

EHB 1476

THE STATE SENATE
Monday, March 28, 2005

ENGROSSED

House Bill No. 1476

As Amended

ENGROSSED HOUSE BILL NO. 1476 - By: COODY, ADKINS, CALVEY, DANK, DORMAN, NANCE, TERRILL, BRADDOCK, BRANNON, COX, HILLIARD, MORGAN (Danny), SHOEMAKE, SMITHSON, WALKER, WESSELHOFT, COVEY, McCARTER and WINCHESTER of the House and BASS, GUMM and LAWLER of the Senate.

[revenue and taxation - amending 68 O.S., Section 2358 - adjustments to taxable income - retirement benefits - effective date]

SECTION 1. AMENDATORY 68 O.S. 2001, Section 2358, as last amended by Section 14, Chapter 322, O.S.L. 2004 (68 O.S. Supp. 2004, Section 2358), is amended to read as follows:

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

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

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

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. For tax years beginning after December 31,
7 2000, the years to which such losses may be carried
8 shall be determined solely by reference to Section 172
9 of the Internal Revenue Code, 26 U.S.C., Section 172,
10 with the exception that the terms "net operating loss"
11 and "taxable income" shall be replaced with "Oklahoma
12 net operating loss" and "Oklahoma taxable income".

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

18 a. Income from real and tangible personal property, such
19 as rents, oil and mining production or royalties, and
20 gains or losses from sales of such property, shall be
21 allocated in accordance with the situs of such
22 property;

1 b. Income from intangible personal property, such as
2 interest, dividends, patent or copyright royalties,
3 and gains or losses from sales of such property, shall
4 be allocated in accordance with the domiciliary situs
5 of the taxpayer, except that:
6 (1) where such property has acquired a nonunitary
7 business or commercial situs apart from the
8 domicile of the taxpayer such income shall be
9 allocated in accordance with such business or
10 commercial situs; interest income from
11 investments held to generate working capital for
12 a unitary business enterprise shall be included
13 in apportionable income; a resident trust or
14 resident estate shall be treated as having a
15 separate commercial or business situs insofar as
16 undistributed income is concerned, but shall not
17 be treated as having a separate commercial or
18 business situs insofar as distributed income is
19 concerned,
20 (2) income from such property which is required to be
21 allocated pursuant to the provisions of paragraph
22 5 of this subsection shall be allocated as herein
23 provided;

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

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

9 (1) sales having a situs without this state, shipped
10 directly to a point from without the state to a
11 purchaser within the state, commonly known as
12 interstate sales,

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

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

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

11 e. In the case of insurance companies, Oklahoma taxable
12 income shall be taxable income of the taxpayer for
13 federal tax purposes, as adjusted for the adjustments
14 provided pursuant to the provisions of paragraphs 1
15 and 2 of this subsection, apportioned as follows:
16 (1) except as otherwise provided by division (2) of
17 this subparagraph, taxable income of an insurance
18 company for a taxable year shall be apportioned
19 to this state by multiplying such income by a
20 fraction, the numerator of which is the direct
21 premiums written for insurance on property or
22 risks in this state, and the denominator of which
23 is the direct premiums written for insurance on

1 property or risks everywhere. For purposes of
2 this subsection, the term "direct premiums
3 written" means the total amount of direct
4 premiums written, assessments and annuity
5 considerations as reported for the taxable year
6 on the annual statement filed by the company with
7 the Insurance Commissioner in the form approved
8 by the National Association of Insurance
9 Commissioners, or such other form as may be
10 prescribed in lieu thereof,

11 (2) if the principal source of premiums written by an
12 insurance company consists of premiums for
13 reinsurance accepted by it, the taxable income of
14 such company shall be apportioned to this state
15 by multiplying such income by a fraction, the
16 numerator of which is the sum of (a) direct
17 premiums written for insurance on property or
18 risks in this state, plus (b) premiums written
19 for reinsurance accepted in respect of property
20 or risks in this state, and the denominator of
21 which is the sum of (c) direct premiums written
22 for insurance on property or risks everywhere,
23 plus (d) premiums written for reinsurance

1 accepted in respect of property or risks
2 everywhere. For purposes of this paragraph,
3 premiums written for reinsurance accepted in
4 respect of property or risks in this state,
5 whether or not otherwise determinable, may at the
6 election of the company be determined on the
7 basis of the proportion which premiums written
8 for insurance accepted from companies
9 commercially domiciled in Oklahoma bears to
10 premiums written for reinsurance accepted from
11 all sources, or alternatively in the proportion
12 which the sum of the direct premiums written for
13 insurance on property or risks in this state by
14 each ceding company from which reinsurance is
15 accepted bears to the sum of the total direct
16 premiums written by each such ceding company for
17 the taxable year.

18 5. The net income or loss remaining after the separate
19 allocation in paragraph 4 of this subsection, being that which is
20 derived from a unitary business enterprise, shall be apportioned to
21 this state on the basis of the arithmetical average of three factors
22 consisting of property, payroll and sales or gross revenue
23 enumerated as subparagraphs a, b and c of this paragraph. Net

1 income or loss as used in this paragraph includes that derived from
2 patent or copyright royalties, purchase discounts, and interest on
3 accounts receivable relating to or arising from a business activity,
4 the income from which is apportioned pursuant to this subsection,
5 including the sale or other disposition of such property and any
6 other property used in the unitary enterprise. Deductions used in
7 computing such net income or loss shall not include taxes based on
8 or measured by income. Provided, for corporations whose property
9 for purposes of the tax imposed by Section 2355 of this title has an
10 initial investment cost equaling or exceeding Two Hundred Million
11 Dollars (\$200,000,000.00) and such investment is made on or after
12 July 1, 1997, or for corporations which expand their property or
13 facilities in this state and such expansion has an investment cost
14 equaling or exceeding Two Hundred Million Dollars (\$200,000,000.00)
15 over a period not to exceed three (3) years, and such expansion is
16 commenced on or after January 1, 2000, the three factors shall be
17 apportioned with property and payroll, each comprising twenty-five
18 percent (25%) of the apportionment factor and sales comprising fifty
19 percent (50%) of the apportionment factor. The apportionment
20 factors shall be computed as follows:

21 a. The property factor is a fraction, the numerator of
22 which is the average value of the taxpayer's real and
23 tangible personal property owned or rented and used in

1 this state during the tax period and the denominator
2 of which is the average value of all the taxpayer's
3 real and tangible personal property everywhere owned
4 or rented and used during the tax period.

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

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

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

8 b. The payroll factor is a fraction, the numerator of
9 which is the total compensation for services rendered
10 in the state during the tax period, and the
11 denominator of which is the total compensation for
12 services rendered everywhere during the tax period.
13 "Compensation", as used in this subsection means those
14 paid-for services to the extent related to the unitary
15 business but does not include officers' salaries,
16 wages and other compensation.

17 (1) In the case of a transportation enterprise, the
18 numerator of the fraction shall include a portion
19 of such expenditure in connection with employees
20 operating equipment over a fixed route, such as
21 railroad employees, airline pilots, or bus
22 drivers, in this state only a part of the time,
23 in the proportion that mileage traveled in

1 Oklahoma bears to total mileage traveled by such
2 employees,

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

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

18 (1) Sales of tangible personal property have a situs
19 in this state if the property is delivered or
20 shipped to a purchaser other than the United
21 States government, within this state regardless
22 of the FOB point or other conditions of the sale;
23 or the property is shipped from an office, store,

1 warehouse, factory or other place of storage in
2 this state and (a) the purchaser is the United
3 States government or (b) the taxpayer is not
4 doing business in the state of the destination of
5 the shipment.

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

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

19 (4) In the case of an oil, gasoline or gas pipeline
20 enterprise, the numerator of the fraction shall
21 be either the total of traffic units of the
22 enterprise within Oklahoma or the revenue
23 allocated to Oklahoma based upon miles moved, at

1 the option of the taxpayer, and the denominator
2 of which shall be the total of traffic units of
3 the enterprise or the revenue of the enterprise
4 everywhere as appropriate to the numerator. A
5 "traffic unit" is hereby defined as the
6 transportation for a distance of one (1) mile of
7 one (1) barrel of oil, one (1) gallon of gasoline
8 or one thousand (1,000) cubic feet of natural or
9 casinghead gas, as the case may be.

10 (5) In the case of a telephone or telegraph or other
11 communication enterprise, the numerator of the
12 fraction shall include that portion of the
13 interstate revenue as is allocated pursuant to
14 the accounting procedures prescribed by the
15 Federal Communications Commission; provided that
16 in respect to each corporation or business entity
17 required by the Federal Communications Commission
18 to keep its books and records in accordance with
19 a uniform system of accounts prescribed by such
20 Commission, the intrastate net income shall be
21 determined separately in the manner provided by
22 such uniform system of accounts and only the
23 interstate income shall be subject to allocation

1 pursuant to the provisions of this subsection.

2 Provided further, that the gross revenue factors
3 shall be those as are determined pursuant to the
4 accounting procedures prescribed by the Federal
5 Communications Commission.

6 In any case where the apportionment of the three factors prescribed
7 in this paragraph attributes to Oklahoma a portion of net income of
8 the enterprise out of all appropriate proportion to the property
9 owned and/or business transacted within this state, because of the
10 fact that one or more of the factors so prescribed are not employed
11 to any appreciable extent in furtherance of the enterprise; or
12 because one or more factors not so prescribed are employed to a
13 considerable extent in furtherance of the enterprise; or because of
14 other reasons, the Tax Commission is empowered to permit, after a
15 showing by taxpayer that an excessive portion of net income has been
16 attributed to Oklahoma, or require, when in its judgment an
17 insufficient portion of net income has been attributed to Oklahoma,
18 the elimination, substitution, or use of additional factors, or
19 reduction or increase in the weight of such prescribed factors.
20 Provided, however, that any such variance from such prescribed
21 factors which has the effect of increasing the portion of net income
22 attributable to Oklahoma must not be inherently arbitrary, and
23 application of the recomputed final apportionment to the net income

1 of the enterprise must attribute to Oklahoma only a reasonable
2 portion thereof.

3 6. For calendar years 1997 and 1998, the owner of a new or
4 expanded agricultural commodity processing facility in this state
5 may exclude from Oklahoma taxable income, or in the case of an
6 individual, the Oklahoma adjusted gross income, fifteen percent
7 (15%) of the investment by the owner in the new or expanded
8 agricultural commodity processing facility. For calendar year 1999,
9 and all subsequent years, the percentage, not to exceed fifteen
10 percent (15%), available to the owner of a new or expanded
11 agricultural commodity processing facility in this state claiming
12 the exemption shall be adjusted annually so that the total estimated
13 reduction in tax liability does not exceed One Million Dollars
14 (\$1,000,000.00) annually. The Tax Commission shall promulgate rules
15 for determining the percentage of the investment which each eligible
16 taxpayer may exclude. The exclusion provided by this paragraph
17 shall be taken in the taxable year when the investment is made. In
18 the event the total reduction in tax liability authorized by this
19 paragraph exceeds One Million Dollars (\$1,000,000.00) in any
20 calendar year, the Tax Commission shall permit any excess over One
21 Million Dollars (\$1,000,000.00) and shall factor such excess into
22 the percentage for subsequent years. Any amount of the exemption
23 permitted to be excluded pursuant to the provisions of this

1 paragraph but not used in any year may be carried forward as an
2 exemption from income pursuant to the provisions of this paragraph
3 for a period not exceeding six (6) years following the year in which
4 the investment was originally made.

5 For purposes of this paragraph:

6 a. "Agricultural commodity processing facility" means
7 building, structures, fixtures and improvements used
8 or operated primarily for the processing or production
9 of marketable products from agricultural commodities.
10 The term shall also mean a dairy operation that
11 requires a depreciable investment of at least Two
12 Hundred Fifty Thousand Dollars (\$250,000.00) and which
13 produces milk from dairy cows. The term does not
14 include a facility that provides only, and nothing
15 more than, storage, cleaning, drying or transportation
16 of agricultural commodities, and

17 b. "Facility" means each part of the facility which is
18 used in a process primarily for:
19 (1) the processing of agricultural commodities,
20 including receiving or storing agricultural
21 commodities, or the production of milk at a dairy
22 operation,

- 1 (2) transporting the agricultural commodities or
2 product before, during or after the processing,
3 or
4 (3) packaging or otherwise preparing the product for
5 sale or shipment.

6 7. Despite any provision to the contrary in paragraph 3 of this
7 subsection, for taxable years beginning after December 31, 1999, in
8 the case of a taxpayer which has a farming loss, such farming loss
9 shall be considered a net operating loss carryback in accordance
10 with and to the extent of the Internal Revenue Code, 26 U.S.C.,
11 Section 172(b)(G). However, the amount of the net operating loss
12 carryback shall not exceed the lesser of:

- 13 a. Sixty Thousand Dollars (\$60,000.00), or
14 b. the loss properly shown on Schedule F of the Internal
15 Revenue Service Form 1040 reduced by one-half (1/2) of
16 the income from all other sources other than reflected
17 on Schedule F.

18 8. In taxable years beginning after December 31, 1995, all
19 qualified wages equal to the federal income tax credit set forth in
20 26 U.S.C.A., Section 45A, shall be deducted from taxable income.
21 The deduction allowed pursuant to this paragraph shall only be
22 permitted for the tax years in which the federal tax credit pursuant
23 to 26 U.S.C.A., Section 45A, is allowed. For purposes of this

1 paragraph, "qualified wages" means those wages used to calculate the
2 federal credit pursuant to 26 U.S.C.A., Section 45A.

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, Section 2351 et seq. of this title, or of the Internal Revenue
23 Code to the contrary, this subsection shall control calculation of

1 depreciation of assets placed into service after December 31, 1981,
2 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 taxpayer shall be further adjusted as follows to arrive at Oklahoma
6 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. There shall be allowed an additional exemption of One
2 Thousand Dollars (\$1,000.00) for each taxpayer or
3 spouse who is sixty-five (65) years of age or older at
4 the close of the tax year based upon the filing status
5 and federal adjusted gross income of the taxpayer.
6 Taxpayers with the following filing status may claim
7 this exemption if the federal adjusted gross income
8 does not exceed:

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

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

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

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

17 Provided, for taxable years beginning after December
18 31, 1999, amounts included in the calculation of
19 federal adjusted gross income pursuant to the
20 conversion of a traditional individual retirement
21 account to a Roth individual retirement account shall
22 be excluded from federal adjusted gross income for

1 purposes of the income thresholds provided in this
2 subparagraph.

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

12 2. In the case of individuals who use the standard deduction in
13 determining taxable income, there shall be added or deducted, as the
14 case may be, the difference necessary to allow a standard deduction
15 in lieu of the standard deduction allowed by the Internal Revenue
16 Code, in an amount equal to the larger of fifteen percent (15%) of
17 the Oklahoma adjusted gross income or One Thousand Dollars
18 (\$1,000.00), but not to exceed Two Thousand Dollars (\$2,000.00),
19 except that in the case of a married individual filing a separate
20 return such deduction shall be the larger of fifteen percent (15%)
21 of such Oklahoma adjusted gross income or Five Hundred Dollars
22 (\$500.00), but not to exceed the maximum amount of One Thousand
23 Dollars (\$1,000.00).

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

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

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

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

- 11 a. absence from the United States, which term includes
12 only the states and the District of Columbia;
- 13 b. absence from the State of Oklahoma while on active
14 duty; or
- 15 c. confinement in a hospital within the United States for
16 treatment of wounds, injuries or disease,
17 the time for filing a return and paying an income tax shall
18 be and is hereby extended without incurring liability for
19 interest or penalties, to the fifteenth day of the third
20 month following the month in which:

- 21 (1) Such individual shall return to the United States
22 if the extension is granted pursuant to
23 subparagraph a of this paragraph, return to the

1 State of Oklahoma if the extension is granted
2 pursuant to subparagraph b of this paragraph or
3 be discharged from such hospital if the extension
4 is granted pursuant to subparagraph c of this
5 paragraph; or

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

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

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

22 7. Notwithstanding anything in the Internal Revenue Code or in
23 the Oklahoma Income Tax Act to the contrary, it is expressly

1 provided that, in the case of resident individuals, amounts received
2 as dividends or distributions of earnings from savings and loan
3 associations or credit unions located in Oklahoma, and interest
4 received on savings accounts and time deposits from such sources or
5 from state and national banks or trust companies located in
6 Oklahoma, shall qualify as dividends for the purpose of the dividend
7 exclusion, and taxable income shall be adjusted accordingly to
8 arrive at Oklahoma taxable income; provided, however, that the
9 dividend, distribution of earnings and/or interest exclusion
10 provided for hereinabove shall not be cumulative to the maximum
11 dividend exclusion allowed by the Internal Revenue Code. Any
12 dividend exclusion already allowed by the Internal Revenue Code and
13 reflected in the taxpayer's Oklahoma taxable income together with
14 exclusion allowed herein shall not exceed the total of One Hundred
15 Dollars (\$100.00) per individual or Two Hundred Dollars (\$200.00)
16 per couple filing a joint return.

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

21 b. Federal taxes as described in subparagraph a of this
22 paragraph shall be deductible by any individual
23 taxpayer, whether resident or nonresident, only to the

1 extent they relate to income subject to taxation
2 pursuant to the provisions of the Oklahoma Income Tax
3 Act. The maximum amount allowable in the preceding
4 paragraph shall be prorated on the ratio of the
5 Oklahoma adjusted gross income to federal adjusted
6 gross income.

7 c. For the purpose of this paragraph, "federal income
8 taxes paid" shall mean federal income taxes, surtaxes
9 imposed on incomes or excess profits taxes, as though
10 the taxpayer was on the accrual basis. In determining
11 the amount of deduction for federal income taxes for
12 tax year 2001, the amount of the deduction shall not
13 be adjusted by the amount of any accelerated ten
14 percent (10%) tax rate bracket credit or advanced
15 refund of the credit received during the tax year
16 provided pursuant to the federal Economic Growth and
17 Tax Relief Reconciliation Act of 2001, P.L. No. ~~170-16~~
18 107-16, and the advanced refund of such credit shall
19 not be subject to taxation.

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

22 9. Retirement benefits not to exceed Five Thousand Five Hundred
23 Dollars (\$5,500.00) for the 2004 tax year and Seven Thousand Five

1 Hundred Dollars (\$7,500.00) for the 2005 tax year and all subsequent
2 tax years, which are received by an individual from the civil
3 service of the United States, ~~any component of the Armed Forces of~~
4 ~~the United States~~, the Oklahoma Public Employees Retirement System,
5 the Teachers' Retirement System of Oklahoma, the Oklahoma Law
6 Enforcement Retirement System, the Oklahoma Firefighters Pension and
7 Retirement System, the Oklahoma Police Pension and Retirement
8 System, the employee retirement systems created by counties pursuant
9 to Section 951 et seq. of Title 19 of the Oklahoma Statutes, the
10 Uniform Retirement System for Justices and Judges, the Oklahoma
11 Wildlife Conservation Department Retirement Fund, the Oklahoma
12 Employment Security Commission Retirement Plan, or the employee
13 retirement systems created by municipalities pursuant to Section 48-
14 101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt
15 from taxable income.

16 10. In taxable years beginning after December 31, 1984, Social
17 Security benefits received by an individual shall be exempt from
18 taxable income, to the extent such benefits are included in the
19 federal adjusted gross income pursuant to the provisions of Section
20 86 of the Internal Revenue Code, 26 U.S.C., Section 86.

21 11. For taxable years beginning after December 31, 1994, lump-
22 sum distributions from employer plans of deferred compensation,
23 which are not qualified plans within the meaning of Section 401(a)

1 of the Internal Revenue Code, 26 U.S.C., Section 401(a), and which
2 are deposited in and accounted for within a separate bank account or
3 brokerage account in a financial institution within this state,
4 shall be excluded from taxable income in the same manner as a
5 qualifying rollover contribution to an individual retirement account
6 within the meaning of Section 408 of the Internal Revenue Code, 26
7 U.S.C., Section 408. Amounts withdrawn from such bank or brokerage
8 account, including any earnings thereon, shall be included in
9 taxable income when withdrawn in the same manner as withdrawals from
10 individual retirement accounts within the meaning of Section 408 of
11 the Internal Revenue Code.

12 12. In taxable years beginning after December 31, 1995,
13 contributions made to and interest received from a medical savings
14 account established pursuant to Sections 2621 through 2623 of Title
15 63 of the Oklahoma Statutes shall be exempt from taxable income.

16 13. For taxable years beginning after December 31, 1996, the
17 Oklahoma adjusted gross income of any individual taxpayer who is a
18 swine or poultry producer may be further adjusted for the deduction
19 for depreciation allowed for new construction or expansion costs
20 which may be computed using the same depreciation method elected for
21 federal income tax purposes except that the useful life shall be
22 seven (7) years for purposes of this paragraph. If depreciation is
23 allowed as a deduction in determining the adjusted gross income of

1 an individual, any depreciation calculated and claimed pursuant to
2 this section shall in no event be a duplication of any depreciation
3 allowed or permitted on the federal income tax return of the
4 individual.

5 14. a. In taxable years beginning after December 31, 2002,
6 nonrecurring adoption expenses paid by a resident
7 individual taxpayer in connection with:

- 8 (1) the adoption of a minor, or
9 (2) a proposed adoption of a minor which did not
10 result in a decreed adoption,
11 may be deducted from the Oklahoma adjusted gross
12 income.

13 b. The deductions for adoptions and proposed adoptions
14 authorized by this paragraph shall not exceed Twenty
15 Thousand Dollars (\$20,000.00) per calendar year.

16 c. The Tax Commission shall promulgate rules to implement
17 the provisions of this paragraph which shall contain a
18 specific list of nonrecurring adoption expenses which
19 may be presumed to qualify for the deduction. The Tax
20 Commission shall prescribe necessary requirements for
21 verification.

22 d. "Nonrecurring adoption expenses" means adoption fees,
23 court costs, medical expenses, attorney fees and

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

16 15. In taxable years beginning before January 1, 2005,
17 retirement benefits not to exceed the amounts specified in this
18 paragraph, which are received by an individual sixty-five (65) years
19 of age or older and whose Oklahoma adjusted gross income is Twenty-
20 five Thousand Dollars (\$25,000.00) or less if the filing status is
21 single, head of household, or married filing separate, or Fifty
22 Thousand Dollars (\$50,000.00) or less if the filing status is
23 married filing joint or qualifying widow, shall be exempt from

1 taxable income. In taxable years beginning after December 31, 2004,
2 retirement benefits not to exceed the amounts specified in this
3 paragraph, which are received by an individual whose Oklahoma
4 adjusted gross income is Thirty-seven Thousand Five Hundred Dollars
5 (\$37,500.00) or less if the filing status is single, head of
6 household, or married filing separate, or Seventy-Five Thousand
7 Dollars (\$75,000.00) or less if the filing status is married filing
8 jointly or qualifying widow, shall be exempt from taxable income.
9 For purposes of this paragraph, "retirement benefits" means the
10 total distributions or withdrawals from the following:

- 11 a. an employee pension benefit plan which satisfies the
12 requirements of Section 401 of the Internal Revenue
13 Code, 26 U.S.C., Section 401,
- 14 b. an eligible deferred compensation plan that satisfies
15 the requirements of Section 457 of the Internal
16 Revenue Code, 26 U.S.C., Section 457,
- 17 c. an individual retirement account, annuity or trust or
18 simplified employee pension that satisfies the
19 requirements of Section 408 of the Internal Revenue
20 Code, 26 U.S.C., Section 408,
- 21 d. an employee annuity subject to the provisions of
22 Section 403(a) or (b) of the Internal Revenue Code, 26
23 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 Five Thousand Five Hundred Dollars (\$5,500.00) for the
9 2004 tax year and Seven Thousand Five Hundred Dollars (\$7,500.00)
10 for the 2005 tax year and for all subsequent tax years. Any
11 individual who claims the exemption provided for in paragraph 9 of
12 this subsection shall not be permitted to claim a combined total
13 exemption pursuant to this paragraph and paragraph 9 of this
14 subsection in an amount exceeding Five Thousand Five Hundred Dollars
15 (\$5,500.00) for the 2004 tax year and Seven Thousand Five Hundred
16 Dollars (\$7,500.00) for the 2005 tax year and subsequent tax years.

17 16. In taxable years beginning after December 31, 1999, for an
18 individual engaged in production agriculture who has filed a
19 Schedule F form with the taxpayer's federal income tax return for
20 such taxable year, there shall be excluded from taxable income any
21 amount which was included as federal taxable income or federal
22 adjusted gross income and which consists of the discharge of an

1 obligation by a creditor of the taxpayer incurred to finance the
2 production of agricultural products.

3 17. In taxable years beginning December 31, 2000, an amount
4 equal to one hundred percent (100%) of the amount of any scholarship
5 or stipend received from participation in the Oklahoma Police Corps
6 Program, as established in Section 2-140.3 of Title 47 of the
7 Oklahoma Statutes shall be exempt from taxable income.

8 18. In taxable years beginning after December 31, 2001, there
9 shall be allowed a deduction in the amount of contributions to
10 accounts established pursuant to the Oklahoma College Savings Plan
11 Act. The deduction shall equal the amount of contributions to
12 accounts, but in no event shall the deduction for each contributor
13 exceed Two Thousand Five Hundred Dollars (\$2,500.00) each taxable
14 year for each account.

15 19. For taxable years beginning after December 31, 2005,
16 retirement benefits received by an individual from any component of
17 the Armed Forces of the United States in an amount not to exceed the
18 greater of fifty percent (50%) of such benefits or Ten Thousand
19 Dollars (\$10,000.00) shall be exempt from taxable income but in no
20 case less than the amount of the exemption provided by paragraph 15
21 of this subsection.

22 E. 1. For taxable years beginning after December 31, 2004, a
23 deduction from the Oklahoma adjusted gross income of any individual

1 taxpayer shall be allowed for qualifying gains receiving capital
2 treatment earned by the individual taxpayer during the taxable year
3 and included in the federal taxable income of such individual
4 taxpayer.

5 2. As used in this subsection:

6 a. "qualifying gains receiving capital treatment" means
7 the amount of net capital gains, as defined in Section
8 1222(11) of the Internal Revenue Code, included in an
9 individual taxpayer's federal income tax return that
10 was:

11 (1) earned by the individual taxpayer on real or
12 tangible personal property located within
13 Oklahoma that has been owned by the individual
14 taxpayer for a holding period of at least five
15 (5) years prior to the date of the transaction
16 from which such net capital gains arise, or

17 (2) earned on the sale of stock or on the sale of an
18 ownership interest in an Oklahoma company,
19 limited liability company, or partnership where
20 such stock or ownership interest has been owned
21 by the individual taxpayer for a holding period
22 of at least three (3) years prior to the date of

1 the transaction from which the net capital gains
2 arise,

3 b. "holding period" means an uninterrupted period of
4 time, and

5 c. "Oklahoma company," "limited liability company," or
6 "partnership" means an entity whose primary
7 headquarters have been located in Oklahoma for at
8 least three (3) uninterrupted years prior to the date
9 of the transaction from which the net capital gains
10 arise.

11 SECTION 2. This act shall become effective January 1, 2006.

12 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 3-22-05 - DO PASS,
13 As Amended and Coauthored.