

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SUBCOMMITTEE RECOMMENDATION  
4 FOR

5 HOUSE BILL NO. 3358

6 By: Terrill

7 SUBCOMMITTEE RECOMMENDATION

8 ( Revenue and taxation - amending 68 O.S. 2001,  
9 Section 1205 - franchise tax - exemption - amending  
10 68 O.S. 2001, Sections 1353, 1357.10, 1370, 1377  
11 and 2701 - sales tax - sales tax holiday - amending  
12 68 O.S. 2001, Section 2355 - individual income  
13 taxation - effective date -  
14 emergency )

15  
16  
17  
18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. AMENDATORY 68 O.S. 2001, Section 1205, as  
20 last amended by Section 1, Chapter 136, O.S.L. 2007 (68 O.S. Supp.  
21 2007, Section 1205), is amended to read as follows:

22 Section 1205. A. In determining the amount of tax to be  
23 levied, assessed and collected under the terms of this Article, the  
24

1 maximum amount shall not exceed Twenty Thousand Dollars  
2 (\$20,000.00).

3 B. If, as a result of the computation of tax required by  
4 Section 1209 of this title, the resulting liability is ~~Two Hundred~~  
5 ~~Fifty Dollars (\$250.00)~~ Five Hundred Dollars (\$500.00) or less, the  
6 corporation or other entity shall be exempt from the tax levied by  
7 Section 1203 or Section 1204 of this title for such reporting  
8 period.

9 SECTION 2. AMENDATORY 68 O.S. 2001, Section 1353, as  
10 last amended by Section 2, Chapter 136, O.S.L. 2007 (68 O.S. Supp.  
11 2007, Section 1353), is amended to read as follows:

12 Section 1353. A. It is hereby declared to be the purpose of  
13 the Oklahoma Sales Tax Code to provide funds for the financing of  
14 the program provided for by the Oklahoma Social Security Act and to  
15 provide revenues for the support of the functions of the state  
16 government of Oklahoma, and for this purpose it is hereby expressly  
17 provided that, revenues derived pursuant to the provisions of the  
18 Oklahoma Sales Tax Code shall be apportioned as follows:

19 1. The following amounts shall be paid to the State Treasurer  
20 to be placed to the credit of the General Revenue Fund to be paid  
21 out pursuant to direct appropriation by the Legislature:

| 22 Fiscal Year         | Amount |
|------------------------|--------|
| 23 FY 2003 and FY 2004 | 86.04% |
| 24 FY 2005             | 85.83% |

|   |                         |        |
|---|-------------------------|--------|
| 1 | FY 2006                 | 85.54% |
| 2 | FY 2007                 | 85.04% |
| 3 | FY 2008 and each fiscal |        |
| 4 | year thereafter         | 83.61% |

5 2. For FY 2003, FY 2004 and FY 2005, ten and forty-two one-  
6 hundredths percent (10.42%), shall be paid to the State Treasurer to  
7 be placed to the credit of the Education Reform Revolving Fund of  
8 the State Department of Education and for FY 2006 and each fiscal  
9 year thereafter, ten and forty-six one hundredths percent (10.46%)  
10 shall be paid to the State Treasurer to be placed to the credit of  
11 the Education Reform Revolving Fund of the State Department of  
12 Education;

13 3. The following amounts shall be paid to the State Treasurer  
14 to be placed to the credit of the Teachers' Retirement System  
15 Dedicated Revenue Revolving Fund:

| 16 | Fiscal Year             | Amount |
|----|-------------------------|--------|
| 17 | FY 2003 and FY 2004     | 3.54%  |
| 18 | FY 2005                 | 3.75%  |
| 19 | FY 2006                 | 4.0%   |
| 20 | FY 2007                 | 4.5%   |
| 21 | FY 2008 and each fiscal |        |
| 22 | year thereafter         | 5.0%   |

23 4. For the fiscal year beginning July 1, 2007, and for each  
24 fiscal year thereafter, ninety-three one hundredths percent (0.93%)

1 shall be paid to the State Treasurer to be further apportioned as  
2 follows:

- 3 a. thirty-six percent (36%) shall be placed to the credit  
4 of the Oklahoma Tourism Promotion Revolving Fund, and
- 5 b. sixty-four percent (64%) shall be placed to the credit  
6 of the Oklahoma Tourism Capital Improvement Revolving  
7 Fund.

8 B. Provided, for the fiscal year beginning July 1, 2007, and  
9 every fiscal year thereafter, an amount of revenue shall be  
10 apportioned to each municipality or county which levies a sales tax  
11 subject to the provisions of Section ~~3~~ 1357.10 of this ~~act~~ title and  
12 subsection F of Section 2701 of this title equal to the amount of  
13 sales tax revenue of such municipality or county exempted by the  
14 provisions of Section ~~3~~ 1357.10 of this ~~act~~ title and subsection F  
15 of Section 2701 of this title. The Oklahoma Tax Commission shall  
16 promulgate and adopt rules necessary to implement the provisions of  
17 this subsection.

18 SECTION 3. AMENDATORY Section 3, Chapter 136, O.S.L.  
19 2007 (68 O.S. Supp. 2007, Section 1357.10), is amended to read as  
20 follows:

21 Section 1357.10 A. The sale of an article of clothing or  
22 footwear designed to be worn on or about the human body and the sale  
23 of school supplies shall be exempt from the tax imposed by Section  
24 1354 of ~~Title 68 of the Oklahoma Statutes~~ this title if:

1 1. The sales price of the article of clothing or footwear is  
2 less than One Hundred Dollars (\$100.00); ~~and~~

3 2. The total consideration paid for school supplies in a single  
4 transaction does not exceed Seventy-five Dollars (\$75.00); and

5 3. The sale takes place during a period beginning at 12:01 a.m.  
6 on the first Friday in August and ending at 12 midnight on the  
7 following Sunday, covering a period of three (3) days.

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

9 1. Any special clothing or footwear that is primarily designed  
10 for athletic activity or protective use and that is not normally  
11 worn except when used for athletic activity or protective use for  
12 which it is designed;

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

17 3. The rental of clothing or footwear.

18 C. As used in this section, "school supplies" means each item  
19 of tangible personal property as described in the Streamlined Sales  
20 and Use Tax Agreement as reflected in the administrative rules of  
21 the Oklahoma Tax Commission.

22 D. The Oklahoma Tax Commission shall promulgate any necessary  
23 rules to implement the provisions of this section.

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1           SECTION 4.           AMENDATORY           68 O.S. 2001, Section 1370, as  
2 last amended by Section 4, Chapter 136, O.S.L. 2007 (68 O.S. Supp.  
3 2007, Section 1370), is amended to read as follows:

4           Section 1370. A. Any county of this state may levy a sales tax  
5 of not to exceed two percent (2%) upon the gross proceeds or gross  
6 receipts derived from all sales or services in the county upon which  
7 a consumer's sales tax is levied by this state. Before a sales tax  
8 may be levied by the county, the imposition of the tax shall first  
9 be approved by a majority of the registered voters of the county  
10 voting thereon at a special election called by the board of county  
11 commissioners or by initiative petition signed by not less than five  
12 percent (5%) of the registered voters of the county who were  
13 registered at the time of the last general election. However, if a  
14 majority of the registered voters of a county voting fail to approve  
15 such a tax, the board of county commissioners shall not call another  
16 special election for such purpose for six (6) months. Any sales tax  
17 approved by the registered voters of a county shall be applicable  
18 only when the point of sale is within the territorial limits of such  
19 county. Any sales tax levied or any change in the rate of a sales  
20 tax levied pursuant to the provisions of this section shall become  
21 effective on the first day of the calendar quarter following  
22 approval by the voters of the county unless another effective date,  
23 which shall also be on the first day of a calendar quarter, is

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1 specified in the ordinance or resolution levying the sales tax or  
2 changing the rate of sales tax.

3 B. The Oklahoma Tax Commission shall give notice to all vendors  
4 of a rate change at least sixty (60) days prior to the effective  
5 date of the rate change. Provided, for purchases from printed  
6 catalogs wherein the purchaser computed the tax based upon local tax  
7 rates published in the catalog, the rate change shall not be  
8 effective until the first day of a calendar quarter after a minimum  
9 of one hundred twenty (120) days' notice to vendors. Failure to  
10 give notice as required by this section shall delay the effective  
11 date of the rate change to the first day of the next calendar  
12 quarter.

13 C. Initiative petitions calling for a special election  
14 concerning county sales tax proposals shall be in accordance with  
15 Sections 2, 3, 3.1, 6, 18 and 24 of Title 34 of the Oklahoma  
16 Statutes. Petitions shall be submitted to the office of county  
17 clerk for approval as to form prior to circulation. Following  
18 approval, the petitioner shall have ninety (90) days to secure the  
19 required signatures. After securing the requisite number of  
20 signatures, the petitioner shall submit the petition and signatures  
21 to the county clerk. Following the verification of signatures, the  
22 county clerk shall present the petition to the board of county  
23 commissioners. The special election shall be held within sixty (60)  
24 days of receiving the petition. The ballot title presented to the

1 voters at the special election shall be identical to the ballot as  
2 presented in the initiative petition.

3 D. Subject to the provisions of Section ~~3~~ 1357.10 of this ~~act~~  
4 title, all items that are exempt from the state sales tax shall be  
5 exempt from any sales tax levied by a county.

6 E. Any sales tax which may be levied by a county shall be  
7 designated for a particular purpose. Such purposes may include, but  
8 are not limited to, projects owned by the state, any agency or  
9 instrumentality thereof, the county and/or any political subdivision  
10 located in whole or in part within such county, regional  
11 development, economic development, common education, general  
12 operations, capital improvements, county roads, weather modification  
13 or any other purpose deemed, by a majority vote of the county  
14 commissioners or as stated by initiative petition, to be necessary  
15 to promote safety, security and the general well-being of the  
16 people. The county shall identify the purpose of the sales tax when  
17 it is presented to the voters pursuant to the provisions of  
18 subsection A of this section. Except as otherwise provided in this  
19 section, the proceeds of any sales tax levied by a county shall be  
20 deposited in the general revenue or sales tax revolving fund of the  
21 county and shall be used only for the purpose for which such sales  
22 tax was designated. If the proceeds of any sales tax levied by a  
23 county pursuant to this section are pledged for the purpose of  
24 retiring indebtedness incurred for the specific purpose for which

1 the sales tax is imposed, the sales tax shall not be repealed until  
2 such time as the indebtedness is retired. However, in no event  
3 shall the life of the tax be extended beyond the duration approved  
4 by the voters of the county.

5 F. 1. Notwithstanding any other provisions of law, any county  
6 that has approved a sales tax for the construction, support or  
7 operation of a county hospital may continue to collect such tax if  
8 such hospital is subsequently sold. Such collection shall only  
9 continue if the county remains indebted for the past construction,  
10 support or operation of such hospital. The collection may continue  
11 only until the debt is repaid or for the stated term of the sales  
12 tax, whichever period is shorter.

13 2. If the construction, support or operation of a hospital is  
14 funded through the levy of a county sales tax pursuant to this  
15 section and such hospital is subsequently sold, the county levying  
16 the tax may dissolve the governing board of such hospital following  
17 the sale. Upon the sale of the hospital and dissolution of any  
18 governing board, the county is relieved of any future liability for  
19 the operation of such hospital.

20 G. Proceeds from any sales tax levied that is designated to be  
21 used solely by the sheriff for the operation of the office of  
22 sheriff shall be placed in the special revenue account of the  
23 sheriff.

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1 H. The life of the tax could be limited or unlimited in  
2 duration. The county shall identify the duration of the tax when it  
3 is presented to the voters pursuant to the provisions of subsections  
4 A and C of this section.

5 I. There are hereby created one or more county sales tax  
6 revolving funds in each county which levies a sales tax under this  
7 section if any or all of the proceeds of such tax are not to be  
8 deposited in the general revenue fund of the county or comply with  
9 the provisions of subsection G of this section. Each such revolving  
10 fund shall be designated for a particular purpose and shall consist  
11 of all monies generated by such sales tax which are designated for  
12 such purpose. Monies in such funds shall only be expended for the  
13 purposes specifically designated as required by this section. A  
14 county sales tax revolving fund shall be a continuing fund not  
15 subject to fiscal year limitations.

16 SECTION 5. AMENDATORY Section 5, Chapter 136, O.S.L.  
17 2007 (68 O.S. Supp. 2007, Section 1377), is amended to read as  
18 follows:

19 Section 1377. The sales tax imposed by any county or authority  
20 authorized by law to levy a sales tax shall not be imposed upon the  
21 sale of ~~an article of clothing or footwear designed to be worn on or~~  
22 ~~about the human body~~ any items included in Section 1357.10 of this  
23 title, in accordance with and to the extent set forth in Section ~~3~~  
24 1357.10 of this ~~act~~ title.

1 SECTION 6. AMENDATORY 68 O.S. 2001, Section 2701, as  
2 last amended by Section 6, Chapter 136, O.S.L. 2007 (68 O.S. Supp.  
3 2007, Section 2701), is amended to read as follows:

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

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

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

17 3. The provisions of this section shall not be construed to  
18 authorize imposition of any tax upon persons, firms, or corporations  
19 exempted from other taxation under the provisions of Sections 348.1,  
20 624 and 321 of Title 36 of the Oklahoma Statutes, by reason of  
21 payment of taxes imposed under such sections;

22 4. Cooperatives and communications companies are hereby  
23 authorized to pass on to their subscribers in the incorporated city  
24 or town involved, the amount of any special municipal fee, charge or

1 tax hereafter assessed or levied on or collected from such  
2 cooperatives or communications companies;

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

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

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

11 B. A sales tax authorized in subsection A of this section may  
12 be levied for limited purposes specified in the ordinance levying  
13 the tax. Such ordinance shall be submitted to the voters for  
14 approval as provided in Section 2705 of this title. Any sales tax  
15 levied or any change in the rate of a sales tax levied pursuant to  
16 the provisions of this section shall become effective on the first  
17 day of the calendar quarter following approval by the voters of the  
18 city or town unless another effective date, which shall also be on  
19 the first day of a calendar quarter, is specified in the ordinance  
20 levying the sales tax or changing the rate of sales tax. Such  
21 ordinance shall describe with specificity the projects or  
22 expenditures for which the limited-purpose tax levy would be made.  
23 The municipal governing body shall create a limited-purpose fund and  
24 deposit therein any revenue generated by any tax levied pursuant to

1 this subsection. Money in the fund shall be accumulated from year  
2 to year. The fund shall be placed in an insured interest-bearing  
3 account and the interest which accrues on the fund shall be retained  
4 in the fund. The fund shall be nonfiscal and shall not be  
5 considered in computing any levy when the municipality makes its  
6 estimate to the excise board for needed appropriations. Money in  
7 the limited-purpose tax fund shall be expended only as accumulated  
8 and only for the purposes specifically described in the taxing  
9 ordinance as approved by the voters.

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

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

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

13 F. The sale of an ~~article of clothing or footwear designed to~~  
14 ~~be worn on or about the human body~~ item included in Section 1357.10  
15 of this title, in accordance with and to the extent set forth in  
16 Section 1357.10 of this title, shall be exempt from the sales tax  
17 imposed by any incorporated city or town, ~~in accordance with and to~~  
18 ~~the extent set forth in Section 3 of this act.~~

19 SECTION 7. AMENDATORY 68 O.S. 2001, Section 2355, as  
20 last amended by Section 7, Chapter 136, O.S.L. 2007 (68 O.S. Supp.  
21 2007, Section 2355), is amended to read as follows:

22 Section 2355. A. Individuals. For all taxable years beginning  
23 after December 31, 1998 and before January 1, 2006, a tax is hereby  
24 imposed upon the Oklahoma taxable income of every resident or

1 nonresident individual, which tax shall be computed at the option of  
2 the taxpayer under one of the two following methods:

3 1. METHOD 1.

4 a. Single individuals and married individuals filing  
5 separately not deducting federal income tax:

6 (1) 1/2% tax on first \$1,000.00 or part thereof,

7 (2) 1% tax on next \$1,500.00 or part thereof,

8 (3) 2% tax on next \$1,250.00 or part thereof,

9 (4) 3% tax on next \$1,150.00 or part thereof,

10 (5) 4% tax on next \$1,300.00 or part thereof,

11 (6) 5% tax on next \$1,500.00 or part thereof,

12 (7) 6% tax on next \$2,300.00 or part thereof, and

13 (8) (a) for taxable years beginning after December

14 31, 1998, and before January 1, 2002, 6.75%

15 tax on the remainder,

16 (b) for taxable years beginning on or after

17 January 1, 2002, and before January 1, 2004,

18 7% tax on the remainder, and

19 (c) for taxable years beginning on or after

20 January 1, 2004, 6.65% tax on the remainder.

21 b. Married individuals filing jointly and surviving

22 spouse to the extent and in the manner that a

23 surviving spouse is permitted to file a joint return

24 under the provisions of the Internal Revenue Code and

1 heads of households as defined in the Internal Revenue  
2 Code not deducting federal income tax:

3 (1) 1/2% tax on first \$2,000.00 or part thereof,

4 (2) 1% tax on next \$3,000.00 or part thereof,

5 (3) 2% tax on next \$2,500.00 or part thereof,

6 (4) 3% tax on next \$2,300.00 or part thereof,

7 (5) 4% tax on next \$2,400.00 or part thereof,

8 (6) 5% tax on next \$2,800.00 or part thereof,

9 (7) 6% tax on next \$6,000.00 or part thereof, and

10 (8) (a) for taxable years beginning after December

11 31, 1998, and before January 1, 2002, 6.75%

12 tax on the remainder,

13 (b) for taxable years beginning on or after

14 January 1, 2002, and before January 1, 2004,

15 7% tax on the remainder, and

16 (c) for taxable years beginning on or after

17 January 1, 2004, 6.65% tax on the remainder.

18 2. METHOD 2.

19 a. Single individuals and married individuals filing

20 separately deducting federal income tax:

21 (1) 1/2% tax on first \$1,000.00 or part thereof,

22 (2) 1% tax on next \$1,500.00 or part thereof,

23 (3) 2% tax on next \$1,250.00 or part thereof,

24 (4) 3% tax on next \$1,150.00 or part thereof,

- 1 (5) 4% tax on next \$1,200.00 or part thereof,
- 2 (6) 5% tax on next \$1,400.00 or part thereof,
- 3 (7) 6% tax on next \$1,500.00 or part thereof,
- 4 (8) 7% tax on next \$1,500.00 or part thereof,
- 5 (9) 8% tax on next \$2,000.00 or part thereof,
- 6 (10) 9% tax on next \$3,500.00 or part thereof, and
- 7 (11) 10% tax on the remainder.

8 b. Married individuals filing jointly and surviving  
9 spouse to the extent and in the manner that a  
10 surviving spouse is permitted to file a joint return  
11 under the provisions of the Internal Revenue Code and  
12 heads of households as defined in the Internal Revenue  
13 Code deducting federal income tax:

- 14 (1) 1/2% tax on the first \$2,000.00 or part thereof,
- 15 (2) 1% tax on the next \$3,000.00 or part thereof,
- 16 (3) 2% tax on the next \$2,500.00 or part thereof,
- 17 (4) 3% tax on the next \$1,400.00 or part thereof,
- 18 (5) 4% tax on the next \$1,500.00 or part thereof,
- 19 (6) 5% tax on the next \$1,600.00 or part thereof,
- 20 (7) 6% tax on the next \$1,250.00 or part thereof,
- 21 (8) 7% tax on the next \$1,750.00 or part thereof,
- 22 (9) 8% tax on the next \$3,000.00 or part thereof,
- 23 (10) 9% tax on the next \$6,000.00 or part thereof, and
- 24 (11) 10% tax on the remainder.

1 B. Individuals. For all taxable years beginning on or after  
2 January 1, 2008, a tax is hereby imposed upon the Oklahoma taxable  
3 income of every resident or nonresident individual, which tax shall  
4 be computed as follows:

5 1. Single individuals and married individuals filing  
6 separately:

7 (a) 1/2% tax on first \$1,000.00 or part thereof,

8 (b) 1% tax on next \$1,500.00 or part thereof,

9 (c) 2% tax on next \$1,250.00 or part thereof,

10 (d) 3% tax on next \$1,150.00 or part thereof,

11 (e) 4% tax on next \$2,300.00 or part thereof,

12 (f) 5% tax on next \$1,500.00 or part thereof,

13 (g) 5.50% tax on the remainder for the 2008 tax year and  
14 any subsequent tax year unless the rate prescribed by  
15 subparagraph (h) of this paragraph is in effect, ~~and~~

16 (h) 5.25% tax on the remainder for the ~~2009 and subsequent~~  
17 ~~tax years~~ first tax year after the rate prescribed by  
18 subparagraph (g) of this paragraph ceases to be  
19 effective as a result of the implementation of the tax  
20 rate prescribed by this subparagraph and for each  
21 subsequent tax year until the tax rate prescribed by  
22 subparagraph (i) of this paragraph becomes effective.

23 The decrease in the top marginal individual income tax  
24 rate otherwise authorized by this subparagraph shall

1 be contingent upon the determination required to be  
2 made by the State Board of Equalization pursuant to  
3 Section 2355.1A of this title, and

4 (i) 4.95% on the remainder for the first tax year after  
5 the tax rate prescribed by subparagraph (h) of this  
6 paragraph ceases to be effective as a result of the  
7 implementation of the tax rate prescribed by this  
8 subparagraph and for each subsequent tax year  
9 thereafter. The decrease in the top marginal  
10 individual income tax rate otherwise authorized by  
11 this subparagraph shall be contingent upon the  
12 determination required to be made by the State Board  
13 of Equalization pursuant to Section 2355.1A of this  
14 title.

15 2. Married individuals filing jointly and surviving spouse to  
16 the extent and in the manner that a surviving spouse is permitted to  
17 file a joint return under the provisions of the Internal Revenue  
18 Code and heads of households as defined in the Internal Revenue  
19 Code:

20 (a) 1/2% tax on first \$2,000.00 or part thereof,

21 (b) 1% tax on next \$3,000.00 or part thereof,

22 (c) 2% tax on next \$2,500.00 or part thereof,

23 (d) 3% tax on next \$2,300.00 or part thereof,

24 (e) 4% tax on next \$2,400.00 or part thereof,

1 (f) 5% tax on next \$2,800.00 or part thereof,

2 (g) 5.50% tax on the remainder for the 2008 tax year and  
3 any subsequent tax year unless the rate prescribed by  
4 subparagraph (h) of this paragraph is in effect, and

5 (h) 5.25% tax on the remainder for the ~~2009 and subsequent~~  
6 ~~tax years~~ first tax year after the rate prescribed by  
7 subparagraph (g) of this paragraph ceases to be  
8 effective as a result of the implementation of the tax  
9 rate prescribed by this subparagraph and for each  
10 subsequent tax year until the tax rate prescribed by  
11 subparagraph (i) of this paragraph becomes effective.

12 The decrease in the top marginal individual income tax  
13 rate otherwise authorized by this subparagraph shall  
14 be contingent upon the determination required to be  
15 made by the State Board of Equalization pursuant to  
16 Section 2355.1A of this title, and

17 (i) 4.95% on the remainder for the first tax year after  
18 the tax rate prescribed by subparagraph (h) of this  
19 paragraph ceases to be effective as a result of the  
20 implementation of the tax rate prescribed by this  
21 subparagraph and for each subsequent tax year  
22 thereafter. The decrease in the top marginal  
23 individual income tax rate otherwise authorized by  
24 this subparagraph shall be contingent upon the

1           determination required to be made by the State Board  
2           of Equalization pursuant to Section 2355.1A of this  
3           title.

4           No deduction for federal income taxes paid shall be allowed to  
5 any taxpayer to arrive at taxable income.

6           C. Nonresident aliens. In lieu of the rates set forth in  
7 subsection A above, there shall be imposed on nonresident aliens, as  
8 defined in the Internal Revenue Code, a tax of eight percent (8%)  
9 instead of thirty percent (30%) as used in the Internal Revenue  
10 Code, with respect to the Oklahoma taxable income of such  
11 nonresident aliens as determined under the provision of the Oklahoma  
12 Income Tax Act.

13           Every payer of amounts covered by this subsection shall deduct  
14 and withhold from such amounts paid each payee an amount equal to  
15 eight percent (8%) thereof. Every payer required to deduct and  
16 withhold taxes under this subsection shall for each quarterly period  
17 on or before the last day of the month following the close of each  
18 such quarterly period, pay over the amount so withheld as taxes to  
19 the Tax Commission, and shall file a return with each such payment.  
20 Such return shall be in such form as the Tax Commission shall  
21 prescribe. Every payer required under this subsection to deduct and  
22 withhold a tax from a payee shall, as to the total amounts paid to  
23 each payee during the calendar year, furnish to such payee, on or  
24 before January 31, of the succeeding year, a written statement

1 showing the name of the payer, the name of the payee and the payee's  
2 social security account number, if any, the total amount paid  
3 subject to taxation, and the total amount deducted and withheld as  
4 tax and such other information as the Tax Commission may require.  
5 Any payer who fails to withhold or pay to the Tax Commission any  
6 sums herein required to be withheld or paid shall be personally and  
7 individually liable therefor to the State of Oklahoma.

8 D. Corporations. For all taxable years beginning after  
9 December 31, 1989, a tax is hereby imposed upon the Oklahoma taxable  
10 income of every corporation doing business within this state or  
11 deriving income from sources within this state in an amount equal to  
12 six percent (6%) thereof.

13 There shall be no additional Oklahoma income tax imposed on  
14 accumulated taxable income or on undistributed personal holding  
15 company income as those terms are defined in the Internal Revenue  
16 Code.

17 E. Certain foreign corporations. In lieu of the tax imposed in  
18 the first paragraph of subsection C of this section, for all taxable  
19 years beginning after December 31, 1989, there shall be imposed on  
20 foreign corporations, as defined in the Internal Revenue Code, a tax  
21 of six percent (6%) instead of thirty percent (30%) as used in the  
22 Internal Revenue Code, where such income is received from sources  
23 within Oklahoma, in accordance with the provisions of the Internal  
24 Revenue Code and the Oklahoma Income Tax Act.

1       Every payer of amounts covered by this subsection shall deduct  
2 and withhold from such amounts paid each payee an amount equal to  
3 six percent (6%) thereof. Every payer required to deduct and  
4 withhold taxes under this subsection shall for each quarterly period  
5 on or before the last day of the month following the close of each  
6 such quarterly period, pay over the amount so withheld as taxes to  
7 the Tax Commission, and shall file a return with each such payment.  
8 Such return shall be in such form as the Tax Commission shall  
9 prescribe. Every payer required under this subsection to deduct and  
10 withhold a tax from a payee shall, as to the total amounts paid to  
11 each payee during the calendar year, furnish to such payee, on or  
12 before January 31, of the succeeding year, a written statement  
13 showing the name of the payer, the name of the payee and the payee's  
14 social security account number, if any, the total amounts paid  
15 subject to taxation, the total amount deducted and withheld as tax  
16 and such other information as the Tax Commission may require. Any  
17 payer who fails to withhold or pay to the Tax Commission any sums  
18 herein required to be withheld or paid shall be personally and  
19 individually liable therefor to the State of Oklahoma.

20       F. Fiduciaries. A tax is hereby imposed upon the Oklahoma  
21 taxable income of every trust and estate at the same rates as are  
22 provided in subsection B of this section for single individuals.  
23 Fiduciaries are not allowed a deduction for any federal income tax  
24 paid.

1 G. Tax rate tables. For all taxable years beginning after  
2 December 31, 1991, in lieu of the tax imposed by subsection A or B  
3 of this section, as applicable there is hereby imposed for each  
4 taxable year on the taxable income of every individual, whose  
5 taxable income for such taxable year does not exceed the ceiling  
6 amount, a tax determined under tables, applicable to such taxable  
7 year which shall be prescribed by the Tax Commission and which shall  
8 be in such form as it determines appropriate. In the table so  
9 prescribed, the amounts of the tax shall be computed on the basis of  
10 the rates prescribed by subsections A and B of this section. For  
11 purposes of this subsection, the term "ceiling amount" means, with  
12 respect to any taxpayer, the amount determined by the Tax Commission  
13 for the tax rate category in which such taxpayer falls.

14 SECTION 8. AMENDATORY Section 4, Chapter 42, 2nd  
15 Extraordinary Session, O.S.L. 2006, as amended by Section 2, Chapter  
16 346, O.S.L. 2007 (68 O.S. Supp. 2007, Section 2355.1A), is amended  
17 to read as follows:

18 Section 2355.1A A. The provisions of this section shall be  
19 applicable with respect to the implementation of the decreases in  
20 the top marginal rate of individual income tax otherwise authorized  
21 pursuant to the provisions of:

22 1. Subparagraph (h) of paragraphs 1 and 2 of subsection B of  
23 Section 2355 of this title which shall be contingent upon a  
24 determination by the State Board of Equalization made by a

1 comparison of the revenue computations described by this section  
2 which shall be conducted until the income tax rate of 5.25% is  
3 effective; and

4 2. Subparagraph (i) of paragraphs 1 and 2 of subsection B of  
5 Section 2355 of this title which shall be contingent upon the  
6 implementation of the tax rate prescribed by subparagraph (h) of  
7 paragraphs 1 and 2 of subsection B of Section 2355 of this title for  
8 at least one (1) complete tax year and after such complete tax year  
9 which shall be further contingent upon a determination by the State  
10 Board of Equalization made by a comparison of the revenue  
11 computations described by this section which shall be conducted  
12 until the income tax rate of 4.95% is effective.

13 B. In addition to any other duties prescribed by law, at the  
14 meeting required by paragraph 1 of Section 23 of Article X of the  
15 Oklahoma Constitution to be held in December ~~2007~~ 2008, and for any  
16 subsequent December meeting of the State Board of Equalization if  
17 the top marginal income tax rate prescribed by subparagraph (h) and  
18 subparagraph (i) of paragraphs 1 and 2 of subsection B of Section  
19 2355 of this title have not each become effective in the sequence  
20 described by this section, the State Board of Equalization shall  
21 determine:

22 1. The amount of revenue growth in the General Revenue Fund of  
23 the State Treasury by comparing the fiscal year ~~2009~~ General Revenue  
24 Fund estimate for the fiscal year beginning on the next ensuing July

1 1 date to the revised General Revenue Fund estimate for the then  
2 current fiscal year 2008; and

3 2. The amount by which the income tax revenue for the tax year  
4 which will begin on the second January 1 date following such  
5 December meeting 2009 is estimated to be reduced by the increase in  
6 the standard deduction provided in paragraph 2 of subsection E of  
7 Section 2358 of this title, plus an amount equal to four percent  
8 (4%) of the revised General Revenue Fund estimate for the then  
9 current fiscal year 2008 in order for a top marginal income tax rate  
10 of 5.25% to be effective or plus an amount equal to three percent  
11 (3%) of the revised General Revenue Fund estimate for the then  
12 current fiscal year in order for a top marginal income tax rate of  
13 4.95% to be effective.

14 If the amount determined pursuant to the provisions of paragraph  
15 1 of this subsection is equal to or greater than the amount  
16 determined pursuant to the provisions of paragraph 2 of this  
17 subsection, the Board shall make a preliminary finding that the  
18 Board anticipates that a finding will be made at the February ~~2008~~  
19 meeting immediately subsequent to the December meeting that  
20 applicable revenue growth in the state will authorize the  
21 implementation of the provisions of subparagraph (h) or subparagraph  
22 (i), as applicable, of paragraphs 1 and 2 of subsection B of Section  
23 2355 of this title beginning ~~with calendar year 2009~~ on the second  
24 January 1 following such December meeting.

1 If the amount determined pursuant to the provisions of paragraph  
2 1 of this subsection is less than the amount determined pursuant to  
3 the provisions of paragraph 2 of this subsection, the Board shall  
4 make a preliminary finding that the Board anticipates that a finding  
5 will be made at the February ~~2008~~ meeting immediately subsequent to  
6 the December meeting that applicable revenue growth in the state  
7 will not authorize the implementation of the provisions of  
8 subparagraph (h) or subparagraph (i), as applicable, of paragraphs 1  
9 and 2 of subsection B of Section 2355 of this title beginning ~~with~~  
10 ~~calendar year 2009~~ on the second January 1 following such December  
11 meeting.

12 B. In addition to any other duties prescribed by law, at the  
13 meeting required by paragraph 3 of Section 23 of Article X of the  
14 Oklahoma Constitution to be held in February ~~2008~~ 2009, and for any  
15 subsequent February meeting of the State Board of Equalization if  
16 the top marginal income tax rate prescribed by subparagraph (h) and  
17 subparagraph (i) of paragraphs 1 and 2 of subsection B of Section  
18 2355 of this title have not each become effective in the sequence  
19 described by this section, the State Board of Equalization shall  
20 determine:

21 1. The amount of revenue growth in the General Revenue Fund of  
22 the State Treasury by comparing the fiscal year ~~2009~~ General Revenue  
23 Fund estimate for the fiscal year beginning on the next ensuing July  
24

1 1 date to the revised General Revenue Fund estimate for the then  
2 current fiscal year ~~2008~~; and

3 2. The amount by which the income tax revenue for the tax year  
4 ~~2009~~ which will begin on the January 1 date immediately following  
5 such February meeting is estimated to be reduced by the increase in  
6 the standard deduction provided in paragraph 2 of subsection E of  
7 Section 2358 of this title plus an amount equal to four percent (4%)  
8 of the revised General Revenue Fund estimate for the then current  
9 fiscal year ~~2008~~ in order for a top marginal income tax rate of  
10 5.25% to be effective or plus an amount equal to three percent (3%)  
11 of the revised General Revenue Fund estimate for the then current  
12 fiscal year in order for a top marginal income tax rate of 4.95% to  
13 be effective.

14 If the amount determined pursuant to the provisions of paragraph  
15 1 of this subsection is equal to or greater than the amount  
16 determined pursuant to the provisions of paragraph 2 of this  
17 subsection, the Board shall make a finding that applicable revenue  
18 growth in the state will authorize the implementation of the  
19 provisions of subparagraph (h) or subparagraph (i), as applicable,  
20 of paragraphs 1 and 2 of subsection B of Section 2355 of this title  
21 beginning with ~~calendar year 2009~~ on the January 1 date immediately  
22 following such February meeting.

23 If the amount determined pursuant to the provisions of paragraph  
24 1 of this subsection is less than the amount determined pursuant to

1 the provisions of paragraph 2 of this subsection, the Board shall  
2 make a finding that applicable revenue growth in the state does not  
3 authorize the implementation of the provisions of subparagraph (h)  
4 or subparagraph (i), as applicable, of paragraphs 1 and 2 of  
5 subsection B of Section 2355 of this title beginning with ~~calendar~~  
6 ~~year 2009~~ the January 1 date immediately following such February  
7 meeting.

8 C. If the Board makes a finding that applicable revenue growth  
9 in the state does not authorize the implementation of the provisions  
10 of subparagraph (h) or subparagraph (i), as applicable, of  
11 paragraphs 1 and 2 of subsection B of Section 2355 of this title  
12 beginning with calendar year ~~2009~~ 2010 pursuant to the provisions of  
13 subsection B of this section, the procedures prescribed by  
14 subsection A and subsection B of this section shall be repeated by  
15 the State Board of Equalization for each successive two-year  
16 comparison. Once the income tax rate otherwise authorized pursuant  
17 to subparagraph (h) and subparagraph (i) of paragraphs 1 and 2 of  
18 subsection B of Section 2355 of this title ~~has~~ have each been  
19 implemented, in sequence, as a result of the analysis of the General  
20 Revenue Fund estimates together with the fiscal impact of the  
21 standard deduction as authorized pursuant to paragraph 2 of  
22 subsection E of Section 2358 of this title, ~~such~~ the applicable top  
23 marginal income tax rate shall be in effect for ~~all subsequent~~ the  
24 tax years as prescribed by subparagraph (h) or subparagraph (i), as

1 applicable, of paragraphs 1 and 2 of subsection B of Section 2355 of  
2 this title.

3 ~~D. For purposes of this section, the estimate of the revenue~~  
4 ~~for appropriations authority for fiscal year 2009 shall be made~~  
5 ~~assuming a top individual income tax rate of five and twenty five~~  
6 ~~hundredths percent (5.25%) as provided in subparagraph (h) of~~  
7 ~~paragraphs 1 and 2 of subsection B of Section 2355 of this title.~~

8 SECTION 9. This act shall become effective July 1, 2008.

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

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14 51-2-10191 MAH 02/20/08

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