Section 1, is amended to read as follows:

Section 1. A. Except as otherwise provided in this title and notwithstanding subsection B of this section, the following property shall be reserved to every person residing in the state, exempt from attachment or execution and every other species of forced sale for the payment of debts, except as herein provided:

1. The home of such person, provided that such home is the principal residence of such person;

2. A manufactured home, provided that such manufactured home is the principal residence of such person;

3. All household and kitchen furniture held primarily for the personal, family or household use of such person or a dependent of such person;

4. Any lot or lots in a cemetery held for the purpose of sepulcher;

5. Implements of husbandry necessary to farm the homestead;

6. Tools, apparatus and books used in any trade or profession of such person or a dependent of such person;

7. All books, portraits and pictures that are held primarily for the personal, family or household use of such person or a dependent of such person;

8. The person's interest, not to exceed Four Thousand Dollars (\$4,000.00) in aggregate value, in wearing apparel that is held primarily for the personal, family or household use of such person or a dependent of such person;

9. All professionally prescribed health aids for such person or a dependent of such person;

10. Five milk cows and their calves under six (6) months old, that are held primarily for the personal, family or household use of such person or a dependent of such person;

11. One hundred chickens, that are held primarily for the personal, family or household use of such person or a dependent of such person;

12. Two horses and two bridles and two saddles, that are held primarily for the personal, family or household use of such person or a dependent of such person;

13. Such person's interest, not to exceed Three Thousand Dollars (\$3,000.00) in value, in one motor vehicle;

14. One gun, that is held primarily for the personal, family or household use of such person or a dependent of such person;

15. Ten hogs, that are held primarily for the personal, family or household use of such person or a dependent of such person;

16. Twenty head of sheep, that are held primarily for the personal, family or household use of such person or a dependent of such person;

17. All provisions and forage on hand, or growing for home consumption, and for the use of exempt stock for one (1) year;

18. Seventy-five percent (75%) of all current wages or earnings for personal or professional services earned during the last ninety

(90) days, except as provided in Title 12 of the Oklahoma Statutes in garnishment proceedings for collection of child support;

19. Such person's right to receive alimony, support, separate maintenance or child support payments to the extent reasonably necessary for the support of such person and any dependent of such person;

20. Subject to the Uniform Fraudulent Transfer Act, Section 112 et seq. of Title 24 of the Oklahoma Statutes, any interest in a retirement plan or arrangement qualified for tax exemption purposes under present or future Acts of Congress; provided, such interest shall be exempt only to the extent that contributions by or on behalf of a participant were not subject to federal income taxation to such participant at the time of such contributions, plus earnings and other additions thereon; provided further, any transfer or rollover contribution between retirement plans or arrangements which avoids current federal income taxation shall not be deemed a transfer which is fraudulent as to a creditor under the Uniform Fraudulent Transfer Act. "Retirement plan or arrangement qualified for tax exemption purposes" shall include without limitation, trusts, custodial accounts, insurance, annuity contracts and other properties and rights constituting a part thereof. By way of example and not by limitation, retirement plans or arrangements qualified for tax exemption purposes permitted under present Acts of Congress include defined contribution plans and defined benefit plans as defined under the Internal Revenue Code ("IRC"), individual retirement accounts, individual retirement annuities, simplified employee pension plans, Keogh plans, IRC Section 403(a) annuity plans, IRC Section 403(b) annuities, and eligible state deferred compensation plans governed under IRC Section 457. This provision shall be in addition to and not a limitation of any other provision of the Oklahoma Statutes which grants an exemption from attachment or execution and every other species of forced sale for the payment

of debts. This provision shall be effective for retirement plans and arrangements in existence on, or created after the effective date of this act; ~~and~~

21. Such person's interest in a claim for personal bodily injury, death or workers' compensation claim, for a net amount not in excess of Fifty Thousand Dollars (\$50,000.00), but not including any claim for exemplary or punitive damages; and

22. Funds in an individual development account established pursuant to the provisions of Sections 1 through 10 of this act.

B. No natural person residing in this state may exempt from the property of the estate in any bankruptcy proceeding the property specified in subsection (d) of Section 522 of the Bankruptcy Reform Act of 1978, Public Law 95-598, 11 U.S.C.A. 101 et seq., except as may otherwise be expressly permitted under this title or other statutes of this state.

C. In no event shall any property under paragraph 5 or 6 of subsection A of this section, the total value of which exceeds Five Thousand Dollars (\$5,000.00), of any person residing in this state be deemed exempt.

SECTION 13. AMENDATORY Section 3, Chapter 414, O.S.L. 1997 (56 O.S. Supp. 1997, Section 230.52), is amended to read as follows:

Section 230.52 A. Except for specific exceptions, conditions or restrictions authorized by the Statewide Temporary Assistance Responsibility System (STARS) and rules promulgated by the Commission for Human Services pursuant thereto, the following are the minimum mandatory requirements for the Temporary Assistance for Needy Families (TANF) program:

1. A recipient shall be eligible to receive assistance pursuant to the TANF program only for a lifetime total of five (5) years. Child-only cases are not subject to the five-year limitation;

2. Single parents receiving temporary assistance pursuant to the TANF program shall participate in work activities for a minimum of twenty (20) hours per week during the month. Two-parent families receiving temporary assistance pursuant to the TANF program shall participate in work activities for a minimum of thirty-five (35) hours per week during the month;

3. A recipient must be engaged in one or more of the work activities set out in paragraph 4 of this subsection as soon as required by the Department of Human Services pursuant to the TANF program, but not later than twenty-four (24) months after certification of the application for assistance, unless the person is exempt from work requirements under rules promulgated by the Commission pursuant to the STARS;

4. The Department shall develop and describe categories of approved work activities for the TANF program recipients in accordance with this paragraph. Work activities that qualify in meeting the requirements include, but are not limited to:

- a. unsubsidized employment which is full-time employment or part-time employment that is not directly supplemented by federal or state funds,
- b. subsidized private sector employment which is employment in a private for-profit enterprise or a private not-for-profit enterprise that is directly supplemented by federal or state funds. Prior to receiving any subsidy or incentive, the employer shall enter into a written contract with the Department,
- c. subsidized public sector employment which is employment by an agency of a federal, state, or local governmental entity which is directly supplemented by federal or state funds. Prior to receiving any subsidy or incentive, the employer shall enter into a written contract with the Department,

- d. a program of work experience,
- e. on-the-job training,
- f. assisted job search which may include supervised or unsupervised job-seeking activities,
- g. job readiness assistance which may include, but is not limited to:
  - (1) orientation in the work environment and basic job-seeking and job retention skills,
  - (2) instruction in completing an application for employment and writing a resume, and
  - (3) instruction in conducting oneself during a job interview, including appropriate dress,
- h. job skills training which is directly related to employment in a specific occupation for which there is a written commitment by an employer to offer employment to a recipient who successfully completes the training. Job skills training includes, but is not limited to, customized training designed to meet the needs of a specific employer or a specific industry,
- i. community service programs which are job-training activities provided in areas where sufficient public or private sector employment is not available. Such activities are linked to both education or training and activities that substantially enhance a recipient's employability,
- j. literacy and adult basic education programs,
- k. vocational-educational programs, not to exceed twelve (12) months for any individual, which are directed toward vocational-educational training and education directly related to employment,

- l. education programs which are directly related to specific employment opportunities, if a recipient has not received a high school diploma or General Equivalency Degree, and
- m. child care for other STARS recipients. The recipient must meet training and licensing requirements for child care providers as required by the Oklahoma Child Care Facilities Licensing Act;

5. Single, custodial parents with a child up to one (1) year of age may be exempt from work activities for a lifetime total exemption of twelve (12) months;

6. In order to receive assistance, unmarried teen parents of a minor child at least twelve (12) weeks of age must participate in educational activities or work activities approved by the state;

7. For single-parent families, except for teen parents, educational activities, other than vocational-technical training, do not count toward meeting the required twenty (20) hours of work activity. For two-parent families, educational activities, except vocational-technical training, do not count toward meeting the required thirty-five (35) hours of work activity;

8. A teen parent must live at home or in an approved, adult-supervised setting as specified in Section ~~6~~ 230.55 of this ~~act~~ title to receive TANF assistance;

9. A recipient must comply with immunization requirements established pursuant to the TANF program;

10. A recipient shall be subject to the increment in benefits for additional children established by Section ~~9~~ 230.58 of this ~~act~~ title;

11. The following recipient resources are exempt from resource determination criteria:

- a. an automobile with an equity allowance of not more than Five Thousand Dollars (\$5,000.00) pursuant to Section 4 230.53 of this ~~act~~ title,
- b. individual development accounts established pursuant to ~~Section 5 of this act~~ the Family Savings Initiative Act, or individual development accounts established prior to November 1, 1998, pursuant to the provisions of Section 230.54 of this title, in an amount not to exceed Two Thousand Dollars (\$2,000.00),
- c. the equity value of funeral arrangements owned by a recipient that does not exceed the limitation specified by Section 165 of ~~Title 56 of the Oklahoma Statutes~~ this title, and
- d. earned income disregards not to exceed One Hundred Twenty Dollars (\$120.00) and one-half (1/2) of the remainder of the earned income;

12. An applicant who applies and is otherwise eligible to receive TANF benefits but who has resided in this state less than twelve (12) months shall be subject to Section & 230.57 of this ~~act~~ title;

13. The recipient shall enter into a personal responsibility agreement with the Department for receipt of assistance pursuant to ~~Section 16 of this act~~ Section 230.65 of this title;

- 14. a. As a condition of participating in the STARS, all recipients are deemed to have given authorization for the release of any and all information necessary to allow all state and federal agencies to meet the program needs of the recipient.
- b. The recipient shall be provided a release form to sign in order to obtain the required information. Failure to sign the release form may result in case closure; and

15. The recipient shall comply with all other conditions and requirements of the STARS, and rules of the Commission promulgated pursuant thereto.

B. 1. Agencies of this state involved in providing services to recipients pursuant to the STARS shall exchange information as necessary for each agency to accomplish objectives and fulfill obligations created or imposed by the STARS and rules promulgated pursuant thereto.

2. Information received pursuant to the STARS shall be maintained by the applicable agency and, except as otherwise provided by this subsection, shall be disclosed only in accordance with any confidentiality provisions applicable to the agency originating the information.

3. The various agencies of the state shall execute operating agreements to facilitate information exchanges pursuant to the STARS.

C. In implementing the TANF program, the Department shall:

1. Provide assistance to aliens pursuant to Section ~~26~~ 230.73 of this ~~act~~ title;

2. Provide for the closure of the TANF case when the adult recipient refuses to cooperate with agreed upon work activities or other case requirements pursuant to the TANF program;

3. Provide for the sanctioning of parents who do not require their minor children to attend school; and

4. Deny temporary assistance to fugitive felons.

D. In order to ensure that the needy citizens of this state are receiving necessary benefits, the Department shall maintain a listing of all recipients receiving public assistance. The listing shall reflect each recipient's income, social security number, and the programs in which the recipient is participating including, but not limited to, TANF, food stamps, child care, and medical assistance.

E. The Department is hereby authorized to establish a grant diversion program and emergency assistance services.

SECTION 14. AMENDATORY Section 5, Chapter 414, O.S.L. 1997 (56 O.S. Supp. 1997, Section 230.54), is amended to read as follows:

Section 230.54 A. As used in the Temporary Assistance for Needy Families (TANF) program, an "individual development account" means an account established by a recipient under the TANF program ~~and rules promulgated by the Commission for Human Services pursuant thereto for any of the following:~~

- ~~1. Paying for postsecondary education expenses;~~
- ~~2. Setting aside funds for the purchase of a first home to be used as the recipient's primary residence;~~
- ~~3. Contributing to a business capitalization account; and~~
- ~~4. Any other uses authorized by the TANF program pursuant to the provisions of the Family Savings Initiative Act or an account established prior to November 1, 1998, pursuant to the provisions of this section.~~

~~B. The Commission for Human Services shall promulgate rules that enable recipients to fund individual development accounts for the purposes in subsection A of this section that are consistent with the requirements in Section 404(h) of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193. The Commission shall also promulgate rules that sanction recipients who misuse or abuse the spending down of funds contained in the individual development account for purposes not authorized pursuant to the TANF program.~~

~~C.~~ Funds deposited in an individual development account shall not be counted as resources by the Department of Human Services in determining financial eligibility for assistance or services pursuant to the TANF program.

SECTION 15. AMENDATORY 68 O.S. 1991, Section 2358, as last amended by Section 4, Chapter 190, O.S.L. 1997 (68 O.S. Supp. 1997, 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 such interest is not included in taxable income and adjusted gross income.

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

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

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

b. For carryovers and carrybacks to taxable years beginning after December 31, 1980, the amount of any

net operating loss deduction allowed for the taxable year shall be an amount equal to the aggregate of the Oklahoma net operating loss carryovers and carrybacks to such year. Oklahoma net operating losses shall be separately determined by reference to Section 172 of the Internal Revenue Code, 26 U.S.C., Section 172, as modified by the Oklahoma Income Tax Act, Section 2351 et seq. of this title, and shall be allowed without regard to the existence of a federal net operating loss. 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. Provided, for corporations whose property

for purposes of the tax imposed by Section 2355 of this title has an initial investment cost equaling or exceeding Two Hundred Million Dollars (\$200,000,000.00) and such investment is made on or after July 1, 1997, the three factors shall be apportioned with property and payroll, each comprising twenty-five percent (25%) of the apportionment factor and sales comprising fifty percent (50%) of the apportionment factor. The apportionment factors shall be computed as follows:

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

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

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

rental rate received by the taxpayer from subrentals,

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

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

the exemption shall be adjusted annually so that the total estimated reduction in tax liability does not exceed One Million Dollars (\$1,000,000.00) annually. The 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 such 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 such assets to the basis allowed in the Internal Revenue Code. The purpose of this adjustment is to equalize the basis and allowance

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

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

2. For purposes of this subsection:

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

- (1) Capitalization of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00),
- (2) Having at least fifty percent (50%) of its employees and assets located in Oklahoma at the time of the transfer, and
- (3) Not a subsidiary or affiliate of the transferor corporation;

b. "Technology" means a proprietary process, formula, pattern, device or compilation of scientific or

technical information which is not in the public domain;

- c. "Transferor corporation" means a corporation which is the exclusive and undisputed owner of the technology at the time the transfer is made; and
- d. "Gross proceeds" means the total amount of consideration for the transfer of technology, whether the consideration is in money or otherwise.

D. 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 the Internal Revenue Code and reflected in the taxpayer's Oklahoma taxable income together with exclusion allowed herein shall not exceed the total of One Hundred Dollars (\$100.00) per individual or Two Hundred Dollars (\$200.00) per couple filing a joint return.

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

b. Federal taxes as described in subparagraph a of this paragraph shall be deductible by any individual taxpayer, whether resident or nonresident, only to the extent they relate to income subject to taxation pursuant to the provisions of the Oklahoma Income Tax

Act. The maximum amount allowable in the preceding paragraph shall be prorated on the ratio of the Oklahoma adjusted gross income to federal adjusted gross income.

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

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. a. In taxable years beginning after December 31, 1995, nonrecurring adoption expenses paid by a resident individual taxpayer in connection with:

(1) the adoption of a minor, or

- (2) a proposed adoption of a minor which did not result in a decreed adoption, may be deducted from the Oklahoma adjusted gross income.
- b. The deductions for adoptions and proposed adoptions authorized by this paragraph shall not exceed Ten Thousand Dollars (\$10,000.00) per calendar year.
  - c. The Oklahoma Tax Commission shall promulgate rules to implement the provisions of this paragraph which shall contain a specific list of nonrecurring adoption expenses which may be presumed to qualify for the deduction. The Commission shall prescribe necessary requirements for verification.
  - d. "Nonrecurring adoption expenses" means adoption fees, court costs, medical expenses, attorney fees and expenses which are directly related to the legal process of adoption of a child including, but not limited to, costs relating to the adoption study, health and psychological examinations, transportation and reasonable costs of lodging and food for the child or adoptive parents which are incurred to complete the adoption process and are not reimbursed by other sources. The term "nonrecurring adoption expenses" shall not include attorney fees incurred for the purpose of litigating a contested adoption, from and after the point of the initiation of the contest, costs associated with physical remodeling, renovation and alteration of the adoptive parents' home or property, except for a special needs child as authorized by the court.

15. In taxable years beginning after December 31, 1996, retirement benefits not to exceed the amounts specified in this

paragraph, which are received by an individual sixty-five (65) years of age or older and whose Oklahoma adjusted gross income is Twenty-five Thousand Dollars (\$25,000.00) or less if the filing status is single, head of household, or married filing separate, or Fifty Thousand Dollars (\$50,000.00) or less if the filing status is married filing joint or qualifying widow, shall be exempt from taxable income. For purposes of this paragraph, "retirement benefits" means the total distributions or withdrawals from the following:

- a. an employee pension benefit plan which satisfies the requirements of Section 401 of the Internal Revenue Code, 26 U.S.C., Section 401,
- b. an eligible deferred compensation plan that satisfies the requirements of Section 457 of the Internal Revenue Code, 26 U.S.C., Section 457,
- c. an individual retirement account, annuity or trust or simplified employee pension that satisfies the requirements of Section 408 of the Internal Revenue Code, 26 U.S.C., Section 408,
- d. an employee annuity subject to the provisions of Section 403(a) or (b) of the Internal Revenue Code, 26 U.S.C., Section 403(a) or (b),
- e. United States Retirement Bonds which satisfy the requirements of Section 86 of the Internal Revenue Code, 26 U.S.C., Section 86, or
- f. lump-sum distributions from a retirement plan which satisfies the requirements of Section 402(e) of the Internal Revenue Code, 26 U.S.C., Section 402(e).

The amount of the exemption provided by this paragraph shall be limited to One Thousand One Hundred Dollars (\$1,100.00) for the 1997 tax year; Two Thousand Two Hundred Dollars (\$2,200.00) for the 1998 tax year; Three Thousand Three Hundred Dollars (\$3,300.00) for the

1999 tax year; Four Thousand Four Hundred Dollars (\$4,400.00) for the 2000 tax year; and Five Thousand Five Hundred Dollars (\$5,500.00) for all subsequent tax years. Any individual who claims the exemption provided for in paragraph 9 of this subsection shall not be permitted to claim a combined total exemption pursuant to this paragraph and paragraph 9 of this subsection in an amount exceeding Five Thousand Five Hundred Dollars (\$5,500.00).

16. a. Contributions made by an individual to an individual development account established pursuant to the provisions of the Family Savings Initiative Act, if such account is in the name of such individual or in the name of an immediate family member of such individual, shall be exempt from taxable income.

b. Capital gains and interest earned on deposits to an individual development account established pursuant to the provisions of the Family Savings Initiative Act shall be exempt from taxable income.

SECTION 16. This act shall become effective November 1, 1998.

46-2-2458

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