

SB 1300

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THE STATE SENATE  
Wednesday, February 23, 2000

Senate Bill No. 1300  
As Amended

SENATE BILL NO. 1300 - By: FISHER of the Senate and ROACH of the House.

[ revenue and taxation - income and ad valorem taxes - extending time period - modifying formula - modifying date of construction - effective date - emergency ]

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 2357.4, as last amended by Section 21, Chapter 1, O.S.L. 1999 (68 O.S. Supp. 1999, Section 2357.4), is amended to read as follows:

Section 2357.4 A. For taxable years beginning after December 31, 1987, there shall be allowed a credit against the tax imposed by Section 2355 of this title for:

1. Investment in qualified depreciable property placed in service during those years for use in a manufacturing operation, as defined in Section 1352 of this title, which has received a manufacturer exemption permit pursuant to the provisions of Section 1359.2 of this title or a qualified aircraft maintenance or manufacturing facility as defined in paragraph 14 of Section 1357 of this title in this state; or

2. A net increase in the number of full-time-equivalent employees engaged in manufacturing, processing or aircraft

(Bold face denotes Committee Amendments)

1 maintenance in this state including employees engaged in support  
2 services.

3 B. For taxable years beginning after December 31, 1998, there  
4 shall be allowed a credit against the tax imposed by Section 2355 of  
5 this title for:

6 1. Investment in qualified depreciable property with a total  
7 cost equal to or greater than Forty Million Dollars (\$40,000,000.00)  
8 within three (3) years from the date of initial qualifying  
9 expenditure and placed in service in this state during those years  
10 for use in the manufacture of products described by any Industry  
11 Number contained in Division D of Part I of the Standard Industrial  
12 Classification (SIC) Manual, latest revision; or

13 2. A net increase in the number of full-time-equivalent  
14 employees in this state engaged in the manufacture of any goods  
15 identified by any Industry Number contained in Division D of Part I  
16 of the Standard Industrial Classification (SIC) Manual, latest  
17 revision, if the total cost of qualified depreciable property placed  
18 in service by the business entity within the state equals or exceeds  
19 Forty Million Dollars (\$40,000,000.00) within three (3) years from  
20 the date of initial qualifying expenditure.

21 C. The business entity may claim the credit authorized by  
22 subsection B of this section for expenditures incurred or for a net  
23 increase in the number of full-time-equivalent employees after the

1 business entity provides proof satisfactory to the Tax Commission  
2 that the conditions imposed pursuant to paragraph 1 or paragraph 2  
3 of subsection B of this section have been satisfied.

4 D. If a business entity fails to expend the amount required by  
5 paragraph 1 or paragraph 2 of subsection B of this section within  
6 the time required, the business entity may not claim the credit  
7 authorized by subsection B of this section, but shall be allowed to  
8 claim a credit pursuant to subsection A of this section if the  
9 requirements of subsection A of this section are met with respect to  
10 the investment in qualified depreciable property or net increase in  
11 the number of full-time-equivalent employees.

12 E. The credit provided for in subsection A of this section, if  
13 based upon investment in qualified depreciable property, shall not  
14 be allowed unless the investment in qualified depreciable property  
15 is at least Fifty Thousand Dollars (\$50,000.00). The credit  
16 provided for in subsection A or B of this section shall not be  
17 allowed if the applicable investment causes a decrease in the number  
18 of full-time-equivalent employees. Qualified property shall be  
19 limited to machinery, fixtures, equipment, buildings or substantial  
20 improvements thereto, placed in service in this state during the  
21 taxable year. The taxable years for which the credit may be allowed  
22 if based upon investment in qualified depreciable property shall be  
23 measured from the year in which the qualified property is placed in

1 service. If the credit provided for in subsection A or B of this  
2 section is calculated on the basis of the cost of the qualified  
3 property, the credit shall be allowed in each of the four (4)  
4 subsequent years. If the qualified property on which a credit has  
5 previously been allowed is acquired from a related party, the date  
6 such property is placed in service by the transferor shall be  
7 considered to be the date such property is placed in service by the  
8 transferee, for purposes of determining the aggregate number of  
9 years for which credit may be allowed.

10 F. The credit provided for in subsection A or B of this  
11 section, if based upon an increase in the number of full-time-  
12 equivalent employees, shall be allowed in each of the four (4)  
13 subsequent years only if the level of new employees is maintained in  
14 the subsequent year. In calculating the credit by the number of new  
15 employees, only those employees whose paid wages or salary were at  
16 least Seven Thousand Dollars (\$7,000.00) during each year the credit  
17 is claimed shall be included in the calculation. Provided, that the  
18 first year a credit is claimed for a new employee, such employee may  
19 be included in the calculation notwithstanding paid wages of less  
20 than Seven Thousand Dollars (\$7,000.00) if the employee was hired in  
21 the last three quarters of the tax year, has wages or salary which  
22 will result in annual paid wages in excess of Seven Thousand Dollars  
23 (\$7,000.00) and the taxpayer submits an affidavit stating that the

1 employee's position will be retained in the following tax year and  
2 will result in the payment of wages in excess of Seven Thousand  
3 Dollars (\$7,000.00). The number of new employees shall be  
4 determined by comparing the monthly average number of full-time  
5 employees subject to Oklahoma income tax withholding for the final  
6 quarter of the taxable year with the corresponding period of the  
7 prior taxable year, as substantiated by such reports as may be  
8 required by the Tax Commission.

9 G. The credit allowed by subsection A of this section shall be  
10 the greater amount of either:

11 1. One percent (1%) of the cost of the qualified property in  
12 the year the property is placed in service; or

13 2. Five Hundred Dollars (\$500.00) for each new employee. No  
14 credit shall be allowed in any taxable year for a net increase in  
15 the number of full-time-equivalent employees if such increase is a  
16 result of an investment in qualified depreciable property for which  
17 an income tax credit has been allowed as authorized by this section.

18 H. The credit allowed by subsection B of this section shall be  
19 the greater amount of either:

20 1. Two percent (2%) of the cost of the qualified property in  
21 the year the property is placed in service; or

22 2. One Thousand Dollars (\$1,000.00) for each new employee.

23 No credit shall be allowed in any taxable year for a net

1 increase in the number of full-time-equivalent employees if such  
2 increase is a result of an investment in qualified depreciable  
3 property for which an income tax credit has been allowed as  
4 authorized by this section.

5 I. Any credits allowed but not used in any taxable year may be  
6 carried over in order to each of the four (4) years following the  
7 year of qualification and to the extent not used in those years in  
8 order to each of the ~~five (5)~~ twenty (20) years following the  
9 initial five-year period.

10 SECTION 2. AMENDATORY 68 O.S. 1991, Section 2358, as  
11 last amended by Section 1, Chapter 338, O.S.L. 1999 (68 O.S. Supp.  
12 1999, Section 2358), is amended to read as follows:

13 Section 2358. For all tax years beginning after December 31,  
14 1981, taxable income and adjusted gross income shall be adjusted to  
15 arrive at Oklahoma taxable income and Oklahoma adjusted gross income  
16 as required by this section.

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

20 1. There shall be added interest income on obligations of any  
21 state or political subdivision thereto which is not otherwise  
22 exempted pursuant to other laws of this state, to the extent that

1 such interest is not included in taxable income and adjusted gross  
2 income.

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

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

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

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

1 separately determined by reference to Section 172 of  
2 the Internal Revenue Code, 26 U.S.C., Section 172, as  
3 modified by the Oklahoma Income Tax Act, Section 2351  
4 et seq. of this title, and shall be allowed without  
5 regard to the existence of a federal net operating  
6 loss. The years to which such losses may be carried  
7 shall be determined by reference to Section 172 of the  
8 Internal Revenue Code, except that losses which are  
9 not actually utilized shall not reduce the carryover;  
10 provided, for net operating losses incurred for tax  
11 years beginning after December 31, 1992, and before  
12 December 31, 1993, the loss carryback shall be for a  
13 period of three (3) years; for tax years beginning  
14 after December 31, 1993, and before December 31, 1994,  
15 the carryback period shall be two (2) years; for tax  
16 years beginning after December 31, 1994, and before  
17 December 31, 1995, the carryback period shall be one  
18 (1) year; and for tax years beginning after December  
19 31, 1995, no net operating loss carryback shall be  
20 allowable. For tax years beginning after December 31,  
21 1992, the net operating loss carryforward shall not  
22 exceed fifteen (15) years.

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

6           a. Income from real and tangible personal property, such  
7 as rents, oil and mining production or royalties, and  
8 gains or losses from sales of such property, shall be  
9 allocated in accordance with the situs of such  
10 property;

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

16           (1) where such property has acquired a nonunitary  
17 business or commercial situs apart from the  
18 domicile of the taxpayer such income shall be  
19 allocated in accordance with such business or  
20 commercial situs; interest income from  
21 investments held to generate working capital for  
22 a unitary business enterprise shall be included  
23 in apportionable income; a resident trust or

1 resident estate shall be treated as having a  
2 separate commercial or business situs insofar as  
3 undistributed income is concerned, but shall not  
4 be treated as having a separate commercial or  
5 business situs insofar as distributed income is  
6 concerned,

7 (2) income from such property which is required to be  
8 allocated pursuant to the provisions of paragraph  
9 5 of this subsection shall be allocated as herein  
10 provided;

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

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

19 (1) sales having a situs without this state, shipped  
20 directly to a point from without the state to a  
21 purchaser within the state, commonly known as  
22 interstate sales,

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

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

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

22 e. In the case of insurance companies, Oklahoma taxable  
23 income shall be taxable income of the taxpayer for

1 federal tax purposes, as adjusted for the adjustments  
2 provided pursuant to the provisions of paragraphs 1  
3 and 2 of this subsection, apportioned as follows:

4 (1) except as otherwise provided by division (2) of  
5 this subparagraph, taxable income of an insurance  
6 company for a taxable year shall be apportioned  
7 to this state by multiplying such income by a  
8 fraction, the numerator of which is the direct  
9 premiums written for insurance on property or  
10 risks in this state, and the denominator of which  
11 is the direct premiums written for insurance on  
12 property or risks everywhere. For purposes of  
13 this subsection, the term "direct premiums  
14 written" means the total amount of direct  
15 premiums written, assessments and annuity  
16 considerations as reported for the taxable year  
17 on the annual statement filed by the company with  
18 the Oklahoma Insurance Commissioner in the form  
19 approved by the National Association of Insurance  
20 Commissioners, or such other form as may be  
21 prescribed in lieu thereof,

22 (2) if the principal source of premiums written by an  
23 insurance company consists of premiums for

1 reinsurance accepted by it, the taxable income of  
2 such company shall be apportioned to this state  
3 by multiplying such income by a fraction, the  
4 numerator of which is the sum of (a) direct  
5 premiums written for insurance on property or  
6 risks in this state, plus (b) premiums written  
7 for reinsurance accepted in respect of property  
8 or risks in this state, and the denominator of  
9 which is the sum of (c) direct premiums written  
10 for insurance on property or risks everywhere,  
11 plus (d) premiums written for reinsurance  
12 accepted in respect of property or risks  
13 everywhere. For purposes of this paragraph,  
14 premiums written for reinsurance accepted in  
15 respect of property or risks in this state,  
16 whether or not otherwise determinable, may at the  
17 election of the company be determined on the  
18 basis of the proportion which premiums written  
19 for insurance accepted from companies  
20 commercially domiciled in Oklahoma bears to  
21 premiums written for reinsurance accepted from  
22 all sources, or alternatively in the proportion  
23 which the sum of the direct premiums written for

1 insurance on property or risks in this state by  
2 each ceding company from which reinsurance is  
3 accepted bears to the sum of the total direct  
4 premiums written by each such ceding company for  
5 the taxable year.

6 5. The net income or loss remaining after the separate  
7 allocation in paragraph 4 of this subsection, being that which is  
8 derived from a unitary business enterprise, shall be apportioned to  
9 this state on the basis of the arithmetical average of three factors  
10 consisting of property, payroll and sales or gross revenue  
11 enumerated as subparagraphs a, b and c of this paragraph. Net  
12 income or loss as used in this paragraph includes that derived from  
13 patent or copyright royalties, purchase discounts, and interest on  
14 accounts receivable relating to or arising from a business activity,  
15 the income from which is apportioned pursuant to this subsection,  
16 including the sale or other disposition of such property and any  
17 other property used in the unitary enterprise. Deductions used in  
18 computing such net income or loss shall not include taxes based on  
19 or measured by income. Provided, for corporations whose property  
20 for purposes of the tax imposed by Section 2355 of this title has an  
21 initial investment cost equaling or exceeding Two Hundred Million  
22 Dollars (\$200,000,000.00) and such investment is made on or after  
23 July 1, 1997, or for corporations which expand their property or

1 facilities in this state and such expansion has an investment cost  
2 equaling or exceeding Two Hundred Million Dollars (\$200,000,000.00)  
3 over a period not to exceed three (3) years, and such expansion is  
4 commenced on or after January 1, 2000, the three factors shall be  
5 apportioned with property and payroll, each comprising twenty-five  
6 percent (25%) of the apportionment factor and sales comprising fifty  
7 percent (50%) of the apportionment factor. The apportionment  
8 factors shall be computed as follows:

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

16           (1) Property, the income from which is separately  
17            allocated in paragraph 4 of this subsection,  
18            shall not be included in determining this  
19            fraction. The numerator of the fraction shall  
20            include a portion of the investment in  
21            transportation and other equipment having no  
22            fixed situs, such as rolling stock, buses, trucks  
23            and trailers, including machinery and equipment

1 carried thereon, airplanes, salespersons'  
2 automobiles and other similar equipment, in the  
3 proportion that miles traveled in Oklahoma by  
4 such equipment bears to total miles traveled,

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

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

19 b. The payroll factor is a fraction, the numerator of  
20 which is the total compensation for services rendered  
21 in the state during the tax period, and the  
22 denominator of which is the total compensation for  
23 services rendered everywhere during the tax period.

1           "Compensation", as used in this subsection, means  
2           those paid-for services to the extent related to the  
3           unitary business but does not include officers'  
4           salaries, wages and other compensation.

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

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

21          c. The sales factor is a fraction, the numerator of which  
22          is the total sales or gross revenue of the taxpayer in  
23          this state during the tax period, and the denominator

1 of which is the total sales or gross revenue of the  
2 taxpayer everywhere during the tax period. "Sales",  
3 as used in this subsection, does not include sales or  
4 gross revenue which are separately allocated in  
5 paragraph 4 of this subsection.

6 (1) Sales of tangible personal property have a situs  
7 in this state if the property is delivered or  
8 shipped to a purchaser other than the United  
9 States government, within this state regardless  
10 of the FOB point or other conditions of the sale;  
11 or the property is shipped from an office, store,  
12 warehouse, factory or other place of storage in  
13 this state and (a) the purchaser is the United  
14 States government or (b) the taxpayer is not  
15 doing business in the state of the destination of  
16 the shipment.

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

22 (3) In the case of an airline, truck or bus  
23 enterprise or freight car, tank car, refrigerator

1 car or other railroad equipment enterprise, the  
2 numerator of the fraction shall include a portion  
3 of revenue from interstate transportation in the  
4 proportion that interstate mileage traveled in  
5 Oklahoma bears to total interstate mileage  
6 traveled.

7 (4) In the case of an oil, gasoline or gas pipeline  
8 enterprise, the numerator of the fraction shall  
9 be either the total of traffic units of the  
10 enterprise within Oklahoma or the revenue  
11 allocated to Oklahoma based upon miles moved, at  
12 the option of the taxpayer, and the denominator  
13 of which shall be the total of traffic units of  
14 the enterprise or the revenue of the enterprise  
15 everywhere as appropriate to the numerator. A  
16 "traffic unit" is hereby defined as the  
17 transportation for a distance of one (1) mile of  
18 one (1) barrel of oil, one (1) gallon of gasoline  
19 or one thousand (1,000) cubic feet of natural or  
20 casinghead gas, as the case may be.

21 (5) In the case of a telephone or telegraph or other  
22 communication enterprise, the numerator of the  
23 fraction shall include that portion of the

1 interstate revenue as is allocated pursuant to  
2 the accounting procedures prescribed by the  
3 Federal Communications Commission; provided that  
4 in respect to each corporation or business entity  
5 required by the Federal Communications Commission  
6 to keep its books and records in accordance with  
7 a uniform system of accounts prescribed by such  
8 Commission, the intrastate net income shall be  
9 determined separately in the manner provided by  
10 such uniform system of accounts and only the  
11 interstate income shall be subject to allocation  
12 pursuant to the provisions of this subsection.  
13 Provided, further, that the gross revenue factors  
14 shall be those as are determined pursuant to the  
15 accounting procedures prescribed by the Federal  
16 Communications Commission.

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

1 considerable extent in furtherance of the enterprise; or because of  
2 other reasons, the Tax Commission is empowered to permit, after a  
3 showing by taxpayer that an excessive portion of net income has been  
4 attributed to Oklahoma, or require, when in its judgment an  
5 insufficient portion of net income has been attributed to Oklahoma,  
6 the elimination, substitution, or use of additional factors, or  
7 reduction or increase in the weight of such prescribed factors.  
8 Provided, however, that any such variance from such prescribed  
9 factors which has the effect of increasing the portion of net income  
10 attributable to Oklahoma must not be inherently arbitrary, and  
11 application of the recomputed final apportionment to the net income  
12 of the enterprise must attribute to Oklahoma only a reasonable  
13 portion thereof.

14 6. For calendar years 1997 and 1998, the owner of a new or  
15 expanded agricultural commodity processing facility in this state  
16 may exclude from Oklahoma taxable income, or in the case of an  
17 individual, the Oklahoma adjusted gross income, fifteen percent  
18 (15%) of the investment by the owner in the new or expanded  
19 agricultural commodity processing facility. For calendar year 1999,  
20 and all subsequent years, the percentage, not to exceed fifteen  
21 percent (15%), available to the owner of a new or expanded  
22 agricultural commodity processing facility in this state claiming  
23 the exemption shall be adjusted annually so that the total estimated

1 reduction in tax liability does not exceed One Million Dollars  
2 (\$1,000,000.00) annually. The ~~Oklahoma~~ Tax Commission shall  
3 promulgate rules for determining the percentage of the investment  
4 which each eligible taxpayer may exclude. The exclusion provided by  
5 this paragraph shall be taken in the taxable year when the  
6 investment is made. In the event the total reduction in tax  
7 liability authorized by this paragraph exceeds One Million Dollars  
8 (\$1,000,000.00) in any calendar year, the ~~Oklahoma~~ Tax Commission  
9 shall permit any excess over One Million Dollars (\$1,000,000.00) and  
10 shall factor such excess into the percentage for subsequent years.  
11 Any amount of the exemption permitted to be excluded pursuant to the  
12 provisions of this paragraph but not used in any year may be carried  
13 forward as an exemption from income pursuant to the provisions of  
14 this paragraph for a period not exceeding six (6) years following  
15 the year in which the investment was originally made.

16 For purposes of this paragraph:

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

- 1           b.    "facility" means each part of the facility which is  
2                    used in a process primarily for:
- 3                    (1)  the processing of agricultural commodities,  
4                            including receiving or storing agricultural  
5                            commodities,  
6                    (2)  transporting the agricultural commodities or  
7                            product before, during or after the processing,  
8                            or  
9                    (3)  packaging or otherwise preparing the product for  
10                            sale or shipment.
- 11           7.  Despite any provision to the contrary in paragraph 3 of  
12                    this subsection, for taxable years beginning after  
13                            December 31, 1999, in the case of a taxpayer which has  
14                            a farming loss, such farming loss shall be considered  
15                            a net operating loss carryback in accordance with and  
16                            to the extent of the Internal Revenue Code, 26 U.S.C.,  
17                            Section 172(b) (G).  However, the amount of the net  
18                            operating loss carryback shall not exceed the lesser  
19                            of:
- 20                    a.  Sixty Thousand Dollars (\$60,000.00), or  
21                    b.  the loss properly shown on Schedule F of the Internal  
22                            Revenue Service Form 1040 reduced by one-half (1/2) of

1           the income from all other sources other than reflected  
2           on Schedule F.

3           B. The taxable income of any corporation shall be further  
4 adjusted to arrive at Oklahoma taxable income, except those  
5 corporations electing treatment as provided in subchapter S of the  
6 Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section  
7 2365 of this title, deductions pursuant to the provisions of the  
8 Accelerated Cost Recovery System as defined and allowed in the  
9 Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C.,  
10 Section 168, for depreciation of assets placed into service after  
11 December 31, 1981, shall not be allowed in calculating Oklahoma  
12 taxable income. Such corporations shall be allowed a deduction for  
13 depreciation of assets placed into service after December 31, 1981,  
14 in accordance with provisions of the Internal Revenue Code, 26  
15 U.S.C., Section 1 et seq., in effect immediately prior to the  
16 enactment of the Accelerated Cost Recovery System. The Oklahoma tax  
17 basis for all such assets placed into service after December 31,  
18 1981, calculated in this section shall be retained and utilized for  
19 all Oklahoma income tax purposes through the final disposition of  
20 such assets.

21           Notwithstanding any other provisions of the Oklahoma Income Tax  
22 Act, ~~Sections~~ Section 2351 et seq. of this title, or of the Internal  
23 Revenue Code to the contrary, this subsection shall control

1 calculation of depreciation of assets placed into service after  
2 December 31, 1981, and before January 1, 1983.

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

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

1 technology to qualified small businesses made prior to January 1,  
2 1988.

3 2. For purposes of this subsection:

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

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

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

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

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

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

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

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

7           1.    a.    In the case of individuals, there shall be added or  
8                    deducted, as the case may be, the difference necessary  
9                    to allow personal exemptions of One Thousand Dollars  
10                   (\$1,000.00) in lieu of the personal exemptions allowed  
11                   by the Internal Revenue Code.

12           b.    There shall be allowed an additional exemption of One  
13                   Thousand Dollars (\$1,000.00) for each taxpayer or  
14                   spouse who is blind at the close of the tax year. For  
15                   purposes of this subparagraph, an individual is blind  
16                   only if the central visual acuity of the individual  
17                   does not exceed 20/200 in the better eye with  
18                   correcting lenses, or if the visual acuity of the  
19                   individual is greater than 20/200, but is accompanied  
20                   by a limitation in the fields of vision such that the  
21                   widest diameter of the visual field subtends an angle  
22                   no greater than twenty (20) degrees.

1           c. ~~For taxable years beginning after December 31, 1987,~~  
2           ~~there~~ There shall be allowed an additional exemption  
3           of One Thousand Dollars (\$1,000.00) for each taxpayer  
4           or spouse who is sixty-five (65) years of age or older  
5           at the close of the tax year based upon the filing  
6           status and federal adjusted gross income of the  
7           taxpayer. Taxpayers with the following filing status  
8           may claim this exemption if the federal adjusted gross  
9           income does not exceed:  
10           (1) Twenty-five Thousand Dollars (\$25,000.00) if  
11               married and filing jointly;  
12           (2) Twelve Thousand Five Hundred Dollars (\$12,500.00)  
13               if married and filing separately;  
14           (3) Fifteen Thousand Dollars (\$15,000.00) if single;  
15               and  
16           (4) Nineteen Thousand Dollars (\$19,000.00) if a  
17               qualifying head of household.  
18           d. For taxable years beginning after December 31, 1990,  
19           and beginning before January 1, 1992, there shall be  
20           allowed a one-time additional exemption of Four  
21           Hundred Dollars (\$400.00) for each taxpayer or spouse  
22           who is a member of the National Guard or any reserve  
23           unit of the Armed Forces of the United States and who

1           was at any time during such taxable year deployed in  
2           active service during a time of war or conflict with  
3           an enemy of the United States.

4           2. In the case of individuals who use the standard deduction in  
5 determining taxable income, there shall be added or deducted, as the  
6 case may be, the difference necessary to allow a standard deduction  
7 in lieu of the standard deduction allowed by the Internal Revenue  
8 Code, in an amount equal to the larger of fifteen percent (15%) of  
9 the Oklahoma adjusted gross income or One Thousand Dollars  
10 (\$1,000.00), but not to exceed Two Thousand Dollars (\$2,000.00),  
11 except that in the case of a married individual filing a separate  
12 return such deduction shall be the larger of fifteen percent (15%)  
13 of such Oklahoma adjusted gross income or Five Hundred Dollars  
14 (\$500.00), but not to exceed the maximum amount of One Thousand  
15 Dollars (\$1,000.00).

16           3. In the case of resident and part-year resident individuals  
17 having adjusted gross income from sources both within and without  
18 the state, the itemized or standard deductions and personal  
19 exemptions shall be reduced to an amount which is the same portion  
20 of the total thereof as Oklahoma adjusted gross income is of  
21 adjusted gross income. To the extent itemized deductions include  
22 allowable moving expense, proration of moving expense shall not be  
23 required or permitted but allowable moving expense shall be fully

1 deductible for those taxpayers moving within or into Oklahoma and no  
2 part of moving expense shall be deductible for those taxpayers  
3 moving without or out of Oklahoma. All other itemized or standard  
4 deductions and personal exemptions shall be subject to proration as  
5 provided by law.

6 4. A resident individual with a physical disability  
7 constituting a substantial handicap to employment may deduct from  
8 Oklahoma adjusted gross income such expenditures to modify a motor  
9 vehicle, home or workplace as are necessary to compensate for his or  
10 her handicap. A veteran certified by the Veterans Administration of  
11 the federal government as having a service-connected disability  
12 shall be conclusively presumed to be an individual with a physical  
13 disability constituting a substantial handicap to employment. The  
14 ~~Oklahoma~~ Tax Commission shall promulgate rules containing a list of  
15 combinations of common disabilities and modifications which may be  
16 presumed to qualify for this deduction. The Tax Commission shall  
17 prescribe necessary requirements for verification.

18 5. In any taxable year the first One Thousand Five Hundred  
19 Dollars (\$1,500.00) received by any person from the United States as  
20 salary or compensation in any form, other than retirement benefits,  
21 as a member of any component of the Armed Forces of the United  
22 States shall be deducted from taxable income. Whenever the filing  
23 of a timely income tax return by a member of the Armed Forces of the

1 United States is made impracticable or impossible of accomplishment  
2 by reason of:

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

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

7 c. confinement in a hospital within the United States for  
8 treatment of wounds, injuries or disease,  
9 the time for filing a return and paying an income tax shall  
10 be and is hereby extended without incurring liability for  
11 interest or penalties, to the fifteenth day of the third  
12 month following the month in which:

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

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

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

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

14       7. Notwithstanding anything in the Internal Revenue Code or in  
15 the Oklahoma Income Tax Act to the contrary, it is expressly  
16 provided that, in the case of resident individuals, amounts received  
17 as dividends or distributions of earnings from savings and loan  
18 associations or credit unions located in Oklahoma, and interest  
19 received on savings accounts and time deposits from such sources or  
20 from state and national banks or trust companies located in  
21 Oklahoma, shall qualify as dividends for the purpose of the dividend  
22 exclusion, and taxable income shall be adjusted accordingly to  
23 arrive at Oklahoma taxable income; provided, however, that the

1 dividend, distribution of earnings and/or interest exclusion  
2 provided for hereinabove shall not be cumulative to the maximum  
3 dividend exclusion allowed by the Internal Revenue Code. Any  
4 dividend exclusion already allowed by the Internal Revenue Code and  
5 reflected in the taxpayer's Oklahoma taxable income together with  
6 exclusion allowed herein shall not exceed the total of One Hundred  
7 Dollars (\$100.00) per individual or Two Hundred Dollars (\$200.00)  
8 per couple filing a joint return.

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

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

22       c.   For the purpose of this paragraph, federal income  
23           taxes paid shall mean federal income taxes, surtaxes

1           imposed on incomes or excess profits taxes, as though  
2           the taxpayer was on the accrual basis.

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

5           9.    Retirement benefits not to exceed Five Thousand Five Hundred  
6    Dollars (\$5,500.00), which are received by an individual from the  
7    civil service of the United States, any component of the Armed  
8    Forces of the United States, the Oklahoma Public Employees  
9    Retirement System, the Teachers' Retirement System of Oklahoma, the  
10   Oklahoma Law Enforcement Retirement System, the Oklahoma  
11   Firefighters Pension and Retirement System, the Oklahoma Police  
12   Pension and Retirement System, the employee retirement systems  
13   created by counties pursuant to ~~Sections~~ Section 951 et seq. of  
14   Title 19 of the Oklahoma Statutes, the Uniform Retirement System for  
15   Justices and Judges, the Oklahoma Wildlife Conservation Department  
16   Retirement Fund, the Oklahoma Employment Security Commission  
17   Retirement Plan, or the employee retirement systems created by  
18   municipalities pursuant to ~~Sections~~ Section 48-101 et seq. of Title  
19   11 of the Oklahoma Statutes shall be exempt from taxable income.

20           10.   In taxable years beginning after December 31, 1984, Social  
21   Security benefits received by an individual shall be exempt from  
22   taxable income, to the extent such benefits are included in the

1 federal adjusted gross income pursuant to the provisions of Section  
2 86 of the Internal Revenue Code, 26 U.S.C., Section 86.

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

17 12. In taxable years beginning after December 31, 1995,  
18 contributions made to and interest received from a medical savings  
19 account established pursuant to Sections 2621 through 2623 of Title  
20 63 of the Oklahoma Statutes shall be exempt from taxable income.

21 13. For taxable years beginning after December 31, 1996, the  
22 Oklahoma adjusted gross income of any individual taxpayer who is a  
23 swine or poultry producer may be further adjusted for the deduction

1 for depreciation allowed for new construction or expansion costs  
2 which may be computed using the same depreciation method elected for  
3 federal income tax purposes except that the useful life shall be  
4 seven (7) years for purposes of this paragraph. If depreciation is  
5 allowed as a deduction in determining the adjusted gross income of  
6 an individual, any depreciation calculated and claimed pursuant to  
7 this section shall in no event be a duplication of any depreciation  
8 allowed or permitted on the federal income tax return of the  
9 individual.

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

- 13 (1) the adoption of a minor, or  
14 (2) a proposed adoption of a minor which did not  
15 result in a decreed adoption,  
16 may be deducted from the Oklahoma adjusted gross  
17 income.

18 b. The deductions for adoptions and proposed adoptions  
19 authorized by this paragraph shall not exceed Ten  
20 Thousand Dollars (\$10,000.00) per calendar year.

21 c. The ~~Oklahoma~~ Tax Commission shall promulgate rules to  
22 implement the provisions of this paragraph which shall  
23 contain a specific list of nonrecurring adoption

1 expenses which may be presumed to qualify for the  
2 deduction. The Tax Commission shall prescribe  
3 necessary requirements for verification.

4 d. "Nonrecurring adoption expenses" means adoption fees,  
5 court costs, medical expenses, attorney fees and  
6 expenses which are directly related to the legal  
7 process of adoption of a child including, but not  
8 limited to, costs relating to the adoption study,  
9 health and psychological examinations, transportation  
10 and reasonable costs of lodging and food for the child  
11 or adoptive parents which are incurred to complete the  
12 adoption process and are not reimbursed by other  
13 sources. The term "nonrecurring adoption expenses"  
14 shall not include attorney fees incurred for the  
15 purpose of litigating a contested adoption, from and  
16 after the point of the initiation of the contest,  
17 costs associated with physical remodeling, renovation  
18 and alteration of the adoptive parents' home or  
19 property, except for a special needs child as  
20 authorized by the court.

21 15. In taxable years beginning after December 31, 1996,  
22 retirement benefits not to exceed the amounts specified in this  
23 paragraph, which are received by an individual sixty-five (65) years

1 of age or older and whose Oklahoma adjusted gross income is Twenty-  
2 five Thousand Dollars (\$25,000.00) or less if the filing status is  
3 single, head of household, or married filing separate, or Fifty  
4 Thousand Dollars (\$50,000.00) or less if the filing status is  
5 married filing joint or qualifying widow, shall be exempt from  
6 taxable income. For purposes of this paragraph, "retirement  
7 benefits" means the total distributions or withdrawals from the  
8 following:

- 9 a. an employee pension benefit plan which satisfies the  
10 requirements of Section 401 of the Internal Revenue  
11 Code, 26 U.S.C., Section 401,
- 12 b. an eligible deferred compensation plan that satisfies  
13 the requirements of Section 457 of the Internal  
14 Revenue Code, 26 U.S.C., Section 457,
- 15 c. an individual retirement account, annuity or trust or  
16 simplified employee pension that satisfies the  
17 requirements of Section 408 of the Internal Revenue  
18 Code, 26 U.S.C., Section 408,
- 19 d. an employee annuity subject to the provisions of  
20 Section 403(a) or (b) of the Internal Revenue Code, 26  
21 U.S.C., Section 403(a) or (b),

1 e. United States Retirement Bonds which satisfy the  
2 requirements of Section 86 of the Internal Revenue  
3 Code, 26 U.S.C., Section 86, or  
4 f. lump-sum distributions from a retirement plan which  
5 satisfies the requirements of Section 402(e) of the  
6 Internal Revenue Code, 26 U.S.C., Section 402(e).  
7 The amount of the exemption provided by this paragraph shall be  
8 limited to One Thousand One Hundred Dollars (\$1,100.00) for the 1997  
9 tax year; Two Thousand Two Hundred Dollars (\$2,200.00) for the 1998  
10 tax year; Three Thousand Three Hundred Dollars (\$3,300.00) for the  
11 1999 tax year; Four Thousand Four Hundred Dollars (\$4,400.00) for  
12 the 2000 tax year; and Five Thousand Five Hundred Dollars  
13 (\$5,500.00) for all subsequent tax years. Any individual who claims  
14 the exemption provided for in paragraph 9 of this subsection shall  
15 not be permitted to claim a combined total exemption pursuant to  
16 this paragraph and paragraph 9 of this subsection in an amount  
17 exceeding Five Thousand Five Hundred Dollars (\$5,500.00).

18 16. In taxable years beginning after December 31, 1998,  
19 interest received from an account established pursuant to the  
20 Oklahoma College Savings Plan Act shall be exempt from taxable  
21 income until the taxable year that such interest is withdrawn from  
22 the account, pursuant to a qualified withdrawal or a nonqualified  
23 withdrawal as enumerated in the Oklahoma College Savings Plan Act

1 and by rules, policies, and guidelines set forth by the Board of  
2 Trustees of the Oklahoma College Savings Plan.

3 SECTION 3. AMENDATORY 68 O.S. 1991, Section 2902, as  
4 last amended by Section 1, Chapter 363, O.S.L. 1999 (68 O.S. Supp.  
5 1999, Section 2902), is amended to read as follows:

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

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

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

19 a. establishments which have received a manufacturer  
20 exemption permit pursuant to the provisions of Section  
21 1359.2 of this title,

1           b.    facilities, including repair and replacement parts,  
2                    primarily engaged in aircraft repair, building and  
3                    rebuilding whether or not on a factory basis,  
4           c.    establishments primarily engaged in computer services  
5                    and data processing as defined under Industrial Group  
6                    Numbers 7372 and 7373 of the Standard Industrial  
7                    Classification (SIC) Manual, latest revision, and  
8                    which derive at least fifty percent (50%) of their  
9                    annual gross revenues from the sale of a product or  
10                   service to an out-of-state buyer or consumer, and as  
11                   defined under Industrial Group Number 7374 of the SIC  
12                   Manual, latest revision, which derive at least eighty  
13                   percent (80%) of their annual gross revenues from the  
14                   sale of a product or service to an out-of-state buyer  
15                   or consumer. Eligibility as a manufacturing facility  
16                   pursuant to this subparagraph shall be established,  
17                   subject to review by the Oklahoma Tax Commission, by  
18                   annually filing an affidavit with the Tax Commission  
19                   stating that the facility so qualifies and such other  
20                   information as required by the Tax Commission. For  
21                   purposes of determining whether annual gross revenues  
22                   are derived from sales to out-of-state buyers, all

1 sales to the federal government shall be considered to  
2 be an out-of-state buyer, or  
3 d. establishments primarily engaged in distribution as  
4 defined under Industrial Group Number 4221, 4222, 4225  
5 or 4226 or Major Group Number 50 or 51 of the SIC  
6 Manual, latest revision, and which were constructed  
7 with an initial capital investment of at least Five  
8 Million Dollars (\$5,000,000.00) and which employ at  
9 least one hundred (100) full-time-equivalent  
10 employees, as certified by the Oklahoma Employment  
11 Security Commission. Eligibility as a manufacturing  
12 facility pursuant to this subparagraph shall be  
13 established, subject to review by the Tax Commission,  
14 by annually filing an affidavit with the Tax  
15 Commission stating that the facility so qualifies and  
16 such other information as required by the Tax  
17 Commission. The exemption provided for in this  
18 subparagraph shall apply only to an establishment for  
19 which construction of the facility has commenced prior  
20 to ~~December 31, 1999~~ July 1, 2000,  
21 e. provided, eating and drinking places, as well as other  
22 retail establishments, except as otherwise provided in  
23 subsection E of this section, shall not qualify as

1 manufacturing facilities for purposes of this section,  
2 nor shall centrally assessed properties;

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

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

12 4. "Research and development" shall mean activities directly  
13 related to and conducted for the purpose of discovering, enhancing,  
14 increasing or improving future or existing products or processes or  
15 productivity.

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

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

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

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

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

14           a. there is a net increase of Two Hundred Fifty Thousand  
15 Dollars (\$250,000.00) or more in payroll, or a net  
16 increase of Five Hundred Thousand Dollars  
17 (\$500,000.00) or more in capital improvements while  
18 maintaining or increasing payroll. The Oklahoma Tax  
19 Commission shall verify all payroll information  
20 through the Oklahoma Employment Security Commission.  
21 Payroll shall be verified by the Oklahoma Tax  
22 Commission by using the average of the third and  
23 fourth quarter Oklahoma Employment Security Commission

1 reports of the calendar year immediately preceding the  
2 year for which initial application is made for base-  
3 line payroll, and  
4 b. the facility offers, or will offer within one hundred  
5 eighty (180) days of the date of employment, a basic  
6 health benefits plan to the full-time-equivalent  
7 employees of the facility, which is determined by the  
8 Oklahoma Department of Commerce to consist of the  
9 elements specified in subparagraph b of paragraph 1 of  
10 subsection A of Section 3603 of this title or elements  
11 substantially equivalent thereto.

12 For purposes of this section, calculation of the number of new  
13 employees shall be measured from the start of initial construction  
14 or expansion to the completion of such construction or expansion or  
15 for three (3) years from the start of initial construction or  
16 expansion, whichever occurs first. The manufacturing concern shall  
17 submit an affidavit to the Tax Commission, signed by an officer,  
18 stating that the construction, acquisition or expansion of the  
19 facility will result in a net increase in the number of full-time-  
20 equivalent employees as required by this paragraph and that such  
21 employees are or will be offered a basic health benefits plan as  
22 required by this paragraph. If, after the completion of such  
23 construction or expansion or after three (3) years from the start of

1 initial construction or expansion, whichever occurs first, the  
2 construction, acquisition or expansion has not resulted in a net  
3 increase in the number of full-time-equivalent employees or has not  
4 met any other qualification specified in this paragraph, the  
5 manufacturing concern shall pay an amount equal to the amount of any  
6 exemption granted, including penalties and interest thereon, to the  
7 county treasurer, who shall cause such amount to be remitted to the  
8 Tax Commission for deposit to the Ad Valorem Reimbursement Fund;

9       5. Any new, acquired or expanded automotive final assembly  
10 manufacturing facility which does not meet the requirements of  
11 paragraph 4 of this subsection shall be granted an exemption only if  
12 all other requirements of this section are met and only if the  
13 investment costs of the construction, acquisition or expansion of  
14 the manufacturing facility is Seventy-five Million Dollars  
15 (\$75,000,000.00) or more and the manufacturing facility retains  
16 employment of two thousand five hundred (2,500) or more full-time-  
17 equivalent employees in the year in which the exemption is initially  
18 granted and in each of the four (4) subsequent years only if  
19 employment of two thousand five hundred (2,500) or more full-time-  
20 equivalent employees is maintained in the subsequent year.  
21 Calculation of the number of employees shall be made in the same  
22 manner as required under Section 2357.4 of this title for an  
23 investment tax credit. As used in this paragraph, "expand" and

1 "expansion" shall mean and include any increase to the size or scope  
2 of a facility as well as any renovation, restoration, replacement or  
3 remodeling of a facility which permits the manufacturing of a new or  
4 redesigned product; and

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

- 9 a. the investment cost of the construction, acquisition  
10 or expansion of the manufacturing facility is Two  
11 Hundred Million Dollars (\$200,000,000.00) or more and  
12 such investment is made on or after July 1, 1997, and  
13 b. the manufacturing facility retains employment of five  
14 hundred (500) or more full-time-equivalent employees  
15 in the year in which the exemption provided by this  
16 paragraph is granted and in each of the four (4)  
17 subsequent years only if employment of five hundred  
18 (500) or more full-time-equivalent employees is  
19 maintained in the subsequent year. Calculation of the  
20 number of employees shall be made in the same manner  
21 as required under Section 2357.4 of this title for an  
22 investment tax credit.

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

6 D. 1. As used in this subsection:

7 a. "manufacturing facility" means:

- 8 (1) an establishment primarily engaged in  
9 distribution as defined under Industrial Group  
10 Number 5141 of the Standard Industrial  
11 Classification (SIC) Manual, latest revision, and  
12 which employs at least one hundred (100) full-  
13 time-equivalent employees, as certified by the  
14 Oklahoma Employment Security Commission, or  
15 (2) a facility or establishment primarily engaged in  
16 property operation of a retail shopping center as  
17 defined under Industrial Group Number 6512 of the  
18 SIC Manual, latest revision, and which the  
19 tenants of such facility or establishment, in the  
20 year immediately preceding the natural disaster,  
21 collected and remitted more than fifty percent  
22 (50%) of the total municipal sales tax revenue of

1                   the municipality in which the facility or  
2                   establishment is located, and

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

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

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

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

1 maintain at least seventy percent (70%) of the average  
2 level of full-time-equivalent employees in the year  
3 the facility begins operation after the occurrence of  
4 the natural disaster as compared to the year  
5 immediately before the natural disaster occurred. The  
6 facility shall submit an affidavit to the Oklahoma Tax  
7 Commission, signed by an officer, setting forth the  
8 average level of full-time-equivalent employees in the  
9 year before the natural disaster and the year the  
10 facility reopened for business following the natural  
11 disaster. The number of full-time-equivalent  
12 employees shall be certified by the Oklahoma  
13 Employment Security Commission, and

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

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

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

13 F. The application shall be examined by the county assessor and  
14 approved or rejected in the same manner as provided by law for  
15 approval or rejection of claims for homestead exemptions. The  
16 taxpayer shall have the same right of review by and appeal from the  
17 county board of equalization, in the same manner and subject to the  
18 same requirements as provided by law for review and appeals  
19 concerning homestead exemption claims. Approved applications shall  
20 be filed by the county assessor with the Tax Commission no later  
21 than June 15, except as provided in Section 2902.1 of this title, of  
22 the year in which the facility desires to take the exemption.  
23 Incomplete applications and applications filed after June 15 will be

1 declared null and void by the Tax Commission. In the event that a  
2 taxpayer qualified to receive an exemption pursuant to the  
3 provisions of this section shall make payment of ad valorem taxes in  
4 excess of the amount due, the county treasurer shall have the  
5 authority to credit the taxpayer's real or personal property tax  
6 overpayment against current taxes due. The county treasurer may  
7 establish a schedule of up to five (5) years of credit to resolve  
8 the overpayment.

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

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

19 SECTION 4. This act shall become effective July 1, 2000.

20 SECTION 5. It being immediately necessary for the preservation  
21 of the public peace, health and safety, an emergency is hereby  
22 declared to exist, by reason whereof this act shall take effect and  
23 be in full force from and after its passage and approval.

1 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-15-00 - DO PASS,  
2 As Amended.