

SB 958

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THE STATE SENATE  
Tuesday, February 15, 2005

Senate Bill No. 958

As Amended

SENATE BILL NO. 958 - By: GUMM, CORN, JOHNSON, LAWLER, LEFTWICH,  
NICHOLS and RABON of the Senate and COVEY of the House.

[ revenue and taxation - modifying various income and sales  
tax provisions - effective dates -  
emergency ]

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

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 1357.10 of Title 68, unless  
there is created a duplication in numbering, reads as follows:

A. The sale of an article of clothing or footwear designed to  
be worn on or about the human body shall be exempt from the tax  
imposed by Section 1354 of Title 68 of the Oklahoma Statutes if:

- 1. The sales price of the article is less than One Hundred Dollars (\$100.00); and
- 2. The sale takes place during a period beginning at 12:01 a.m. on the first Friday in August and ending at 12 midnight on the following Sunday, covering a period of three (3) days.

B. Subsection A of this section shall not apply to:

- 1. Any special clothing or footwear that is primarily designed for athletic activity or protective use and that is not normally

1 worn except when used for athletic activity or protective use for  
2 which it is designed;

3 2. Accessories, including jewelry, handbags, luggage,  
4 umbrellas, wallets, watches, and similar items carried on or about  
5 the human body, without regard to whether worn on the body in a  
6 manner characteristic of clothing; and

7 3. The rental of clothing or footwear.

8 C. The Oklahoma Tax Commission shall promulgate any necessary  
9 rules to implement the provisions of this section.

10 SECTION 2. AMENDATORY 68 O.S. 2001, Section 1370, as  
11 last amended by Section 1, Chapter 317, O.S.L. 2004 (68 O.S. Supp.  
12 2004, Section 1370), is amended to read as follows:

13 Section 1370. A. Any county of this state may levy a sales tax  
14 of not to exceed two percent (2%) upon the gross proceeds or gross  
15 receipts derived from all sales or services in the county upon which  
16 a consumer's sales tax is levied by this state. Before a sales tax  
17 may be levied by the county, the imposition of the tax shall first  
18 be approved by a majority of the registered voters of the county  
19 voting thereon at a special election called by the board of county  
20 commissioners or by initiative petition signed by not less than five  
21 percent (5%) of the registered voters of the county who were  
22 registered at the time of the last general election. However, if a  
23 majority of the registered voters of a county voting fail to approve

1 such a tax, the board of county commissioners shall not call another  
2 special election for such purpose for six (6) months. Any sales tax  
3 approved by the registered voters of a county shall be applicable  
4 only when the point of sale is within the territorial limits of such  
5 county. Any sales tax levied or any change in the rate of a sales  
6 tax levied pursuant to the provisions of this section shall become  
7 effective on the first day of the calendar quarter following  
8 approval by the voters of the county unless another effective date,  
9 which shall also be on the first day of a calendar quarter, is  
10 specified in the ordinance or resolution levying the sales tax or  
11 changing the rate of sales tax.

12 B. The Oklahoma Tax Commission shall give notice to all vendors  
13 of a rate change at least sixty (60) days prior to the effective  
14 date of the rate change. Provided, for purchases from printed  
15 catalogs wherein the purchaser computed the tax based upon local tax  
16 rates published in the catalog, the rate change shall not be  
17 effective until the first day of a calendar quarter after a minimum  
18 of one hundred twenty (120) days' notice to vendors. Failure to  
19 give notice as required by this section shall delay the effective  
20 date of the rate change to the first day of the next calendar  
21 quarter.

22 C. Initiative petitions calling for a special election  
23 concerning county sales tax proposals shall be in accordance with

1 Sections 2, 3, 3.1, 6, 18 and 24 of Title 34 of the Oklahoma  
2 Statutes. Petitions shall be submitted to the office of county  
3 clerk for approval as to form prior to circulation. Following  
4 approval, the petitioner shall have ninety (90) days to secure the  
5 required signatures. After securing the requisite number of  
6 signatures, the petitioner shall submit the petition and signatures  
7 to the county clerk. Following the verification of signatures, the  
8 county clerk shall present the petition to the board of county  
9 commissioners. The special election shall be held within sixty (60)  
10 days of receiving the petition. The ballot title presented to the  
11 voters at the special election shall be identical to the ballot as  
12 presented in the initiative petition.

13 D. ~~All~~ Subject to the provisions of Section 3 of this act, all  
14 items that are exempt from the state sales tax shall be exempt from  
15 any sales tax levied by a county.

16 E. Any sales tax which may be levied by a county shall be  
17 designated for a particular purpose. Such purposes may include, but  
18 are not limited to, projects owned by the state, any agency or  
19 instrumentality thereof, the county and/or any political subdivision  
20 located in whole or in part within such county, regional  
21 development, economic development, common education, general  
22 operations, capital improvements, county roads, weather modification  
23 or any other purpose deemed, by a majority vote of the county

1 commissioners or as stated by initiative petition, to be necessary  
2 to promote safety, security and the general well being of the  
3 people. The county shall identify the purpose of the sales tax when  
4 it is presented to the voters pursuant to the provisions of  
5 subsection A of this section. Except as otherwise provided in this  
6 section, the proceeds of any sales tax levied by a county shall be  
7 deposited in the general revenue or sales tax revolving fund of the  
8 county and shall be used only for the purpose for which such sales  
9 tax was designated. If the proceeds of any sales tax levied by a  
10 county pursuant to this section are pledged for the purpose of  
11 retiring indebtedness incurred for the specific purpose for which  
12 the sales tax is imposed, the sales tax shall not be repealed until  
13 such time as the indebtedness is retired. However, in no event  
14 shall the life of the tax be extended beyond the duration approved  
15 by the voters of the county.

16 F. 1. Notwithstanding any other provisions of law, any county  
17 that has approved a sales tax for the construction, support or  
18 operation of a county hospital may continue to collect such tax if  
19 such hospital is subsequently sold. Such collection shall only  
20 continue if the county remains indebted for the past construction,  
21 support or operation of such hospital. The collection may continue  
22 only until the debt is repaid or for the stated term of the sales  
23 tax, whichever period is shorter.

1           2. If the construction, support or operation of a hospital is  
2 funded through the levy of a county sales tax pursuant to this  
3 section and such hospital is subsequently sold, the county levying  
4 the tax may dissolve the governing board of such hospital following  
5 the sale. Upon the sale of the hospital and dissolution of any  
6 governing board, the county is relieved of any future liability for  
7 the operation of such hospital.

8           G. Proceeds from any sales tax levied that is designated to be  
9 used solely by the sheriff for the operation of the office of  
10 sheriff shall be placed in the special revenue account of the  
11 sheriff.

12           H. The life of the tax could be limited or unlimited in  
13 duration. The county shall identify the duration of the tax when it  
14 is presented to the voters pursuant to the provisions of subsections  
15 A and C of this section.

16           I. There are hereby created one or more county sales tax  
17 revolving funds in each county which levies a sales tax under this  
18 section if any or all of the proceeds of such tax are not to be  
19 deposited in the general revenue fund of the county or comply with  
20 the provisions of subsection G of this section. Each such revolving  
21 fund shall be designated for a particular purpose and shall consist  
22 of all monies generated by such sales tax which are designated for  
23 such purpose. Monies in such funds shall only be expended for the

1 purposes specifically designated as required by this section. A  
2 county sales tax revolving fund shall be a continuing fund not  
3 subject to fiscal year limitations.

4 SECTION 3. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 1377 of Title 68, unless there  
6 is created a duplication in numbering, reads as follows:

7 The sales tax imposed by any county or authority authorized by  
8 law to levy a sales tax shall not be imposed upon the sale of an  
9 article of clothing or footwear designed to be worn on or about the  
10 human body in accordance with and as set forth in Section 1 of this  
11 act.

12 SECTION 4. AMENDATORY 68 O.S. 2001, Section 2358, as  
13 last amended by Section 14, Chapter 322, O.S.L. 2004 (68 O.S. Supp.  
14 2004, Section 2358), is amended to read as follows:

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

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

22 1. There shall be added interest income on obligations of any  
23 state or political subdivision thereto which is not otherwise

1 exempted pursuant to other laws of this state, to the extent that  
2 such interest is not included in taxable income and adjusted gross  
3 income.

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

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

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

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

1 to such year. Oklahoma net operating losses shall be  
2 separately determined by reference to Section 172 of  
3 the Internal Revenue Code, 26 U.S.C., Section 172, as  
4 modified by the Oklahoma Income Tax Act, Section 2351  
5 et seq. of this title, and shall be allowed without  
6 regard to the existence of a federal net operating  
7 loss. For tax years beginning after December 31,  
8 2000, the years to which such losses may be carried  
9 shall be determined solely by reference to Section 172  
10 of the Internal Revenue Code, 26 U.S.C., Section 172,  
11 with the exception that the terms "net operating loss"  
12 and "taxable income" shall be replaced with "Oklahoma  
13 net operating loss" and "Oklahoma taxable income".

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

19 a. Income from real and tangible personal property, such  
20 as rents, oil and mining production or royalties, and  
21 gains or losses from sales of such property, shall be  
22 allocated in accordance with the situs of such  
23 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. 1. For taxable years beginning after December 31, 2005, the  
5 taxable income of any corporation shall be further adjusted for  
6 qualifying gains receiving capital treatment. Such corporations  
7 shall be allowed a deduction from Oklahoma taxable income for the  
8 amount of qualifying gains receiving capital treatment earned by the  
9 corporation during the taxable year and included in the federal  
10 taxable income of such corporation.

11           2. As used in this subsection:

12           a. "qualifying gains receiving capital treatment" means  
13 the amount of net capital gains, as defined in Section  
14 1222(11) of the Internal Revenue Code, included in the  
15 corporation's federal income tax return that was:

16           (1) earned by the corporation on real or tangible  
17 personal property located within Oklahoma that  
18 has been owned by the corporation for a holding  
19 period of at least five (5) years prior to the  
20 date of the transaction from which such net  
21 capital gains arise, or

22           (2) earned on the sale of stock or on the sale of an  
23 ownership interest in an Oklahoma company,

1                   limited liability company, or partnership where  
2                   such stock or ownership interest has been owned  
3                   by the corporation for a holding period of at  
4                   least three (3) years prior to the date of the  
5                   transaction from which the net capital gains  
6                   arise,

7           b. "holding period" means an uninterrupted period of  
8           time, and

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

15           E. The Oklahoma adjusted gross income of any individual  
16 taxpayer shall be further adjusted as follows to arrive at Oklahoma  
17 taxable income:

- 18           1.    a.    In the case of individuals, there shall be added or  
19                   deducted, as the case may be, the difference necessary  
20                   to allow personal exemptions of One Thousand Dollars  
21                   (\$1,000.00) in lieu of the personal exemptions allowed  
22                   by the Internal Revenue Code.

1           b.    There shall be allowed an additional exemption of One  
2                    Thousand Dollars (\$1,000.00) for each taxpayer or  
3                    spouse who is blind at the close of the tax year. For  
4                    purposes of this subparagraph, an individual is blind  
5                    only if the central visual acuity of the individual  
6                    does not exceed 20/200 in the better eye with  
7                    correcting lenses, or if the visual acuity of the  
8                    individual is greater than 20/200, but is accompanied  
9                    by a limitation in the fields of vision such that the  
10                   widest diameter of the visual field subtends an angle  
11                   no greater than twenty (20) degrees.

12           c.    There shall be allowed an additional exemption of One  
13                    Thousand Dollars (\$1,000.00) for each taxpayer or  
14                    spouse who is sixty-five (65) years of age or older at  
15                    the close of the tax year based upon the filing status  
16                    and federal adjusted gross income of the taxpayer.  
17                    Taxpayers with the following filing status may claim  
18                    this exemption if the federal adjusted gross income  
19                    does not exceed:

- 20                    (1) Twenty-five Thousand Dollars (\$25,000.00) if  
21                                married and filing jointly;  
22                    (2) Twelve Thousand Five Hundred Dollars (\$12,500.00)  
23                                if married and filing separately;

- 1 (3) Fifteen Thousand Dollars (\$15,000.00) if single;  
2 and  
3 (4) Nineteen Thousand Dollars (\$19,000.00) if a  
4 qualifying head of household.

5 Provided, for taxable years beginning after December  
6 31, 1999, amounts included in the calculation of  
7 federal adjusted gross income pursuant to the  
8 conversion of a traditional individual retirement  
9 account to a Roth individual retirement account shall  
10 be excluded from federal adjusted gross income for  
11 purposes of the income thresholds provided in this  
12 subparagraph.

- 13 d. For taxable years beginning after December 31, 1990,  
14 and beginning before January 1, 1992, there shall be  
15 allowed a one-time additional exemption of Four  
16 Hundred Dollars (\$400.00) for each taxpayer or spouse  
17 who is a member of the National Guard or any reserve  
18 unit of the Armed Forces of the United States and who  
19 was at any time during such taxable year deployed in  
20 active service during a time of war or conflict with  
21 an enemy of the United States.

- 22 2. a. ~~In~~ For taxable years ending on or before December 31,  
23 2005, in the case of individuals who use the standard

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

15 b. For taxable years beginning on and after January 1,  
16 2006, in the case of individuals who use the standard  
17 deduction in determining taxable income, there shall  
18 be deducted the amount necessary to allow a standard  
19 deduction in an amount equal to the larger of:  
20 (1) fifteen percent (15%) of the Oklahoma adjusted  
21 gross income or One Thousand Dollars (\$1,000.00),  
22 but not to exceed Two Thousand Dollars  
23 (\$2,000.00), except that in the case of a married

1 individual filing a separate return such  
2 deduction shall be the larger of fifteen percent  
3 (15%) of such Oklahoma adjusted gross income or  
4 Five Hundred Dollars (\$500.00), but not to exceed  
5 the maximum amount of One Thousand Dollars  
6 (\$1,000.00), or

7 (2) the following percentages of the standard  
8 deduction allowed by the Internal Revenue Code  
9 for such taxpayer:

10 (a) for the taxable year beginning January 1,  
11 2006, twenty-five percent (25%),

12 (b) for the taxable year beginning January 1,  
13 2007, fifty percent (50%),

14 (c) for the taxable year beginning January 1,  
15 2008, seventy-five percent (75%), and

16 (d) for the taxable year beginning January 1,  
17 2009, and for subsequent taxable years one  
18 hundred percent (100%).

19 3. In the case of resident and part-year resident individuals  
20 having adjusted gross income from sources both within and without  
21 the state, the itemized or standard deductions and personal  
22 exemptions shall be reduced to an amount which is the same portion  
23 of the total thereof as Oklahoma adjusted gross income is of

1 adjusted gross income. To the extent itemized deductions include  
2 allowable moving expense, proration of moving expense shall not be  
3 required or permitted but allowable moving expense shall be fully  
4 deductible for those taxpayers moving within or into Oklahoma and no  
5 part of moving expense shall be deductible for those taxpayers  
6 moving without or out of Oklahoma. All other itemized or standard  
7 deductions and personal exemptions shall be subject to proration as  
8 provided by law.

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

21 5. In any taxable year the first One Thousand Five Hundred  
22 Dollars (\$1,500.00) received by any person from the United States as  
23 salary or compensation in any form, other than retirement benefits,

1 as a member of any component of the Armed Forces of the United  
2 States shall be deducted from taxable income. Whenever the filing  
3 of a timely income tax return by a member of the Armed Forces of the  
4 United States is made impracticable or impossible of accomplishment  
5 by reason of:

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

8 b. absence from the State of Oklahoma while on active  
9 duty; or

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

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

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

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

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

17           7. Notwithstanding anything in the Internal Revenue Code or in  
18   the Oklahoma Income Tax Act to the contrary, it is expressly  
19   provided that, in the case of resident individuals, amounts received  
20   as dividends or distributions of earnings from savings and loan  
21   associations or credit unions located in Oklahoma, and interest  
22   received on savings accounts and time deposits from such sources or  
23   from state and national banks or trust companies located in

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

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

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

1 Oklahoma adjusted gross income to federal adjusted  
2 gross income.

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

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

18 9. Retirement benefits not to exceed Five Thousand Five Hundred  
19 Dollars (\$5,500.00) for the 2004 tax year ~~and~~, Seven Thousand Five  
20 Hundred Dollars (\$7,500.00) for the 2005 tax year, and Ten Thousand  
21 Dollars (\$10,000.00) for the 2006 tax year and all subsequent tax  
22 years, which are received by an individual from the civil service of  
23 the United States, any component of the Armed Forces of the United

1 States, the Oklahoma Public Employees Retirement System, the  
2 Teachers' Retirement System of Oklahoma, the Oklahoma Law  
3 Enforcement Retirement System, the Oklahoma Firefighters Pension and  
4 Retirement System, the Oklahoma Police Pension and Retirement  
5 System, the employee retirement systems created by counties pursuant  
6 to Section 951 et seq. of Title 19 of the Oklahoma Statutes, the  
7 Uniform Retirement System for Justices and Judges, the Oklahoma  
8 Wildlife Conservation Department Retirement Fund, the Oklahoma  
9 Employment Security Commission Retirement Plan, or the employee  
10 retirement systems created by municipalities pursuant to Section 48-  
11 101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt  
12 from taxable income.

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

18 11. For taxable years beginning after December 31, 1994, lump-  
19 sum distributions from employer plans of deferred compensation,  
20 which are not qualified plans within the meaning of Section 401(a)  
21 of the Internal Revenue Code, 26 U.S.C., Section 401(a), and which  
22 are deposited in and accounted for within a separate bank account or  
23 brokerage account in a financial institution within this state,

1 shall be excluded from taxable income in the same manner as a  
2 qualifying rollover contribution to an individual retirement account  
3 within the meaning of Section 408 of the Internal Revenue Code, 26  
4 U.S.C., Section 408. Amounts withdrawn from such bank or brokerage  
5 account, including any earnings thereon, shall be included in  
6 taxable income when withdrawn in the same manner as withdrawals from  
7 individual retirement accounts within the meaning of Section 408 of  
8 the Internal Revenue Code.

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

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

1 allowed or permitted on the federal income tax return of the  
2 individual.

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

6 (1) the adoption of a minor, or

7 (2) a proposed adoption of a minor which did not  
8 result in a decreed adoption,

9 may be deducted from the Oklahoma adjusted gross  
10 income.

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

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

20 d. "Nonrecurring adoption expenses" means adoption fees,  
21 court costs, medical expenses, attorney fees and  
22 expenses which are directly related to the legal  
23 process of adoption of a child including, but not

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

14          15. In taxable years beginning before January 1, 2005,  
15          retirement benefits not to exceed the amounts specified in this  
16          paragraph, which are received by an individual sixty-five (65) years  
17          of age or older and whose Oklahoma adjusted gross income is Twenty-  
18          five Thousand Dollars (\$25,000.00) or less if the filing status is  
19          single, head of household, or married filing separate, or Fifty  
20          Thousand Dollars (\$50,000.00) or less if the filing status is  
21          married filing joint or qualifying widow, shall be exempt from  
22          taxable income. In taxable years beginning after December 31, 2004,  
23          retirement benefits not to exceed the amounts specified in this

1 paragraph, which are received by an individual whose Oklahoma  
2 adjusted gross income is Thirty-seven Thousand Five Hundred Dollars  
3 (\$37,500.00) or less if the filing status is single, head of  
4 household, or married filing separate, or Seventy-Five Thousand  
5 Dollars (\$75,000.00) or less if the filing status is married filing  
6 jointly or qualifying widow, shall be exempt from taxable income.  
7 For purposes of this paragraph, "retirement benefits" means the  
8 total distributions or withdrawals from the 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 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 Ten Thousand Dollars (\$10,000.00) for the  
11 2006 tax year and for all subsequent tax years. Any individual who  
12 claims the exemption provided for in paragraph 9 of this subsection  
13 shall not be permitted to claim a combined total exemption pursuant  
14 to this paragraph and paragraph 9 of this subsection in an amount  
15 exceeding Five Thousand Five Hundred Dollars (\$5,500.00) for the  
16 2004 tax year ~~and~~, Seven Thousand Five Hundred Dollars (\$7,500.00)  
17 for the 2005 tax year and Ten Thousand Dollars (\$10,000.00) for the  
18 2006 tax year and subsequent tax years.

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

1 adjusted gross income and which consists of the discharge of an  
2 obligation by a creditor of the taxpayer incurred to finance the  
3 production of agricultural products.

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

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

16 ~~E.~~ F. 1. For taxable years beginning after December 31, 2004,  
17 a deduction from the Oklahoma adjusted gross income of any  
18 individual taxpayer shall be allowed for qualifying gains receiving  
19 capital treatment earned by the individual taxpayer during the  
20 taxable year and included in the federal taxable income of such  
21 individual taxpayer.

22 2. As used in this subsection:

- 1           a.    "qualifying gains receiving capital treatment" means  
2                    the amount of net capital gains, as defined in Section  
3                    1222(11) of the Internal Revenue Code, included in an  
4                    individual taxpayer's federal income tax return that  
5                    was:  
6                    (1)  earned by the individual taxpayer on real or  
7                            tangible personal property located within  
8                            Oklahoma that has been owned by the individual  
9                            taxpayer for a holding period of at least five  
10                           (5) years prior to the date of the transaction  
11                           from which such net capital gains arise, or  
12                    (2)  earned on the sale of stock or on the sale of an  
13                           ownership interest in an Oklahoma company,  
14                           limited liability company, or partnership where  
15                           such stock or ownership interest has been owned  
16                           by the individual taxpayer for a holding period  
17                           of at least three (3) years prior to the date of  
18                           the transaction from which the net capital gains  
19                           arise,  
20            b.    "holding period" means an uninterrupted period of  
21                    time, and  
22            c.    "Oklahoma company", "limited liability company", or  
23                    "partnership" means an entity whose primary

1                   headquarters have been located in Oklahoma for at  
2                   least three (3) uninterrupted years prior to the date  
3                   of the transaction from which the net capital gains  
4                   arise.

5           SECTION 5.           AMENDATORY           68 O.S. 2001, Section 2701, as  
6   amended by Section 30, Chapter 413, O.S.L. 2003 (68 O.S. Supp. 2004,  
7   Section 2701), is amended to read as follows:

8           Section 2701. A. Any incorporated city or town in this state  
9   is hereby authorized to assess, levy, and collect taxes for general  
10   and special purposes of municipal government as the Legislature may  
11   levy and collect for purposes of state government, subject to the  
12   provisions of subsection F of this section, except ad valorem  
13   property taxes. Provided:

14           1. Taxes shall be uniform upon the same class subjects, and any  
15   tax, charge, or fee levied upon or measured by income or receipts  
16   from the sale of products or services shall be uniform upon all  
17   classes of taxpayers;

18           2. Motor vehicles may be taxed by the city or town only when  
19   such vehicles are primarily used or located in such city or town for  
20   a period of time longer than six (6) months of a taxable year;

21           3. The provisions of this section shall not be construed to  
22   authorize imposition of any tax upon persons, firms, or corporations  
23   exempted from other taxation under the provisions of Sections 348.1,

1 624 and 321 of Title 36 of the Oklahoma Statutes, by reason of  
2 payment of taxes imposed under such sections;

3 4. Cooperatives and communications companies are hereby  
4 authorized to pass on to their subscribers in the incorporated city  
5 or town involved, the amount of any special municipal fee, charge or  
6 tax hereafter assessed or levied on or collected from such  
7 cooperatives or communications companies;

8 5. No earnings, payroll or income taxes may be levied on  
9 nonresidents of the cities or towns levying such tax;

10 6. The governing body of any city or town shall be prohibited  
11 from proposing taxing ordinances more often than three times in any  
12 calendar year, or twice in any six-month period; and

13 7. Any revenues derived from a tax authorized by this  
14 subsection not dedicated to a limited purpose shall be deposited in  
15 the municipal general fund.

16 B. A sales tax authorized in subsection A of this section may  
17 be levied for limited purposes specified in the ordinance levying  
18 the tax. Such ordinance shall be submitted to the voters for  
19 approval as provided in Section 2705 of this title. Any sales tax  
20 levied or any change in the rate of a sales tax levied pursuant to  
21 the provisions of this section shall become effective on the first  
22 day of the calendar quarter following approval by the voters of the  
23 city or town unless another effective date, which shall also be on

1 the first day of a calendar quarter, is specified in the ordinance  
2 levying the sales tax or changing the rate of sales tax. Such  
3 ordinance shall describe with specificity the projects or  
4 expenditures for which the limited-purpose tax levy would be made.  
5 The municipal governing body shall create a limited-purpose fund and  
6 deposit therein any revenue generated by any tax levied pursuant to  
7 this subsection. Money in the fund shall be accumulated from year  
8 to year. The fund shall be placed in an insured interest-bearing  
9 account and the interest which accrues on the fund shall be retained  
10 in the fund. The fund shall be nonfiscal and shall not be  
11 considered in computing any levy when the municipality makes its  
12 estimate to the excise board for needed appropriations. Money in  
13 the limited-purpose tax fund shall be expended only as accumulated  
14 and only for the purposes specifically described in the taxing  
15 ordinance as approved by the voters.

16 C. The Oklahoma Tax Commission shall give notice to all vendors  
17 of a rate change at least sixty (60) days prior to the effective  
18 date of the rate change. Provided, for purchases from printed  
19 catalogs wherein the purchaser computed the tax based upon local tax  
20 rates published in the catalog, the rate change shall not be  
21 effective until the first day of a calendar quarter after a minimum  
22 of one hundred twenty (120) days' notice to vendors. Failure to  
23 give notice as required by this section shall delay the effective

1 date of the rate change to the first day of the next calendar  
2 quarter.

3 D. The change in the boundary of a municipality shall be  
4 effective, for sales and use tax purposes only, on the first day of  
5 a calendar quarter after a minimum of sixty (60) days' notice to  
6 vendors.

7 E. If the proceeds of any sales tax levied by a municipality  
8 pursuant to subsection B of this section are being used by the  
9 municipality for the purpose of retiring indebtedness incurred by  
10 the municipality or by a public trust of which the municipality is a  
11 beneficiary for the specific purpose for which the sales tax was  
12 imposed, the sales tax shall not be repealed until such time as the  
13 indebtedness is retired. However, in no event shall the life of the  
14 tax be extended beyond the duration approved by the voters of the  
15 municipality. The provisions of this subsection shall apply to all  
16 sales tax levies imposed by a municipality and being used by the  
17 municipality for the purposes set forth in this subsection prior to  
18 or after July 1, 1995.

19 F. The sale of an article of clothing or footwear designed to  
20 be worn on or about the human body shall be exempt from the sales  
21 tax imposed by any incorporated city or town, in accordance with and  
22 to the extent set forth in Section 1 of this act.

1 SECTION 6. AMENDATORY 68 O.S. 2001, Section 3603, as  
2 last amended by Section 1, Chapter 457, O.S.L. 2004 (68 O.S. Supp.  
3 2004, Section 3603), is amended to read as follows:

4 Section 3603. A. As used in Section 3601 et seq. of this  
5 title:

6 1. a. "Basic industry" means:

7 (1) those manufacturing activities defined or  
8 classified in the NAICS Manual under Industry  
9 Sector Nos. 31, 32 and 33, Industry Group No.  
10 5111 or Industry No. 11331,

11 (2) those electric power generation, transmission and  
12 distribution activities defined or classified in  
13 the NAICS Manual under U.S. Industry Nos. 221111  
14 through 221122, if:

15 (a) an establishment engaged therein qualifies  
16 as an exempt wholesale generator as defined  
17 by 15 U.S.C., Section 79z-5a,

18 (b) the exempt wholesale generator facility  
19 consumes from sources located within the  
20 state at least ninety percent (90%) of the  
21 total energy used to produce the electrical  
22 output which qualifies for the specialized  
23 treatment provided by the Energy Policy Act

1 of 1992, P.L. 102-486, 106 Stat. 2776, as  
2 amended, and federal regulations adopted  
3 pursuant thereto,

4 (c) the exempt wholesale generator facility  
5 sells to purchasers located outside the  
6 state for consumption in activities located  
7 outside the state at least ninety percent  
8 (90%) of the total electrical energy output  
9 which qualifies for the specialized  
10 treatment provided by the Energy Policy Act  
11 of 1992, P.L. 102-486, 106 Stat. 2776, as  
12 amended, and federal regulations adopted  
13 pursuant thereto, and

14 (d) the facility is constructed on or after July  
15 1, 1996,

16 (3) those administrative and facilities support  
17 service activities defined or classified in the  
18 NAICS Manual under Industry Group Nos. 5611 and  
19 5612, Industry Nos. 51821, 52232, 56142 and 54191  
20 or U.S. Industry Nos. 524291 and 551114,

21 (4) those professional, scientific and technical  
22 service activities defined or classified in the

1 NAICS Manual under U.S. Industry Nos. 541710 and  
2 541380,  
3 (5) warehouses which serve as distribution centers  
4 for retail or wholesale businesses, if forty  
5 percent (40%) of the inventory processed through  
6 such warehouse is shipped out-of-state,  
7 (6) those adjustment and collection service  
8 activities defined or classified in the NAICS  
9 Manual under U.S. Industry No. 561440, if  
10 seventy-five percent (75%) of the loans to be  
11 serviced were made by out-of-state debtors,  
12 (7) (a) those air transportation activities defined  
13 or classified in the NAICS Manual under  
14 Industry Group No. 4811, if the following  
15 facilities are located in this state:  
16 (i) the corporate headquarters of an  
17 establishment classified therein, and  
18 (ii) a facility or facilities at which  
19 reservations for transportation  
20 provided by such an establishment are  
21 processed, whether such services are  
22 performed by employees of the  
23 establishment, by employees of a

1 subsidiary of or other entity  
2 affiliated with the establishment or by  
3 employees of an entity with whom the  
4 establishment has contracted for the  
5 performance of such services; provided,  
6 this provision shall not disqualify an  
7 establishment which uses an out-of-  
8 state entity or employees for some  
9 reservations services, or

10 (b) those air transportation activities defined  
11 or classified in the NAICS Manual under  
12 Industry Group No. 4811, if an establishment  
13 classified therein has or will have within  
14 one (1) year sales of at least seventy-five  
15 percent (75%) of its total sales, as  
16 determined by the Incentive Approval  
17 Committee pursuant to the provisions of  
18 subsection B of this section, to out-of-  
19 state customers or buyers, to in-state  
20 customers or buyers if the product or  
21 service is resold by the purchaser to an  
22 out-of-state customer or buyer for ultimate  
23 use, or to the federal government,

1 (8) the following, if an establishment classified  
2 therein has or will have within one (1) year  
3 sales of at least seventy-five percent (75%) of  
4 its total sales, as determined by the Incentive  
5 Approval Committee pursuant to the provisions of  
6 subsection B of this section, to out-of-state  
7 customers or buyers, to in-state customers or  
8 buyers if the product or service is resold by the  
9 purchaser to an out-of-state customer or buyer  
10 for ultimate use, or to the federal government:

11 (a) those transportation and warehousing  
12 activities defined or classified in the  
13 NAICS Manual under Industry Subsector No.  
14 493, if not otherwise listed in this  
15 paragraph, Industry Subsector No. 484 and  
16 Industry Group Nos. 4884 through 4889,

17 (b) those passenger transportation activities  
18 defined or classified in the NAICS Manual  
19 under Industry Nos. 561510, 561520 and  
20 561599,

21 (c) those freight or cargo transportation  
22 activities defined or classified in the  
23 NAICS Manual under Industry No. 541614,

- 1 (d) those insurance activities defined or  
2 classified in the NAICS Manual under  
3 Industry Group No. 5241,
- 4 (e) those mailing, reproduction, commercial art  
5 and photography and stenographic service  
6 activities defined or classified in the  
7 NAICS Manual under U.S. Industry Nos.  
8 541430, 541860, 541922, 561439 and 561492,
- 9 (f) those services to dwellings and other  
10 buildings, as defined or classified in the  
11 NAICS Manual under Industry Group No. 5617,  
12 excluding U.S. Industry No. 561730,
- 13 (g) those equipment rental and leasing  
14 activities defined or classified in the  
15 NAICS Manual under Industry Group Nos. 5323  
16 and 5324,
- 17 (h) those employment services defined or  
18 classified in the NAICS Manual under  
19 Industry Group No. 5613,
- 20 (i) those information technology and other  
21 computer-related service activities defined  
22 or classified in the NAICS Manual under

1 Industry Group Nos. 5112, 5182, 5191 and  
2 5415,  
3 (j) those business support service activities  
4 defined or classified in the NAICS Manual  
5 under U.S. Industry Nos. 561410 through  
6 561439, Industry Group No. 5616 and Industry  
7 No. 51911,  
8 (k) those medical and diagnostic laboratory  
9 activities defined or classified in the  
10 NAICS Manual under Industry Group No. 6215,  
11 (l) those professional, scientific and technical  
12 service activities defined or classified in  
13 the NAICS Manual under Industry Group Nos.  
14 5412, 5414, 5415, 5416 and 5417 and Industry  
15 Nos. 54131, 54133, 54136, 54137 and 54182,  
16 if not otherwise listed in this paragraph,  
17 (m) those communication service activities  
18 defined or classified in the NAICS Manual  
19 under Industry Nos. 51741 and 51791,  
20 (n) those refuse systems activities defined or  
21 classified in the NAICS Manual under  
22 Industry Group No. 5622, provided that the  
23 establishment is primarily engaged in the

1 capture and distribution of methane gas  
2 produced within a landfill,  
3 (o) general wholesale distribution of groceries,  
4 defined or classified in the NAICS Manual  
5 under Industry Group Nos. 4244 and 4245, and  
6 (p) those activities relating to processing of  
7 insurance claims, defined or classified in  
8 the NAICS Manual under U.S. Industry Nos.  
9 524210 and 524292; provided, activities  
10 described in U.S. Industry Nos. 524210 and  
11 524292 in the NAICS Manual other than  
12 processing of insurance claims shall not be  
13 included for purposes of this subdivision,  
14 or  
15 (9) those activities related to extraction of crude  
16 petroleum and natural gas defined or classified  
17 in the NAICS Manual under Industry Group No.  
18 2111, subject to the limitations provided in  
19 paragraph 2 of this subsection and paragraph 3 of  
20 subsection B of this section.  
21 b. An establishment described in subparagraph a of this  
22 paragraph shall not be considered to be engaged in a  
23 basic industry unless it offers, or will offer within

1           one hundred eighty (180) days of the date it receives  
2           the first incentive payment pursuant to the provisions  
3           of Section 3601 et seq. of this title, a basic health  
4           benefits plan to the individuals it employs in new  
5           direct jobs in this state which is determined by the  
6           Oklahoma Department of Commerce to consist of the  
7           following elements or elements substantially  
8           equivalent thereto:

- 9           (1) not less than fifty percent (50%) of the premium  
10           shall be paid by the employer,
- 11           (2) coverage for basic hospital care,
- 12           (3) coverage for physician care,
- 13           (4) coverage for mental health care,
- 14           (5) coverage for substance abuse treatment,
- 15           (6) coverage for prescription drugs, and
- 16           (7) coverage for prenatal care;

17           2. "New direct job" means full-time-equivalent employment in  
18           this state in an establishment which has qualified to receive an  
19           incentive payment pursuant to the provisions of Section 3601 et seq.  
20           of this title which employment did not exist in this state prior to  
21           the date of approval by the Department of the application of the  
22           establishment pursuant to the provisions of Section 3604 of this  
23           title. "New direct job" shall include full-time-equivalent

1 employment in this state of employees who are employed by an  
2 employment agency or similar entity other than the establishment  
3 which has qualified to receive an incentive payment and who are  
4 leased or otherwise provided under contract to the qualified  
5 establishment, if such job did not exist in this state prior to the  
6 date of approval by the Department of the application of the  
7 establishment. A job shall be deemed to exist in this state prior  
8 to approval of an application if the activities and functions for  
9 which the particular job exists have been ongoing at any time within  
10 six (6) months prior to such approval. With respect to  
11 establishments defined in division (9) of subparagraph a of  
12 paragraph 1 of this subsection, new direct jobs shall be limited to  
13 those jobs directly comprising the corporate headquarters of or  
14 directly relating to administrative, financial, engineering,  
15 surveying, geological or geophysical services performed by the  
16 establishment. Under no circumstances shall employment relating to  
17 drilling or field services be considered new direct jobs;

18 3. "Estimated direct state benefits" means the tax revenues  
19 projected by the Department to accrue to the state as a result of  
20 new direct jobs;

21 4. "Estimated direct state costs" means the costs projected by  
22 the Department to accrue to the state as a result of new direct  
23 jobs. Such costs shall include, but not be limited to:

- 1 a. the costs of education of new state resident children,  
2 b. the costs of public health, public safety and  
3 transportation services to be provided to new state  
4 residents,  
5 c. the costs of other state services to be provided to  
6 new state residents, and  
7 d. the costs of other state services;

8 5. "Estimated net direct state benefits" means the estimated  
9 direct state benefits less the estimated direct state costs;

10 6. "Net benefit rate" means the estimated net direct state  
11 benefits computed as a percentage of gross payroll; provided:

- 12 a. except as otherwise provided in this paragraph, the  
13 net benefit rate may be variable and shall not exceed  
14 five percent (5%); provided, the net benefit may  
15 exceed five percent (5%) but shall not exceed six  
16 percent (6%) if net direct state benefits accruing to  
17 the state due to the location of other establishments  
18 in this state as a direct result of the applicant  
19 locating in this state are considered pursuant to the  
20 provisions of **paragraph 1 of** subsection I of Section  
21 3604 of this title **and the net benefit may exceed five**  
22 **percent (5%) but shall not exceed five and one-half**  
23 **percent (5.5%) if net direct state benefits accruing**

1 to the state due to the purchase by the applicant of  
2 fifty percent (50%) or more raw materials from within  
3 the state as a direct result of the applicant locating  
4 in this state are considered pursuant to the  
5 provisions of paragraph 2 of subsection I of Section  
6 3604 of this title,

7 b. the net benefit rate shall not exceed six percent (6%)  
8 in connection with an establishment which is owned and  
9 operated by an entity which has been awarded a United  
10 States Department of Defense contract for which:

- 11 (1) bids were solicited and accepted by the United  
12 States Department of Defense from facilities  
13 located outside this state,  
14 (2) the term is or is renewable for not less than  
15 twenty (20) years, and  
16 (3) the average annual salary, excluding benefits  
17 which are not subject to Oklahoma income taxes,  
18 for new direct jobs created as a direct result of  
19 the awarding of the contract is projected by the  
20 Department of Commerce to equal or exceed Forty  
21 Thousand Dollars (\$40,000.00) within three (3)  
22 years of the date of the first incentive payment,

1           c.    except as otherwise provided in subparagraph d of this  
2                    paragraph, in no event shall incentive payments,  
3                    cumulatively, exceed the estimated net direct state  
4                    benefits, and  
5            d.    the net benefit rate shall be five percent (5%) for an  
6                    establishment locating:  
7                    (1)  in an opportunity zone located in a high-  
8                        employment county, as such terms are defined in  
9                        subsection G of Section 3604 of this title, or  
10                  (2)  in a county in which:  
11                       (a)  the per capita personal income, as  
12                            determined by the Department, is eighty  
13                            percent (80%) or less of the statewide  
14                            average per capita personal income,  
15                       (b)  the population has decreased over the  
16                            previous ten (10) years, as determined by  
17                            the State Data Center based on the most  
18                            recent U.S. Department of Commerce data, or  
19                       (c)  the unemployment rate exceeds the lesser of  
20                            five percent (5%) or two percentage points  
21                            above the state average unemployment rate as  
22                            certified by the Oklahoma Employment  
23                            Security Commission;

1           7. "Gross payroll" means wages, as defined in Section 2385.1 of  
2 this title for new direct jobs;

3           8.    a. "Establishment" means any business or governmental  
4                   entity, no matter what legal form, including, but not  
5                   limited to, a sole proprietorship; partnership;  
6                   limited liability company; corporation or combination  
7                   of corporations which have a central parent  
8                   corporation which makes corporate management decisions  
9                   such as those involving consolidation, acquisition,  
10                  merger or expansion; federal agency; political  
11                  subdivision of the State of Oklahoma; or trust  
12                  authority; provided, distinct, identifiable subunits  
13                  of such entities may be determined to be an  
14                  establishment, for all purposes of Section 3601 et  
15                  seq. of this title, by the Department subject to the  
16                  following conditions:

- 17                  (1) the entity must have a minimum payroll of Two  
18                          Million Five Hundred Thousand Dollars  
19                          (\$2,500,000.00) and the subunit must also have or  
20                          will have a minimum payroll of Two Million Five  
21                          Hundred Thousand Dollars (\$2,500,000.00),  
22                  (2) the subunit is engaged in an activity or service  
23                          or produces a product which is demonstratively

1 independent and separate from the entity's other  
2 activities, services or products and could be  
3 conducted or produced in the absence of any other  
4 activity, service or production of the entity,

5 (3) has an accounting system capable of tracking or  
6 facilitating an audit of the subunit's payroll,  
7 expenses, revenue and production. Limited  
8 interunit overlap of administrative and  
9 purchasing functions shall not disqualify a  
10 subunit from consideration as an establishment by  
11 the Department,

12 (4) the entity has not previously had a subunit  
13 determined to be an establishment pursuant to  
14 this section; provided, the restriction set forth  
15 in this division shall not apply to subunits  
16 which qualify pursuant to the provisions of  
17 subparagraph b of paragraph 6 of this subsection,  
18 and

19 (5) it is determined by the Department that the  
20 entity will have a probable net gain in total  
21 employment within the incentive period.

22 b. The Department may promulgate rules to further limit  
23 the circumstances under which a subunit may be

1           considered an establishment. The Department shall  
2           promulgate rules to determine whether a subunit of an  
3           entity achieves a net gain in total employment. The  
4           Department shall establish criteria for determining  
5           the period of time within which such gain must be  
6           demonstrated and a method for determining net gain in  
7           total employment;

8           9. "NAICS Manual" means any manual, book or other publication  
9           containing the North American Industry Classification System, United  
10          States, 1997, promulgated by the Office of Management and Budget of  
11          the United States of America, or the latest revised edition;

12          10. "SIC Manual" means the 1987 revision to the Standard  
13          Industrial Classification Manual, promulgated by the Office of  
14          Management and Budget of the United States of America; and

15          11. "Start date" means the date on which an establishment may  
16          begin accruing benefits for the creation of new direct jobs, which  
17          date shall be determined by the Department.

18          B. The Incentive Approval Committee is hereby created and shall  
19          consist of the Director of State Finance, the Director of the  
20          Department and one member of the Oklahoma Tax Commission appointed  
21          by the Tax Commission. It shall be the duty of the Committee to  
22          determine:

1           1. Upon initial application on a form approved by the  
2 Committee, if an establishment is engaged in a basic industry as  
3 defined in subdivision (b) of division (7) or in subdivisions (a)  
4 through (p) of division (8) of subparagraph a of paragraph 1 of  
5 subsection A of this section or as otherwise provided by subsection  
6 C of this section;

7           2. If an establishment would have been defined as a "basic  
8 industry" prior to the amendments to this section to convert from  
9 SIC Codes to NAICS Codes. If the Committee so determines, the  
10 establishment shall be considered as a "basic industry" for purposes  
11 of the Oklahoma Quality Jobs Program Act; and

12           3. If employees of an establishment as defined in division (9)  
13 of subparagraph a of paragraph 1 of subsection A of this section  
14 meet the requirements to be considered employed in new direct jobs  
15 as specified in paragraph 2 of subsection A of this section.

16           C. For an establishment defined as a "basic industry" pursuant  
17 to division (4) of subparagraph a of paragraph 1 of subsection A of  
18 this section, the Incentive Approval Committee shall consist of the  
19 members provided by subsection B of this section and the President  
20 of the Oklahoma Center for the Advancement of Science and  
21 Technology.

1 SECTION 7. AMENDATORY 68 O.S. 2001, Section 3604, as  
2 last amended by Section 2, Chapter 457, O.S.L. 2004 (68 O.S. Supp.  
3 2004, Section 3604), is amended to read as follows:

4 Section 3604. A. Except as otherwise provided in subsection I  
5 of this section, an establishment which meets the qualifications  
6 specified in the Oklahoma Quality Jobs Program Act may receive  
7 quarterly incentive payments for a ten-year period from the Oklahoma  
8 Tax Commission pursuant to the provisions of the Oklahoma Quality  
9 Jobs Program Act in an amount which shall be equal to the net  
10 benefit rate multiplied by the actual gross payroll of new direct  
11 jobs for a calendar quarter as verified by the Oklahoma Employment  
12 Security Commission.

13 B. In order to receive incentive payments, an establishment  
14 shall apply to the Oklahoma Department of Commerce. The application  
15 shall be on a form prescribed by the Department and shall contain  
16 such information as may be required by the Department to determine  
17 if the applicant is qualified.

18 C. Except as otherwise provided by subsection D or E of this  
19 section, in order to qualify to receive such payments, the  
20 establishment applying shall be required to:

- 21 1. Be engaged in a basic industry;
- 22 2. Have an annual gross payroll for new direct jobs projected  
23 by the Department to equal or exceed Two Million Five Hundred

1 Thousand Dollars (\$2,500,000.00) within three (3) years of the start  
2 date; and

3 3. Have a number of full-time-equivalent employees working an  
4 annual average of twenty-five (25) or more hours per week in new  
5 direct jobs equal to or in excess of eighty percent (80%) of the  
6 total number of new direct jobs.

7 D. In order to qualify to receive incentive payments as  
8 authorized by the Oklahoma Quality Jobs Program Act, an  
9 establishment engaged in an activity described under:

10 1. Industry Group Nos. 3111 through 3119 of the NAICS Manual  
11 shall be required to:

12 a. have an annual gross payroll for new direct jobs  
13 projected by the Department to equal or exceed One  
14 Million Five Hundred Thousand Dollars (\$1,500,000.00)  
15 within three (3) years of the start date and make, or  
16 which will make within one (1) year, at least seventy-  
17 five percent (75%) of its total sales, as determined  
18 by the Incentive Approval Committee pursuant to the  
19 provisions of subsection B of Section 3603 of this  
20 title, to out-of-state customers or buyers, to in-  
21 state customers or buyers if the product or service is  
22 resold by the purchaser to an out-of-state customer or  
23 buyer for ultimate use, or to the federal government,

1 unless the annual gross payroll equals or exceeds Two  
2 Million Five Hundred Thousand Dollars (\$2,500,000.00)  
3 in which case the requirements for purchase of output  
4 provided by this subparagraph shall not apply, and  
5 b. have a number of full-time-equivalent employees  
6 working an average of twenty-five (25) or more hours  
7 per week in new direct jobs equal to or in excess of  
8 eighty percent (80%) of the total number of new direct  
9 jobs; and

10 2. Division (4) of subparagraph a of paragraph 1 of subsection  
11 A of Section 3603 of this title, shall be required to:

12 a. have an annual gross payroll for new direct jobs  
13 projected by the Department to equal or exceed One  
14 Million Five Hundred Thousand Dollars (\$1,500,000.00)  
15 within three (3) years of the start date, and

16 b. have a number of full-time-equivalent employees  
17 working an average of twenty-five (25) or more hours  
18 per week in new direct jobs equal to or in excess of  
19 eighty percent (80%) of the total number of new direct  
20 jobs.

21 E. 1. An establishment which locates its principal business  
22 activity within a site consisting of at least ten (10) acres which:

23 a. is a federal Superfund removal site,

1           b.    is listed on the National Priorities List established  
2                   under Section 9605 of Title 42 of the United States  
3                   Code,  
4           c.    has been formally deferred to the state in lieu of  
5                   listing on the National Priorities List, or  
6           d.    has been determined by the Department of Environmental  
7                   Quality to be contaminated by any substance regulated  
8                   by a federal or state statute governing environmental  
9                   conditions for real property pursuant to an order of  
10                  the Department of Environmental Quality,  
11 shall qualify for incentive payments irrespective of its actual  
12 gross payroll or the number of full-time-equivalent employees  
13 engaged in new direct jobs.

14           2.    In order to qualify for the incentive payments pursuant to  
15 this subsection, the establishment shall conduct the activity  
16 resulting in at least fifty percent (50%) of its Oklahoma taxable  
17 income or adjusted gross income, as determined under Section 2358 of  
18 this title, whether from the sale of products or services or both  
19 products and services, at the physical location which has been  
20 determined not to comply with the federal or state statutes  
21 described in this subsection with respect to environmental  
22 conditions for real property. The establishment shall be subject to

1 all other requirements of the Oklahoma Quality Jobs Program Act  
2 other than the exemptions provided by this subsection.

3 3. In order to qualify for the incentive payments pursuant to  
4 this subsection, the entity shall obtain from the Department of  
5 Environmental Quality a letter of concurrence that:

6 a. the site designated by the entity does meet one or  
7 more of the requirements listed in paragraph 1 of this  
8 subsection, and

9 b. the site is being or has been remediated to a level  
10 which is consistent with the intended use of the  
11 property.

12 In making its determination, the Department of Environmental  
13 Quality may rely on existing data and information available to it,  
14 but may also require the applying entity to provide additional data  
15 and information as necessary.

16 4. If authorized by the Department of Environmental Quality  
17 pursuant to paragraph 3 of this subsection, the entity may utilize a  
18 remediated portion of the property for its intended purpose prior to  
19 remediation of the remainder of the site, and shall qualify for  
20 incentive payments based on employment associated with the portion  
21 of the site.

22 F. Except as otherwise provided by subsection G of this  
23 section, for applications submitted on and after the effective date

1 of this act, in order to qualify to receive incentive payments as  
2 authorized by the Oklahoma Quality Jobs Program Act, in addition to  
3 other qualifications specified herein, an establishment shall be  
4 required to pay new direct jobs an average annualized wage which  
5 equals or exceeds:

6 1. One hundred ten percent (110%) of the average county wage as  
7 determined by the Oklahoma State Data Center based on the most  
8 recent U.S. Department of Commerce data for the county in which the  
9 new direct jobs are located. For purposes of this paragraph,  
10 healthcare premiums paid by the applicant for individuals in new  
11 direct jobs shall be included in the annualized wage; or

12 2. One hundred percent (100%) of the average county wage as  
13 that percentage is determined by the Oklahoma State Data Center  
14 based upon the most recent U.S. Department of Commerce data for the  
15 county in which the new jobs are located. For purposes of this  
16 paragraph, healthcare premiums paid by the applicant for individuals  
17 in new direct jobs shall not be included in the annualized wage.

18 Provided, no average wage requirement shall exceed Twenty-five  
19 Thousand Dollars (\$25,000.00), in any county. This maximum wage  
20 threshold shall be indexed and modified from time to time based on  
21 the latest Consumer Price Index year-to-date percent change release  
22 as of the date of the annual average county wage data release from  
23 the Bureau of Economic Analysis of the U.S. Department of Commerce.

1 G. As used in this subsection, "opportunity zone" means one or  
2 more census tracts in which, according to the most recent federal  
3 decennial census, at least thirty percent (30%) of the residents  
4 have annual gross household incomes from all sources below the  
5 poverty guidelines established by the U.S. Department of Health and  
6 Human Services. An establishment which is otherwise qualified to  
7 receive incentive payments and which locates its principal business  
8 activity in an opportunity zone shall not be subject to the  
9 requirements of subsection F of this section.

10 H. The Department shall determine if the applicant is qualified  
11 to receive incentive payments.

12 I. If the applicant is determined to be qualified by the  
13 Department and is not subject to the provisions of subparagraph d of  
14 paragraph 6 of subsection A of Section 3603 of this title, the  
15 Department shall conduct a cost/benefit analysis to determine the  
16 estimated net direct state benefits and the net benefit rate  
17 applicable for a ten-year period and to estimate the amount of gross  
18 payroll for a ten-year period. In conducting such cost/benefit  
19 analysis, the Department shall consider quantitative factors, such  
20 as the anticipated level of new tax revenues to the state along with  
21 the added cost to the state of providing services, and such other  
22 criteria as deemed appropriate by the Department. Net direct state  
23 benefits may be considered as follows:

1        1. Benefits accruing to the state due to the location of other  
2 establishments in this state as a direct result of the applicant  
3 locating in this state may be considered; and

4        2. Benefits accruing to the state as a direct result of the  
5 purchase by the applicant of fifty percent (50%) or more raw  
6 materials from within the state for the purpose of adding value in  
7 the manufacturing process may be considered; provided, if such  
8 benefits are considered, they shall be considered as a benefit in  
9 the cost/benefit analysis only for the applicant and may not be  
10 considered in connection with the application of any other  
11 establishment. In no event shall incentive payments, cumulatively,  
12 exceed the estimated net direct state benefits, except for  
13 applicants subject to the provisions of subparagraph d of paragraph  
14 6 of subsection A of Section 3603 of this title.

15        J. Upon approval of such an application, the Department shall  
16 notify the Oklahoma Tax Commission and shall provide it with a copy  
17 of the application and the results of the cost/benefit analysis.  
18 The Tax Commission may require the qualified establishment to submit  
19 such additional information as may be necessary to administer the  
20 provisions of the Oklahoma Quality Jobs Program Act. The approved  
21 establishment shall report to the Tax Commission periodically to  
22 show its continued eligibility for incentive payments, as provided  
23 in Section 3606 of this title. The establishment may be audited by

1 the Tax Commission to verify such eligibility. Once the  
2 establishment is approved, an agreement shall be deemed to exist  
3 between the establishment and the State of Oklahoma, requiring the  
4 continued incentive payment to be made as long as the establishment  
5 retains its eligibility as defined in and established pursuant to  
6 this section and Sections 3603 and 3606 of this title and within the  
7 limitations contained in the Oklahoma Quality Jobs Program Act,  
8 which existed at the time of such approval.

9 K. A municipality with a population of less than one hundred  
10 thousand (100,000) persons in which an establishment eligible to  
11 receive quarterly incentive payments pursuant to the provisions of  
12 this section is located may file a claim with the Tax Commission for  
13 up to twenty-five percent (25%) of the amount of such payment. The  
14 amount of such claim shall not exceed amounts paid by the  
15 municipality for direct costs of municipal infrastructure  
16 improvements to provide water and sewer service to the  
17 establishment. Such claim shall not be approved by the Tax  
18 Commission unless the municipality and the establishment have  
19 entered into a written agreement for such claims to be filed by the  
20 municipality prior to submission of the application of the  
21 establishment pursuant to the provisions of this section. If such  
22 claim is approved, the amount of the payment to the establishment  
23 made pursuant to the provisions of Section 3606 of this title shall

1 be reduced by the amount of the approved claim by the municipality  
2 and the Tax Commission shall issue a warrant to the municipality in  
3 the amount of the approved claim in the same manner as warrants are  
4 issued to qualifying establishments.

5 SECTION 8. Sections 1, 2, 3 and 5 of this act shall become  
6 effective July 1, 2005.

7 SECTION 9. Sections 4, 6 and 7 of this act shall become  
8 effective January 1, 2006.

9 SECTION 10. It being immediately necessary for the preservation  
10 of the public peace, health and safety, an emergency is hereby  
11 declared to exist, by reason whereof this act shall take effect and  
12 be in full force from and after its passage and approval.

13 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-8-05 - DO PASS,  
14 As Amended and Coauthored.