ENROLLED HOUSE
BILL NO. 2010

By: Roach, Ervin, Deutschendorf, Covey, Turner, Braddock, Corn, McCarter and Pope (Clay) of the House

and

Fisher, Capps, Muegge, Rabon, Crutchfield, Kerr and Long of the Senate

An Act relating to economic development; enacting the Rural Venture Capital Formation Incentive Act; defining terms; providing certain tax credits for investments and coinvestments in qualified rural small business capital companies; providing for carryforward of tax credit for certain term; stating restrictions; stating investment criteria; requiring filing of annual report with Oklahoma Tax Commission and stating contents thereof; requiring written statement; providing penalties; directing Tax Commission to develop system for registration of tax credits; requiring report; amending 62 O.S. 1991, Sections 690.2, as last amended by Section 1, Chapter 349, O.S.L. 1998 and 690.3, as last amended by Section 2, Chapter 382, O.S.L. 1999 (62 O.S. Supp. 1999, Sections 690.2 and 690.3), which relate to the Oklahoma Enterprise Zone Act; modifying definitions; adding definition; modifying requirements for qualification for certain benefits and incentives; enacting the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act; defining terms; providing for payment of certain incentive; imposing limitation upon total incentive payable; providing for computation of certain investment amounts; providing for payment of incentive based upon certain dates; prescribing procedures for payment of incentive; requiring certification and specifying content thereof; requiring payment based upon certain sales tax amounts; providing for income tax credit; specifying basis upon which income tax credit available; requiring certification and specifying content thereof; limiting availability of credit based upon certain ad valorem taxes; providing for carryover; requiring Oklahoma Tax Commission to maintain certain records; requiring report; providing for income tax credit; specifying amount of credit; stating basis upon which credit calculated; requiring annual certification by county assessor; prescribing procedures for certification; limiting allowable credit based on type of exemption granted pursuant to certain statutory provision; authorizing carryover; requiring utilization of certain programs for use of capital; amending Section 1, Chapter 393, O.S.L. 1999

(68 O.S. Supp. 1999, Section 2357.28), which relates to tax credit for investment in certain enterprises; modifying taxes against which credit may be claimed; modifying provisions related to transferability; defining terms; modifying definitions; modifying provisions related to recapture; prescribing period of time within which credit used; modifying provisions related to payment of certain revenues; amending 68 O.S. 1991, Section 2902, as last amended by Section 3 of Enrolled Senate Bill No. 1019 of the 2nd Session of the 47th Oklahoma Legislature, which relates to ad valorem tax exemptions for certain facilities; modifying provisions related to payroll requirements; amending 74 O.S. 1991, Section 85.42, as last amended by Section 1, Chapter 409, O.S.L. 1999 (74 O.S. Supp. 1999, Section 85.42), which relates to certain contracts; authorizing contract for certain professional services; amending Section 1, Chapter 292, O.S.L. 1997 (74 O.S. Supp. 1999, Section 6201), which relates to a lease agreement for the Hissom Memorial Treatment Center; modifying required content of lease agreement; deleting certain requirements related to specific parcel; modifying provisions related to ingress and egress; providing for codification; providing for noncodification; providing effective dates; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.71 of Title 68, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 6 of this act shall be known and may be cited as the “Rural Venture Capital Formation Incentive Act”.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.72 of Title 68, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Acquisition" means the use of capital by an Oklahoma rural small business venture within six (6) months after obtaining the capital to purchase fifty-one percent (51%) or more of the voting interest entitled to elect the governing board, or its equivalent, of any other legal entity, regardless of the legal form of the entity. As used in this act, "acquisition" does not mean the right to participate in the proceeds from sale of goods or services, whether denominated a royalty, royalty interest or otherwise, and does not mean the right to intellectual property, whether the rights arise from copyright, trademark or patent law;

2. "Capitalization" means a contractual commitment to provide funds with substantial economic penalties for breach of the commitment to provide such funds;

3. "Equity and near-equity security" means common stock, preferred stock, warrants or other rights to subscribe to stock or its equivalent, or an interest in a partnership, or subordinated debt that is convertible into, or entitles the holder to receive upon its exercise, common stock, preferred stock, royalty interest, or an interest in a partnership;

4. "Financial lending institution" means a bank, credit union, savings and loan, commercial finance company or other entity principally engaged in the extension of credit;

5. “Nonmetropolitan area” means an area which is not an “urbanized area” as defined by the United States Bureau of the Census. An urbanized area comprises one or more places (“central places”) and the adjacent densely settled surrounding territory (“urban fringe”) that together have a minimum of fifty thousand (50,000) persons. An urban fringe generally consists of contiguous territory having a density of at least one thousand (1,000) persons per square mile. An urban fringe also includes outlying territory of such density if it was connected to the core of the contiguous area by road and is within one and one-half road miles of that core, or within five (5) road miles of the core but separated by water or other undevelopable territory. Other territory with a population density of fewer than one thousand (1,000) people per square mile is included within an urban fringe if it eliminates an enclave or closes an indentation in the boundary of the urbanized area;

6. "Oklahoma rural small business venture" means a business, incorporated or unincorporated, which:

a. has or will have, immediately after a loan or investment is made by a qualified rural small business capital company, at least fifty percent (50%) of its employees or assets located in Oklahoma,

b. needs financial assistance in order to commence or expand such business which provides or intends to provide goods or services,

c. has its principal place of business within a nonmetropolitan area of the state and conducts the activity resulting in at least seventy-five percent (75%) of its gross annual revenue from a nonmetropolitan area of the state,

d. except as otherwise provided by this subparagraph, is engaged in a lawful business activity under any Industry Number appearing under any Major Group Number of Divisions A, C, D, E, F or I of the Standard Industrial Classification Manual, 1987 revision with the following exceptions:

(1) Major Group 1 of Division A, and

(2) Major Group 2 of Division A, and

e. qualifies as a small business as defined by the federal Small Business Administration;

7. "Qualified investment" means "equity" and "near-equity" as defined in paragraph 3 of this section or "subordinated debt" as defined in paragraph 9 of this section;

8. "Qualified rural small business capital company" means a C corporation or a subchapter S corporation, as defined by the Internal Revenue Code of 1986, as amended, incorporated pursuant to the laws of Oklahoma, limited liability company or a registered business partnership with a certificate of partnership filed as required by law, which meets the following criteria:

a. the corporation, limited liability company or partnership is organized to provide the direct investment of equity and near-equity funds to rural small business entities within this state,

b. the principal place of business of the corporation, limited liability company or partnership is located within this state,

c. the capitalization of the corporation, limited liability company or partnership is not less than Five Hundred Thousand Dollars ($500,000.00), and

d. the corporation, limited liability company or partnership has investment of not more than twenty-five percent (25%) of its funds in any one company; and

9. "Subordinated debt" means indebtedness that is subordinated to all other indebtedness of the issuer that has been issued or is to be issued to a financial lending institution.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.73 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For taxable years beginning after December 31, 2000, and before January 1, 2008, there shall be allowed a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes for qualified investment in qualified rural small business capital companies.

B. The credit provided for in subsection A of this section shall be thirty percent (30%) of the cash amount invested in qualified rural small business capital companies and may only be claimed for a taxable year during which the qualified rural small business capital company invests funds in an Oklahoma rural small business venture and the credit shall be allowed for the amount of funds invested in an Oklahoma rural small business venture. If the tax credit exceeds the amount of taxes due or if there are no state taxes due of the taxpayer, the amount of the claim not used as an offset against the taxes of a taxable year may be carried forward for a period not to exceed ten (10) taxable years.

C. No taxpayer may claim the credit provided for in this section for investments in qualified rural small business capital companies made prior to January 1, 2001.

D. No taxpayer may claim the credit provided for in this section if the capital provided by a qualified rural small business capital company is used by an Oklahoma rural small business venture for the acquisition of any other legal entity.

E. No financial lending institution shall be eligible to claim the credit provided for in this section except with respect to amounts invested in a qualified rural small business capital company in which the financial lending institution is a shareholder or partner.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.74 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For taxable years beginning after December 31, 2000, and before January 1, 2008, there shall be allowed a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes for qualified investment made in Oklahoma rural small business ventures in conjunction with investment in such ventures made by a qualified rural small business capital company.

B. The credit provided for in this section shall be thirty percent (30%) of the cash amount of qualified investment made in Oklahoma rural small business ventures in conjunction with investment in such ventures made by a qualified rural small business capital company and shall be allowed for a taxable year during which the investment is made in an Oklahoma rural small business venture. If the tax credit allowed pursuant to subsection A of this section exceeds the amount of taxes due or if there are no state taxes due of the taxpayer, the amount of the claim not used as an offset against the taxes of a taxable year may be carried forward for a period not to exceed ten (10) taxable years. To qualify for the credit authorized by this section, an investment shall be:

1. Made by a shareholder or partner of a qualified rural small business capital company that has invested funds in an Oklahoma rural small business venture;

2. Invested in the purchase of equity or near-equity in an Oklahoma rural small business venture;

3. Made under the same terms and conditions as the investment made by the qualified rural small business capital company; and

4. Limited to the lesser of:

   a. two hundred percent (200%) of any investment by the taxpayer in the qualified rural small business capital company, or

   b. two hundred percent (200%) of the investment made by the qualified rural small business capital company in the Oklahoma rural small business venture.

C. No taxpayer may claim the credit provided for in this section for investment made prior to January 1, 2001.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.75 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Each qualified rural small business capital company shall file an annual report with the Oklahoma Tax Commission no later than April 30 of each year which lists all funds invested in or in conjunction with such company which may qualify for the tax credit allowed by Section 3 or Section 4 of this act. The report shall state the amount of funds invested in or in conjunction with such company during the taxable year by persons, partnerships or corporations and the social security number of such person or the federal identification number of such partnership or corporation making such investments. The report shall also include a schedule listing the type and amount of investment made by or in conjunction with the rural small business capital company and such other information as the Tax Commission may prescribe.

B. Each qualified rural small business capital company shall furnish to each person, partnership or corporation which made an investment in or in conjunction with such company during the preceding year a written statement showing the name of the rural small business capital company, the name of the investor, the total amount of investment in or in conjunction with the company made by such person, partnership or corporation and such other information as the Tax Commission may require. The statement shall be attached to the income tax return of such person, partnership or corporation in order to qualify for the tax credit allowed by Section 3 or Section 4 of this act.

C. Any qualified rural small business capital company who refuses or fails to comply with the provisions of this section or is hereafter found guilty in a court of competent jurisdiction of any violation of any Oklahoma income tax law shall not be eligible to be a qualified rural small business capital company for purposes of this act.

D. Any taxpayer who refuses or fails to comply with the provisions of this section or is hereafter found guilty in a court of competent jurisdiction of any violation of any Oklahoma income tax law shall not be eligible for the tax credits granted in Sections 3 and 4 of this act.

E. The Tax Commission is directed to immediately develop a system for registration of any income tax credits issued pursuant to Sections 3 and 4 of this act and a system which permits verification that any tax credit claimed upon an income tax return is validly issued and properly taken in the year of claim.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.76 of Title 68, unless there is created a duplication in numbering, reads as follows:

On or before November 1 of each year subsequent to the effective date of the Rural Venture Capital Formation Incentive Act, the Oklahoma Tax Commission shall file a report with the Speaker of the House of Representatives and the President Pro Tempore of the

Senate. The report shall state the amount of credits actually claimed and allowed pursuant to the provisions of this act and the amount of credits likely to be claimed and allowed pursuant to the Rural Venture Capital Formation Incentive Act for the following year.

SECTION 7. AMENDATORY 62 O.S. 1991, Section 690.2, as last amended by Section 1, Chapter 349, O.S.L. 1998 (62 O.S. Supp. 1999, Section 690.2), is amended to read as follows:

Section 690.2 For the purposes of Section 690.1 et seq. of this title:

1. "Authority" means an "Enterprise District Management Authority" created pursuant to Section 690.7 of this title;

2. "Building" means a structure consisting of a foundation, walls, roof and other parts necessary to its occupation; provided however, it shall not include a structure intended to be used for residence purposes;

3. "Enterprise" means any form of business organization including, but not limited to, any partnership, sole proprietorship, corporation, limited liability company or other legally constituted business entity;

4. "Enterprise district" means at least three but not more than six contiguous enterprise zones formed for the purpose of issuing general obligation bonds;

5. "Enterprise zone" means:

a. a county which:

(1) has experienced a decrease in population ~~equal to a percentage,~~ during the ten-year period preceding the date as of which an establishment either enters into a commitment to locate or announces a plan to locate within an enterprise zone or expands activity within an existing enterprise zone as ~~annually~~ determined by the Oklahoma Department of Commerce ~~for purposes of qualifying a county as an enterprise zone, in the calendar year preceding the beginning of the fiscal year for which an application is made pursuant to Section 690.3 of this title. The Oklahoma Department of Commerce shall promulgate rules describing the percentage of population loss which determines eligibility for enterprise zone designations pursuant to this division~~, or

(2) has been determined to rank in the lowest one-third (1/3) of all counties, which for purposes of this division shall be computed as the lowest twenty-five (25) counties, for per capita personal income as measured by the Bureau of Economic Analysis for the Oklahoma region for the calendar year preceding the beginning of the fiscal year for which an application is made pursuant to Section 690.3 of this title,

b. an area within or contiguous to the corporate limits of any city or town of this state which the Oklahoma Department of Commerce determines, upon application, as an area of economic distress. For purposes of this subparagraph, an area within or contiguous to the corporate limits of a city or town may be determined to be an area of economic distress if it consists of one or more census tracts located within a city or town or contiguous to a city or town. The area as defined by this subparagraph must:

(1) contain a population of persons equal to or greater than thirty percent (30%) of the total population the household income for whom is equal to or less than the poverty level as measured by the U.S. Census Bureau for the Oklahoma region for the most recent year for which data is available prior to the date an application is made pursuant to Section 690.3 of this title, or

(2) contain a population of persons the per capita gross income for whom is twenty percent (20%) or more below the state per capita income, ~~or~~

c. an area designated as a federal enterprise ~~zone~~ community as provided by Section 690.3 of this title, or

d. any enterprise zone designated by the Oklahoma Department of Commerce prior to July 1, 2000;

6. "Equipment" means machinery necessary to the construction or manufacture of products for resale;

7. "Expand" means to make expenditures to add land, buildings, machinery, equipment or other materials, except inventory, to a facility that equal at least ten percent (10%) of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation;

8. "Facility" means an enterprise's place of business in an enterprise zone, including land, buildings, machinery, equipment and other materials, except inventory used in business. ~~"Facility"~~ Except as provided by subsection B of Section 11 of this act, "facility" does not include an establishment used primarily for making retail sales;

9. "Full-time employee" means an individual who is employed for consideration by an enterprise for at least thirty-five (35) hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment;

10. "New employee" means a full-time employee first employed by an enterprise at a facility after the designation of an enterprise zone;

11. "Position" means the position of one full-time employee performing a particular set of tasks and duties;

12. "Priority Enterprise Zones" means enterprise zones which are selected to receive additional resources or programs after meeting the criteria specified in this act;

13. "Project" means any undertaking by an enterprise to establish a facility or to improve a facility by expansion, in an enterprise zone or enterprise district;

14. "Responsible tenant" means any person, partnership, firm, company or corporation whether organized for profit or not deemed by the Authority, after proper investigation, to be financially responsible to assume all rental and all other obligations prescribed by the Authority in the leasing of any building or equipment on which the Authority has a loan outstanding; and

15. "Renovate" means to make expenditures to alter or repair a facility that equal at least fifty percent (50%) of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

SECTION 8. AMENDATORY 62 O.S. 1991, Section 690.3, as last amended by Section 2, Chapter 382, O.S.L. 1999 (62 O.S. Supp. 1999, Section 690.3), is amended to read as follows:

Section 690.3 A. On July 1 of each year, the Oklahoma Department of Commerce shall designate as enterprise zones those counties which meet the criteria set out in subparagraph a of paragraph 5 of Section 690.2 of this title or cities or towns or areas contiguous to cities or towns which meet the criteria set out in subparagraph b of paragraph 5 of Section 690.2 of this title. The list shall also include all areas designated as federal enterprise ~~zones~~ <u>communities</u> which shall be Priority Enterprise Zones for three (3) years.

B. The Oklahoma Department of Commerce shall, within thirty (30) days following July 1 of each year, submit to the board of county commissioners of each county a list of the counties designated enterprise zones.

C. Upon application by an enterprise seeking to qualify for the benefits and incentives authorized by the provisions of the Oklahoma Enterprise Zone Act, the Oklahoma Department of Commerce may approve an enterprise for the benefits and incentives as provided by law. ~~In order for an enterprise to qualify for the benefits and incentives available pursuant to the Oklahoma Enterprise Zone Act, the enterprise must demonstrate to the Oklahoma Department of Commerce the following conditions in an application to the Department using a form prescribed by the Department for such purpose:~~

~~1. A need for the presence of the enterprise in the area within which the enterprise is located or proposes to locate, including, but not limited to, a need for:~~

~~a. addition to market value of commercial or industrial real property in the enterprise zone,~~

~~b. addition of jobs contributing to sustained and stable employment in the enterprise zone,~~

~~c. a business activity with the likelihood of future expansion, or the ability to attract similar enterprises or enterprises the business purpose of which is compatible with the business purposes of the applicant, and~~

~~d. a business activity compatible with existing social and economic conditions prevailing in the area in or around the enterprise zone as of the application date;~~

~~2. Organization of the enterprise, including, but not limited to a business plan, site plan, market study or other indications of an objectively determined basis upon which to locate the enterprise in the enterprise zone identified in the application;~~

~~3. Likelihood of business success as determined by the probable ability of the enterprise to maintain the employment level anticipated during relevant periods of time after business operations begin;~~

~~4. Local support for the applicant which may be established by:~~

~~a. letters of support from county or municipal officials,~~

~~b. documents evidencing support from residents of the area in which the enterprise proposes to locate,~~

~~c. documents evidencing support from existing or other proposed business entities,~~

~~d. documents evidencing support from local economic development organizations, including, but not limited to, councils of government, community action agencies, or other public authorities,~~

~~e. the existence of tax or other economic incentives offered or proposed to be offered by the county or city or town in which the enterprise proposes to locate, or~~

~~f. such other evidence or demonstration of support for the proposed location of the establishment within the enterprise zone as may be relevant for purposes of making the determination required by this section; and~~

~~5. The existing location of the enterprise in an enterprise zone as of the date of the application for benefits and incentives or the proposed location of the enterprise in an enterprise zone, with demonstrated ability to commence business operations in the enterprise zone within one (1) year from the date an application is approved.~~

D. The Oklahoma Department of Commerce shall promulgate rules concerning application procedures and requirements for an enterprise to qualify for benefits and incentives pursuant to the Oklahoma Enterprise Zone Act in accordance with the Administrative Procedures Act.

~~E. All applications submitted to the Oklahoma Department of Commerce shall be submitted to and evaluated by an Enterprise Zone~~

~~Application Review Committee to be composed of three (3) persons who shall be:~~

~~1. The Chairman of the Oklahoma Tax Commission, or a designee;~~

~~2. The Director of the Oklahoma Department of Commerce, or a designee; and~~

~~3. The private sector co-chairman of Oklahoma Futures, or a designee.~~

~~F. The Enterprise Zone Application Review Committee shall evaluate all applications received by it. The applications shall be submitted not later than the sixth month of the fiscal year. The Committee shall have the authority to conduct hearings, in accordance with the Administrative Procedures Act, to hear testimony and to evaluate evidence in support of an application.~~

~~G. The Enterprise Zone Application Review Committee shall select, within each fiscal year, not more than five total enterprises in each enterprise zone to qualify for the incentives and benefits available pursuant to the Oklahoma Enterprise Zone Act. Applications may be approved for enterprise zones designated pursuant to each of subparagraphs a, b, and c of paragraph 5 of Section 690.2 of this title for each fiscal year beginning July 1, 1999.~~

~~H. The Enterprise Zone Application Review Committee shall notify the successful applicant in each category as identified in subsection G of this section by certified mail, return receipt requested, within five (5) working days of its decision. The notification shall also contain a certificate, a copy of which shall be forwarded to the Oklahoma Tax Commission, identifying the enterprise as a successful applicant pursuant to the application and evaluation process as provided by this section.~~

~~I. The process for determining enterprises eligible for the benefits and incentives available pursuant to the Oklahoma Enterprise Zone Act shall terminate by operation of law, unless renewed pursuant to action by the Legislature, on July 1, 2001.~~

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840 of Title 62, unless there is created a duplication in numbering, reads as follows:

Sections 9 through 17 of this act shall be known and may be cited as the "Oklahoma Local Development and Enterprise Zone Incentive Leverage Act".

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 841 of Title 62, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act:

1. "Enterprise" means any form of business organization including, but not limited to, any partnership, sole proprietorship, corporation, limited liability company or other legally constituted business entity;

2. “Enterprise zone” means an area as defined pursuant to subparagraph a, b, c or d of paragraph 5 of Section 690.2 of Title 62 of the Oklahoma Statutes;

3. “Facility” means the definition contained in paragraph 8 of Section 690.2 of Title 62 of the Oklahoma Statutes;

4. “Governing body” means a county, city or town in the case of a single incentive district when the boundaries of the district are coextensive with or contained within the jurisdiction of any such single governmental entity or the combination of counties, cities, or towns forming an incentive district pursuant to the provisions of the Local Development Act, Section 850 et seq. of Title 62 of the Oklahoma Statutes;

5. “Incentive district” means an area created pursuant to the provisions of the Local Development Act, Section 850 et seq. of Title 62 of the Oklahoma Statutes, including Section 856 of Title 62 of the Oklahoma Statutes; and

6. “State matching incentive” or “state matching incentive for local enterprise” means the payment authorized by Section 13 of this act.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 842 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. An enterprise which locates its facility within an enterprise zone or which expands its existing facility after the designation of an enterprise zone as authorized by law and which is located in an incentive district as authorized pursuant to the provisions of the Local Development Act shall be eligible for the state matching incentive for local enterprise payment authorized pursuant to Section 13 of this act.

B. For purposes of the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act, an enterprise engaged in a retail activity, where otherwise prohibited by the Oklahoma Enterprise Zone Act for purposes of the benefits and incentives extended pursuant to Section 690.1 et seq. of Title 62 of the Oklahoma Statutes, shall be considered an eligible enterprise for purposes of the state matching incentive payment and the income tax credit authorized by the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act.

C. The combined maximum amount of state matching incentive for local enterprise payment and the amount of income tax credit authorized pursuant to Section 17 of this act for an enterprise per fiscal year shall not exceed Two Hundred Thousand Dollars ($200,000.00).

D. For purposes of the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act, the maximum amount of aggregate investment in all qualifying facilities located in any single county which can qualify for a state matching incentive pursuant to Section 13 of this act or for an income tax credit as authorized by Section 17 of this act shall be computed for each county of the state by multiplying Two Hundred Dollars ($200.00)

times the population of the county according to the 1999 estimate provided by the United States Bureau of the Census.

E. The computation required by this subsection shall be the maximum amount of aggregated investment qualifying for the purposes of all enterprises for the duration of the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act.

F. The aggregate investment limit for all facilities located within a county which may qualify for the state matching incentive pursuant to Section 13 of this act or for an income tax credit as authorized by Section 17 of this act shall:

1. Not be less than Twenty Million Dollars ($20,000,000.00) for counties with a population of less than one hundred thousand (100,000) persons; and

2. Not be greater than Forty Million Dollars ($40,000,000.00) for all other counties of the state.

G. The state matching incentive payment authorized by Section 13 of this act and the income tax credit authorized by Section 17 of this act shall be available for business entities qualifying pursuant to the Local Development Act for investments made within an incentive district prior to December 31, 2003, or for which an incentive district has been created prior to December 31, 2003, if the investment takes place not later than December 31, 2004.

H. The Oklahoma Department of Commerce may promulgate rules to establish a procedure for an enterprise to make application for state matching incentive payments under circumstances in which the amount of the investment in a facility would be in excess of the applicable aggregate investment limit pursuant to subsection F of this section.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 843 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. In order to receive the state matching incentive payment pursuant to the provisions of Section 13 of this act, the enterprise shall obtain a certification, provided by the governing body of the incentive district, acknowledged by the chief elected official of the local governing body that the enterprise has qualified pursuant to the Local Development Act for sales tax exemption. The certification document shall include:

1. The beginning date of the exemption;

2. The ending date of the exemption;

3. The total amount of projected investment to construct or expand the facility during the period for which the incentives available pursuant to the Local Development Act will be in force and effect together with a certification by the Oklahoma Department of Commerce that the facility is located in an enterprise zone; and

4. The legal name and business entity classification of the entity to which exemption is afforded or to which sales tax payment

is made by the local governmental entity or entities pursuant to the provisions of the Local Development Act.

B. The local governing body shall provide a copy of the certification document to the Oklahoma Tax Commission.

C. After the enterprise provides a certification from the local governing body, the Oklahoma Tax Commission shall make payment to the enterprise identified in the certification document equal to the amount of the sales tax from which the enterprise is certified as exempt as identified in the certification in the manner prescribed by Section 13 of this act.

D. The state matching incentive payment shall be made only for sales tax foregone by local governmental entities or rebated to the business enterprise by local entities for purchases made by the business enterprise and not on the basis of any sales tax collected by the business enterprise from consumers or users on taxable sales made by the enterprise.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 844 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. If an enterprise is located within an incentive district pursuant to the provisions of Section 856 of Title 62 of the Oklahoma Statutes, and the enterprise either constructs or expands a facility that is located within an enterprise zone designated pursuant to the provisions of Section 690.2 of Title 62 of the Oklahoma Statutes, the enterprise shall be eligible for a state matching incentive for local enterprise payment equal to the amount of sales tax exemption afforded to the enterprise pursuant to Section 860 of Title 62 of the Oklahoma Statutes.

B. The state matching incentive payment shall be made for the twelve-month period preceding March 1 of each calendar year beginning with the twelve-month period preceding March 1, 2001.

C. The state matching incentive payment shall be made in an amount equal to the amount of sales tax for which the enterprise has received payment during the period prescribed by subsection B of this section pursuant to Section 860 of Title 62 of the Oklahoma Statutes.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 845 of Title 62, unless there is created a duplication in numbering, reads as follows:

There is hereby created within the State Treasury a special fund for the Oklahoma Tax Commission to be designated the "Oklahoma Local Development and Enterprise Zone Incentive Leverage Act Incentive Payment Fund". The Oklahoma Tax Commission is hereby authorized and directed to withhold a portion of the taxes levied and collected pursuant to Section 2355 of Title 68 of the Oklahoma Statutes for deposit into the fund in order to pay claims as they become due. All of the amounts deposited in such fund shall be used and expended by the Tax Commission solely for the purposes and in the amounts authorized by the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act. The liability of the State of Oklahoma to

make the incentive payments under this act shall be limited to the balance contained in the fund created by this section.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 846 of Title 62, unless there is created a duplication in numbering, reads as follows:

As soon as practicable after verification of the amount of the state matching incentive leverage payment required by Section 13 of this act, the Tax Commission shall issue a warrant to the qualifying establishment in the amount of the sales tax from which the establishment was exempt pursuant to the applicable provisions of the Local Development Act, subject to the limitations imposed by Section 11 of this act.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 847 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Tax Commission shall maintain a record of state matching incentive for local enterprise payments made pursuant to Section 13 of this act and a record of income tax credits claimed pursuant to Section 17 of this act.

B. The Tax Commission shall prepare a report separately identifying the amounts described in subsection A of this section and shall submit the report prior to April 1 each year to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.81 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Subject to the limitation imposed pursuant to subsection C of Section 11 of this act, for taxable years beginning after December 31, 2000, there shall be allowed as a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes, an amount equal to one hundred percent (100%) of the amount of ad valorem taxes exempted pursuant to the provisions of Section 860 of Title 62 of the Oklahoma Statutes for an enterprise locating a new facility within or expanding an existing facility within an enterprise zone as designated pursuant to Section 690.2 of Title 68 of the Oklahoma Statutes if such facility is also located within an incentive district.

B. The income tax credit authorized by this section shall only be available, to the extent otherwise allowable, for ad valorem taxes for which an exemption has been provided pursuant to Section 860 of Title 62 of the Oklahoma Statutes on or after January 1, 2001. The county assessor of the county in which the facility is located, or any part of the facility, shall provide an annual certification to the Oklahoma Tax Commission not later than January 31 of each calendar year as to the amount of ad valorem taxes which would have been payable by the owner of the facility without the exemption provided by Section 860 of Title 62 of the Oklahoma Statutes.

C. In order to claim the credit authorized by this section, the taxpayer shall obtain a certification from the local governing body

approving the incentive district which shall be acknowledged by the chief elected official of the local governing body. The certification shall be signed by the Director of the Oklahoma Department of Commerce or designee, that the facility is located within an enterprise zone. The signature required by this subsection shall be acknowledged in the manner provided by law.

D. The credit authorized by this section shall be allowable only to the extent of ad valorem taxes which would have been levied upon the taxable value of real property and improvements physically attached to real property constituting the eligible facility without the exemption provided by Section 860 of Title 62 of the Oklahoma Statutes and shall not be allowable to the extent that the credit is claimed for ad valorem taxes which would have been levied upon the taxable value of personal property of the enterprise even if the incentive granted by the participating governmental entities in the incentive district includes personal property.

E. If the tax credit authorized by this section exceeds the amount of taxes due or if there are no state taxes due of the taxpayer, the amount of the claim not used as an offset against the taxes of a taxable year may be carried forward for a period not to exceed ten (10) years.

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

The Oklahoma Finance Authorities shall utilize the provisions of the Quality Jobs Investment Program and such other provisions of law providing for the ability of the Oklahoma Finance Authorities to induce private investment as may be available in conjunction with the Small Business Capital Formation Incentive Act and the provisions of the Rural Venture Capital Formation Incentive Act in order to promote the maximum possible effective use of both public sector and private sector capital for purposes of promoting investment in Oklahoma business enterprises.

SECTION 19. AMENDATORY Section 1, Chapter 393, O.S.L. 1999 (68 O.S. Supp. 1999, Section 2357.28), is amended to read as follows:

Section 2357.28 A. For tax years beginning after December 31, 1999, and ending before January 1, 2006, there shall be allowed to an investor making an eligible investment a credit against the tax imposed by Section 2355 of ~~Title 68 of the Oklahoma Statutes~~ this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes. The credit may be used in the payment of estimated tax payments for the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes. The credit shall be in the amount as set forth in subsection F of this section.

B. The amount of the credit shall be freely transferable to subsequent transferees. ~~Any person to whom or to which a tax credit is transferred shall have only such rights to claim and use the credit under the terms that would have applied to the entity by whom or by which the tax credit was transferred. The provisions of this subsection shall not limit the ability of a tax credit transferee to reduce the tax liability of the transferee regardless of the actual tax liability of the tax credit transferor for the relevant taxable period.~~

C. As used in this section~~, "eligible~~:

1. "Capitalization commitment" means a commitment by a local governmental entity or the beneficiary thereof or a private entity, whether by contract, letter agreement, terms sheet, resolution, ordinance or indenture, to provide funds, personal property or real property. "Capitalization commitment" shall also mean, in circumstances limited to local governmental entities or the beneficiaries thereof, a moral obligation to provide future funds, personal property or real property. To provide funds, personal property or real property shall include but not be limited to providing funds, personal property or real property in the form of security or collateral to a financial lending institution in support of a revenue bond, financial obligation or other evidence of indebtedness issued by a local governmental entity;

2. "Consideration" means, but is not limited to, funds, personal property or real property and a capitalization commitment. The source of the funds or other consideration for the investment by one or more investors, whether borrowed or otherwise, is irrelevant to the determination of investment. The fact that the source of funds is from a financial lending institution is also irrelevant;

3. "Eligible investment" means an investment made during a period not earlier than January 1, 1999, and not later than December 31, 2000, in an establishment that:

~~1. Is~~

a. is headquartered in this state or is ultimately controlled by an entity headquartered in this state~~;~~, and

~~2. Has~~

b. has been certified by the Tax Commission as meeting the following minimum qualifications:

~~a.~~ (1) is included within the definition of "basic industry" as set forth in division (9) of subparagraph a of paragraph 1 of subsection A of Section 3603 of ~~Title 68 of the Oklahoma Statutes~~ this title and has been preapproved by the Oklahoma Department of Commerce to receive incentive payments pursuant to the Oklahoma Quality Jobs Program Act. The Department shall establish a process for preapproval of applicants for the Oklahoma Quality Jobs Program Act for purposes of this ~~subparagraph~~ division. The establishment shall agree to submit such information as may be required under this ~~act~~ section and the Oklahoma Quality Jobs Program Act to allow the Tax Commission to determine the amount of the tax credit allowed pursuant to the provisions of this section and the amount of incentive payments allowed pursuant to the Oklahoma Quality Jobs Program Act for purposes of subsection ~~I~~ J of this section,

~~b. has equity capitalization of not less than Ten Million Dollars ($10,000,000.00),~~

~~c.~~ (2) can demonstrate commitments from not fewer than twenty entities doing business in this state, with such entities having in the aggregate not fewer than two thousand (2,000) employees in this state, to utilize the services of the establishment in providing nonstop air transportation from this state to either the west coast or the east coast of the continental United States, or both. Such commitments, at a minimum, may be in the form of letters of intent from authorized officers of such entities which demonstrate a best efforts intention to utilize such air transportation, and

~~d.~~ (3) has received ~~a certification from one or more local governmental entities in this state to accept responsibility for funding in an amount equal to one-third (1/3) of the amount by which the tax credit provided herein exceeds the amount of incentive payments allowed to the establishment pursuant to the Oklahoma Quality Jobs Program Act as provided in subsection I of this section. As used in this section, "local governmental entity" shall include, but not be limited to, a county, municipality or public authority or trust created pursuant to the provisions of Section 176 of Title 60 of the Oklahoma Statutes of which a county or municipality or combination thereof, is a beneficiary. The certification provided for herein shall include a determination by the Tax Commission that the local governmental entity has or will have resources to meet its obligation to accept responsibility for funding in an amount equal to one-third (1/3) of the amount by which the tax credit provided herein exceeds the amount of incentive payments allowed to the establishment and that the form of the obligation is one enforceable by legal remedies available under the laws of the State of Oklahoma~~, or its parent has received, in calendar year 2000, a capitalization commitment in the amount of Fifteen Million Dollars ($15,000,000.00) or more from a local governmental entity, including, but not limited to, proceeds from the issuance of revenue bonds, financial obligations or other evidences of indebtedness. For purposes of this section and notwithstanding the provisions of Section 5063.4 of Title 74 of the Oklahoma Statutes or any other laws to the contrary, credit enhancement by the Oklahoma Development Finance Authority through the Oklahoma Credit Enhancement Reserve Fund up to a maximum of Ten Million Dollars ($10,000,000.00) is hereby authorized, subject to the approval of the Executive and Legislative Bond Oversight

Commissions pursuant to Section 695.8 of Title 62 of the Oklahoma Statutes.

The tax credit provided for ~~herein~~ in this section shall not be allowed or, if already claimed, shall be subject to recapture as to the initial investor or investors, with respect to any amount of an eligible investment made which is subsequently refunded or returned to ~~the~~ any such investor. Any such recapture shall only apply as to that part of the tax credit as is associated with the investment refunded or returned.

Nothing in this subsection is intended to preclude an establishment from utilizing a wholly owned operating subsidiary to perform its flight and related operations to meet the requirements of this subsection;

4. "Financial lending institution" means a bank, credit union, savings and loan association, commercial finance company, governmental agency, including a local governmental entity, or other entity principally engaged in investment, finance or the extension of credit;

5. "Investment" means:

a. consideration in exchange for "equity and near-equity", which means common stock, preferred stock, warrants or other rights to subscribe to stock or its equivalent, or an interest in a partnership, or debt that is convertible into or entitles the holder to receive upon its exercise, common stock, preferred stock, royalty interest, or an interest in a partnership,

b. consideration in exchange for "subordinated debt", which means indebtedness that is subordinated to other indebtedness of the issuer that has been issued or is to be issued by a financial lending institution, or

c. in the event of a capitalization commitment in accordance with the provisions of division (3) of subparagraph b of paragraph 3 of this subsection, where a local governmental entity is issuing revenue bonds, financial obligations or other evidences of indebtedness, the receipt of the proceeds of revenue bonds, financial obligations or other evidences of indebtedness issued by a local governmental entity by a parent and the subsequent transfer of such proceeds to a subsidiary.

Actions of the establishment to use such investment as security for indebtedness, even as security for that of another party, or other uses, in compliance with loan covenants as may be part of the issuance of revenue bonds, financial obligations or other evidences of indebtedness, shall not affect its determination as investment;

6. "Investor" means one or more persons or entities making an investment and may include one or more persons or entities which wholly or partially own the establishment;

7. "Local governmental entity" includes, but is not limited to, a county, municipality or public authority or trust created pursuant

to the provisions of Title 60 of the Oklahoma Statutes of which the state or a county or municipality or combination thereof, is a beneficiary, or a state public authority or trust;

8. "Parent" means an entity owning fifty-one percent (51%) or more of the establishment and providing fifty-one percent (51%) or more of the investment in the establishment; and

9. "Subsequently refunded or returned", when used in reference to an eligible investment, means an actual redemption by the establishment of the securities or other indicia of ownership in the establishment received by the investor from the investor's investment. The failure to allow the tax credits or the recapture of the tax credits shall not affect the validity of the tax credits in the hands of a transferee of the initial investor or subsequent transferees. Provided, an investor to whom an eligible investment, or portion thereof, is subsequently refunded or returned shall reimburse the Tax Commission the amount of any credits claimed by a transferee with respect to any such amount.

D. The Oklahoma Tax Commission shall:

1. Certify, upon request of an authorized agent or representative of an establishment described by paragraph ~~2~~ 3 of subsection C of this section, that the establishment for which the certification is sought meets the qualifications prescribed by subparagraphs a~~,~~ and b~~, c and d~~ of paragraph ~~2~~ 3 of subsection C of this section. The certification shall be in writing and signed by an authorized representative of the Tax Commission and, for purposes of determining qualifications of an establishment in which an investment may be eligible for the credit authorized by this section, shall be binding upon the Tax Commission; and

2. Issue a certificate to an investor that provides adequate documentation of qualification for the credit authorized by this section even if the credit may not be claimed until after the date upon which the certificate is requested. Upon issuance, the certificate shall be evidence that an investor or a transferee of the original tax credit claimant submitting the certificate, or a certified copy thereof, with the relevant tax return or other form, has the legal right to exercise the credit in order to reduce the relevant tax liability for the period authorized by this section.

E. The maximum amount of all eligible investments for which tax credits may be claimed under this section shall be Thirty Million Dollars ($30,000,000.00). If more than one establishment has been certified by the Tax Commission pursuant to the provisions of subsection D of this section, the investors in the first such approved establishment shall be entitled to a credit based on their investment of the lesser of their eligible investment or Thirty Million Dollars ($30,000,000.00). The investors in the second such approved establishment shall then be entitled to a credit based on their investment of the lesser of their eligible investment or the difference between the total eligible investments in previously approved establishments and Thirty Million Dollars ($30,000,000.00). This same procedure will apply for all subsequently approved establishments. If the amount of eligible investments exceeds the amount upon which the tax credit may be claimed as provided herein, investors shall be allowed a share of the amount of the available tax credit in order of the dates of receipt of certification

therefor by the Tax Commission pursuant to the provisions of paragraph 1 of subsection D of this section.

F. The amount of the tax credit allowed pursuant to the provisions of subsection A of this section shall be deemed fully earned as of the date of the investment and shall be fully redeemable as follows:

Period for Which Tax Liability Determined	Credit Allowed
Tax year subsequent to year of eligible investment	10.6% of eligible investment
Second tax year subsequent to year of eligible investment	11.236% of eligible investment
Third tax year subsequent to year of eligible investment	11.910% of eligible investment
Fourth tax year subsequent to year of eligible investment	12.624% of eligible investment
Fifth tax year subsequent to year of eligible investment	13.381% of eligible investment

G. The amount of a tax credit allowed pursuant to the provisions of this section not used in payment of taxes due in the year in which such credit is allowed pursuant to subsection F of this section may be used as a credit against subsequent tax liability of the investor or a subsequent transferee for a period not to exceed three (3) years from the year in which such credit is originally allowed.

H. The Tax Commission shall develop and issue appropriate forms and instructions to enable investors to claim the tax credit provided for in this section.

~~H.~~ I. An establishment in which an eligible investment qualifies for a credit authorized by this section shall maintain a record of investment made in the establishment for the period beginning January 1, 1999, and ending December 31, 2000. The establishment shall notify the Tax Commission not later than January 31, 2001, of the total investment amount for such period. Any such establishment which refunds or returns any amount of an eligible investment to the investor shall notify the Tax Commission in writing of the amount and recipient of such refunds or returns. The Tax Commission shall compute the maximum amount of credits available pursuant to this section based upon notification of the investment amount transmitted to the Tax Commission by the establishment.

~~I.~~ J. An establishment in which eligible investments qualify for the tax credit authorized by this section shall not receive incentive payments pursuant to the Oklahoma Quality Jobs Program Act until the total of such incentive payments the establishment would

otherwise receive exceeds the total amount of the credit authorized by this section as computed by the Tax Commission pursuant to subsection ~~H~~ I of this section. The amount of incentive payments for any year which would otherwise be paid to the establishment shall be distributed as follows:

1. If the amount of such incentive payments equals or exceeds the amount of the tax credit for the year, the amount of such payments which is equal to the amount of the tax credit shall be apportioned as if collected from the tax imposed by Section 2355 of ~~Title 68 of the Oklahoma Statutes~~ this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes according to which tax the credit was claimed against. The amount of such payments which is in excess of the amount of the tax credit shall be retained by the Tax Commission to be paid as provided for in this paragraph for subsequent years for which the tax credit is allowed to the establishment;

2. If the amount of such incentive payments and any amount retained by the Tax Commission pursuant to the provisions of paragraph 1 of this subsection is less than the amount of the tax credit for the year, ~~the amount of such deficit shall be paid as follows:~~

~~a.~~ notwithstanding the provisions of Section 1727 of Title 69 of the Oklahoma Statutes, the Tax Commission shall withhold a portion of the taxes levied and collected pursuant to the provisions of paragraph 1 of subsection A of Section 500.4 of ~~Title 68 of the Oklahoma Statutes~~ this title which would otherwise be paid over to the Department of Transportation by the Oklahoma Turnpike Authority pursuant to the provisions of paragraph (2) of subsection (d) of Section 1730 of Title 69 of the Oklahoma Statutes equal to the amount ~~of two-thirds (2/3)~~ of the deficit~~, and~~

~~b. the local governmental entity which has certified that it will accept responsibility for funding pursuant to the provisions of subparagraph d of paragraph 2 of subsection C of this section shall pay to the Tax Commission an amount equal to the amount of one-third (1/3) of the deficit~~.

The Tax Commission shall apportion all funds collected pursuant to the provisions of this paragraph as if collected from the tax imposed by Section 2355 of ~~Title 68 of the Oklahoma Statutes~~ this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes according to the tax against which the credit was claimed; and

3. If any amount is withheld by or paid to the Tax Commission pursuant to the provisions of paragraph 2 of this subsection, ~~two-thirds (2/3) of~~ the amount of incentive payments to be subsequently paid to the establishment shall be apportioned by the Tax Commission to the Department of Transportation ~~and one-third (1/3) of the amount of such incentive payments shall be paid to the local governmental entity which has made one or more payments pursuant to the provisions of subparagraph b of paragraph 2 of this subsection~~ until such time as all amounts paid pursuant to the provisions of paragraph 2 of this subsection are repaid.

~~J.~~ K. No establishment in which investments qualify for the credit allowed by this section shall be entitled to payment of any incentive payments accrued prior to the date authorized for the initial eligible investments as provided by this subsection.

~~K.~~ L. Notwithstanding the provisions of this section, an establishment may, prior to the issuance of a tax credit with respect to the establishment pursuant to the provisions of this section, elect to receive incentive payments pursuant to the provisions of the Oklahoma Quality Jobs Program Act in lieu of allowing the tax credit provided for herein, in which case it shall so notify the Tax Commission in writing and the provisions of this section shall not be applicable.

~~L.~~ M. Except as provided by subsection ~~K~~ L of this section, no establishment defined by this section which would otherwise qualify for incentive payments pursuant to the provisions of the Oklahoma Quality Jobs Program Act may receive such incentive payments prior to January 1, 2001.

~~M.~~ N. No establishment defined by this section which has made application to the Oklahoma Department of Commerce or which has executed any agreement with the Oklahoma Department of Commerce with respect to the receipt of incentive payments pursuant to the provisions of the Oklahoma Quality Jobs Program Act or which has received any incentive payment pursuant to the Oklahoma Quality Jobs Program Act prior to ~~the effective date of this act~~ June 9, 1999, may be certified as an establishment for purposes of determining eligibility for the credit authorized by this section.

SECTION 20. AMENDATORY 68 O.S. 1991, Section 2902, as last amended by Section 3 of Enrolled Senate Bill No. 1019 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 2902. A. A qualifying manufacturing concern, as defined by Section 6B of Article X of the Oklahoma Constitution, and as further defined herein, shall be exempt from the levy of any ad valorem taxes upon new, expanded or acquired manufacturing facilities, including facilities engaged in research and development, for a period of five (5) years. Such facilities are hereby classified for the purposes of taxation as provided in Section 22 of Article X of the Oklahoma Constitution.

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

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

a. establishments which have received a manufacturer exemption permit pursuant to the provisions of Section 1359.2 of this title,

b. facilities, including repair and replacement parts, primarily engaged in aircraft repair, building and rebuilding whether or not on a factory basis,

c. establishments primarily engaged in computer services and data processing as defined under Industrial Group Numbers 7372 and 7373 of the SIC Manual, latest revision, and which derive at least fifty percent (50%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer, and as defined under Industrial Group Number 7374 of the SIC Manual, latest revision, which derive at least eighty percent (80%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer. Eligibility as a manufacturing facility pursuant to this subparagraph shall be established, subject to review by the Oklahoma Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and such other information as required by the Tax Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers, all sales to the federal government shall be considered to be an out-of-state buyer, or

d. establishments primarily engaged in distribution as defined under Industrial Group Number 4221, 4222, 4225 or 4226 or Major Group Number 50 or 51 of the SIC Manual, latest revision, and which were constructed with an initial capital investment of at least Five Million Dollars ($5,000,000.00) and which employ at least one hundred (100) full-time-equivalent employees, as certified by the Employment Security Commission. Eligibility as a manufacturing facility pursuant to this subparagraph shall be established, subject to review by the Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and such other information as required by the Tax Commission. The exemption provided for in this subparagraph shall apply only to an establishment for which construction of the facility has commenced prior to December 31, 1999,

e. provided, eating and drinking places, as well as other retail establishments, except as otherwise provided in subsection E of this section, shall not qualify as manufacturing facilities for purposes of this section, nor shall centrally assessed properties;

2. For tax years beginning after December 31, 1992, "manufacturing facilities" shall mean those facilities as defined in paragraph 1 of this subsection for which the investment cost of the construction, acquisition or expansion of the manufacturing facility is Two Hundred Fifty Thousand Dollars ($250,000.00) or more;

3. "Facility" and "facilities" shall mean and include the land, buildings, structures, improvements, machinery, fixtures, equipment and other personal property used directly and exclusively in the manufacturing process; and

4. "Research and development" shall mean activities directly related to and conducted for the purpose of discovering, enhancing,

increasing or improving future or existing products or processes or productivity.

C. For applications for a five-year exemption submitted after December 31, 1993, the following provisions shall apply:

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

2. Except as otherwise provided in paragraphs 5 and 6 of this subsection, no manufacturing concern shall receive more than one five-year exemption for any one manufacturing facility unless the expansion which qualifies the manufacturing facility for an additional five-year exemption meets the requirements of paragraph 4 of this subsection, provided the employment level established for any previous exemption is maintained;

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

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

a. there is a net increase of Two Hundred Fifty Thousand Dollars ($250,000.00) or more in annualized payroll, or a net increase of Two Million Dollars ($2,000,000.00) or more in capital improvements while maintaining or increasing payroll. The Oklahoma Tax Commission shall verify all payroll information through the Oklahoma Employment Security Commission. Payroll shall be verified by the Oklahoma Tax Commission by using the average of the third and fourth quarter Oklahoma Employment Security Commission reports of the calendar year immediately preceding the year for which initial application is made for base-line payroll, and

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

For purposes of this section, calculation of the amount of increased payroll shall be measured from the start of initial construction or expansion to the completion of such construction or expansion or for three (3) years from the start of initial construction or expansion, whichever occurs first. <u>The amount of increased payroll shall include payroll for full-time-equivalent employees in this state who are employed by an entity other than the facility which has qualified to receive an exemption pursuant to the provisions of this</u>

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

5. Any new, acquired or expanded automotive final assembly manufacturing facility which does not meet the requirements of paragraph 4 of this subsection shall be granted an exemption only if all other requirements of this section are met and only if the investment cost of the construction, acquisition or expansion of the manufacturing facility is Three Hundred Million Dollars ($300,000,000.00) or more and the manufacturing facility retains an average employment of one thousand seven hundred fifty (1,750) or more full-time-equivalent employees in the year in which the exemption is initially granted and in each of the four (4) subsequent years only if an average employment of one thousand seven hundred fifty (1,750) or more full-time-equivalent employees is maintained in the subsequent year. Calculation of the number of employees shall be made in the same manner as required under Section 2357.4 of this title for an investment tax credit. As used in this paragraph, "expand" and "expansion" shall mean and include any increase to the size or scope of a facility as well as any renovation, restoration, replacement or remodeling of a facility which permits the manufacturing of a new or redesigned product; and

6. Any new, acquired or expanded manufacturing facility which does not meet the requirements of subparagraph a of paragraph 4 of this subsection shall be granted an exemption only if all other requirements of this section are met and only if:

a. the investment cost of the construction, acquisition or expansion of the manufacturing facility is Two Hundred Million Dollars ($200,000,000.00) or more and such investment is made on or after July 1, 1997, and

b. the manufacturing facility retains employment of five hundred (500) or more full-time-equivalent employees in the year in which the exemption provided by this paragraph is granted and in each of the four (4) subsequent years only if employment of five hundred (500) or more full-time-equivalent employees is maintained in the subsequent year. Calculation of the number of employees shall be made in the same manner as required under Section 2357.4 of this title for an investment tax credit.

As used in this paragraph, "expand" and "expansion" shall mean and include any increase to the size or scope of a facility as well as any renovation, restoration, replacement or remodeling of a facility which permits the manufacturing of a new or redesigned product or a technological enhancement of the manufacturing process.

D. The five-year period of exemption from ad valorem taxes for any qualifying manufacturing facility property shall begin on January 1 following the initial qualifying use of the property in the manufacturing process.

E. 1. As used in this subsection:

a. “manufacturing facility” means:

(1) an establishment primarily engaged in distribution as defined under Industrial Group Number 5141 of the SIC Manual, latest revision, and which employs at least one hundred (100) full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, or

(2) a facility or establishment primarily engaged in property operation of a retail shopping center as defined under Industrial Group Number 6512 of the SIC Manual, latest revision, and which the tenants of such facility or establishment, in the year immediately preceding the natural disaster, collected and remitted more than fifty percent (50%) of the total municipal sales tax revenue of the municipality in which the facility or establishment is located, and

b. “natural disaster” means the tornado or similar cyclonic winds occurring on May 3, 1999;

2. The five-year exemption provided for in this section shall apply to any manufacturing facility as defined in paragraph 1 of this subsection which facility has been damaged or destroyed by the natural disaster occurring on May 3, 1999. In order to qualify for this exemption:

a. the existing facility shall be repaired or rebuilt no later than May 3, 2001, to the same or similar condition as the facility existed prior to the damage or destruction, or the existing facility may be expanded,

b. the facility as defined in division (1) of subparagraph a of paragraph 1 of this subsection shall maintain at least ninety percent (90%) of the average level of full-time-equivalent employees in the year the facility begins operation after the occurrence of the natural disaster as compared to the year immediately before the natural disaster occurred. The tenants of the facility as defined in division (2) of subparagraph a of paragraph 1 of this subsection shall maintain at least seventy percent (70%) of the average level of full-time-equivalent employees in the year

the facility begins operation after the occurrence of the natural disaster as compared to the year immediately before the natural disaster occurred. The facility shall submit an affidavit to the Oklahoma Tax Commission, signed by an officer, setting forth the average level of full-time-equivalent employees in the year before the natural disaster and the year the facility reopened for business following the natural disaster. The number of full-time-equivalent employees shall be certified by the Oklahoma Employment Security Commission, and

c. the exemption shall be claimed no later than March 15, 2001.

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

G. The application shall be examined by the county assessor and approved or rejected in the same manner as provided by law for approval or rejection of claims for homestead exemptions. The taxpayer shall have the same right of review by and appeal from the county board of equalization, in the same manner and subject to the same requirements as provided by law for review and appeals concerning homestead exemption claims. Approved applications shall be filed by the county assessor with the Tax Commission no later than June 15, except as provided in Section 2902.1 of this title, of the year in which the facility desires to take the exemption. Incomplete applications and applications filed after June 15 will be declared null and void by the Tax Commission. In the event that a taxpayer qualified to receive an exemption pursuant to the provisions of this section shall make payment of ad valorem taxes in excess of the amount due, the county treasurer shall have the authority to credit the taxpayer's real or personal property tax overpayment against current taxes due. The county treasurer may establish a schedule of up to five (5) years of credit to resolve the overpayment.

H. Nothing herein shall in any manner affect, alter or impair any law relating to the assessment of property, and all property, real or personal, which may be entitled to exemption hereunder shall be valued and assessed as is other like property and as provided by

law. The valuation and assessment of property for which an exemption is granted hereunder shall be performed by the Tax Commission.

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

SECTION 21. AMENDATORY 74 O.S. 1991, Section 85.42, as last amended by Section 1, Chapter 409, O.S.L. 1999 (74 O.S. Supp. 1999, Section 85.42), is amended to read as follows:

Section 85.42 A. Except as otherwise provided for in this section, any agency, whether or not such agency is subject to the Oklahoma Central Purchasing Act, Section 85.1 et seq. of this title, is prohibited from entering into a sole source contract or a contract for professional services with or for the services of any person, who has terminated employment with or who has been terminated by that agency for one (1) year after the termination date of the employee from the agency. The provisions of this subsection shall not prohibit an agency from hiring or rehiring such person as a state employee.

B. Each contract entered into by any person or firm with the State of Oklahoma shall include an affidavit certifying that no person who has been involved in any manner in the development of that contract while employed by the State of Oklahoma shall be employed to fulfill any of the services provided for under said contract. This subsection shall not preclude faculty and staff of the institutions within The State System of Higher Education from negotiating and participating in research grants and educational contracts. Nor shall this subsection apply to personnel of the Capital Resources Division of the Oklahoma Department of Commerce who contract to provide services to the Oklahoma Capital Investment Board.

C. As used in this section, person is defined as any state official or employee of a department, board, bureau, commission, agency, trusteeship, authority, council, committee, trust, school district, fair board, court, executive office, advisory group, task force, study group, supported in whole or in part by public funds or entrusted with the expenditure of public funds or administering or operating public property, and all committees, or subcommittees thereof, judges, justices, and state legislators.

D. An agency may enter into a sole source contract or a contract for professional services at any time with a person who is a qualified interpreter for the deaf.

E. The Department of Transportation, Oklahoma Water Resources Board, Department of Environmental Quality, and the Oklahoma Turnpike Authority may enter into a contract for professional services at any time with a person who has retired from state service. <u>The Oklahoma Department of Commerce may enter into a contract for professional services related to international business development at any time with a person who has retired from state service.</u>

SECTION 22. AMENDATORY Section 1, Chapter 292, O.S.L. 1997 (74 O.S. Supp. 1999, Section 6201), is amended to read as follows:

Section 6201. A. The Department of Central Services shall enter into a lease agreement with the Greater Sand Springs Trust Authority for a term of ninety-nine (99) years with respect to the real property and improvements constituting the former Hissom Memorial Treatment Center, as more particularly described by subsection C of this section.

B. The lease agreement described in subsection A of this section:

1. Shall allow the Greater Sand Springs Trust Authority to enter into agreements regarding the property described in subsection C of this section with third parties without the express consent of the Department of Central Services, including the right of the Authority to sublease all or any part of the real property described in subsection C of this section;

2. Shall provide for the unrestricted access, use and development of the real property described in subsection C of this section by the Greater Sand Springs Trust Authority in order for the Authority to fulfill its purposes according to the terms of its trust indenture, including, but not limited to, the right of the Authority to construct capital improvements on, above or under the property to fulfill the purposes stated in the indenture of the Authority. The lease shall provide that the Authority owns and maintains capital improvements constructed upon the real property with the funds of the Authority;

3. Shall provide for the conveyance by the Department of Central Services to the Greater Sand Springs Trust Authority, by quit claim deed or by such other instrument of conveyance as the Department of Central Services and the Authority may mutually agree, for not more than a payment by the Authority to the Department of a nominal consideration not to exceed Ten Dollars ($10.00), of any parcel of real property described by the Authority and certified, by a majority of the trustees of the Authority, to be necessary for a complete development of the property described in subsection C of this section and necessary for the Authority to fulfill any purpose specified in its trust indenture. A rebuttable presumption shall exist that any conveyance made pursuant to the provisions of this paragraph shall be considered to have been made for the general economic benefit of the residents of the beneficiary of the Greater Sand Springs Trust Authority and that the disposition of the parcel by the Authority is in furtherance of an essential governmental function by making a productive use of the parcel. After conveyance of a parcel of real property to the Authority pursuant to this paragraph, the Authority shall have the exclusive right to exercise all powers, rights and privileges with respect to the parcel as authorized by law to the owner of any real property, including, but not limited to, the right to sell the parcel as provided by paragraph 4 of this subsection;

4. Shall provide for the conveyance by the Authority to another legal entity, by quit claim deed or by such other instrument of conveyance as the Authority and the other legal entity may mutually agree, of any parcel of real property described by the Authority the

proposed conveyance of which to be certified, by a majority of the trustees of the Authority, as necessary for a complete development of the property described in subsection C of this section and necessary for the Authority to fulfill any purpose specified in its trust indenture. A rebuttable presumption shall exist that any conveyance made pursuant to the provisions of this paragraph shall be considered to have been made for the general economic benefit of the residents of the beneficiary of the Greater Sand Springs Trust Authority and that the disposition of the parcel by the Authority is in furtherance of an essential governmental function by making a productive use of the parcel. If the Authority sells any part or all of the real property or improvements described in subsection C of this section subsequent to the conveyance to the Authority by the Department of Central Services, the Authority shall determine the value of the real property sold separate and apart from the value of the improvements, if any. The Authority shall determine its direct and indirect costs for acquisition, maintenance, improvement, marketing and sale of any parcel of real property conveyed to a legal entity pursuant to this paragraph. The Authority shall pay to the Department of Central Services the amount of consideration received by the Authority from the sale of the real property in excess of the direct and indirect costs incurred by the Authority. The Department of Central Services shall remit the amount for deposit to the credit of the Hissom Memorial Treatment Center Surplus Fund for appropriation pursuant to law;

5. ~~Shall provide that the Authority shall reserve, for the purposes of a sublease granted by the Authority, a parcel consisting of at least forty (40) acres of the real property described in subsection C of this section for use and occupancy by a nonprofit organization, the principal purpose of which is to establish a comprehensive, multifaceted approach to Alzheimer's disease and other dementia, including but not limited to components for medical, environmental and behavioral research, education and training of family members, care givers and other health care professionals, the assessment and diagnosis of the disease, and treatment at various stages of the disease in order to maintain and restore functioning to the extent possible. The lease shall also provide that:~~

~~a. the real property described by paragraph 6 of this subsection shall be subleased by the Authority for a rent not to exceed One Dollar ($1.00) per year, and~~

~~b. any purchase price for the real property described by paragraph 6 of this subsection in a transaction between the Authority and the nonprofit organization shall not exceed the sum of Ten Dollars ($10.00);~~

~~6. Shall provide that the parcel reserved for the nonprofit organization pursuant to paragraph 5 of this subsection be described as a tract of land containing forty-one (41) acres, more or less, and beginning at the SE corner of the SE pillar of Residence Building Number 18, going West approximately 25 feet along the North Property Line; thence South along the West Property Line approximately 920 feet to the South chain-link fence; thence going in a Southeasterly direction along the South Property Line approximately 1619 feet; thence going North along the East Property Line approximately 1531 feet; thence going West along the above described North Property Line approximately 1381 feet to the SE~~

~~corner of the SE pillar of Residence Building Number 18 to the point of beginning. As used in this paragraph:~~

~~a. "North Property Line" means a line running East and West along the exact South edge of the South row of pillars of the Residence Buildings Number 17 and 18,~~

~~b. "South Property Line" means a line of the chain-link fence that runs East to West along the entire South side of the Hissom property. This fence runs parallel to the railroad track and Highway 51 bordering the South side of the property,~~

~~c. "East Property Line" means an approximate North/South line that is exactly 35.3 feet East of the East curb of the North/South road that is located on the East side of the parking lot on the East side of the Infirmary Building Number 1 and parallel with the North/South road located on the East side of the parking lot on the East side of the Infirmary Building Number 1, and~~

~~d. "West Property Line" means an approximate North/South line that is exactly 50 feet West of the West curb of the parking lot located just West of the Activities Building and running parallel with the West Curb;~~

~~7. Shall provide that, in order to qualify for the use and occupancy of the parcel described by paragraph 6 of this subsection, the organization eligible to enter into the sublease agreement shall:~~

~~a. have been incorporated in the State of Oklahoma,~~

~~b. have the principal purpose of demonstrating a comprehensive approach to the treatment of Alzheimer's disease and other dementia,~~

~~c. have a board of directors consisting of not more than thirteen (13) members having the following qualifications:~~

~~(1) two medical researchers in the field or fields of Alzheimer's disease and related dementia prevention, treatment or diagnosis; neuropathology with emphasis on Alzheimer's disease and other dementia; gerontological medicine; or other closely related field to Alzheimer's disease or other dementia. One of the researchers shall be associated with the Oklahoma State University College of Osteopathic Medicine. One of the researchers shall be associated with the University of Oklahoma College of Medicine,~~

~~(2) two health care professional educators with experience in training direct care staff to work with patients with Alzheimer's disease or other dementia. One educator shall specialize in training health care professionals for employment~~

~~at the baccalaureate level or higher. One educator shall specialize in training health care professionals for employment at a level below the baccalaureate level, including certificate and associate degree programs,~~

~~(3)~~ ~~two professional health care providers with experience treating patients with Alzheimer's disease or other dementia and working with their families. One provider shall have experience in the field of long-term care, such as nursing facility and residential care. One provider shall have experience in community-based treatment, such as adult day services and home health,~~

~~(4)~~ ~~two private health care practitioners, not engaged in research, with specialties in geriatrics, gerontology, Alzheimer's disease or other dementia or related categories. One practitioner shall be a family practice or internal medicine doctor or a nurse practitioner. One practitioner shall be a licensed clinical social worker, a licensed psychologist or a registered nurse,~~

~~(5)~~ ~~two persons who are family members or relatives of someone who has or has had Alzheimer's disease or related dementia and are recommended by the Tulsa Green Country or Central Oklahoma Chapters of the Alzheimer's Disease and Related Disorders Association, Incorporated,~~

~~(6)~~ ~~one senior citizen over the age of sixty-five (65), and~~

~~(7)~~ ~~two other individuals, and~~

~~d.~~ ~~either:~~

~~(1)~~ ~~make use of the parcel described in paragraph 6 of this subsection:~~

~~(a)~~ ~~within five (5) years from the date as of which the organization enters into a lease or other agreement regarding use or occupancy of the parcel with the Authority if such lease is executed within ninety (90) days after the effective date of this act, or~~

~~(b)~~ ~~within five (5) years from the effective date of this act if the lease between the Authority and the organization is not executed within ninety (90) days after the effective date of this act, or~~

~~(2)~~ ~~release to the Authority all right, title, interest or claim to the parcel if the nonprofit organization determines prior to the expiration~~

~~of the five-year period that no use of the parcel will be made;~~

~~8. Shall provide that the qualified organization described in paragraph 7 of this subsection shall have the right, pursuant to the terms of the lease, to enter the premises and construct such capital improvements as may be required in order to make the parcel suitable for the purposes described in the instrument organizing the entity or in the bylaws of the entity. The nonprofit organization shall maintain capital improvements constructed by the organization on the parcel described by paragraph 6 of this subsection. The Authority, pursuant to the terms of the sublease agreement with the qualified nonprofit organization, shall provide for the conveyance of the parcel described in the sublease agreement from the Department of Central Services to the Authority at the appropriate time and under the circumstances pursuant to which title to this parcel is required to be held by the nonprofit organization;~~

~~9. Shall provide that the Authority and the nonprofit organization described in paragraph 7 of this subsection shall have equal rights of access, ingress, egress, use, burden and other rights of use and enjoyment with respect to utilities and other improvements located upon the real property described in subsection C of this section. The nonprofit organization described in paragraph 7 of this subsection shall pay its proportionate share of utilities used. If the Authority acquires title to any parcel of real property from the Department of Central Services containing all or any part of utilities or other improvements during the term of the sublease agreement with the nonprofit organization and the tract of real property described by paragraph 6 of this subsection contains any part or all of such utilities or improvements, the Authority and the nonprofit organization shall incorporate into the sublease agreement between the Authority and the nonprofit organization the identical requirements regarding equal rights of access, ingress, egress, use, burden and other rights of use and enjoyment applicable to the lease between the Department of Central Services and the Authority;~~

~~10.~~ Shall provide that the Department of Central Services shall maintain the real property and the improvements located on the real property described in subsection C of this section in a manner conducive to the preservation of existing economic value of the real property and improvements, subject to the ordinary depreciation of the improvements, until such time as the Authority acquires ownership of a parcel whereupon the Authority and the Department of Central Services, by mutual written agreement, shall amend the lease to provide for proportionately diminished maintenance expenses to be incurred by the Department of Central Services or some other legal entity;

~~11.~~ 6. Shall not require the payment of rent by the Greater Sand Springs Trust Authority in excess of One Dollar ($1.00) per year;

~~12.~~ 7. Shall not require a purchase price for any option granted to the Greater Sand Springs Trust Authority to acquire any parcel of the property described by subsection C of this section in excess of Ten Dollars ($10.00);

~~13.~~ 8. Shall not require the Department of Central Services to consent to a sublease of the property described by subsection C of this section by the Authority to any other legal entity; and

~~14.~~ 9. Shall not impose the expense of maintenance or repair of the real property or improvements located on the property described by subsection C of this section upon the Greater Sand Springs Trust Authority, except as otherwise provided by paragraph ~~10~~ 5 of this subsection.

C. The real property and improvements which shall be leased by the Department of Central Services to the Greater Sand Springs Trust Authority as required by subsection A of this section are described as follows:

1. "Tract 2" identified as:

a. a part of the North Half (N 1/2) of Section 16 and Part of the South Half (S 1/2) of Section 9, Township 19 North, Range 11 East of Indian Meridian, Tulsa County, Oklahoma, more particularly described as follows: beginning at a point that is 430.00 feet east and 330.00 feet south of the northwest corner of the northeast quarter (NE 1/4) of Section 16, said point is 20.00 feet east of the east edge of an existing road; thence south and 20.00 feet east of the east edge of an existing road and said line extended south to a point on the northerly right-of-way line of the Burlington North Railroad right-of-way (formerly the S.L. & S.F. Railroad right-of-way); thence northwesterly on the northerly right-of-way line of said railroad right-of-way to a point on the west line of the northeast quarter (NE 1/4), said point being approximately 880.00 feet north from the center of Section 16; thence north on the west line of the northeast quarter (NE 1/4) to a point that is approximately 935.00 feet north of the center of Section 16 and said point is also on the northerly right-of-way line of said railroad right-of-way; thence northwesterly on said northerly right-of-way line of a point that is south 71 degrees 00' 59" east and 376.44 feet from the westerly line of Section 16; thence north 01 degrees 13' 03" west for a distance of 691.51 feet; thence south 88 degrees 57' 23" west for a distance of 353.00 feet to a point on the west line of said Section 16; thence north a distance of 85.00 feet on the west line of Section 16 to the northwest corner of Section 16; thence east on the north line of said Section 16 to the northeast corner of the northwest quarter (NW 1/4) of the northwest quarter (NW 1/4) of Section 16, same being the southwest corner of the southeast quarter (SE 1/4) of the southwest quarter (SW 1/4) of Section 9, Township 19 North, Range 11 East of I.M.; thence north on the west line of government lots 7 and 5 to the south bank (Meander Line of Right Bank) of the Arkansas River; thence southeasterly on the south bank (Meander Line of Right Bank) of the Arkansas River through government lots 4, 7 & 8 in Section 9 to the south line of Section 9; thence continuing southeasterly

south bank (Meander Line of Right Bank) of Arkansas River and along the northeasterly line of government lot 2 (Meander Line of Right Bank) of Arkansas River and into the northeast quarter (NE 1/4) of Section 16 to a point that is 330.00 feet south of the north line of Section 16; thence west and parallel to the north line of a point that is 430.00 feet east and 330.00 feet south of the northwest corner of Section 16 to the point or place of beginning, and

b. together with all the improvements thereon and the appurtenances thereto belonging to such property; and

2. "Tract A" identified as:

a. a part of the northeast quarter (NE 1/4) of Section 16, Township 19 North, Range 11 East of Indian Meridian, Tulsa County, Oklahoma, more particularly described as follows: beginning at a point 430.00 feet east and 330.00 feet south of the northwest corner of the northeast quarter (NE 1/4); thence east and parallel to the north line of said northeast quarter (NE 1/4) to the south bank (Meander Line of Right Bank) of the Arkansas River; thence southeasterly on said south bank (Meander Line of Right Bank) of the Arkansas River to a point that is 20.00 feet northerly of an existing concrete channel; thence southwesterly parallel with and 20.00 feet northerly of said concrete channel for a distance of approximately 370.00 feet; thence west on a line that is 1100.00 feet south of the north line of said northeast quarter (NE 1/4) to a point that is 20.00 feet east of the east edge of an existing road, said point also being 430.00 feet east of the west line of said northeast quarter (NE 1/4); thence northerly and 20 feet east of the east edge of said road to the point or place of beginning, and

b. together with all the improvements thereon and the appurtenances thereto belonging to such property.

D. The Authority shall have the right to access, ingress, egress, use and enjoyment of the roads existing on the property described by subsection C of this section as of the effective date of this act~~, subject to the following requirements:~~

~~1. Except as provided by this subsection, the Authority shall have full rights with respect to access, ingress, egress, use and enjoyment of:~~

~~a. the existing gated entrance to the real property described in subsection C of this section,~~

~~b. the existing access road extending north from State Highway 51,~~

~~c. the continuation of the entrance road west across the parcel described by paragraph 6 of subsection A of this section,~~

~~d. the continuation of the entrance road east across the parcel described by paragraph 6 of subsection A of this section, and~~

~~e. the road extending north along the east boundary of the real property described by subsection C of this section;~~

~~2. If the nonprofit organization described by paragraph 7 of subsection B of this section begins to conduct activities related to the functions described by paragraph 5 of subsection B of this section, the rights of the Authority provided for by paragraph 1 of this subsection for use of the existing roads located on the parcel described by paragraph 6 of subsection B of this section shall be limited so that the vehicular traffic, use or enjoyment of the access roads does not interfere with the activities or functions of the nonprofit organization. After the nonprofit organization begins to conduct the activities described by paragraph 5 of subsection B of this section, the access road abutting the east boundary of the real property described by subsection C of this section shall be reserved for use by the nonprofit organization, its invitees, licensees, successors or assigns;~~

~~3. The Authority shall use its best efforts to obtain, by donation or a reasonable price therefor, such permission, consent, license or other right of use as may be required to construct an access road at a location west of the western boundary of the tract described by paragraph 6 of subsection B of this section and to construct such an access road for use by the Authority, its successors, assigns, grantees, invitees or licensees;~~

~~4. If the Authority cannot obtain the consent required to construct the access road described by paragraph 3 of this subsection, then the Authority shall have the express power and right to cause an access road to serve all remaining portions of the real property described in subsection C of this section which shall be constructed in a location parallel to the existing State Highway 51 in a direction permitting vehicular access to the area of the real property described in subsection C of this section via such roadway being located west of the west boundary of the tract of real property described in paragraph 6 of subsection B of this section. The Authority shall maintain any road constructed pursuant to this paragraph. The Authority shall have full right of access, ingress, egress or such use of the existing gated entrance to the real property described in subsection C of this section as required in order to construct the access road described by this paragraph; and~~

~~5. The Authority and the nonprofit organization shall enter into such agreements or make such conveyances as may be authorized by law or by the instruments pursuant to which the entities are legally organized to provide for access, ingress, egress, use and enjoyment of roads as may be conducive to the proper development of the respective tracts owned or occupied by the entities, subject to the requirement that no such access, ingress, egress, use or enjoyment unduly interfere with the existing or proposed uses of the respective tracts as the entities may mutually agree~~.

E. With respect to the real property and improvements described in subsection C of this section and the lease agreement required by subsection A of this section, or any transfer of the property to the

Authority, the Department of Central Services shall not be subject to the requirements of:

1. Section 387 of Title 60 of the Oklahoma Statutes;

2. Section 241 of Title 64 of the Oklahoma Statutes;

3. Section 126.2 of Title 74 of the Oklahoma Statutes;

4. Section 129.4 of Title 74 of the Oklahoma Statutes; or

5. Section 456.7 of Title 74 of the Oklahoma Statutes.

F. With respect to the lease or sale of any part or all of the real property or improvements described in subsection C of this section, the Greater Sand Springs Trust Authority shall not be subject to the requirements of:

1. Section 387 of Title 60 of the Oklahoma Statutes;

2. Section 241 of Title 64 of the Oklahoma Statutes;

3. Section 129.4 of Title 74 of the Oklahoma Statutes; or

4. Section 456.7 of Title 74 of the Oklahoma Statutes.

SECTION 23. Sections 1 through 6 of this act shall become effective January 1, 2001.

SECTION 24. Sections 7 through 18 of this act shall become effective July 1, 2000.

SECTION 25. 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 22nd day of May, 2000.

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Speaker of the House of Representatives

Passed the Senate the 23rd day of May, 2000.

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President of the Senate