

ENROLLED SENATE
BILL NO. 861

By: Barrington, Gumm, Mazzei,
Jolley, Branan, Aldridge,
Anderson, Brown, Justice,
Wilcoxson, Ford, Lamb,
Laughlin, Williamson,
Coffee, Sykes, Schulz,
Reynolds, Bingman, Johnson
(Mike), Crain, Coates,
Brogdon and Nichols of the
Senate

and

Terrill, Blackwell, Jones,
Peters, Sears, Liebmann,
Kern, Banz, Martin
(Scott), Reynolds, Tibbs,
McDaniel (Randy) and
Shannon of the House

An Act relating to revenue and taxation; amending 68 O.S. 2001, Section 1205, as amended by Section 1, Chapter 388, O.S.L. 2005 (68 O.S. Supp. 2006, Section 1205), which relates to the Oklahoma Franchise Tax Code; modifying provisions related to amount of franchise tax paid; amending 68 O.S. 2001, Sections 1353, as last amended by Section 17, Chapter 44, 2nd Extraordinary Session, O.S.L. 2006, Section 1370, as last amended by Section 1, Chapter 317, O.S.L. 2004, and 2701, as amended by Section 30, Chapter 413, O.S.L. 2003 (68 O.S. Supp. 2006, Sections 1353, 1370 and 2701), which relate to sales tax; providing for certain apportionment of sales taxes to certain municipalities and counties under specified circumstances; exempting certain items of clothing or footwear from state sales tax under

specified conditions; providing exceptions to sales tax exemptions; requiring Oklahoma Tax Commission to promulgate rules; clarifying status of certain exemptions; exempting certain items of clothing or footwear from the imposition of county or authority sales tax under specified conditions; clarifying status of certain fund; exempting certain items of clothing or footwear from the imposition of local sales tax under specified conditions; amending 68 O.S. 2001, Section 2355, as last amended by Section 3, Chapter 42, 2nd Extraordinary Session, O.S.L. 2006 (68 O.S. Supp. 2006, Section 2355), which relates to income tax rates; modifying rate of tax imposed upon certain amounts of taxable income; amending 68 O.S. 2001, Section 2357, which relates to certain tax credits; authorizing income tax credit based upon certain credit allowed pursuant to Internal Revenue Code; imposing limitation on child credit based upon federal adjusted gross income; providing for codification; providing effective dates; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 1205, as amended by Section 1, Chapter 388, O.S.L. 2005 (68 O.S. Supp. 2006, Section 1205), is amended to read as follows:

Section 1205. A. In determining the amount of tax to be levied, assessed and collected under the terms of this Article, the maximum amount shall not exceed Twenty Thousand Dollars (\$20,000.00).

B. If, as a result of the computation of tax required by Section 1209 of this title, the resulting liability is ~~Ten Dollars (\$10.00)~~ Two Hundred Fifty Dollars (\$250.00) or less, the corporation or other entity shall be exempt from the tax levied by Section 1203 or Section 1204 of this title for such reporting period.

SECTION 2. AMENDATORY 68 O.S. 2001, Section 1353, as last amended by Section 17, Chapter 44, 2nd Extraordinary Session, O.S.L. 2006 (68 O.S. Supp. 2006, Section 1353), is amended to read as follows:

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

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

Fiscal Year	Amount
FY 2003 and FY 2004	86.04%
FY 2005	85.83%
FY 2006	85.54%
FY 2007	85.04%
FY 2008 and each fiscal year thereafter	83.61%

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

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

Fiscal Year	Amount
FY 2003 and FY 2004	3.54%
FY 2005	3.75%
FY 2006	4.0%
FY 2007	4.5%
FY 2008 and each fiscal year thereafter	5.0%

4. For the fiscal year beginning July 1, 2007, and for each fiscal year thereafter, ninety-three one hundredths percent (0.93%) shall be paid to the State Treasurer to be further apportioned as follows:

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

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

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1357.10 of Title 68, unless there is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

3. The rental of clothing or footwear.

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

SECTION 4. AMENDATORY 68 O.S. 2001, Section 1370, as last amended by Section 1, Chapter 317, O.S.L. 2004 (68 O.S. Supp. 2006, Section 1370), is amended to read as follows:

Section 1370. A. Any county of this state may levy a sales tax of not to exceed two percent (2%) upon the gross proceeds or gross receipts derived from all sales or services in the county upon which a consumer's sales tax is levied by this state. Before a sales tax may be levied by the county, the imposition of the tax shall first be approved by a majority of the registered voters of the county voting thereon at a special election called by the board of county commissioners or by initiative petition signed by not less than five percent (5%) of the registered voters of the county who were registered at the time of the last general election. However, if a majority of the registered voters of a county voting fail to approve such a tax, the board of county commissioners shall not call another special election for such purpose for six (6) months. Any sales tax approved by the registered voters of a county shall be applicable

only when the point of sale is within the territorial limits of such county. Any sales tax levied or any change in the rate of a sales tax levied pursuant to the provisions of this section shall become effective on the first day of the calendar quarter following approval by the voters of the county unless another effective date, which shall also be on the first day of a calendar quarter, is specified in the ordinance or resolution levying the sales tax or changing the rate of sales tax.

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

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

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

E. Any sales tax which may be levied by a county shall be designated for a particular purpose. Such purposes may include, but are not limited to, projects owned by the state, any agency or

instrumentality thereof, the county and/or any political subdivision located in whole or in part within such county, regional development, economic development, common education, general operations, capital improvements, county roads, weather modification or any other purpose deemed, by a majority vote of the county commissioners or as stated by initiative petition, to be necessary to promote safety, security and the general well-being of the people. The county shall identify the purpose of the sales tax when it is presented to the voters pursuant to the provisions of subsection A of this section. Except as otherwise provided in this section, the proceeds of any sales tax levied by a county shall be deposited in the general revenue or sales tax revolving fund of the county and shall be used only for the purpose for which such sales tax was designated. If the proceeds of any sales tax levied by a county pursuant to this section are pledged for the purpose of retiring indebtedness incurred for the specific purpose for which the sales tax is imposed, the sales tax shall not be repealed until such time as the indebtedness is retired. However, in no event shall the life of the tax be extended beyond the duration approved by the voters of the county.

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

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

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

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

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

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

The sales tax imposed by any county or authority authorized by law to levy a sales tax shall not be imposed upon the sale of an article of clothing or footwear designed to be worn on or about the human body in accordance with and to the extent set forth in Section 3 of this act.

SECTION 6. AMENDATORY 68 O.S. 2001, Section 2701, as amended by Section 30, Chapter 413, O.S.L. 2003 (68 O.S. Supp. 2006, Section 2701), is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

F. The sale of an article of clothing or footwear designed to be worn on or about the human body shall be exempt from the sales tax imposed by any incorporated city or town, in accordance with and to the extent set forth in Section 3 of this act.

SECTION 7. AMENDATORY 68 O.S. 2001, Section 2355, as last amended by Section 3, Chapter 42, 2nd Extraordinary Session, O.S.L. 2006 (68 O.S. Supp. 2006, Section 2355), is amended to read as follows:

Section 2355. A. Individuals. For all taxable years beginning after December 31, 1998 and before January 1, 2006, a tax is hereby imposed upon the Oklahoma taxable income of every resident or nonresident individual, which tax shall be computed at the option of the taxpayer under one of the two following methods:

1. METHOD 1.

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

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

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

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

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

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

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

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

(8) (a) for taxable years beginning after December 31, 1998, and before January 1, 2002, 6.75% tax on the remainder,

(b) for taxable years beginning on or after January 1, 2002, and before January 1, 2004, 7% tax on the remainder, and

(c) for taxable years beginning on or after January 1, 2004, 6.65% tax on the remainder.

b. Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code not deducting federal income tax:

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

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

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

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

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

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

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

(8) (a) for taxable years beginning after December 31, 1998, and before January 1, 2002, 6.75% tax on the remainder,

(b) for taxable years beginning on or after January 1, 2002, and before January 1, 2004, 7% tax on the remainder, and

(c) for taxable years beginning on or after January 1, 2004, 6.65% tax on the remainder.

2. METHOD 2.

a. Single individuals and married individuals filing separately deducting federal income tax:

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

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

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

- (4) 3% tax on next \$1,150.00 or part thereof,
- (5) 4% tax on next \$1,200.00 or part thereof,
- (6) 5% tax on next \$1,400.00 or part thereof,
- (7) 6% tax on next \$1,500.00 or part thereof,
- (8) 7% tax on next \$1,500.00 or part thereof,
- (9) 8% tax on next \$2,000.00 or part thereof,
- (10) 9% tax on next \$3,500.00 or part thereof, and
- (11) 10% tax on the remainder.

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

- (1) 1/2% tax on the first \$2,000.00 or part thereof,
- (2) 1% tax on the next \$3,000.00 or part thereof,
- (3) 2% tax on the next \$2,500.00 or part thereof,
- (4) 3% tax on the next \$1,400.00 or part thereof,
- (5) 4% tax on the next \$1,500.00 or part thereof,
- (6) 5% tax on the next \$1,600.00 or part thereof,
- (7) 6% tax on the next \$1,250.00 or part thereof,
- (8) 7% tax on the next \$1,750.00 or part thereof,
- (9) 8% tax on the next \$3,000.00 or part thereof,

- (10) 9% tax on the next \$6,000.00 or part thereof, and
- (11) 10% tax on the remainder.

B. Individuals. For all taxable years beginning on or after January 1, ~~2006~~ 2008, a tax is hereby imposed upon the Oklahoma taxable income of every resident or nonresident individual, which tax shall be computed as follows:

1. Single individuals and married individuals filing separately:

- (a) 1/2% tax on first \$1,000.00 or part thereof,
- (b) 1% tax on next \$1,500.00 or part thereof,
- (c) 2% tax on next \$1,250.00 or part thereof,
- (d) 3% tax on next \$1,150.00 or part thereof,
- (e) 4% tax on next \$2,300.00 or part thereof,
- (f) 5% tax on next \$1,500.00 or part thereof,
- (g) ~~6.25% tax on the remainder for the 2006 tax year,~~
- ~~(h) 5.65% tax on the remainder for the 2007 tax year,~~
- ~~(i) 5.55% tax on the remainder for the 2008 tax year,~~
- ~~(j) 5.50% tax on the remainder for the ~~2009~~ 2008 tax year and any subsequent tax year unless the rate prescribed by subparagraph ~~(k)~~ (h) of this paragraph is in effect, and~~
- ~~(k)~~ (h) 5.25% tax on the remainder for the ~~2010~~ 2009 and subsequent tax years. The decrease in the top marginal individual income tax rate otherwise authorized by this subparagraph shall be contingent upon the determination required to be made by the State Board of Equalization pursuant to Section ~~3~~ 2355.1A of this ~~act~~ title.

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

- (a) 1/2% tax on first \$2,000.00 or part thereof,
- (b) 1% tax on next \$3,000.00 or part thereof,
- (c) 2% tax on next \$2,500.00 or part thereof,
- (d) 3% tax on next \$2,300.00 or part thereof,
- (e) 4% tax on next \$2,400.00 or part thereof,
- (f) 5% tax on next \$2,800.00 or part thereof,
- (g) ~~6.25% tax on the remainder for the 2006 tax year,~~
- ~~(h) 5.65% tax on the remainder for the 2007 tax year,~~
- ~~(i) 5.55% tax on the remainder for the 2008 tax year,~~
- ~~(j) 5.50% tax on the remainder for the 2009 2008 tax year and any subsequent tax year unless the rate prescribed by subparagraph ~~(k)~~ (h) of this paragraph is in effect, and~~
- ~~(k)~~ (h) 5.25% tax on the remainder for the ~~2010~~ 2009 and subsequent tax years. The decrease in the top marginal individual income tax rate otherwise authorized by this subparagraph shall be contingent upon the determination required to be made by the State Board of Equalization pursuant to Section ~~3~~ 2355.1A of this ~~act~~ title.

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

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

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

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

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

E. Certain foreign corporations. In lieu of the tax imposed in the first paragraph of subsection C of this section, for all taxable years beginning after December 31, 1989, there shall be imposed on

foreign corporations, as defined in the Internal Revenue Code, a tax of six percent (6%) instead of thirty percent (30%) as used in the Internal Revenue Code, where such income is received from sources within Oklahoma, in accordance with the provisions of the Internal Revenue Code and the Oklahoma Income Tax Act.

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

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

G. Tax rate tables. For all taxable years beginning after December 31, 1991, in lieu of the tax imposed by subsection A or B of this section, as applicable there is hereby imposed for each taxable year on the taxable income of every individual, whose taxable income for such taxable year does not exceed the ceiling amount, a tax determined under tables, applicable to such taxable year which shall be prescribed by the Tax Commission and which shall be in such form as it determines appropriate. In the table so prescribed, the amounts of the tax shall be computed on the basis of the rates prescribed by subsections A and B of this section. For

purposes of this subsection, the term "ceiling amount" means, with respect to any taxpayer, the amount determined by the Tax Commission for the tax rate category in which such taxpayer falls.

SECTION 8. AMENDATORY 68 O.S. 2001, Section 2357, is amended to read as follows:

Section 2357. A. The withheld taxes and estimated taxes paid shall be allowed as credits as provided by law.

B. 1. There shall be allowed as a credit against the tax imposed by Section 2355 of this title the amount of tax paid another state by a resident individual, as defined in paragraph 4 of Section 2353 of this title, upon income received as compensation for personal services in such other state; provided, such credit shall not be allowed with respect to any income specified in Section 114 of Title 4 of the United States Code, 4 U.S.C., Section 114, upon which a state is prohibited from imposing an income tax. The credit shall not exceed such proportion of the tax payable under Section 2355 of this title as the compensation for personal services subject to tax in the other state and also taxable under Section 2355 of this title bears to the Oklahoma adjusted gross income as defined in paragraph 13 of Section 2353 of this title.

2. For tax years beginning after December 31, ~~1975~~ 2007, there shall be allowed to a resident individual or part-year resident individual or nonresident individual member of the Armed Forces as a credit against the tax imposed by Section 2355 of this title twenty percent (20%) of the credit for child care expenses allowed under the Internal Revenue Code of the United States or five percent (5%) of the child tax credit allowed under the Internal Revenue Code, whichever amount is greater. ~~The~~ Neither credit authorized by this paragraph shall ~~not~~ exceed the tax imposed by Section 2355 of this title. The maximum child care credit allowable on the Oklahoma income tax return shall be prorated on the ratio that Oklahoma adjusted gross income bears to the federal adjusted gross income. The credit authorized by this paragraph shall not be claimed by any taxpayer if the federal adjusted gross income reflected on the Oklahoma return for the taxpayer is in excess of One Hundred Thousand Dollars (\$100,000.00).

C. 1. Every taxpayer who operates a manufacturing establishment in the state shall be allowed a direct credit against income taxes owed by such taxpayer to the state, the amount of which credit shall be proportioned to the amount of gas used or consumed in Oklahoma by such taxpayer in the operation of a manufacturing establishment, at a rate of three (3) mills per thousand (1,000) cubic feet of gas used or consumed after May 1, 1971, and during each taxable year of such taxpayer provided that the credit allowed herein shall not apply to the first twenty-five thousand (25,000) MCF of gas used or gas used to generate electricity or consumed after May 1, 1971, and during each taxable year of such taxpayer.

2. As used in this subsection:

- a. "manufacturing establishment" means a plant or establishment which engages in the business of working raw materials into wares suitable for use or which gives new shapes, new qualities or new combinations to matter which has already gone through some artificial process,
- b. "gas used or consumed" shall include all natural or casinghead gas used in the operation of the manufacturing establishment for whatever purposes, but shall not include the following:
 - (1) gas which, after being severed from the earth, is subsequently injected into a formation in the state for the purpose of storing, recycling, repressuring or pressure maintenance,
 - (2) gas vented or flared directly into the atmosphere,
 - (3) gas used for fuel in connection with the operation and development for or production of oil or gas in the field where produced, and
 - (4) gas, any part of which is resold by the manufacturing establishment, except as to that part and quantity of the gas which is actually used by the establishment and not resold, and

- c. "one thousand (1,000) cubic feet of gas" (MCF) means that quantity of gas which, measured at a pressure of fifteen and twenty-five thousandths (15.025) pounds per square inch absolute and at a temperature of sixty-nine (69) degrees Fahrenheit, would have the volume of one thousand (1,000) cubic feet.

D. No additions to tax shall be made in Oklahoma income tax returns by reason of the recapture or restoration of credits under the Internal Revenue Code, and no other credits against tax shall be allowed in Oklahoma income tax returns except as follows:

1. Those credits provided in this section; and

2. Those credits authorized by ~~Sections 921 through 925 of Title 82 of the Oklahoma Statutes, or Sections 2001 2-5-101 through 2008 2-5-118~~ of Title ~~63~~ 27A of the Oklahoma Statutes, which have been, or may hereafter be, certified pursuant to applications therefor made on or before March 22, 1971. Provided, the total amount of the credits referred to in this subparagraph to be taken by the taxpayer shall not exceed the certified net investment cost of the facilities or processes to which such credits pertain, reduced by the greater of:

- a. the reduction in federal income tax of taxpayer as the result of deducting depreciation on such facilities or processes, or deducting nondepreciable costs for which credit has been so certified, or
- b. the increase in the amount of Oklahoma income tax that would result if taxable income were increased by the amount deducted as set forth in subparagraph a of this paragraph.

And, provided further, that, after such credits have been exhausted, taxpayer shall each year thereafter adjust taxable income by adding any depreciation taken on such facilities or processes, or any nondepreciable costs having been included in the net investment cost allowed as credit, and which depreciation or costs have been allowed as a deduction in arriving at federal taxable income for such year.

SECTION 9. Sections 2, 3, 4, 5 and 6 of this act shall become effective July 1, 2007.

SECTION 10. Sections 1, 7 and 8 of this act shall become effective January 1, 2008.

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

Passed the Senate the 7th day of May, 2007.

Presiding Officer of the Senate

Passed the House of Representatives the 23rd day of April, 2007.

Presiding Officer of the House
of Representatives