

FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1819
Page _____ Section _____ Lines _____
Of the printed Bill
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Chris Benge

Reading Clerk

1 STATE OF OKLAHOMA

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

3 FLOOR SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 1819

By: Coffee and Morgan of the
Senate

6 and

7 Benge of the House

8
9 FLOOR SUBSTITUTE

10 An Act relating to revenue and taxation; amending 68
11 O.S. 2001, Section 2358, as last amended by Section
12 37 of Enrolled Senate Bill No. 1830 of the 2nd
13 Session of the 51st Oklahoma Legislature, which
14 relates to income tax; providing income tax exemption
15 to certain individual; limiting amount of exemption;
16 limiting duration of exemption; limiting exemption to
17 certain specific circumstances; defining term;
18 defining terms; providing income tax deduction to
19 certain individuals; limiting eligibility; limiting
20 amount of deduction; limiting duration of deduction;
21 amending 68 O.S. 2001, Sections 3603, as last amended
22 by Section 61, Chapter 1, O.S.L. 2007, 3604, as last
23 amended by Section 1, Chapter 357, O.S.L. 2007 and
24 3606, as last amended by Section 2, Chapter 357,
O.S.L. 2007 (68 O.S. Supp. 2007, Sections 3603, 3604
and 3606), which relate to the Oklahoma Quality Jobs
Program Act; modifying definitions; authorizing
incentive payment for certain establishment;
modifying provisions related to net benefit rate;
modifying provisions related to duration of incentive
payments; providing an effective date; and declaring
an emergency.

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

2 SECTION 1. AMENDATORY 68 O.S. 2001, Section 2358, as
3 last amended by Section 37 of Enrolled Senate Bill No. 1830 of the
4 2nd Session of the 51st Oklahoma Legislature, is amended to read as
5 follows:

6 Section 2358. For all tax years beginning after December 31,
7 1981, taxable income and adjusted gross income shall be adjusted to
8 arrive at Oklahoma taxable income and Oklahoma adjusted gross income
9 as required by this section.

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

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

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

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

24

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

10 b. For carryovers and carrybacks to taxable years
11 beginning after December 31, 1980, the amount of any
12 net operating loss deduction allowed for the taxable
13 year shall be an amount equal to the aggregate of the
14 Oklahoma net operating loss carryovers and carrybacks
15 to such year. Oklahoma net operating losses shall be
16 separately determined by reference to Section 172 of
17 the Internal Revenue Code, 26 U.S.C., Section 172, as
18 modified by the Oklahoma Income Tax Act, Section 2351
19 et seq. of this title, and shall be allowed without
20 regard to the existence of a federal net operating
21 loss. For tax years beginning after December 31,
22 2000, the years to which such losses may be carried
23 shall be determined solely by reference to Section 172
24 of the Internal Revenue Code, 26 U.S.C., Section 172,

1 with the exception that the terms "net operating loss"
2 and "taxable income" shall be replaced with "Oklahoma
3 net operating loss" and "Oklahoma taxable income".

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

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

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

19 (1) where such property has acquired a nonunitary
20 business or commercial situs apart from the
21 domicile of the taxpayer such income shall be
22 allocated in accordance with such business or
23 commercial situs; interest income from
24 investments held to generate working capital for

1 a unitary business enterprise shall be included
2 in apportionable income; a resident trust or
3 resident estate shall be treated as having a
4 separate commercial or business situs insofar as
5 undistributed income is concerned, but shall not
6 be treated as having a separate commercial or
7 business situs insofar as distributed income is
8 concerned,

9 (2) for taxable years beginning after December 31,
10 2003, capital or ordinary gains or losses from
11 the sale of an ownership interest in a publicly
12 traded partnership, as defined by Section 7704(b)
13 of the Internal Revenue Code of 1986, as amended,
14 shall be allocated to this state in the ratio of
15 the original cost of such partnership's tangible
16 property in this state to the original cost of
17 such partnership's tangible property everywhere,
18 as determined at the time of the sale; if more
19 than fifty percent (50%) of the value of the
20 partnership's assets consists of intangible
21 assets, capital or ordinary gains or losses from
22 the sale of an ownership interest in the
23 partnership shall be allocated to this state in
24 accordance with the sales factor of the

1 partnership for its first full tax period
2 immediately preceding its tax period during which
3 the ownership interest in the partnership was
4 sold; the provisions of this division shall only
5 apply if the capital or ordinary gains or losses
6 from the sale of an ownership interest in a
7 partnership do not constitute qualifying gain
8 receiving capital treatment as defined in
9 subparagraph a of paragraph 2 of subsection F of
10 this section,

11 (3) income from such property which is required to be
12 allocated pursuant to the provisions of paragraph
13 5 of this subsection shall be allocated as herein
14 provided;

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

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

23 (1) sales having a situs without this state, shipped
24 directly to a point from without the state to a

1 purchaser within the state, commonly known as
2 interstate sales,

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

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

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

24

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

6 (1) except as otherwise provided by division (2) of
7 this subparagraph, taxable income of an insurance
8 company for a taxable year shall be apportioned
9 to this state by multiplying such income by a
10 fraction, the numerator of which is the direct
11 premiums written for insurance on property or
12 risks in this state, and the denominator of which
13 is the direct premiums written for insurance on
14 property or risks everywhere. For purposes of
15 this subsection, the term "direct premiums
16 written" means the total amount of direct
17 premiums written, assessments and annuity
18 considerations as reported for the taxable year
19 on the annual statement filed by the company with
20 the Insurance Commissioner in the form approved
21 by the National Association of Insurance
22 Commissioners, or such other form as may be
23 prescribed in lieu thereof,
24

1 (2) if the principal source of premiums written by an
2 insurance company consists of premiums for
3 reinsurance accepted by it, the taxable income of
4 such company shall be apportioned to this state
5 by multiplying such income by a fraction, the
6 numerator of which is the sum of (a) direct
7 premiums written for insurance on property or
8 risks in this state, plus (b) premiums written
9 for reinsurance accepted in respect of property
10 or risks in this state, and the denominator of
11 which is the sum of (c) direct premiums written
12 for insurance on property or risks everywhere,
13 plus (d) premiums written for reinsurance
14 accepted in respect of property or risks
15 everywhere. For purposes of this paragraph,
16 premiums written for reinsurance accepted in
17 respect of property or risks in this state,
18 whether or not otherwise determinable, may at the
19 election of the company be determined on the
20 basis of the proportion which premiums written
21 for insurance accepted from companies
22 commercially domiciled in Oklahoma bears to
23 premiums written for reinsurance accepted from
24 all sources, or alternatively in the proportion

1 which the sum of the direct premiums written for
2 insurance on property or risks in this state by
3 each ceding company from which reinsurance is
4 accepted bears to the sum of the total direct
5 premiums written by each such ceding company for
6 the taxable year.

7 5. The net income or loss remaining after the separate
8 allocation in paragraph 4 of this subsection, being that which is
9 derived from a unitary business enterprise, shall be apportioned to
10 this state on the basis of the arithmetical average of three factors
11 consisting of property, payroll and sales or gross revenue
12 enumerated as subparagraphs a, b and c of this paragraph. Net
13 income or loss as used in this paragraph includes that derived from
14 patent or copyright royalties, purchase discounts, and interest on
15 accounts receivable relating to or arising from a business activity,
16 the income from which is apportioned pursuant to this subsection,
17 including the sale or other disposition of such property and any
18 other property used in the unitary enterprise. Deductions used in
19 computing such net income or loss shall not include taxes based on
20 or measured by income. Provided, for corporations whose property
21 for purposes of the tax imposed by Section 2355 of this title has an
22 initial investment cost equaling or exceeding Two Hundred Million
23 Dollars (\$200,000,000.00) and such investment is made on or after
24 July 1, 1997, or for corporations which expand their property or

1 facilities in this state and such expansion has an investment cost
2 equaling or exceeding Two Hundred Million Dollars (\$200,000,000.00)
3 over a period not to exceed three (3) years, and such expansion is
4 commenced on or after January 1, 2000, the three factors shall be
5 apportioned with property and payroll, each comprising twenty-five
6 percent (25%) of the apportionment factor and sales comprising fifty
7 percent (50%) of the apportionment factor. The apportionment
8 factors shall be computed as follows:

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

16 (1) Property, the income from which is separately
17 allocated in paragraph 4 of this subsection,
18 shall not be included in determining this
19 fraction. The numerator of the fraction shall
20 include a portion of the investment in
21 transportation and other equipment having no
22 fixed situs, such as rolling stock, buses, trucks
23 and trailers, including machinery and equipment
24 carried thereon, airplanes, salespersons'

1 automobiles and other similar equipment, in the
2 proportion that miles traveled in Oklahoma by
3 such equipment bears to total miles traveled,

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

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

18 b. The payroll factor is a fraction, the numerator of
19 which is the total compensation for services rendered
20 in the state during the tax period, and the
21 denominator of which is the total compensation for
22 services rendered everywhere during the tax period.
23 "Compensation", as used in this subsection means those
24 paid-for services to the extent related to the unitary

1 business but does not include officers' salaries,
2 wages and other compensation.

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

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

19 c. The sales factor is a fraction, the numerator of which
20 is the total sales or gross revenue of the taxpayer in
21 this state during the tax period, and the denominator
22 of which is the total sales or gross revenue of the
23 taxpayer everywhere during the tax period. "Sales",
24 as used in this subsection does not include sales or

1 gross revenue which are separately allocated in
2 paragraph 4 of this subsection.

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

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

19 (3) In the case of an airline, truck or bus
20 enterprise or freight car, tank car, refrigerator
21 car or other railroad equipment enterprise, the
22 numerator of the fraction shall include a portion
23 of revenue from interstate transportation in the
24 proportion that interstate mileage traveled in

1 Oklahoma bears to total interstate mileage
2 traveled.

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

17 (5) In the case of a telephone or telegraph or other
18 communication enterprise, the numerator of the
19 fraction shall include that portion of the
20 interstate revenue as is allocated pursuant to
21 the accounting procedures prescribed by the
22 Federal Communications Commission; provided that
23 in respect to each corporation or business entity
24 required by the Federal Communications Commission

1 to keep its books and records in accordance with
2 a uniform system of accounts prescribed by such
3 Commission, the intrastate net income shall be
4 determined separately in the manner provided by
5 such uniform system of accounts and only the
6 interstate income shall be subject to allocation
7 pursuant to the provisions of this subsection.
8 Provided further, that the gross revenue factors
9 shall be those as are determined pursuant to the
10 accounting procedures prescribed by the Federal
11 Communications Commission.

12 In any case where the apportionment of the three factors prescribed
13 in this paragraph attributes to Oklahoma a portion of net income of
14 the enterprise out of all appropriate proportion to the property
15 owned and/or business transacted within this state, because of the
16 fact that one or more of the factors so prescribed are not employed
17 to any appreciable extent in furtherance of the enterprise; or
18 because one or more factors not so prescribed are employed to a
19 considerable extent in furtherance of the enterprise; or because of
20 other reasons, the Tax Commission is empowered to permit, after a
21 showing by taxpayer that an excessive portion of net income has been
22 attributed to Oklahoma, or require, when in its judgment an
23 insufficient portion of net income has been attributed to Oklahoma,
24 the elimination, substitution, or use of additional factors, or

1 reduction or increase in the weight of such prescribed factors.
2 Provided, however, that any such variance from such prescribed
3 factors which has the effect of increasing the portion of net income
4 attributable to Oklahoma must not be inherently arbitrary, and
5 application of the recomputed final apportionment to the net income
6 of the enterprise must attribute to Oklahoma only a reasonable
7 portion thereof.

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

1 calendar year, the Tax Commission shall permit any excess over One
2 Million Dollars (\$1,000,000.00) and shall factor such excess into
3 the percentage for subsequent years. Any amount of the exemption
4 permitted to be excluded pursuant to the provisions of this
5 paragraph but not used in any year may be carried forward as an
6 exemption from income pursuant to the provisions of this paragraph
7 for a period not exceeding six (6) years following the year in which
8 the investment was originally made.

9 For purposes of this paragraph:

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

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

23 (1) the processing of agricultural commodities,
24 including receiving or storing agricultural

1 commodities, or the production of milk at a dairy
2 operation,

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

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

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

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

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

1 to 26 U.S.C.A., Section 45A, is allowed. For purposes of this
2 paragraph, "qualified wages" means those wages used to calculate the
3 federal credit pursuant to 26 U.S.C.A., Section 45A.

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

10 B. The taxable income of any corporation shall be further
11 adjusted to arrive at Oklahoma taxable income, except those
12 corporations electing treatment as provided in subchapter S of the
13 Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section
14 2365 of this title, deductions pursuant to the provisions of the
15 Accelerated Cost Recovery System as defined and allowed in the
16 Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C.,
17 Section 168, for depreciation of assets placed into service after
18 December 31, 1981, shall not be allowed in calculating Oklahoma
19 taxable income. Such corporations shall be allowed a deduction for
20 depreciation of assets placed into service after December 31, 1981,
21 in accordance with provisions of the Internal Revenue Code, 26
22 U.S.C., Section 1 et seq., in effect immediately prior to the
23 enactment of the Accelerated Cost Recovery System. The Oklahoma tax
24 basis for all such assets placed into service after December 31,

1 1981, calculated in this section shall be retained and utilized for
2 all Oklahoma income tax purposes through the final disposition of
3 such assets.

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

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

17 C. 1. For taxable years beginning after December 31, 1987, the
18 taxable income of any corporation shall be further adjusted to
19 arrive at Oklahoma taxable income for transfers of technology to
20 qualified small businesses located in Oklahoma. Such transferor
21 corporation shall be allowed an exemption from taxable income of an
22 amount equal to the amount of royalty payment received as a result
23 of such transfer; provided, however, such amount shall not exceed
24 ten percent (10%) of the amount of gross proceeds received by such

1 transferor corporation as a result of the technology transfer. Such
2 exemption shall be allowed for a period not to exceed ten (10) years
3 from the date of receipt of the first royalty payment accruing from
4 such transfer. No exemption may be claimed for transfers of
5 technology to qualified small businesses made prior to January 1,
6 1988.

7 2. For purposes of this subsection:

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

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

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

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

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

24

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

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

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

15 2. As used in this subsection:

16 a. "qualifying gains receiving capital treatment" means
17 the amount of net capital gains, as defined in Section
18 1222(11) of the Internal Revenue Code, included in the
19 federal income tax return of the corporation, estate
20 or trust that result from:

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

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

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

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

23 b. "holding period" means an uninterrupted period of
24 time. The holding period shall include any additional

1 period when the property was held by another
2 individual or entity, if such additional period is
3 included in the taxpayer's holding period for the
4 asset pursuant to the Internal Revenue Code,

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

11 d. "direct" means the taxpayer directly owns the asset,
12 and

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

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

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

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

21 E. The Oklahoma adjusted gross income of any individual
22 taxpayer shall be further adjusted as follows to arrive at Oklahoma
23 taxable income:
24

1 1. a. In the case of individuals, there shall be added or
2 deducted, as the case may be, the difference necessary
3 to allow personal exemptions of One Thousand Dollars
4 (\$1,000.00) in lieu of the personal exemptions allowed
5 by the Internal Revenue Code.

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

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

- 1 (1) Twenty-five Thousand Dollars (\$25,000.00) if
2 married and filing jointly;
- 3 (2) Twelve Thousand Five Hundred Dollars (\$12,500.00)
4 if married and filing separately;
- 5 (3) Fifteen Thousand Dollars (\$15,000.00) if single;
6 and
- 7 (4) Nineteen Thousand Dollars (\$19,000.00) if a
8 qualifying head of household.

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

- 17 d. For taxable years beginning after December 31, 1990,
18 and beginning before January 1, 1992, there shall be
19 allowed a one-time additional exemption of Four
20 Hundred Dollars (\$400.00) for each taxpayer or spouse
21 who is a member of the National Guard or any reserve
22 unit of the Armed Forces of the United States and who
23 was at any time during such taxable year deployed in
24

1 active service during a time of war or conflict with
2 an enemy of the United States.

3 2. a. For taxable years beginning on or before December 31,
4 2005, in the case of individuals who use the standard
5 deduction in determining taxable income, there shall
6 be added or deducted, as the case may be, the
7 difference necessary to allow a standard deduction in
8 lieu of the standard deduction allowed by the Internal
9 Revenue Code, in an amount equal to the larger of
10 fifteen percent (15%) of the Oklahoma adjusted gross
11 income or One Thousand Dollars (\$1,000.00), but not to
12 exceed Two Thousand Dollars (\$2,000.00), except that
13 in the case of a married individual filing a separate
14 return such deduction shall be the larger of fifteen
15 percent (15%) of such Oklahoma adjusted gross income
16 or Five Hundred Dollars (\$500.00), but not to exceed
17 the maximum amount of One Thousand Dollars
18 (\$1,000.00),

19 b. For taxable years beginning on or after January 1,
20 2006, and before January 1, 2007, in the case of
21 individuals who use the standard deduction in
22 determining taxable income, there shall be added or
23 deducted, as the case may be, the difference necessary
24 to allow a standard deduction in lieu of the standard

1 deduction allowed by the Internal Revenue Code, in an
2 amount equal to:

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

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

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

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

18 (2) Four Thousand One Hundred Twenty-five Dollars
19 (\$4,125.00) for a head of household; or

20 (3) Two Thousand Seven Hundred Fifty Dollars
21 (\$2,750.00), if the filing status is single or
22 married filing separate.

23 d. For the taxable year beginning on January 1, 2008, and
24 ending December 31, 2008, in the case of individuals

1 who use the standard deduction in determining taxable
2 income, there shall be added or deducted, as the case
3 may be, the difference necessary to allow a standard
4 deduction in lieu of the standard deduction allowed by
5 the Internal Revenue Code, in an amount equal to:

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

9 (2) Four Thousand Eight Hundred Seventy-five Dollars
10 (\$4,875.00) for a head of household, or

11 (3) Three Thousand Two Hundred Fifty Dollars
12 (\$3,250.00), if the filing status is single or
13 married filing separate.

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

21 (1) Eight Thousand Five Hundred Dollars (\$8,500.00),
22 if the filing status is married filing joint or
23 qualifying widow, or
24

- 1 (2) Six Thousand Three Hundred Seventy-five Dollars
2 (\$6,375.00) for a head of household, or
3 (3) Four Thousand Two Hundred Fifty Dollars
4 (\$4,250.00), if the filing status is single or
5 married filing separate.

6 f. For taxable years beginning on or after January 1,
7 2010, in the case of individuals who use the standard
8 deduction in determining taxable income, there shall
9 be added or deducted, as the case may be, the
10 difference necessary to allow a standard deduction
11 equal to the standard deduction allowed by the
12 Internal Revenue Code of 1986, as amended, based upon
13 the amount and filing status prescribed by such Code
14 for purposes of filing federal individual income tax
15 returns.

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

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

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

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

1 a. absence from the United States, which term includes
2 only the states and the District of Columbia;
3 b. absence from the State of Oklahoma while on active
4 duty; or
5 c. confinement in a hospital within the United States for
6 treatment of wounds, injuries or disease,
7 the time for filing a return and paying an income tax shall
8 be and is hereby extended without incurring liability for
9 interest or penalties, to the fifteenth day of the third
10 month following the month in which:

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

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

22 Provided, that the Tax Commission may, in its discretion, grant any
23 member of the Armed Forces of the United States an extension of time
24 for filing of income tax returns and payment of income tax without

1 incurring liabilities for interest or penalties. Such extension may
2 be granted only when in the judgment of the Tax Commission a good
3 cause exists therefor and may be for a period in excess of six (6)
4 months. A record of every such extension granted, and the reason
5 therefor, shall be kept.

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

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

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

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

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

18 c. For the purpose of this paragraph, "federal income
19 taxes paid" shall mean federal income taxes, surtaxes
20 imposed on incomes or excess profits taxes, as though
21 the taxpayer was on the accrual basis. In determining
22 the amount of deduction for federal income taxes for
23 tax year 2001, the amount of the deduction shall not
24 be adjusted by the amount of any accelerated ten

1 percent (10%) tax rate bracket credit or advanced
2 refund of the credit received during the tax year
3 provided pursuant to the federal Economic Growth and
4 Tax Relief Reconciliation Act of 2001, P.L. No. 107-
5 16, and the advanced refund of such credit shall not
6 be subject to taxation.

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

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

1 101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt
2 from taxable income.

3 10. In taxable years beginning after December 31, 1984, Social
4 Security benefits received by an individual shall be exempt from
5 taxable income, to the extent such benefits are included in the
6 federal adjusted gross income pursuant to the provisions of Section
7 86 of the Internal Revenue Code, 26 U.S.C., Section 86.

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

22 12. In taxable years beginning after December 31, 1995,
23 contributions made to and interest received from a medical savings
24

1 account established pursuant to Sections 2621 through 2623 of Title
2 63 of the Oklahoma Statutes shall be exempt from taxable income.

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

15 14. a. In taxable years beginning after December 31, 2002,
16 nonrecurring adoption expenses paid by a resident
17 individual taxpayer in connection with:
18 (1) the adoption of a minor, or
19 (2) a proposed adoption of a minor which did not
20 result in a decreed adoption,
21 may be deducted from the Oklahoma adjusted gross
22 income.

23
24

- 1 b. The deductions for adoptions and proposed adoptions
2 authorized by this paragraph shall not exceed Twenty
3 Thousand Dollars (\$20,000.00) per calendar year.
- 4 c. The Tax Commission shall promulgate rules to implement
5 the provisions of this paragraph which shall contain a
6 specific list of nonrecurring adoption expenses which
7 may be presumed to qualify for the deduction. The Tax
8 Commission shall prescribe necessary requirements for
9 verification.
- 10 d. "Nonrecurring adoption expenses" means adoption fees,
11 court costs, medical expenses, attorney fees and
12 expenses which are directly related to the legal
13 process of adoption of a child including, but not
14 limited to, costs relating to the adoption study,
15 health and psychological examinations, transportation
16 and reasonable costs of lodging and food for the child
17 or adoptive parents which are incurred to complete the
18 adoption process and are not reimbursed by other
19 sources. The term "nonrecurring adoption expenses"
20 shall not include attorney fees incurred for the
21 purpose of litigating a contested adoption, from and
22 after the point of the initiation of the contest,
23 costs associated with physical remodeling, renovation
24 and alteration of the adoptive parents' home or

1 property, except for a special needs child as
2 authorized by the court.

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

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

21 (1) in taxable years beginning after December 31,
22 2004, and prior to January 1, 2007, the
23 qualifying amount shall be Thirty-seven Thousand
24 Five Hundred Dollars (\$37,500.00) or less if the

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

5 (2) in the taxable year beginning January 1, 2007,
6 the qualifying amount shall be Fifty Thousand
7 Dollars (\$50,000.00) or less if the filing status
8 is single, head of household, or married filing
9 separate, or One Hundred Thousand Dollars
10 (\$100,000.00) or less if the filing status is
11 married filing jointly or qualifying widow,

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

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

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

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

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

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

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

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

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

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

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

8 d. The amount of the exemption provided by this paragraph
9 shall be limited to Five Thousand Five Hundred Dollars
10 (\$5,500.00) for the 2004 tax year, Seven Thousand Five
11 Hundred Dollars (\$7,500.00) for the 2005 tax year and
12 Ten Thousand Dollars (\$10,000.00) for the tax year
13 2006 and for all subsequent tax years. Any individual
14 who claims the exemption provided for in paragraph 9
15 of this subsection shall not be permitted to claim a
16 combined total exemption pursuant to this paragraph
17 and paragraph 9 of this subsection in an amount
18 exceeding Five Thousand Five Hundred Dollars
19 (\$5,500.00) for the 2004 tax year, Seven Thousand Five
20 Hundred Dollars (\$7,500.00) for the 2005 tax year and
21 Ten Thousand Dollars (\$10,000.00) for the 2006 tax
22 year and all subsequent tax years.

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

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

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

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

21 b. In taxable years beginning after December 31, 2004,
22 each taxpayer shall be allowed a deduction for
23 contributions to accounts established pursuant to the
24 Oklahoma College Savings Plan Act. The maximum annual

1 deduction shall equal the amount of contributions to
2 all such accounts plus any contributions to such
3 accounts by the taxpayer for prior taxable years after
4 December 31, 2004, which were not deducted, but in no
5 event shall the deduction for each tax year exceed Ten
6 Thousand Dollars (\$10,000.00) for each individual
7 taxpayer or Twenty Thousand Dollars (\$20,000.00) for
8 taxpayers filing a joint return. Any amount of a
9 contribution that is not deducted by the taxpayer in
10 the year for which the contribution is made may be
11 carried forward as a deduction from income for the
12 succeeding five (5) years. For taxable years
13 beginning after December 31, 2005, deductions may be
14 taken for contributions and rollovers made during a
15 taxable year and up to April 15 of the succeeding
16 year, or the due date of a taxpayer's state income tax
17 return, excluding extensions, whichever is later.
18 Provided, a deduction for the same contribution may
19 not be taken for two (2) different taxable years.

20 c. In taxable years beginning after December 31, 2006,
21 deductions for contributions made pursuant to
22 subparagraph b of this paragraph shall be limited as
23 follows:
24

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

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

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

23 e. If a taxpayer makes a nonqualified withdrawal of
24 contributions for which a deduction was taken pursuant

1 to subparagraph b of this paragraph, such nonqualified
2 withdrawal and any earnings thereon shall be included
3 in the adjusted gross income of the taxpayer in the
4 taxable year of the nonqualified withdrawal.

5 f. As used in this paragraph:

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

9 (a) a qualified withdrawal,

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

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

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

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

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

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

- 18 a. in the taxable year beginning January 1, 2007, twenty
19 percent (20%) of such benefits shall be exempt,
20 b. in the taxable year beginning January 1, 2008, forty
21 percent (40%) of such benefits shall be exempt,
22 c. in the taxable year beginning January 1, 2009, sixty
23 percent (60%) of such benefits shall be exempt,
24

- 1 d. in the taxable year beginning January 1, 2010, eighty
2 percent (80%) of such benefits shall be exempt, and
3 e. in the taxable year beginning January 1, 2011, and
4 subsequent taxable years, one hundred percent (100%)
5 of such benefits shall be exempt.

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

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

22 c. The Oklahoma Tax Commission shall promulgate rules to
23 implement the provisions of this paragraph which shall
24 contain a specific list of expenses which may be

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

4 22. a. For taxable years beginning after December 31, 2008, a
5 maximum of One Hundred Thousand Dollars (\$100,000.00)
6 of income, regardless of source, received by a person
7 who establishes their primary residence within a
8 qualifying area of the state by purchasing an existing
9 single-family residential structure or becoming the
10 owner of a single-family residential structure
11 constructed for the first time by or on behalf of such
12 person and who fulfills the other requirements of this
13 paragraph, shall be fully exempt from taxable income,
14 for any taxable year during which the person is a
15 resident of the state, for a period of thirty-six (36)
16 months beginning with the first taxable year in which
17 title is acquired to a single-family residential
18 structure located in a qualifying area as defined by
19 subparagraph b of this paragraph. For the first
20 taxable year during which residency is established, if
21 less than twelve (12) months, the exemption shall only
22 be applicable to income of the resident for those
23 months that residency is established. In order to be
24

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

- 3 (1) purchase a primary residence within the state on
4 or after the effective date of this act which for
5 purposes of this paragraph shall mean the
6 property occupied as their principal residence
7 for at least six (6) months each calendar year,
8 (2) have been the resident of another state or states
9 for a period of at least four (4) continuous
10 years prior to establishing a residence within
11 the State of Oklahoma, and
12 (3) acquire an existing single-family residential
13 structure or construct a new single-family
14 residential structure within twelve (12) months
15 of establishing residency within the State of
16 Oklahoma.

17 b. As used in this paragraph, "qualifying area" means:

- 18 (1) a county, other than a county having a population
19 in excess of two hundred thousand (200,000)
20 persons according to the latest Federal Decennial
21 Census or most recent population estimate:
22 (a) which had a decline in population from the
23 1940 Federal Decennial Census compared to
24 the most recent Federal Decennial Census, or

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

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

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

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

21 For purposes of this subparagraph, in order for
22 an incorporated city or town to be considered a
23 "qualifying area", the principal residence must
24 be located in an area which was within the

1 incorporated area of the municipality at the time
2 of the last Federal Decennial Census.

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

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

19 2. As used in this subsection:

20 a. "qualifying gains receiving capital treatment" means
21 the amount of net capital gains, as defined in Section
22 1222(11) of the Internal Revenue Code, included in an
23 individual taxpayer's federal income tax return that
24 result from:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 A. As used in this section:

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

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

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

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

5 2. "Tier 1 qualified employees" means physicians whose primary
6 residences are in a qualifying rural area and who are employed as a
7 physician in a qualifying rural area and whose compensation is equal
8 to or in excess of the Tier 1 qualified compensation amount; and

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

12 B. In addition to other adjustments authorized by Section 2358
13 of Title 68 of the Oklahoma Statutes, for taxable years beginning
14 after December 31, 2008, there shall be allowed a deduction for Tier
15 1 qualified employees in an amount not to exceed One Hundred
16 Thousand Dollars (\$100,000.00) per taxable year for income derived
17 from compensation earned working as a physician for a period of
18 three (3) taxable years beginning with the first taxable year during
19 which the qualified individual is first employed as a Tier 1
20 qualified employee.

21 SECTION 3. AMENDATORY 68 O.S. 2001, Section 3603, as
22 last amended by Section 61, Chapter 1, O.S.L. 2007 (68 O.S. Supp.
23 2007, Section 3603), is amended to read as follows:

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

3 1. a. "Basic industry" means:

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

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

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

15 (b) the exempt wholesale generator facility
16 consumes from sources located within the
17 state at least ninety percent (90%) of the
18 total energy used to produce the electrical
19 output which qualifies for the specialized
20 treatment provided by the Energy Policy Act
21 of 1992, P.L. 102-486, 106 Stat. 2776, as
22 amended, and federal regulations adopted
23 pursuant thereto,
24

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

11 (d) the facility is constructed on or after July
12 1, 1996,

13 (3) those administrative and facilities support
14 service activities defined or classified in the
15 NAICS Manual under Industry Group Nos. 5611 and
16 5612, Industry Nos. 51821, 518112, 52232, 56142
17 and 54191 or U.S. Industry Nos. 524291 and
18 551114,

19 (4) those professional, scientific and technical
20 service activities defined or classified in the
21 NAICS Manual under U.S. Industry Nos. 541710 and
22 541380,

23 (5) distribution centers for retail or wholesale
24 businesses defined or classified in the NAICS

1 Manual under Sector No. 42, if forty percent
2 (40%) or more of the inventory processed through
3 such warehouse is shipped out-of-state,

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

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

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

15 (ii) a facility or facilities at which
16 reservations for transportation
17 provided by such an establishment are
18 processed, whether such services are
19 performed by employees of the
20 establishment, by employees of a
21 subsidiary of or other entity
22 affiliated with the establishment or by
23 employees of an entity with whom the
24 establishment has contracted for the

1 performance of such services; provided,
2 this provision shall not disqualify an
3 establishment which uses an out-of-
4 state entity or employees for some
5 reservations services, or

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

20 (8) flight training services activities defined or
21 classified in the NAICS Manual under U.S.
22 Industry Group No. 611512, which for purposes of
23 ~~this act~~ Section 3601 et seq. of this title shall
24 include new direct jobs for which gross payroll

1 existed on or after January 1, 2003, as
2 identified in the NAICS Manual,

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

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

19 (b) those passenger transportation activities
20 defined or classified in the NAICS Manual
21 under Industry Nos. 561510, 561520 and
22 561599,

- 1 (c) those freight or cargo transportation
2 activities defined or classified in the
3 NAICS Manual under Industry No. 541614,
4 (d) those insurance activities defined or
5 classified in the NAICS Manual under
6 Industry Group No. 5241,
7 (e) those mailing, reproduction, commercial art
8 and photography and stenographic service
9 activities defined or classified in the
10 NAICS Manual under U.S. Industry Nos.
11 541430, 541860, 541922, 561439 and 561492,
12 (f) those services to dwellings and other
13 buildings, as defined or classified in the
14 NAICS Manual under Industry Group No. 5617,
15 excluding U.S. Industry No. 561730,
16 (g) those equipment rental and leasing
17 activities defined or classified in the
18 NAICS Manual under Industry Group Nos. 5323
19 and 5324,
20 (h) those employment services defined or
21 classified in the NAICS Manual under
22 Industry Group No. 5613,
23 (i) those information technology and other
24 computer-related service activities defined

1 or classified in the NAICS Manual under
2 Industry Group Nos. 5112, 5182, 5191 and
3 5415,

4 (j) those business support service activities
5 defined or classified in the NAICS Manual
6 under U.S. Industry Nos. 561410 through
7 561439, Industry Group No. 5616 and Industry
8 No. 51911,

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

12 (l) those professional, scientific and technical
13 service activities defined or classified in
14 the NAICS Manual under Industry Group Nos.
15 5412, 5414, 5415, 5416 and 5417, Industry
16 Nos. 54131, 54133, 54136, 54137 and 54182,
17 and U.S. Industry No. 541990, if not
18 otherwise listed in this paragraph,

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

22 (n) those refuse systems activities defined or
23 classified in the NAICS Manual under
24 Industry Group No. 5622, provided that the

1 establishment is primarily engaged in the
2 capture and distribution of methane gas
3 produced within a landfill,

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

7 (p) those activities relating to processing of
8 insurance claims, defined or classified in
9 the NAICS Manual under U.S. Industry Nos.

10 524210 and 524292; provided, activities

11 described in U.S. Industry Nos. 524210 and
12 524292 in the NAICS Manual other than

13 processing of insurance claims shall not be
14 included for purposes of this subdivision,
15 and

16 (q) those agricultural activities classified in
17 the NAICS Manual under U.S. Industry Nos.
18 112120 and 112310;

19 (10) those activities related to extraction of crude
20 petroleum and natural gas defined or classified
21 in the NAICS Manual under Industry Group No.
22 2111, subject to the limitations provided in
23 paragraph 2 of this subsection and paragraph 3 of
24 subsection B of this section, ~~or~~

1 (11) those activities performed by the federal
2 civilian workforce at a facility of the Federal
3 Aviation Administration located in this state if
4 the Director of the Department of Commerce
5 determines or is notified that the federal
6 government is soliciting proposals or otherwise
7 inviting states to compete for additional federal
8 civilian employment or expansion of federal
9 civilian employment at such facilities, or
10 (12) those activities defined or classified in the
11 NAICS Manual under U.S. Industry No. 711211 (2007
12 version).

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

- 22 (1) not more than fifty percent (50%) of the premium
23 shall be paid by the employee,
24 (2) coverage for basic hospital care,

- 1 (3) coverage for physician care,
- 2 (4) coverage for mental health care,
- 3 (5) coverage for substance abuse treatment,
- 4 (6) coverage for prescription drugs, and
- 5 (7) coverage for prenatal care;

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

- 8 a. beneficial ownership of more than fifty percent (50%)
9 in value and more than fifty percent (50%) in voting
10 power of the outstanding equity securities of the
11 transferred establishment, or
- 12 b. more than fifty percent (50%) in value of the assets
13 of an establishment.

14 A transferor shall be treated as related to a transferee if more
15 than fifty percent (50%) of the voting interests of the transferor
16 and transferee are owned, directly or indirectly, by the other or
17 are owned, directly or indirectly, by the same person or persons,
18 unless such transferred establishment has an outstanding class of
19 equity securities registered under Sections 12(b) or 15(d) of the
20 Securities Exchange Act of 1934, as amended, in which event the
21 transferor and transferee will be treated as unrelated; provided, an
22 establishment applying for the Oklahoma Quality Jobs Program Act as
23 a result of a change of control event is required to apply within
24 one hundred eighty (180) days of the change in control event to

1 qualify for consideration. An establishment entering the Oklahoma
2 Quality Jobs Program Act as the result of a change of control event
3 shall be required to maintain a level of new direct jobs as agreed
4 to in its contract with the Department of Commerce and to pay new
5 direct jobs an average annualized wage which equals or exceeds one
6 hundred twenty-five percent (125%) of the average county wage as
7 that percentage is determined by the Oklahoma State Data Center
8 based upon the most recent U.S. Department of Commerce data for the
9 county in which the new jobs are located. For purposes of this
10 paragraph, healthcare premiums paid by the applicant for individuals
11 in new direct jobs shall not be included in the annualized wage.
12 Such establishment entering the Quality Jobs Program Act as the
13 result of a change of control event shall be required to retain the
14 contracted average annualized wage and maintain the contracted
15 maintenance level of new direct jobs numbers as certified by the
16 Oklahoma Tax Commission. If the required average annualized wage or
17 the required new direct jobs numbers do not equal or exceed such
18 contracted level during any quarter, the quarterly incentive
19 payments shall not be made and shall not be resumed until such time
20 as such requirements are met. An establishment described in this
21 paragraph shall be required to repay all incentive payments received
22 under the Quality Jobs Program Act if the establishment is
23 determined by the Oklahoma Tax Commission to no longer have business
24 operations in the state within three (3) years from the beginning of

1 the calendar quarter for which the first incentive payment claim is
2 filed.

3 3. "New direct job":

4 a. means full-time-equivalent employment in this state in
5 an establishment which has qualified to receive an
6 incentive payment pursuant to the provisions of
7 Section 3601 et seq. of this title which employment
8 did not exist in this state prior to the date of
9 approval by the Department of the application of the
10 establishment pursuant to the provisions of Section
11 3604 of this title; provided, that if an application
12 of an establishment is approved by the Department of
13 Commerce after a change in control event and the
14 Director of the Department of Commerce determines that
15 the jobs located at such establishment are likely to
16 leave the state, "new direct job" shall include
17 employment that existed in this state prior to the
18 date of application which is retained in this state by
19 the new establishment following a change in control
20 event, if such job otherwise qualifies as a new direct
21 job, and

22 b. shall include full-time-equivalent employment in this
23 state of employees who are employed by an employment
24 agency or similar entity other than the establishment

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

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

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

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

11 6. "Estimated net direct state benefits" means the estimated
12 direct state benefits less the estimated direct state costs;

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

- 15 a. except as otherwise provided in this paragraph, the
16 net benefit rate may be variable and shall not exceed
17 five percent (5%),
- 18 b. the net benefit rate shall not exceed six percent (6%)
19 in connection with an establishment which is owned and
20 operated by an entity which has been awarded a United
21 States Department of Defense contract for which:
 - 22 (1) bids were solicited and accepted by the United
23 States Department of Defense from facilities
24 located outside this state,

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

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

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

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

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

19 (2) in a county in which:

20 (a) the per capita personal income, as
21 determined by the Department, is eighty-five
22 percent (85%) or less of the statewide
23 average per capita personal income,
24

1 (b) the population has decreased over the
2 previous ten (10) years, as determined by
3 the State Data Center based on the most
4 recent U.S. Department of Commerce data, or
5 (c) the unemployment rate exceeds the lesser of
6 five percent (5%) or two percentage points
7 above the state average unemployment rate as
8 certified by the Oklahoma Employment
9 Security Commission, ~~and~~

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

- 12 (1) is, as of the date of application, receiving
13 incentive payments pursuant to the Oklahoma
14 Quality Jobs Program Act and has been receiving
15 such payments for at least one (1) year prior to
16 the date of application, and
17 (2) expands its operations in this state by creating
18 additional new direct jobs which pay average
19 annualized wages which equal or exceed one
20 hundred fifty percent (150%) of the average
21 annualized wages of new direct jobs on which
22 incentive payments were received during the
23 preceding calendar year, and

1 f. with respect to an establishment defined or classified
2 in the NAICS Manual under U.S. Industry No. 711211
3 (2007 version), the net benefit rate shall not exceed
4 the highest rate of income tax imposed upon the
5 Oklahoma taxable income of individuals pursuant to
6 subparagraph (g) or subparagraph (h), as applicable,
7 of paragraph 1 and paragraph 2 of subsection B of
8 Section 2355 of this title. Any change in such
9 highest rate of individual income tax imposed pursuant
10 to the provisions of Section 2355 of this title shall
11 be applicable to the computation of incentive payments
12 to an establishment as described by this subparagraph
13 and shall be effective for purposes of incentive
14 payments based on payroll paid by such establishment
15 on or after January 1 of any applicable year for which
16 the net benefit rate is modified as required by this
17 subparagraph.

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

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

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

17 (1) the entity must have a minimum payroll of Two
18 Million Five Hundred Thousand Dollars
19 (\$2,500,000.00) and the subunit must also have or
20 will have a minimum payroll of Two Million Five
21 Hundred Thousand Dollars (\$2,500,000.00),

22 (2) the subunit is engaged in an activity or service
23 or produces a product which is demonstratively
24 independent and separate from the entity's other

1 activities, services or products and could be
2 conducted or produced in the absence of any other
3 activity, service or production of the entity,
4 (3) has an accounting system capable of tracking or
5 facilitating an audit of the subunit's payroll,
6 expenses, revenue and production. Limited
7 interunit overlap of administrative and
8 purchasing functions shall not disqualify a
9 subunit from consideration as an establishment by
10 the Department,

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

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

21 b. The Department may promulgate rules to further limit
22 the circumstances under which a subunit may be
23 considered an establishment. The Department shall
24 promulgate rules to determine whether a subunit of an

1 entity achieves a net gain in total employment. The
2 Department shall establish criteria for determining
3 the period of time within which such gain must be
4 demonstrated and a method for determining net gain in
5 total employment;

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

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

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

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

22 B. The Incentive Approval Committee is hereby created and shall
23 consist of the Director of State Finance, the Director of the
24 Department and one member of the Oklahoma Tax Commission appointed

1 by the Tax Commission, or a designee from each agency approved by
2 such member. It shall be the duty of the Committee to determine:

3 1. Upon initial application on a form approved by the
4 Committee, if an establishment is engaged in a basic industry as
5 defined in subdivision (b) of division (7) or in subdivisions (a)
6 through (p) of division (9) of subparagraph a of paragraph 1 of
7 subsection A of this section or as otherwise provided by subsection
8 C of this section;

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

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

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

1 SECTION 4. AMENDATORY 68 O.S. 2001, Section 3604, as
2 last amended by Section 1, Chapter 357, O.S.L. 2007 (68 O.S. Supp.
3 2007, Section 3604), is amended to read as follows:

4 Section 3604. A. Except as otherwise provided in subsection I
5 of this section, an establishment which meets the qualifications
6 specified in the Oklahoma Quality Jobs Program Act may receive
7 quarterly incentive payments for a ten-year period from the Oklahoma
8 Tax Commission pursuant to the provisions of the Oklahoma Quality
9 Jobs Program Act ~~in an~~; provided, such an establishment defined or
10 classified in the NAICS Manual under U.S. Industry No. 711211 (2007
11 version) may receive quarterly incentive payments for a fifteen-year
12 period. The amount ~~which~~ of such payments shall be equal to the net
13 benefit rate multiplied by the actual gross payroll of new direct
14 jobs for a calendar quarter as verified by the Oklahoma Employment
15 Security Commission.

16 B. In order to receive incentive payments, an establishment
17 shall apply to the Oklahoma Department of Commerce. The application
18 shall be on a form prescribed by the Department and shall contain
19 such information as may be required by the Department to determine
20 if the applicant is qualified. An establishment may apply for an
21 effective date for a project, which shall not be more than twenty-
22 four (24) months from the date the application is submitted to the
23 Department.

24

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

4 1. Be engaged in a basic industry;

5 2. Have an annual gross payroll for new direct jobs projected
6 by the Department to equal or exceed Two Million Five Hundred
7 Thousand Dollars (\$2,500,000.00) within three (3) years of the start
8 date; and

9 3. Have a number of full-time-equivalent employees subject to
10 the tax imposed by Section 2355 of this title and working an annual
11 average of thirty (30) or more hours per week in new direct jobs
12 located in this state equal to or in excess of eighty percent (80%)
13 of the total number of new direct jobs.

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

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

19 a. have an annual gross payroll for new direct jobs
20 projected by the Department to equal or exceed One
21 Million Five Hundred Thousand Dollars (\$1,500,000.00)
22 within three (3) years of the start date and make, or
23 which will make within one (1) year, at least seventy-
24 five percent (75%) of its total sales, as determined

1 by the Incentive Approval Committee pursuant to the
2 provisions of subsection B of Section 3603 of this
3 title, to out-of-state customers or buyers, to in-
4 state customers or buyers if the product or service is
5 resold by the purchaser to an out-of-state customer or
6 buyer for ultimate use, or to the federal government,
7 unless the annual gross payroll equals or exceeds Two
8 Million Five Hundred Thousand Dollars (\$2,500,000.00)
9 in which case the requirements for purchase of output
10 provided by this subparagraph shall not apply, and

- 11 b. have a number of full-time-equivalent employees
12 working an average of twenty-five (25) or more hours
13 per week in new direct jobs equal to or in excess of
14 eighty percent (80%) of the total number of new direct
15 jobs; and

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

- 18 a. have an annual gross payroll for new direct jobs
19 projected by the Department to equal or exceed One
20 Million Five Hundred Thousand Dollars (\$1,500,000.00)
21 within three (3) years of the start date, and
- 22 b. have a number of full-time-equivalent employees
23 working an average of twenty-five (25) or more hours
24 per week in new direct jobs equal to or in excess of

1 eighty percent (80%) of the total number of new direct
2 jobs.

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

5 a. is a federal Superfund removal site,

6 b. is listed on the National Priorities List established
7 under Section 9605 of Title 42 of the United States
8 Code,

9 c. has been formally deferred to the state in lieu of
10 listing on the National Priorities List, or

11 d. has been determined by the Department of Environmental
12 Quality to be contaminated by any substance regulated
13 by a federal or state statute governing environmental
14 conditions for real property pursuant to an order of
15 the Department of Environmental Quality,

16 shall qualify for incentive payments irrespective of its actual
17 gross payroll or the number of full-time-equivalent employees
18 engaged in new direct jobs.

19 2. In order to qualify for the incentive payments pursuant to
20 this subsection, the establishment shall conduct the activity
21 resulting in at least fifty percent (50%) of its Oklahoma taxable
22 income or adjusted gross income, as determined under Section 2358 of
23 this title, whether from the sale of products or services or both
24 products and services, at the physical location which has been

1 determined not to comply with the federal or state statutes
2 described in this subsection with respect to environmental
3 conditions for real property. The establishment shall be subject to
4 all other requirements of the Oklahoma Quality Jobs Program Act
5 other than the exemptions provided by this subsection.

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

9 a. the site designated by the entity does meet one or
10 more of the requirements listed in paragraph 1 of this
11 subsection, and

12 b. the site is being or has been remediated to a level
13 which is consistent with the intended use of the
14 property.

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

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

1 F. Except as otherwise provided by subsection G of this
2 section, for applications submitted on and after ~~the effective date~~
3 ~~of this act~~ June 4, 2003, in order to qualify to receive incentive
4 payments as authorized by the Oklahoma Quality Jobs Program Act, in
5 addition to other qualifications specified herein, an establishment
6 shall be required to pay new direct jobs an average annualized wage
7 which equals or exceeds:

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

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

21 Provided, no average wage requirement shall exceed Twenty-five
22 Thousand Dollars (\$25,000.00), in any county. This maximum wage
23 threshold shall be indexed and modified from time to time based on
24 the latest Consumer Price Index year-to-date percent change release

1 as of the date of the annual average county wage data release from
2 the Bureau of Economic Analysis of the U.S. Department of Commerce.

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

12 2. As used in this subsection:

13 a. "negative economic event" means:

14 (1) a man-made disaster or natural disaster as
15 defined in Section 683.3 of Title 63 of the
16 Oklahoma Statutes, resulting in the loss of a
17 significant number of jobs within a particular
18 county of this state, or

19 (2) an economic circumstance in which a significant
20 number of jobs within a particular county of this
21 state have been lost due to an establishment
22 changing its structure, consolidating with
23 another establishment, closing or moving all or
24 part of its operations out of this state, and

1 b. "significant number of jobs" means Local Area
2 Unemployment Statistics (LAUS) data, as determined by
3 the Bureau of Labor Statistics, for a county which are
4 equal to or in excess of five percent (5%) of the
5 total amount of Local Area Unemployment Statistics
6 (LAUS) data for that county for the calendar year, or
7 most recent twelve-month period in which employment is
8 measured, preceding the event.

9 An establishment which is otherwise qualified to receive
10 incentive payments and which locates in a county in which a negative
11 economic event has occurred within the eighteen-month period
12 preceding the start date shall not be subject to the requirements of
13 subsection F of this section; provided, an establishment shall not
14 be eligible to receive incentive payments based upon a negative
15 economic event with respect to jobs that are transferred from one
16 county of this state to another.

17 H. The Department shall determine if the applicant is qualified
18 to receive incentive payments.

19 I. If the applicant is determined to be qualified by the
20 Department and is not subject to the provisions of subparagraph d of
21 paragraph 6 of subsection A of Section 3603 of this title, the
22 Department shall conduct a cost/benefit analysis to determine the
23 estimated net direct state benefits and the net benefit rate
24 applicable for a ten-year period and to estimate the amount of gross

1 payroll for a ten-year period or for a fifteen-year period for an
2 establishment defined or classified in the NAICS Manual under U.S.
3 Industry No. 711211 (2007 version). In conducting such cost/benefit
4 analysis, the Department shall consider quantitative factors, such
5 as the anticipated level of new tax revenues to the state along with
6 the added cost to the state of providing services, and such other
7 criteria as deemed appropriate by the Department. In no event shall
8 incentive payments, cumulatively, exceed the estimated net direct
9 state benefits, except for applicants subject to the provisions of
10 subparagraph d of paragraph 6 of subsection A of Section 3603 of
11 this title.

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

1 retains its eligibility as defined in and established pursuant to
2 this section and Sections 3603 and 3606 of this title and within the
3 limitations contained in the Oklahoma Quality Jobs Program Act,
4 which existed at the time of such approval.

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

24

1 SECTION 5. AMENDATORY 68 O.S. 2001, Section 3606, as
2 last amended by Section 2, Chapter 357, O.S.L. 2007 (68 O.S. Supp.
3 2007, Section 3606), is amended to read as follows:

4 Section 3606. A. As soon as practicable after the end of a
5 calendar quarter for which an establishment has qualified to receive
6 an incentive payment, the establishment shall file a claim for the
7 payment with the Oklahoma Tax Commission and shall specify the
8 actual number and gross payroll of new direct jobs for the
9 establishment for the calendar quarter; provided, in no event shall
10 the first claim for incentive payments be filed later than three (3)
11 years from the start date designated by the Oklahoma Department of
12 Commerce. The Tax Commission shall verify the actual gross payroll
13 for new direct jobs for the establishment for such calendar quarter.
14 If the Tax Commission is not able to provide such verification
15 utilizing all available resources, the Tax Commission may request
16 such additional information from the establishment as may be
17 necessary or may request the establishment to revise its claim.

18 B. If the actual verified gross payroll for four (4)
19 consecutive calendar quarters does not equal or exceed the
20 applicable total required by Section 3604 of this title within three
21 (3) years of the start date, or does not equal or exceed the
22 applicable total required by Section 3604 of this title at any other
23 time during the ten-year period after the start date or during the
24 fifteen-year period after the start date for establishments defined

1 or classified in the NAICS Manual under U.S. Industry No. 711211
2 (2007 version), the incentive payments shall not be made and shall
3 not be resumed until such time as the actual verified gross payroll
4 equals or exceeds the amounts specified in Section 3604 of this
5 title.

6 C. If the average annualized wage required for an establishment
7 does not equal or exceed the amount specified in paragraph 1 or 2 of
8 subsection F of Section 3604 of this title during any calendar
9 quarter, the incentive payments shall not be made and shall not be
10 resumed until such time as such requirements are met.

11 D. In no event shall incentive payments, cumulatively, exceed
12 the estimated net direct state benefits, except for establishments
13 subject to the provisions of subparagraph d of paragraph 6 of
14 subsection A of Section 3603 of this title.

15 E. An establishment that has qualified pursuant to Section 3604
16 of this title may receive payments only in accordance with the
17 provisions of the law under which it initially applied and was
18 approved. If an establishment that is receiving incentive payments
19 expands, it may apply for additional incentive payments based on the
20 gross payroll anticipated from the expansion only, pursuant to
21 Section 3604 of this title. Provided, an establishment which has
22 suffered an extraordinary adverse business circumstance, as
23 certified by the Incentive Approval Committee, may be allowed to
24 voluntarily withdraw from the Oklahoma Quality Jobs Program, repay

1 to the Tax Commission the total amount of incentive payments
2 received pursuant to the provisions of this section, plus interest
3 at the rate specified in Section 727.1 of Title 12 of the Oklahoma
4 Statutes, and reapply to the Department for a new incentive contract
5 if the establishment qualifies pursuant to the provisions of the
6 Oklahoma Quality Jobs Program Act. Any funds received by the Tax
7 Commission pursuant to the provisions of this subsection shall be
8 apportioned in the manner that income tax revenues are apportioned.

9 F. An establishment that is receiving incentive payments may
10 not apply for additional incentive payments for any new projects
11 until twelve (12) quarters after receipt of the first incentive
12 payment, or until the establishment's actual verified gross payroll
13 for new direct jobs equals or exceeds Two Million Five Hundred
14 Thousand Dollars (\$2,500,000.00) during any four consecutive-
15 calendar-quarter period, whichever comes first. After meeting the
16 requirements of this subsection, an establishment may apply for
17 additional incentive payments based upon the gross payroll
18 anticipated from an expansion only.

19 G. As soon as practicable after verification of the actual
20 gross payroll as required by this section and except as otherwise
21 provided by subsection L of Section 3604 of this title, the Tax
22 Commission shall issue a warrant to the establishment in the amount
23 of the net benefit rate multiplied by the actual gross payroll as
24

1 determined pursuant to subsection A of this section for the calendar
2 quarter.

3 SECTION 6. Sections 1 and 2 of this act shall become effective
4 January 1, 2009.

5 SECTION 7. It being immediately necessary for the preservation
6 of the public peace, health and safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval.

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