ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 1819

By: Coffee and Morgan of the Senate

and

Benge of the House

(public finance and Economic Development Generating Excellence (EDGE) Fund - gross production taxes - effective date - emergency)

AMENDMENT NO. 1. Strike the stricken title, enacting clause and entire bill and insert

"(revenue and taxation – amending 68 O.S., Sections 2358 and 3603 – Oklahoma Quality Jobs Program Act – definitions – incentive payment – codification)

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 2358, as last amended by Section 37 of Enrolled Senate Bill No. 1830 of the

2nd Session of the 51st Oklahoma Legislature, is amended to read as follows:

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

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

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

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

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

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

b. For carryovers and carrybacks to taxable years beginning after December 31, 1980, the amount of any net operating loss deduction allowed for the taxable year shall be an amount equal to the aggregate of the Oklahoma net operating loss carryovers and carrybacks to such year. Oklahoma net operating losses shall be separately determined by reference to Section 172 of the Internal Revenue Code, 26 U.S.C., Section 172, as modified by the Oklahoma Income Tax Act, Section 2351 et seq. of this title, and shall be allowed without regard to the existence of a federal net operating loss. For tax years beginning after December 31, 2000, the years to which such losses may be carried shall be determined solely by reference to Section 172 of the Internal Revenue Code, 26 U.S.C., Section 172, with the exception that the terms "net operating loss" and "taxable income" shall be replaced with "Oklahoma net operating loss" and "Oklahoma taxable income".

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

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

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

(1) where such property has acquired a nonunitary business or commercial situs apart from the domicile of the taxpayer such income shall be allocated in accordance with such business or commercial situs; interest income from investments held to generate working capital for a unitary business enterprise shall be included in apportionable income; a resident trust or resident estate shall be treated as having a

separate commercial or business situs insofar as undistributed income is concerned, but shall not be treated as having a separate commercial or business situs insofar as distributed income is concerned,

(2) for taxable years beginning after December 31, 2003, capital or ordinary gains or losses from the sale of an ownership interest in a publicly traded partnership, as defined by Section 7704(b) of the Internal Revenue Code of 1986, as amended, shall be allocated to this state in the ratio of the original cost of such partnership's tangible property in this state to the original cost of such partnership's tangible property everywhere, as determined at the time of the sale; if more than fifty percent (50%) of the value of the partnership's assets consists of intangible assets, capital or ordinary gains or losses from the sale of an ownership interest in the partnership shall be allocated to this state in accordance with the sales factor of the partnership for its first full tax period immediately preceding its tax period during which the ownership interest in the partnership was

sold; the provisions of this division shall only apply if the capital or ordinary gains or losses from the sale of an ownership interest in a partnership do not constitute qualifying gain receiving capital treatment as defined in subparagraph a of paragraph 2 of subsection F of this section,

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

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

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

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

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

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

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

e. In the case of insurance companies, Oklahoma taxable income shall be taxable income of the taxpayer for federal tax purposes, as adjusted for the adjustments provided pursuant to the provisions of paragraphs 1 and 2 of this subsection, apportioned as follows:

(1) except as otherwise provided by division (2) of this subparagraph, taxable income of an insurance company for a taxable year shall be apportioned to this state by multiplying such income by a fraction, the numerator of which is the direct premiums written for insurance on property or risks in this state, and the denominator of which is the direct premiums written for insurance on property or risks everywhere. For purposes of this subsection, the term "direct premiums written" means the total amount of direct premiums written, assessments and annuity considerations as reported for the taxable year on the annual statement filed by the company with the Insurance Commissioner in the form approved by the National Association of Insurance Commissioners, or such other form as may be prescribed in lieu thereof,

(2) if the principal source of premiums written by an insurance company consists of premiums for reinsurance accepted by it, the taxable income of such company shall be apportioned to this state

by multiplying such income by a fraction, the numerator of which is the sum of (a) direct premiums written for insurance on property or risks in this state, plus (b) premiums written for reinsurance accepted in respect of property or risks in this state, and the denominator of which is the sum of (c) direct premiums written for insurance on property or risks everywhere, plus (d) premiums written for reinsurance accepted in respect of property or risks everywhere. For purposes of this paragraph, premiums written for reinsurance accepted in respect of property or risks in this state, whether or not otherwise determinable, may at the election of the company be determined on the basis of the proportion which premiums written for insurance accepted from companies commercially domiciled in Oklahoma bears to premiums written for reinsurance accepted from all sources, or alternatively in the proportion which the sum of the direct premiums written for insurance on property or risks in this state by each ceding company from which reinsurance is accepted bears to the sum of the total direct premiums written by each such ceding company for the taxable year.

5. The net income or loss remaining after the separate allocation in paragraph 4 of this subsection, being that which is derived from a unitary business enterprise, shall be apportioned to this state on the basis of the arithmetical average of three factors consisting of property, payroll and sales or gross revenue enumerated as subparagraphs a, b and c of this paragraph. Net income or loss as used in this paragraph includes that derived from patent or copyright royalties, purchase discounts, and interest on accounts receivable relating to or arising from a business activity, the income from which is apportioned pursuant to this subsection, including the sale or other disposition of such property and any other property used in the unitary enterprise. Deductions used in computing such net income or loss shall not include taxes based on or measured by income. Provided, for corporations whose property for purposes of the tax imposed by Section 2355 of this title has an initial investment cost equaling or exceeding Two Hundred Million Dollars ($200,000,000.00) and such investment is made on or after July 1, 1997, or for corporations which expand their property or facilities in this state and such expansion has an investment cost equaling or exceeding Two Hundred Million Dollars ($200,000,000.00) over a period not to exceed three (3) years, and such expansion is commenced on or after January 1, 2000, the three factors shall be

apportioned with property and payroll, each comprising twenty-five percent (25%) of the apportionment factor and sales comprising fifty percent (50%) of the apportionment factor. The apportionment factors shall be computed as follows:

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

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

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

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

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

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

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

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

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

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

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

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

(5) In the case of a telephone or telegraph or other communication enterprise, the numerator of the fraction shall include that portion of the interstate revenue as is allocated pursuant to the accounting procedures prescribed by the Federal Communications Commission; provided that in respect to each corporation or business entity required by the Federal Communications Commission to keep its books and records in accordance with a uniform system of accounts prescribed by such

Commission, the intrastate net income shall be determined separately in the manner provided by such uniform system of accounts and only the interstate income shall be subject to allocation pursuant to the provisions of this subsection. Provided further, that the gross revenue factors shall be those as are determined pursuant to the accounting procedures prescribed by the Federal Communications Commission.

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

6. For calendar years 1997 and 1998, the owner of a new or expanded agricultural commodity processing facility in this state may exclude from Oklahoma taxable income, or in the case of an individual, the Oklahoma adjusted gross income, fifteen percent (15%) of the investment by the owner in the new or expanded agricultural commodity processing facility. For calendar year 1999, and all subsequent years, the percentage, not to exceed fifteen percent (15%), available to the owner of a new or expanded agricultural commodity processing facility in this state claiming the exemption shall be adjusted annually so that the total estimated reduction in tax liability does not exceed One Million Dollars ($1,000,000.00) annually. The Tax Commission shall promulgate rules for determining the percentage of the investment which each eligible taxpayer may exclude. The exclusion provided by this paragraph shall be taken in the taxable year when the investment is made. In the event the total reduction in tax liability authorized by this paragraph exceeds One Million Dollars ($1,000,000.00) in any calendar year, the Tax Commission shall permit any excess over One Million Dollars ($1,000,000.00) and shall factor such excess into

the percentage for subsequent years. Any amount of the exemption permitted to be excluded pursuant to the provisions of this paragraph but not used in any year may be carried forward as an exemption from income pursuant to the provisions of this paragraph for a period not exceeding six (6) years following the year in which the investment was originally made.

For purposes of this paragraph:

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

b. "Facility" means each part of the facility which is used in a process primarily for:

(1) the processing of agricultural commodities, including receiving or storing agricultural commodities, or the production of milk at a dairy operation,

(2) transporting the agricultural commodities or product before, during or after the processing, or

(3) packaging or otherwise preparing the product for sale or shipment.

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

a. Sixty Thousand Dollars ($60,000.00), or

b. the loss properly shown on Schedule F of the Internal Revenue Service Form 1040 reduced by one-half (1/2) of the income from all other sources other than reflected on Schedule F.

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

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

9. In taxable years beginning after December 31, 2005, an employer that is eligible for and utilizes the Safety Pays OSHA Consultation Service provided by the Oklahoma Department of Labor shall receive an exemption from taxable income in the amount of One Thousand Dollars ($1,000.00) for the tax year that the service is utilized.

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

Notwithstanding any other provisions of the Oklahoma Income Tax Act, Section 2351 et seq. of this title, or of the Internal Revenue Code to the contrary, this subsection shall control calculation of depreciation of assets placed into service after December 31, 1981, and before January 1, 1983.

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

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

2. For purposes of this subsection:

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

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

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

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

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

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

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

D. 1. For taxable years beginning after December 31, 2005, the taxable income of any corporation, estate or trust, shall be further adjusted for qualifying gains receiving capital treatment. Such corporations, estates or trusts shall be allowed a deduction from Oklahoma taxable income for the amount of qualifying gains receiving capital treatment earned by the corporation, estate or trust during the taxable year and included in the federal taxable income of such corporation, estate or trust.

2. As used in this subsection:

a. "qualifying gains receiving capital treatment" means the amount of net capital gains, as defined in Section 1222(11) of the Internal Revenue Code, included in the federal income tax return of the corporation, estate or trust that result from:

(1) the sale of real property or tangible personal property located within Oklahoma that has been directly or indirectly owned by the corporation, estate or trust for a holding period of at least

five (5) years prior to the date of the transaction from which such net capital gains arise,

(2) the sale of stock or on the sale of an ownership interest in an Oklahoma company, limited liability company, or partnership where such stock or ownership interest has been directly or indirectly owned by the corporation, estate or trust for a holding period of at least three (3) years prior to the date of the transaction from which the net capital gains arise, or

(3) the sale of real property, tangible personal property or intangible personal property located within Oklahoma as part of the sale of all or substantially all of the assets of an Oklahoma company, limited liability company, or partnership where such property has been directly or indirectly owned by such entity owned by the owners of such entity, and used in or derived from such entity for a period of at least three (3) years prior to the date of the transaction from which the net capital gains arise,

b. "holding period" means an uninterrupted period of time. The holding period shall include any additional period when the property was held by another individual or entity, if such additional period is included in the taxpayer’s holding period for the asset pursuant to the Internal Revenue Code,

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

d. “direct” means the taxpayer directly owns the asset, and

e. “indirect” means the taxpayer owns an interest in a pass-through entity (or chain of pass-through entities) that sells the asset that gives rise to the qualifying gains receiving capital treatment.

(1) With respect to sales of real property or tangible personal property located within Oklahoma, the deduction described in this subsection shall not apply unless the pass-through entity that makes the sale has held the property for not less than five (5) uninterrupted years prior to the date of the transaction that created the capital gain, and each pass-through

entity included in the chain of ownership has been a member, partner, or shareholder of the pass-through entity in the tier immediately below it for an uninterrupted period of not less than five (5) years.

(2) With respect to sales of stock or ownership interest in or sales of all or substantially all of the assets of an Oklahoma company, limited liability company, or partnership, the deduction described in this subsection shall not apply unless the pass-through entity that makes the sale has held the stock or ownership interest or the assets for not less than three (3) uninterrupted years prior to the date of the transaction that created the capital gain, and each pass-through entity included in the chain of ownership has been a member, partner or shareholder of the pass-through entity in the tier immediately below it for an uninterrupted period of not less than three (3) years.

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

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

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

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

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

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

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

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

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

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

2. a. For taxable years beginning on or before December 31, 2005, in the case of individuals who use the standard deduction in determining taxable income, there shall be added or deducted, as the case may be, the difference necessary to allow a standard deduction in lieu of the standard deduction allowed by the Internal Revenue Code, in an amount equal to the larger of fifteen percent (15%) of the Oklahoma adjusted gross income or One Thousand Dollars ($1,000.00), but not to exceed Two Thousand Dollars ($2,000.00), except that in the case of a married individual filing a separate return such deduction shall be the larger of fifteen percent (15%) of such Oklahoma adjusted gross income or Five Hundred Dollars ($500.00), but not to exceed the maximum amount of One Thousand Dollars ($1,000.00),

b. For taxable years beginning on or after January 1, 2006, and before January 1, 2007, in the case of individuals who use the standard deduction in determining taxable income, there shall be added or deducted, as the case may be, the difference necessary to allow a standard deduction in lieu of the standard deduction allowed by the Internal Revenue Code, in an amount equal to:

(1) Three Thousand Dollars ($3,000.00), if the filing status is married filing joint, head of household or qualifying widow; or

(2) Two Thousand Dollars ($2,000.00), if the filing status is single or married filing separate.

c. For the taxable year beginning on January 1, 2007, and ending December 31, 2007, in the case of individuals who use the standard deduction in determining taxable income, there shall be added or deducted, as the case may be, the difference necessary to allow a standard deduction in lieu of the standard deduction allowed by the Internal Revenue Code, in an amount equal to:

(1) Five Thousand Five Hundred Dollars ($5,500.00), if the filing status is married filing joint or qualifying widow; or

(2) Four Thousand One Hundred Twenty-five Dollars ($4,125.00) for a head of household; or

(3) Two Thousand Seven Hundred Fifty Dollars ($2,750.00), if the filing status is single or married filing separate.

d. For the taxable year beginning on January 1, 2008, and ending December 31, 2008, in the case of individuals who use the standard deduction in determining taxable income, there shall be added or deducted, as the case may be, the difference necessary to allow a standard deduction in lieu of the standard deduction allowed by the Internal Revenue Code, in an amount equal to:

(1) Six Thousand Five Hundred Dollars ($6,500.00), if the filing status is married filing joint or qualifying widow, or

(2) Four Thousand Eight Hundred Seventy-five Dollars ($4,875.00) for a head of household, or

(3) Three Thousand Two Hundred Fifty Dollars ($3,250.00), if the filing status is single or married filing separate.

e. For the taxable year beginning on January 1, 2009, and ending December 31, 2009, in the case of individuals who use the standard deduction in determining taxable income, there shall be added or deducted, as the case may be, the difference necessary to allow a standard deduction in lieu of the standard deduction allowed by the Internal Revenue Code, in an amount equal to:

(1) Eight Thousand Five Hundred Dollars ($8,500.00), if the filing status is married filing joint or qualifying widow, or

(2) Six Thousand Three Hundred Seventy-five Dollars ($6,375.00) for a head of household, or

(3) Four Thousand Two Hundred Fifty Dollars ($4,250.00), if the filing status is single or married filing separate.

f. For taxable years beginning on or after January 1, 2010, in the case of individuals who use the standard deduction in determining taxable income, there shall be added or deducted, as the case may be, the difference necessary to allow a standard deduction equal to the standard deduction allowed by the Internal Revenue Code of 1986, as amended, based upon the amount and filing status prescribed by such Code for purposes of filing federal individual income tax returns.

3. In the case of resident and part-year resident individuals having adjusted gross income from sources both within and without the state, the itemized or standard deductions and personal exemptions shall be reduced to an amount which is the same portion of the total thereof as Oklahoma adjusted gross income is of adjusted gross income. To the extent itemized deductions include allowable moving expense, proration of moving expense shall not be required or permitted but allowable moving expense shall be fully deductible for those taxpayers moving within or into Oklahoma and no

part of moving expense shall be deductible for those taxpayers moving without or out of Oklahoma. All other itemized or standard deductions and personal exemptions shall be subject to proration as provided by law.

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

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

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

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

c. confinement in a hospital within the United States for treatment of wounds, injuries or disease,

the time for filing a return and paying an income tax shall be and is hereby extended without incurring liability for interest or penalties, to the fifteenth day of the third month following the month in which:

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

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

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

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

7. Notwithstanding anything in the Internal Revenue Code or in the Oklahoma Income Tax Act to the contrary, it is expressly provided that, in the case of resident individuals, amounts received as dividends or distributions of earnings from savings and loan associations or credit unions located in Oklahoma, and interest received on savings accounts and time deposits from such sources or from state and national banks or trust companies located in Oklahoma, shall qualify as dividends for the purpose of the dividend exclusion, and taxable income shall be adjusted accordingly to arrive at Oklahoma taxable income; provided, however, that the dividend, distribution of earnings and/or interest exclusion provided for hereinabove shall not be cumulative to the maximum dividend exclusion allowed by the Internal Revenue Code. Any dividend exclusion already allowed by the Internal Revenue Code and

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

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

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

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

d. The provisions of this paragraph shall apply to all taxable years ending after December 31, 1978, and beginning before January 1, 2006.

9. Retirement benefits not to exceed Five Thousand Five Hundred Dollars ($5,500.00) for the 2004 tax year, Seven Thousand Five Hundred Dollars ($7,500.00) for the 2005 tax year and Ten Thousand Dollars ($10,000.00) for the 2006 tax year and all subsequent tax years, which are received by an individual from the civil service of the United States, the Oklahoma Public Employees Retirement System, the Teachers' Retirement System of Oklahoma, the Oklahoma Law Enforcement Retirement System, the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the employee retirement systems created by counties pursuant to Section 951 et seq. of Title 19 of the Oklahoma Statutes, the Uniform Retirement System for Justices and Judges, the Oklahoma Wildlife Conservation Department Retirement Fund, the Oklahoma Employment Security Commission Retirement Plan, or the employee retirement systems created by municipalities pursuant to Section 48-

101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt from taxable income.

10. In taxable years beginning after December 3l, 1984, Social Security benefits received by an individual shall be exempt from taxable income, to the extent such benefits are included in the federal adjusted gross income pursuant to the provisions of Section 86 of the Internal Revenue Code, 26 U.S.C., Section 86.

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

12. In taxable years beginning after December 31, 1995, contributions made to and interest received from a medical savings

account established pursuant to Sections 2621 through 2623 of Title 63 of the Oklahoma Statutes shall be exempt from taxable income.

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

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

(1) the adoption of a minor, or

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

may be deducted from the Oklahoma adjusted gross income.

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

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

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

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

b. For purposes of this paragraph, the qualifying amount shall be as follows:

(1) in taxable years beginning after December 31, 2004, and prior to January 1, 2007, the qualifying amount shall be Thirty-seven Thousand Five Hundred Dollars ($37,500.00) or less if the

filing status is single, head of household, or married filing separate, or Seventy-Five Thousand Dollars ($75,000.00) or less if the filing status is married filing jointly or qualifying widow,

(2) in the taxable year beginning January 1, 2007, the qualifying amount shall be Fifty Thousand Dollars ($50,000.00) or less if the filing status is single, head of household, or married filing separate, or One Hundred Thousand Dollars ($100,000.00) or less if the filing status is married filing jointly or qualifying widow,

(3) in the taxable year beginning January 1, 2008, the qualifying amount shall be Sixty-two Thousand Five Hundred Dollars ($62,500.00) or less if the filing status is single, head of household, or married filing separate, or One Hundred Twenty-five Thousand Dollars ($125,000.00) or less if the filing status is married filing jointly or qualifying widow,

(4) in the taxable year beginning January 1, 2009, the qualifying amount shall be One Hundred Thousand Dollars ($100,000.00) or less if the filing status is single, head of household, or married filing separate, or Two Hundred Thousand

Dollars ($200,000.00) or less if the filing status is married filing jointly or qualifying widow, and

(5) in the taxable year beginning January 1, 2010, and subsequent taxable years, there shall be no limitation upon the qualifying amount.

c. For purposes of this paragraph, "retirement benefits" means the total distributions or withdrawals from the following:

(1) an employee pension benefit plan which satisfies the requirements of Section 401 of the Internal Revenue Code, 26 U.S.C., Section 401,

(2) an eligible deferred compensation plan that satisfies the requirements of Section 457 of the Internal Revenue Code, 26 U.S.C., Section 457,

(3) an individual retirement account, annuity or trust or simplified employee pension that satisfies the requirements of Section 408 of the Internal Revenue Code, 26 U.S.C., Section 408,

(4) an employee annuity subject to the provisions of Section 403(a) or (b) of the Internal Revenue Code, 26 U.S.C., Section 403(a) or (b),

(5) United States Retirement Bonds which satisfy the requirements of Section 86 of the Internal Revenue Code, 26 U.S.C., Section 86, or

(6) lump-sum distributions from a retirement plan which satisfies the requirements of Section 402(e) of the Internal Revenue Code, 26 U.S.C., Section 402(e).

d. The amount of the exemption provided by this paragraph shall be limited to Five Thousand Five Hundred Dollars ($5,500.00) for the 2004 tax year, Seven Thousand Five Hundred Dollars ($7,500.00) for the 2005 tax year and Ten Thousand Dollars ($10,000.00) for the tax year 2006 and for all subsequent tax years. Any individual who claims the exemption provided for in paragraph 9 of this subsection shall not be permitted to claim a combined total exemption pursuant to this paragraph and paragraph 9 of this subsection in an amount exceeding Five Thousand Five Hundred Dollars ($5,500.00) for the 2004 tax year, Seven Thousand Five Hundred Dollars ($7,500.00) for the 2005 tax year and Ten Thousand Dollars ($10,000.00) for the 2006 tax year and all subsequent tax years.

16. In taxable years beginning after December 31, 1999, for an individual engaged in production agriculture who has filed a

Schedule F form with the taxpayer's federal income tax return for such taxable year, there shall be excluded from taxable income any amount which was included as federal taxable income or federal adjusted gross income and which consists of the discharge of an obligation by a creditor of the taxpayer incurred to finance the production of agricultural products.

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

18. a. In taxable years beginning after December 31, 2001, and before January 1, 2005, there shall be allowed a deduction in the amount of contributions to accounts established pursuant to the Oklahoma College Savings Plan Act. The deduction shall equal the amount of contributions to accounts, but in no event shall the deduction for each contributor exceed Two Thousand Five Hundred Dollars ($2,500.00) each taxable year for each account.

b. In taxable years beginning after December 31, 2004, each taxpayer shall be allowed a deduction for contributions to accounts established pursuant to the Oklahoma College Savings Plan Act. The maximum annual deduction shall equal the amount of contributions to all such accounts plus any contributions to such accounts by the taxpayer for prior taxable years after December 31, 2004, which were not deducted, but in no event shall the deduction for each tax year exceed Ten Thousand Dollars ($10,000.00) for each individual taxpayer or Twenty Thousand Dollars ($20,000.00) for taxpayers filing a joint return. Any amount of a contribution that is not deducted by the taxpayer in the year for which the contribution is made may be carried forward as a deduction from income for the succeeding five (5) years. For taxable years beginning after December 31, 2005, deductions may be taken for contributions and rollovers made during a taxable year and up to April 15 of the succeeding year, or the due date of a taxpayer’s state income tax return, excluding extensions, whichever is later. Provided, a deduction for the same contribution may not be taken for two (2) different taxable years.

c. In taxable years beginning after December 31, 2006, deductions for contributions made pursuant to subparagraph b of this paragraph shall be limited as follows:

(1) for a taxpayer who qualified for the five-year carryforward election and who takes a rollover or nonqualified withdrawal during that period, the tax deduction otherwise available pursuant to subparagraph b of this paragraph shall be reduced by the amount which is equal to the rollover or nonqualified withdrawal, and

(2) for a taxpayer who elects to take a rollover or nonqualified withdrawal within the same tax year in which a contribution was made to the taxpayer’s account, the tax deduction otherwise available pursuant to subparagraph b of this paragraph shall be reduced by the amount of the contribution which is equal to the rollover or nonqualified withdrawal.

d. If a taxpayer elects to take a rollover on a contribution for which a deduction has been taken pursuant to subparagraph b of this paragraph within one year of the date of contribution, the amount of such rollover shall be included in the adjusted gross income of the taxpayer in the taxable year of the rollover.

e. If a taxpayer makes a nonqualified withdrawal of contributions for which a deduction was taken pursuant to subparagraph b of this paragraph, such nonqualified withdrawal and any earnings thereon shall be included in the adjusted gross income of the taxpayer in the taxable year of the nonqualified withdrawal.

f. As used in this paragraph:

(1) "nonqualified withdrawal" means a withdrawal from an Oklahoma College Savings Plan account other than one of the following:

(a) a qualified withdrawal,

(b) a withdrawal made as a result of the death or disability of the designated beneficiary of an account,

(c) a withdrawal that is made on the account of a scholarship or the allowance or payment described in Section 135(d)(1)(B) or (C) or by the Internal Revenue Code, received by the designated beneficiary to the extent the amount of the refund does not exceed the amount of the scholarship, allowance, or payment, or

(d) a rollover or change of designated beneficiary as permitted by subsection F of Section 3970.7 of Title 70 of Oklahoma Statutes, and

(2) "rollover" means the transfer of funds from the Oklahoma College Savings Plan to any other plan under Section 529 of the Internal Revenue Code.

19. For taxable years beginning after December 31, 2005, retirement benefits received by an individual from any component of the Armed Forces of the United States in an amount not to exceed the greater of seventy-five percent (75%) of such benefits or Ten Thousand Dollars ($10,000.00) shall be exempt from taxable income but in no case less than the amount of the exemption provided by paragraph 15 of this subsection.

20. For taxable years beginning after December 31, 2006, retirement benefits received by federal civil service retirees, including survivor annuities, paid in lieu of Social Security benefits shall be exempt from taxable income to the extent such benefits are included in the federal adjusted gross income pursuant to the provisions of Section 86 of the Internal Revenue Code, 26 U.S.C., Section 86, according to the following schedule:

a. in the taxable year beginning January 1, 2007, twenty percent (20%) of such benefits shall be exempt,

b. in the taxable year beginning January 1, 2008, forty percent (40%) of such benefits shall be exempt,

c. in the taxable year beginning January 1, 2009, sixty percent (60%) of such benefits shall be exempt,

d. in the taxable year beginning January 1, 2010, eighty percent (80%) of such benefits shall be exempt, and

e. in the taxable year beginning January 1, 2011, and subsequent taxable years, one hundred percent (100%) of such benefits shall be exempt.

21. a. For taxable years beginning after December 31, 2007, a resident individual may deduct up to Ten Thousand Dollars ($10,000.00) from Oklahoma adjusted gross income if the individual, or the dependent of the individual, while living, donates one or more human organs of the individual to another human being for human organ transplantation. As used in this paragraph, "human organ" means all or part of a liver, pancreas, kidney, intestine, lung, or bone marrow. A deduction that is claimed under this paragraph may be claimed in the taxable year in which the human organ transplantation occurs.

b. An individual may claim this deduction only once, and the deduction may be claimed only for unreimbursed expenses that are incurred by the individual and related to the organ donation of the individual.

c. The Oklahoma Tax Commission shall promulgate rules to implement the provisions of this paragraph which shall contain a specific list of expenses which may be presumed to qualify for the deduction. The Tax Commission shall prescribe necessary requirements for verification.

22. a. For taxable years beginning after December 31, 2008, a maximum of One Hundred Thousand Dollars ($100,000.00) of income, regardless of source, received by a person who establishes their primary residence within a qualifying area of the state by purchasing an existing single-family residential structure or becoming the owner of a single-family residential structure constructed for the first time by or on behalf of such person and who fulfills the other requirements of this paragraph, shall be fully exempt from taxable income, for any taxable year during which the person is a resident of the state, for a period of thirty-six (36) months beginning with the first taxable year in which title is acquired to a single-family residential structure located in a qualifying area as defined by subparagraph b of this paragraph. For the first taxable year during which residency is established, if less than twelve (12) months, the exemption shall only be applicable to income of the resident for those months that residency is established. In order to be

eligible for the exemption provided by this paragraph the individual must:

(1) purchase a primary residence within the state on or after the effective date of this act which for purposes of this paragraph shall mean the property occupied as their principal residence for at least six (6) months each calendar year,

(2) have been the resident of another state or states for a period of at least four (4) continuous years prior to establishing a residence within the State of Oklahoma, and

(3) acquire an existing single-family residential structure or construct a new single-family residential structure within twelve (12) months of establishing residency within the State of Oklahoma.

b. As used in this paragraph, “qualifying area” means:

(1) a county, other than a county having a population in excess of two hundred thousand (200,000) persons according to the latest Federal Decennial Census or most recent population estimate:

(a) which had a decline in population from the 1940 Federal Decennial Census compared to the most recent Federal Decennial Census, or

(b) which has a population decline as determined by a comparison of the data from the most recent Federal Decennial Census and the Federal Decennial Census immediately preceding that most recent Census, or

(2) an incorporated city or town having a population of less than fifty thousand (50,000) persons, according to the latest Federal Decennial Census, located in a county having a population not in excess of two hundred thousand (200,000) persons according to the latest Federal Decennial Census or most recent population estimate, and which:

(a) had a decline in population from the 1940 Federal Decennial Census compared to the most recent Federal Decennial Census, or

(b) which has a population decline as determined by a comparison of the data from the most recent Federal Decennial Census and the Federal Decennial Census immediately preceding that most recent Census.

For purposes of this subparagraph, in order for an incorporated city or town to be considered a "qualifying area", the principal residence must be located in an area which was within the incorporated area of the municipality at the time of the last Federal Decennial Census.

c. If the exemption authorized by this paragraph is claimed by persons who are married and filing a joint return, each taxpayer executing such return shall be required to meet all of the requirements of subparagraph a of this paragraph. If the exemption authorized by this paragraph is claimed by a single person or by persons who are married, but filing separate returns, the exemption authorized by this paragraph shall only be applicable to the extent that the taxpayer claiming the exemption meets all of the requirements of subparagraph a of this paragraph.

F. 1. For taxable years beginning after December 31, 2004, a deduction from the Oklahoma adjusted gross income of any individual taxpayer shall be allowed for qualifying gains receiving capital treatment that are included in the federal adjusted gross income of such individual taxpayer during the taxable year.

2. As used in this subsection:

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

(1) the sale of real property or tangible personal property located within Oklahoma that has been directly or indirectly owned by the individual taxpayer for a holding period of at least five (5) years prior to the date of the transaction from which such net capital gains arise,

(2) the sale of stock or the sale of a direct or indirect ownership interest in an Oklahoma company, limited liability company, or partnership where such stock or ownership interest has been directly or indirectly owned by the individual taxpayer for a holding period of at least two (2) years prior to the date of the transaction from which the net capital gains arise, or

(3) the sale of real property, tangible personal property or intangible personal property located within Oklahoma as part of the sale of all or substantially all of the assets of an Oklahoma company, limited liability company, or partnership or an Oklahoma proprietorship business enterprise where such property has been directly or indirectly owned by such entity or business enterprise or owned by the owners of

such entity or business enterprise for a period of at least two (2) years prior to the date of the transaction from which the net capital gains arise,

b. "holding period" means an uninterrupted period of time. The holding period shall include any additional period when the property was held by another individual or entity, if such additional period is included in the taxpayer's holding period for the asset pursuant to the Internal Revenue Code,

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

d. "direct" means the individual taxpayer directly owns the asset,

e. "indirect" means the individual taxpayer owns an interest in a pass-through entity (or chain of pass-through entities) that sells the asset that gives rise to the qualifying gains receiving capital treatment.

(1) With respect to sales of real property or tangible personal property located within

Oklahoma, the deduction described in this subsection shall not apply unless the pass-through entity that makes the sale has held the property for not less than five (5) uninterrupted years prior to the date of the transaction that created the capital gain, and each pass-through entity included in the chain of ownership has been a member, partner, or shareholder of the pass-through entity in the tier immediately below it for an uninterrupted period of not less than five (5) years.

(2) With respect to sales of stock or ownership interest in or sales of all or substantially all of the assets of an Oklahoma company, limited liability company, partnership or Oklahoma proprietorship business enterprise, the deduction described in this subsection shall not apply unless the pass-through entity that makes the sale has held the stock or ownership interest for not less than two (2) uninterrupted years prior to the date of the transaction that created the capital gain, and each pass-through entity included in the chain of ownership has been a member, partner or shareholder of the pass-

through entity in the tier immediately below it for an uninterrupted period of not less than two (2) years. For purposes of this division, uninterrupted ownership prior to the effective date of this act shall be included in the determination of the required holding period prescribed by this division, and

f. "Oklahoma proprietorship business enterprise" means a business enterprise whose income and expenses have been reported on Schedule C or F of an individual taxpayer's federal income tax return, or any similar successor schedule published by the Internal Revenue Service and whose primary headquarters have been located in Oklahoma for at least three (3) uninterrupted years prior to the date of the transaction from which the net capital gains arise.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2358.2A of Title 68, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Qualifying rural area" means a location within:

a. any city or town with a population of less than 50,000 that is located within a county with a population of less than 200,000, or

b. a county with a population of less than 200,000 but outside of the boundaries of any city or town:

All populations shall be determined according to the latest Federal Decennial Census;

2. "Tier 1 qualified employees" means a physician:

a. whose primary residence is in a qualifying rural area and who is employed as a physician in a qualifying rural area and whose compensation is equal to or in excess of the Tier 1 qualified compensation amount, and

b. whose primary residence for the year preceding the effective date of this section was not in a qualifying rural area and who was not employed as a physician in a qualifying rural area during the year preceding the effective date of this section; and

3. "Tier 1 qualified compensation amount" means Sixty Thousand Dollars ($60,000.00) annually including employer-provided health care benefits.

B. In addition to other adjustments authorized by Section 2358 of Title 68 of the Oklahoma Statutes, for taxable years beginning after December 31, 2008, there shall be allowed deductions for Tier 1 qualified employees in an amount not to exceed One Hundred Thousand Dollars ($100,000.00) per taxable year for income derived from compensation earned working as a physician for a period of three (3) taxable years beginning with the first taxable year during which the qualified individual is first employed as a Tier 1 qualified employee.

SECTION 3. AMENDATORY 68 O.S. 2001, Section 3603, as last amended by Section 61, Chapter 1, O.S.L. 2007 (68 O.S. Supp. 2007, Section 3603), is amended to read as follows:

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

1. a. "Basic industry" means:

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

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

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

(b) the exempt wholesale generator facility consumes from sources located within the state at least ninety percent (90%) of the total energy used to produce the electrical output which qualifies for the specialized treatment provided by the Energy Policy Act of 1992, P.L. 102-486, 106 Stat. 2776, as amended, and federal regulations adopted pursuant thereto,

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

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

(3) those administrative and facilities support service activities defined or classified in the NAICS Manual under Industry Group Nos. 5611 and 5612, Industry Nos. 51821, 518112, 52232, 56142 and 54191 or U.S. Industry Nos. 524291 and 551114,

(4) those professional, scientific and technical service activities defined or classified in the NAICS Manual under U.S. Industry Nos. 541710 and 541380,

(5) distribution centers for retail or wholesale businesses defined or classified in the NAICS Manual under Sector No. 42, if forty percent (40%) or more of the inventory processed through such warehouse is shipped out-of-state,

(6) those adjustment and collection service activities defined or classified in the NAICS Manual under U.S. Industry No. 561440, if seventy-five percent (75%) of the loans to be serviced were made by out-of-state debtors,

(7) (a) those air transportation activities defined or classified in the NAICS Manual under Industry Group No. 4811, if the following facilities are located in this state:

(i) the corporate headquarters of an establishment classified therein, and

(ii) a facility or facilities at which reservations for transportation provided by such an establishment are processed, whether such services are performed by employees of the establishment, by employees of a subsidiary of or other entity affiliated with the establishment or by employees of an entity with whom the establishment has contracted for the performance of such services; provided, this provision shall not disqualify an establishment which uses an out-of-state entity or employees for some reservations services, or

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

(8) flight training services activities defined or classified in the NAICS Manual under U.S. Industry Group No. 611512, which for purposes of ~~this act~~ Section 3601 et seq. of this title shall include new direct jobs for which gross payroll existed on or after January 1, 2003, as identified in the NAICS Manual,

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

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

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

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

(d) those insurance activities defined or classified in the NAICS Manual under Industry Group No. 5241,

(e) those mailing, reproduction, commercial art and photography and stenographic service activities defined or classified in the NAICS Manual under U.S. Industry Nos. 541430, 541860, 541922, 561439 and 561492,

(f) those services to dwellings and other buildings, as defined or classified in the NAICS Manual under Industry Group No. 5617, excluding U.S. Industry No. 561730,

(g) those equipment rental and leasing activities defined or classified in the

NAICS Manual under Industry Group Nos. 5323 and 5324,

(h) those employment services defined or classified in the NAICS Manual under Industry Group No. 5613,

(i) those information technology and other computer-related service activities defined or classified in the NAICS Manual under Industry Group Nos. 5112, 5182, 5191 and 5415,

(j) those business support service activities defined or classified in the NAICS Manual under U.S. Industry Nos. 561410 through 561439, Industry Group No. 5616 and Industry No. 51911,

(k) those medical and diagnostic laboratory activities defined or classified in the NAICS Manual under Industry Group No. 6215,

(l) those professional, scientific and technical service activities defined or classified in the NAICS Manual under Industry Group Nos. 5412, 5414, 5415, 5416 and 5417, Industry Nos. 54131, 54133, 54136, 54137 and 54182, and U.S. Industry No. 541990, if not otherwise listed in this paragraph,

(m) those communication service activities defined or classified in the NAICS Manual under Industry Nos. 51741 and 51791,

(n) those refuse systems activities defined or classified in the NAICS Manual under Industry Group No. 5622, provided that the establishment is primarily engaged in the capture and distribution of methane gas produced within a landfill,

(o) general wholesale distribution of groceries, defined or classified in the NAICS Manual under Industry Group Nos. 4244 and 4245,

(p) those activities relating to processing of insurance claims, defined or classified in the NAICS Manual under U.S. Industry Nos. 524210 and 524292; provided, activities described in U.S. Industry Nos. 524210 and 524292 in the NAICS Manual other than processing of insurance claims shall not be included for purposes of this subdivision, and

(q) those agricultural activities classified in the NAICS Manual under U.S. Industry Nos. 112120 and 112310;

(10) those activities related to extraction of crude petroleum and natural gas defined or classified in the NAICS Manual under Industry Group No. 2111, subject to the limitations provided in paragraph 2 of this subsection and paragraph 3 of subsection B of this section, ~~or~~

(11) those activities performed by the federal civilian workforce at a facility of the Federal Aviation Administration located in this state if the Director of the Department of Commerce determines or is notified that the federal government is soliciting proposals or otherwise inviting states to compete for additional federal civilian employment or expansion of federal civilian employment at such facilities, or

(12) those activities defined or classified in the NAICS Manual under U.S. Industry No. 711211 (2007 version),

(13) those explosives manufacturing businesses defined or classified in the NAICS Manual under Industry No. 32592,

(14) those search, detection, navigation, guidance, aeronautical and nautical system and instrument manufacturing businesses defined or classified in the NAICS Manual under Industry No. 334511,

(15) those guided missile and space vehicle manufacturing businesses classified in the NAICS Manual under Industry No. 336414,

(16) those guided missile and space vehicle propulsion unit and propulsion unit parts manufacturing businesses defined or classified in the NAICS Manual under Industry No. 336415,

(17) those military armored vehicle, tank and tank component manufacturing businesses defined or classified in the NAICS Manual under Industry No. 336992,

(18) those air transportation commercial air carrier businesses defined or classified in the NAICS Manual under Industry Group No. 481,

(19) those support activities for transportation defined or classified in the NAICS Manual under Industry Group No. 488, and

(20) those electronic and precision equipment repair and maintenance businesses defined or classified in the NAICS Manual under Industry No. 8112.

b. An establishment described in subparagraph a of this paragraph shall not be considered to be engaged in a basic industry unless it offers, or will offer within one hundred eighty (180) days of employment, a basic health benefits plan to the individuals it employs in new direct jobs in this state which is determined by the Oklahoma Department of Commerce to consist of the following elements or elements substantially equivalent thereto:

(1) not more than fifty percent (50%) of the premium shall be paid by the employee,

(2) coverage for basic hospital care,

(3) coverage for physician care,

(4) coverage for mental health care,

(5) coverage for substance abuse treatment,

(6) coverage for prescription drugs, and

(7) coverage for prenatal care;

2. "Change in control event" means the transfer to one or more unrelated establishments or unrelated persons, of either:

a. beneficial ownership of more than fifty percent (50%) in value and more than fifty percent (50%) in voting power of the outstanding equity securities of the transferred establishment, or

b. more than fifty percent (50%) in value of the assets of an establishment.

A transferor shall be treated as related to a transferee if more than fifty percent (50%) of the voting interests of the transferor and transferee are owned, directly or indirectly, by the other or are owned, directly or indirectly, by the same person or persons, unless such transferred establishment has an outstanding class of equity securities registered under Sections 12(b) or 15(d) of the Securities Exchange Act of 1934, as amended, in which event the transferor and transferee will be treated as unrelated; provided, an establishment applying for the Oklahoma Quality Jobs Program Act as a result of a change of control event is required to apply within one hundred eighty (180) days of the change in control event to qualify for consideration. An establishment entering the Oklahoma Quality Jobs Program Act as the result of a change of control event shall be required to maintain a level of new direct jobs as agreed to in its contract with the Department of Commerce and to pay new direct jobs an average annualized wage which equals or exceeds one hundred twenty-five percent (125%) of the average county wage as that percentage is determined by the Oklahoma State Data Center based upon the most recent U.S. Department of Commerce data for the county in which the new jobs are located. For purposes of this paragraph, healthcare premiums paid by the applicant for individuals in new direct jobs shall not be included in the annualized wage.

Such establishment entering the Quality Jobs Program Act as the result of a change of control event shall be required to retain the contracted average annualized wage and maintain the contracted maintenance level of new direct jobs numbers as certified by the Oklahoma Tax Commission. If the required average annualized wage or the required new direct jobs numbers do not equal or exceed such contracted level during any quarter, the quarterly incentive payments shall not be made and shall not be resumed until such time as such requirements are met. An establishment described in this paragraph shall be required to repay all incentive payments received under the Quality Jobs Program Act if the establishment is determined by the Oklahoma Tax Commission to no longer have business operations in the state within three (3) years from the beginning of the calendar quarter for which the first incentive payment claim is filed.

3. "New direct job":

a. means full-time-equivalent employment in this state in an establishment which has qualified to receive an incentive payment pursuant to the provisions of Section 3601 et seq. of this title which employment did not exist in this state prior to the date of approval by the Department of the application of the establishment pursuant to the provisions of Section 3604 of this title; provided, that if an application of an establishment is approved by the Department of Commerce after a change in control event and the Director of the Department of Commerce determines that the jobs located at such establishment are likely to leave the state, "new direct job" shall include employment that existed in this state prior to the date of application which is retained in this state by the new establishment following a change in control event, if such job otherwise qualifies as a new direct job, and

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

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

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

a. the costs of education of new state resident children,

b. the costs of public health, public safety and transportation services to be provided to new state residents,

c. the costs of other state services to be provided to new state residents, and

d. the costs of other state services;

6. “Estimated net direct state benefits” means the estimated direct state benefits less the estimated direct state costs;

7. “Net benefit rate” means the estimated net direct state benefits computed as a percentage of gross payroll; provided:

a. except as otherwise provided in this paragraph, the net benefit rate may be variable and shall not exceed five percent (5%),

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

(1) bids were solicited and accepted by the United States Department of Defense from facilities located outside this state,

(2) the term is or is renewable for not less than twenty (20) years, and

(3) the average annual salary, excluding benefits which are not subject to Oklahoma income taxes, for new direct jobs created as a direct result of the awarding of the contract is projected by the Department of Commerce to equal or exceed Forty Thousand Dollars ($40,000.00) within three (3) years of the date of the first incentive payment,

c. except as otherwise provided in subparagraph d of this paragraph, in no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits,

d. the net benefit rate shall be five percent (5%) for an establishment locating:

(1) in an opportunity zone located in a high-employment county, as such terms are defined in subsection G of Section 3604 of this title, or

(2) in a county in which:

(a) the per capita personal income, as determined by the Department, is eighty-five percent (85%) or less of the statewide average per capita personal income,

(b) the population has decreased over the previous ten (10) years, as determined by the State Data Center based on the most recent U.S. Department of Commerce data, or

(c) the unemployment rate exceeds the lesser of five percent (5%) or two percentage points above the state average unemployment rate as certified by the Oklahoma Employment Security Commission, ~~and~~

e. the net benefit rate shall not exceed six percent (6%) in connection with an establishment which:

(1) is, as of the date of application, receiving incentive payments pursuant to the Oklahoma Quality Jobs Program Act and has been receiving such payments for at least one (1) year prior to the date of application, and

(2) expands its operations in this state by creating additional new direct jobs which pay average annualized wages which equal or exceed one hundred fifty percent (150%) of the average annualized wages of new direct jobs on which incentive payments were received during the preceding calendar year, and

f. with respect to an establishment defined or classified in the NAICS Manual under U.S. Industry No. 711211 (2007 version), the net benefit rate shall not exceed the highest rate of income tax imposed upon the Oklahoma taxable income of individuals pursuant to subparagraph (g) or subparagraph (h), as applicable, of paragraph 1 and paragraph 2 of subsection B of Section 2355 of this title. Any change in such highest rate of individual income tax imposed pursuant to the provisions of Section 2355 of this title shall be applicable to the computation of incentive payments to an establishment as described by this subparagraph and shall be effective for purposes of incentive payments based on payroll paid by such establishment on or after January 1 of any applicable year for which the net benefit rate is modified as required by this subparagraph.

Incentive payments made pursuant to the provisions of this subparagraph shall be based upon payroll associated with such new direct jobs. For purposes of this subparagraph, the amount of health insurance premiums or other benefits paid by the establishment shall not be included for purposes of computation of the average annualized wage;

8. "Gross payroll" means wages, as defined in Section 2385.1 of this title for new direct jobs; provided, with respect to an establishment defined or classified in the NAICS Manual under U.S. Industry No. 711211 (2007 version), the term "gross payroll" shall include the entire amount of wages paid by the establishment to its employees in new direct jobs regardless of whether Oklahoma income tax is or will be due on such wages;

9. a. "Establishment" means any business or governmental entity, no matter what legal form, including, but not limited to, a sole proprietorship; partnership; limited liability company; corporation or combination

of corporations which have a central parent corporation which makes corporate management decisions such as those involving consolidation, acquisition, merger or expansion; federal agency; political subdivision of the State of Oklahoma; or trust authority; provided, distinct, identifiable subunits of such entities may be determined to be an establishment, for all purposes of Section 3601 et seq. of this title, by the Department subject to the following conditions:

(1) the entity must have a minimum payroll of Two Million Five Hundred Thousand Dollars ($2,500,000.00) and the subunit must also have or will have a minimum payroll of Two Million Five Hundred Thousand Dollars ($2,500,000.00),

(2) the subunit is engaged in an activity or service or produces a product which is demonstratively independent and separate from the entity's other activities, services or products and could be conducted or produced in the absence of any other activity, service or production of the entity,

(3) has an accounting system capable of tracking or facilitating an audit of the subunit's payroll, expenses, revenue and production. Limited

interunit overlap of administrative and purchasing functions shall not disqualify a subunit from consideration as an establishment by the Department,

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

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

b. The Department may promulgate rules to further limit the circumstances under which a subunit may be considered an establishment. The Department shall promulgate rules to determine whether a subunit of an entity achieves a net gain in total employment. The Department shall establish criteria for determining the period of time within which such gain must be demonstrated and a method for determining net gain in total employment;

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

11. “SIC Manual” means the 1987 revision to the Standard Industrial Classification Manual, promulgated by the Office of Management and Budget of the United States of America;

12. “Start date” means the date on which an establishment may begin accruing benefits for the creation of new direct jobs, which date shall be determined by the Department; and

13. “Effective date” means the date of approval of a contract under which incentive payments will be made pursuant to the Oklahoma Quality Jobs Program Act, which shall be the date the signed and accepted incentive contract is received by the Department; provided, an approved project may have a start date which is different from the effective date.

B. The Incentive Approval Committee is hereby created and shall consist of the Director of State Finance, the Director of the Department and one member of the Oklahoma Tax Commission appointed by the Tax Commission, or a designee from each agency approved by such member. It shall be the duty of the Committee to determine:

1. Upon initial application on a form approved by the Committee, if an establishment is engaged in a basic industry as defined in subdivision (b) of division (7) or in subdivisions (a)

through (p) of division (9) of subparagraph a of paragraph 1 of subsection A of this section or as otherwise provided by subsection C of this section;

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

3. If employees of an establishment as defined in division (10) of subparagraph a of paragraph 1 of subsection A of this section meet the requirements to be considered employed in new direct jobs as specified in paragraph 2 of subsection A of this section.

C. For an establishment defined as a “basic industry” pursuant to division (4) of subparagraph a of paragraph 1 of subsection A of this section, the Incentive Approval Committee shall consist of the members provided by subsection B of this section and the Executive Director of the Oklahoma Center for the Advancement of Science and Technology, or a designee from the Center appointed by the Executive Director.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3604.1a of Title 68, unless there is created a duplication in numbering, reads as follows:

In addition to the cost/benefit analysis required by subsection I of Section 3604 of Title 68 of the Oklahoma Statutes and for purposes of the transfer of funds required by subsection C of Section 5 of this act, the Department shall conduct a cost/benefit analysis for any establishment defined or classified in the NAICS Manual under U.S. Industry No. 711211 (2007 version) at the end of the first twelve-month period after such establishment begins receiving incentive payments pursuant to the Quality Jobs Program Act and at the end of every twelve-month period thereafter. In addition to estimating the actual level of direct new tax revenues to the state along with the added cost to the state of providing services, the Department shall also consider indirect new tax revenues which have accrued to the state, including but not limited to revenues derived from sales of concessions at the facility where events are held and hotel, motel and transportation revenue generated and revenues derived from ancillary support jobs directly related to the location of such establishment. Based on the results of such analysis, the Department shall certify the net amount of both state sales and income tax revenue generated as the result of the location of such establishment in this state, excluding the amount of any incentive payments which were made to the establishment pursuant to the Quality Jobs Program Act during the preceding year.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 48A of Title 62, unless there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Rural Oklahoma Opportunity Fund Act".

B. It is the intent of the Legislature that when the use of state incentives is provided to a professional sports organization which will locate in a specified area but provide benefits for the entire state, that such benefits be shared to the extent possible by rural areas.

C. There is hereby created in the State Treasury a revolving fund for the Oklahoma Department of Commerce to be designated the "Rural Oklahoma Opportunity Fund". The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of all monies deposited to the credit of the fund by the Oklahoma Tax Commission. The Tax Commission is hereby authorized and directed to withhold a portion of the taxes levied and collected pursuant to Sections 1354 and 2355 of Title 68 of the Oklahoma Statutes equal to the net amount determined pursuant to Section 4 of this act, and to deposit such amount to the credit of the Rural Oklahoma Opportunity Fund.

D. At the beginning of the first fiscal year after the Oklahoma Department of Commerce conducts a cost/benefit analysis and makes a determination pursuant to Section 4 of this act, and every year thereafter, the Oklahoma Tax Commission shall transfer to the Rural Oklahoma Opportunity Fund an amount determined by the Department of Commerce as the net amount of state sales and income tax revenue generated by the location in this state of an establishment defined or classified in the NAICS Manual under U.S. Industry No. 711211 (2007 version) and participating in the Quality Jobs program. For the purposes of this act, "net amount of state sales and income tax revenue" shall mean a determination by the Department of the direct and indirect tax revenues which have accrued, less the costs which have accrued and the amounts of any incentive payments made pursuant to the Quality Jobs Program Act, as a result of new direct jobs which result from the location in this state of an establishment defined or classified in the NAICS Manual under U.S. Industry No. 711211 (2007 version) and participating in the Quality Jobs program.

E. 1. There is hereby created a seven-member Rural Oklahoma Opportunity Fund Committee. The membership of the Committee shall be as follows:

a. the Director of the Oklahoma Department of Transportation,

b. the Chairman of the Oklahoma Tax Commission,

c. the Director of the Oklahoma Department of Commerce,

d. one county commissioner from a county with a population of less than seventy-five thousand (75,000) according to the last preceding Federal Decennial Census or any future Federal Census, which is located north of Interstate Highway 40, to be appointed by the Governor from a list of three qualified persons submitted by the Association of County Commissioners of Oklahoma,

e. one county commissioner from a county with a population of less than seventy-five thousand (75,000) according to the last preceding Federal Decennial Census or any future Federal Census, which is located south of Interstate Highway 40, to be appointed by the Governor from a list of three qualified persons submitted by the Association of County Commissioners of Oklahoma,

f. one mayor from a city which is in a county with a population of less than seventy-five thousand (75,000) according to the last preceding Federal Decennial Census or any future Federal Census, which is located west of Interstate Highway 35, to be appointed by the Governor from a list of three qualified persons submitted by the Oklahoma Municipal League, and

g. one mayor from a city which is in a county with a population of less than seventy-five thousand (75,000) according to the last preceding Federal Decennial Census or any future Federal Census, which is located east of Interstate Highway 35, to be appointed by the Governor from a list of three qualified persons submitted by the Oklahoma Municipal League.

The members appointed pursuant to subparagraphs d, e, f and g of this paragraph shall serve four-year terms unless such member leaves elected office, in which case the appointing authority shall appoint a new member to serve out the remainder of the unexpired term; provided, the initial term for members initially appointed pursuant to subparagraphs d and f shall be six (6) years.

2. The Director of the Department of Commerce shall chair the Committee. The chair shall call the first meeting of the Committee by July 1, 2009, or by July 1 of the first year following the location in this state of an establishment defined or classified in the NAICS Manual under U.S. Industry No. 711211 (2007 version). Thereafter, the Committee shall meet at the call of the chair. Five of the members of the Committee shall constitute a quorum to transact business and no action may be taken by the Committee unless it receives the approval of at least five members. Any member experiencing a conflict of interest on consideration of an application shall refrain from deliberation and abstain from voting on the matter.

3. The Department of Commerce shall provide such staff support as is required by the Committee.

4. The members of the Committee shall receive no compensation for serving, but shall receive travel reimbursement by their appointing authorities for necessary travel expenses incurred in the

performance of their duties in accordance with the State Travel Reimbursement Act.

5. It is the duty of the Committee to consider applications from eligible jurisdictions for grants. If the Committee approves an application, it may grant funds available in the Rural Oklahoma Opportunity Fund to one or more eligible jurisdictions for:

a. payment of costs associated with infrastructure which will be directly related to the location of an eligible establishment, or

b. to provide funds to an eligible jurisdiction for direct payments to an eligible establishment which are considered necessary to secure the location of the establishment in the jurisdiction.

6. In order to apply for a grant pursuant to paragraph 5 of this subsection, a jurisdiction shall:

a. be either a county with a population of less than seventy-five thousand (75,000) according to the last preceding Federal Decennial Census or any future Federal Census or be a city or town entirely located within such a county, and

b. demonstrate by a written agreement between the jurisdiction and an eligible establishment, and to the satisfaction of the Department, that the establishment intends to:

(1) locate within the jurisdiction,

(2) compensate employees with an average wage which is at least one hundred percent (100%) of the average county wage as that percentage is determined by the Oklahoma State Data Center based upon the most recent U.S. Department of Commerce data for the county in which the jobs are located, and

(3) invest or create new direct jobs, as defined in paragraph 3 of subsection A of Section 3603 of Title 68 of the Oklahoma Statutes, as follows:

(a) in a city or town with a population of no more than five thousand (5,000) according to the last preceding Federal Decennial Census or any future Federal Census, make an investment of at least Two Hundred Fifty Thousand Dollars ($250,000.00) or create at least five new direct jobs,

(b) in a city or town with a population of greater than five thousand (5,000) and less than ten thousand (10,000) according to the last preceding Federal Decennial Census or any future Federal Census, make an investment of at least Five Hundred Thousand

Dollars ($500,000.00) or create at least ten new direct jobs,

(c) in a city or town with a population of greater than ten thousand (10,000) and less than forty thousand (40,000) according to the last preceding Federal Decennial Census or any future Federal Census, make an investment of at least Seven Hundred Fifty Thousand Dollars ($750,000.00) or create at least fifteen new direct jobs, or

(d) in a city or town with a population of greater than forty thousand (40,000) according to the last preceding Federal Decennial Census or any future Federal Census, make an investment of at least One Million Dollars ($1,000,000.00) or create at least twenty new direct jobs.

7. For purposes of this section, an "eligible establishment" is:

a. one which meets the definition of a basic industry as provided in paragraph 1 of subsection A of Section 3603 of Title 68 of the Oklahoma Statutes,

b. a medical service provider, physician, or dentist defined or classified in the NAICS Manual under U.S. Industry Nos. 621111, 621112, and 621210,

c. a single family housing construction business defined or classified in the NAICS Manual under U.S. Industry No. 233210 and an office building construction business defined or classified in the NAICS Manual under U.S. Industry No. 233320, and

d. a veterinarian animal health care provider defined or classified in the NAICS Manual under U.S. Industry No. 541940.

8. The Oklahoma Department of Commerce shall prepare annually a report which shall include, but not be limited to, documentation of the number of applications made and funds granted from the Rural Oklahoma Opportunity Fund as well as the number and type of new jobs or investment resulting from such funds. The report shall be submitted to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor of this state.

Passed the House of Representatives the 14th day of April, 2008.

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Presiding Officer of the House of Representatives

Passed the Senate the ____ day of __________, 2008.

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Presiding Officer of the Senate