

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

THE STATE SENATE
Monday, February 25, 2008

Committee Substitute for
Senate Bill No. 2024

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 2024 - By: MAZZEI of the Senate and TERRILL of the House.

[tax incentives - eliminating tax exemption - requiring review of certain tax incentives - effective date]

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

SECTION 1. AMENDATORY 8 O.S. 2001, Section 17, is amended to read as follows:

Section 17. Any surplus funds which said corporation may have in its treasury shall be invested by the board of directors in some perfectly secure real estate or securities, all of which shall be exempt from taxation before January 1, 2011, as is the property of other public corporations, and the board of directors shall exercise the best of care in the preservation of said properties and funds and the accumulation thereof, to the end that provisions may be made for the perpetual maintenance of said cemetery and the improvement, embellishing, beautifying and taking care thereof, for which purposes all of the funds of said corporation, after the payment of its debts, shall at all times be subject, to be applied.

SECTION 2. AMENDATORY 27A O.S. 2001, Section 2-11-303, is amended to read as follows:

1 Section 2-11-303. A. ~~Any~~ Before January 1, 2012, any person,
2 firm, corporation or other legal entity engaged, or proposing to
3 engage, in the recycling, reuse or source reduction of any hazardous
4 waste, the processing of which is certified as provided in Section
5 ~~188 of Enrolled House Bill No. 1002 of the 1st Session of the 44th~~
6 ~~Oklahoma Legislature~~ 2-11-305 of this title, shall be entitled to a
7 one-time credit against its income tax liability, as provided in
8 Section ~~187 of Enrolled House Bill No. 1002 of the 1st Session of~~
9 ~~the 44th Oklahoma Legislature~~ 2-11-304 of this title, of not to
10 exceed twenty percent (20%) of the net investment cost of equipment
11 and installation of processes used for the recycling, reuse, or
12 source reduction of hazardous waste. Provided, that:

13 1. The credit allowed to be taken shall not exceed the income
14 tax liability for such year for such person, firm, corporation or
15 legal entity;

16 2. The tax credit to be allowed shall not extend to or include
17 plant operating expenses;

18 3. The person, firm, corporation or other legal entity applying
19 for such tax credit actually uses the recycling, reuse, or source
20 reduction process;

21 4. The tax credit is taken within three (3) years of the
22 installation and actual use of such process; and

1 5. The tax credit allowed by any person, firm, corporation or
2 other legal entity for any three (3) consecutive tax years shall not
3 exceed a total of Fifty Thousand Dollars (\$50,000.00).

4 B. The investment cost of such process may be treated as a
5 depreciable asset for income tax purposes.

6 SECTION 3. AMENDATORY 36 O.S. 2001, Section 2017, is
7 amended to read as follows:

8 Section 2017. ~~The~~ Before January 1, 2013, the Association shall
9 be exempt from payment of all fees and all taxes levied by this
10 state or any of its subdivisions. On or after January 1, 2013, the
11 Association shall be subject only to the taxes levied pursuant to
12 the Oklahoma Sales Tax Code and the Oklahoma Income Tax Act.

13 SECTION 4. AMENDATORY 36 O.S. 2001, Section 2040, is
14 amended to read as follows:

15 Section 2040. ~~The~~ Before January 1, 2014, the Association shall
16 be exempt from payment of all fees and all taxes levied by this
17 state or any of its subdivisions, except taxes levied on real
18 property. On or after January 1, 2014, the Association shall be
19 subject only to taxes levied on real property and the taxes levied
20 pursuant to the Oklahoma Sales Tax Code and the Oklahoma Income Tax
21 Act.

1 SECTION 5. AMENDATORY 36 O.S. 2001, Section 2617, as
2 amended by Section 56, Chapter 264, O.S.L. 2006 (36 O.S. Supp. 2007,
3 Section 2617), is amended to read as follows:

4 Section 2617. ~~Every~~ Except as otherwise provided in this
5 section, every corporation doing business pursuant to this article
6 is hereby declared to be a not-for-profit institution and to be
7 exempt from state, county, district, municipal and school tax,
8 including the taxes prescribed by this Code, and excepting only the
9 fees prescribed by Article 3 of the Insurance Code (Insurance
10 Department and Insurance Commissioner), the premium tax levied
11 pursuant to Article 6 of the Insurance Code (Authorization of
12 Insurers and General Requirements), and taxes on real and tangible
13 personal property situate within this state; provided, on or after
14 January 1, 2015, such corporations shall be subject to the taxes
15 levied pursuant to the Oklahoma Sales Tax Code.

16 SECTION 6. AMENDATORY 36 O.S. 2001, Section 2665, is
17 amended to read as follows:

18 Section 2665. ~~Every~~ Except as otherwise provided in this
19 section, every corporation doing business pursuant to this article
20 is hereby declared to be a nonprofit and benevolent institution and
21 to be exempt from state, county, district, municipal and school tax,
22 including the taxes prescribed by the Oklahoma Insurance Code, and
23 excepting only the fees prescribed by Section 321 of the Oklahoma

1 Insurance Code, and taxes on real and tangible personal property
2 situate within this state; provided, on or after January 1, 2016,
3 such corporations shall be subject to the taxes levied pursuant to
4 the Oklahoma Sales Tax Code.

5 SECTION 7. AMENDATORY 36 O.S. 2001, Section 2685, is
6 amended to read as follows:

7 Section 2685. ~~Every~~ Except as otherwise provided in this
8 section, every corporation doing business pursuant to this Article
9 is hereby declared to be a nonprofit, charitable and benevolent
10 institution and to be exempt from state, county, district, municipal
11 and school taxes, including the taxes prescribed by the Oklahoma
12 Insurance Code, excepting only the fees prescribed by Section 321 of
13 ~~Title 36, Oklahoma Statutes~~ this title, and taxes on real and
14 tangible personal property situated within this state; provided, on
15 or after January 1, 2017, such corporations shall be subject to the
16 taxes levied pursuant to the Oklahoma Sales Tax Code.

17 SECTION 8. AMENDATORY 36 O.S. 2001, Section 2691.15, is
18 amended to read as follows:

19 Section 2691.15 ~~Every~~ Except as otherwise provided in this
20 section, every corporation doing business pursuant to this article
21 is hereby declared to be a nonprofit, charitable and benevolent
22 institution and to be exempt from state, county, district, municipal
23 and school taxes, including the taxes prescribed by the Oklahoma

1 Insurance Code, excepting only the fees prescribed by Section 321 of
2 ~~Title 36 of the Oklahoma Statutes~~ this title, and taxes on real and
3 tangible personal property situated within this state; provided, on
4 or after January 1, 2018, such corporations shall be subject to the
5 taxes levied pursuant to the Oklahoma Sales Tax Code.

6 SECTION 9. AMENDATORY 36 O.S. 2001, Section 2724.1, is
7 amended to read as follows:

8 Section 2724.1 ~~Every~~ Except as otherwise provided in this
9 section, every society organized or licensed under this act is
10 hereby declared to be a charitable and benevolent institution, and
11 all of its funds shall be exempt from all and every state, county,
12 district, municipal and school tax other than taxes on real estate
13 and office equipment; provided, on or after January 1, 2011, such
14 societies shall be subject to the taxes levied pursuant to the
15 Oklahoma Sales Tax Code.

16 SECTION 10. AMENDATORY 36 O.S. 2001, Section 6150, is
17 amended to read as follows:

18 Section 6150. A. Coincident with the filing of the annual
19 report prescribed by Section ~~9 of this act~~ 6149 of this title, each
20 prepaid dental plan organization shall pay to the State Treasurer
21 through the Commissioner a tax for transacting a prepaid dental
22 plan. The obligation shall be determined as follows:

1 1. If a domestic organization, two percent (2%) of prepaid net
2 charges received from members in this state.

3 2. If a foreign organization, two percent (2%) of prepaid net
4 charges received from members in this state.

5 B. ~~An~~ Before January 1, 2012, an organization may offset this
6 tax in whole or in part by payment of state corporate income tax, as
7 provided for in Section 2355 of Title 68 of the Oklahoma Statutes.
8 However, an organization shall not be able to carry over to a
9 succeeding year any credit for paying corporate income tax not used
10 during a year.

11 SECTION 11. AMENDATORY 36 O.S. 2001, Section 6606, is
12 amended to read as follows:

13 Section 6606. A. To ensure the faithful performance of its
14 obligations to its members or subscribers in the event of
15 insolvency, each service warranty association shall, before being
16 issued a license by the Insurance Commissioner and during such time
17 as the association has premiums in force in this state, deposit and
18 maintain securities of the type eligible for deposit by an insurer
19 pursuant to Section 613 of ~~Title 36 of the Oklahoma Statutes~~ this
20 title. Whenever the market value of the securities deposited with
21 the Commissioner is less than ninety-five percent (95%) of the
22 amount required, the association shall deposit additional securities
23 or otherwise increase the deposit to the amount required. In lieu

1 of the amounts required in Section 613 of ~~Title 36 of the Oklahoma~~
2 ~~Statutes~~ this title, such securities shall have at all times a
3 market value as follows:

4 1. A new warrantor, before the issuance of its license and
5 before receiving any premiums, shall place and maintain in trust
6 with the Insurance Commissioner the amount of Twenty Thousand
7 Dollars (\$20,000.00);

8 2. A warrantor which has Three Hundred Thousand Dollars
9 (\$300,000.00) or less of gross written premiums in this state shall
10 place and maintain in trust with the Commissioner an amount not less
11 than Fifty Thousand Dollars (\$50,000.00);

12 3. A warrantor which has more than Three Hundred Thousand
13 Dollars (\$300,000.00) but less than Seven Hundred Fifty Thousand
14 Dollars (\$750,000.00) or more of gross written premiums in this
15 state shall place and maintain in trust with the Commissioner an
16 amount equal to One Hundred Thousand Dollars (\$100,000.00);

17 4. A warrantor which has Seven Hundred Fifty Thousand Dollars
18 (\$750,000.00) or more of gross written premiums in this state shall
19 place and maintain in trust with the Commissioner an amount equal to
20 One Hundred Thousand Dollars (\$100,000.00);

21 5. A warranty seller shall, before the issuance of its license,
22 place in trust with the Commissioner an amount not less than One
23 Hundred Thousand Dollars (\$100,000.00); and

1 6. All warrantors and warranty sellers upon receipt of written
2 notice from the Commissioner, shall have thirty (30) calendar days
3 in which to make additional deposits as the Commissioner deems
4 necessary, up to the maximum amounts provided in this subsection.

5 B. 1. In lieu of any deposit of securities required under
6 subsection A of this section and subject to the approval of the
7 Commissioner, the service warranty association may file with the
8 Commissioner a surety bond issued by an authorized surety insurer.
9 The bond shall be for the same purpose as the deposit in lieu of
10 which it is filed. The Commissioner may not approve any bond under
11 the terms of which the protection afforded against insolvency is not
12 equivalent to the protection afforded by those securities provided
13 for in subsection A of this section.

14 2. When a bond is deposited in lieu of the required securities,
15 no warranties shall be written which provide coverage for a time
16 period beyond the duration of such bond. The bond shall guarantee
17 that the service warranty association will faithfully and truly
18 perform all the conditions of any service warranty contract.

19 3. No such bond shall be canceled or subject to cancellation
20 unless at least sixty (60) days' advance notice thereof, in writing,
21 is filed with the Commissioner. In the event that notice of
22 termination of the bond is filed with the Commissioner the service
23 warranty association insured thereunder shall, within thirty (30)

1 days of the filing of notice of termination, provide the
2 Commissioner with a replacement bond meeting the requirements of
3 this subsection or deposit additional securities as required under
4 subsection A of this section. The cancellation of a bond shall not
5 relieve the obligation of the issuer of the bond for claims arising
6 out of contracts issued before cancellation of the bond unless a
7 replacement bond or securities are filed. In no event shall the
8 liability of the issuer under the bond exceed the face amount of the
9 bond. If within thirty (30) days of filing the notice of
10 termination no replacement bond or additional security is provided,
11 the Commissioner shall suspend the license of the association until
12 the deposit requirements are satisfied.

13 C. Securities and bonds posted by an association pursuant to
14 this section are for the benefit of, and subject to action thereon
15 in the event of insolvency or impairment of any association or
16 insurer by, any person or persons sustaining an actionable injury
17 due to the failure of the association to faithfully perform its
18 obligation to its warranty holders.

19 D. The State Treasurer shall be responsible for the safekeeping
20 of all securities deposited with the Commissioner pursuant to the
21 provisions of the Service Warranty Insurance Act. ~~Such~~ Before
22 January 1, 2013, such securities shall not be subject to taxation,
23 but shall be held exclusively and solely to guarantee the faithful

1 performance by the association of its obligations to its members or
2 subscribers.

3 E. The depositing association, during its solvency, shall have
4 the right to exchange or substitute other securities of like quality
5 and value for securities on deposit, to receive the interest and
6 other income accruing to such securities, and to inspect the deposit
7 at all reasonable times.

8 F. Such deposit or bond shall be maintained unimpaired as long
9 as the association continues in business in this state. Whenever
10 the association ceases to do business in this state and furnishes
11 the Commissioner proof satisfactory to the Commissioner that it has
12 discharged or otherwise adequately provided for all its obligations
13 to its members or subscribers in this state, the Commissioner shall
14 release the deposited securities to the parties entitled thereto, on
15 presentation of the receipts of the Commissioner for such
16 securities, or shall release any bond filed with it in lieu of such
17 deposit.

18 G. No judgment creditor or other claimant of a service warranty
19 association, other than a judgment creditor whose judgment is based
20 on a service warranty contract, shall have the right to levy upon
21 any of the assets or securities held in this state as a deposit
22 pursuant to this section.

1 SECTION 12. AMENDATORY 37 O.S. 2001, Section 163.3, as
2 amended by Section 1, Chapter 484, O.S.L. 2003 (37 O.S. Supp. 2007,
3 Section 163.3), is amended to read as follows:

4 Section 163.3 There is hereby levied on all low-point beer
5 containing more than one-half of one percent (1/2 of 1%) of alcohol
6 measured by volume and not more than three and two-tenths percent
7 (3.2%) of alcohol measured by weight which are manufactured and
8 sold, or removed for consumption or sale, within this state a tax of
9 Eleven Dollars and twenty-five cents (\$11.25) for every barrel
10 containing not more than thirty-one (31) gallons, and at a like rate
11 of tax for any other quantities or for a fractional part of a
12 barrel. Provided, any low-point beer manufactured in this state for
13 export shall not be taxed under this section.

14 Each wholesaler making reports and remittances to the Tax
15 Commission shall be allowed the sum of one percent (1%) of the tax
16 remittances collected for maintaining and collecting said tax for
17 the benefit of this state.

18 ~~Machinery~~ Before January 1, 2014, machinery and equipment
19 directly used in the manufacture within this state of low-point beer
20 taxed pursuant to the provisions of this section shall be exempt
21 from taxation under any other law of this state levying a sales or
22 consumers or use tax.

1 SECTION 13. AMENDATORY 62 O.S. 2001, Section 690.4, is
2 amended to read as follows:

3 Section 690.4 A. The following benefits and incentives shall
4 be available to qualified enterprises:

5 1. ~~Two~~ Before January 1, 2015, two times the amount of
6 investment tax credits as provided in subsection A of Section 2357.4
7 of Title 68 of the Oklahoma Statutes. For purposes of this act and
8 for purposes of computing the tax credit amount pursuant to
9 subsection A of Section 2357.4 of Title 68 of the Oklahoma Statutes,
10 if an enterprise selects to claim the credit based upon the
11 qualified cost of depreciable property, the credit amount shall be
12 two percent (2%) of such qualified cost. If an enterprise selects
13 to claim the credit based upon the number of new full-time-
14 equivalent positions, the credit amount shall be One Thousand
15 Dollars (\$1,000.00) for each new full-time-equivalent employee;

16 2. ~~Sales~~ Before January 1, 2015, sales tax exemptions for
17 certain manufacturers as provided in Section 1359 of Title 68 of the
18 Oklahoma Statutes; and

19 3. Low interest loans as provided in Section 690.16 of this
20 title.

21 B. ~~Any~~ Subject to the limitations provided in subsection A of
22 this section, any enterprise moving into an enterprise zone on or
23 after the effective date on which the enterprise zone is designated

1 may obtain the benefits and incentives provided by this section if
2 the enterprise meets the requirements established by law for the
3 receipt of such benefits.

4 C. An enterprise located within an enterprise zone before the
5 date on which the enterprise zone is designated may obtain the
6 benefits and incentives provided by this section with respect to any
7 project or any expansion of its labor force occurring after the date
8 on which the enterprise zone is designated.

9 D. For purposes of obtaining the benefit provided by paragraph
10 1 of subsection A of this section, a business, which prior to the
11 effective date of this act, located in an area that was designated
12 as an enterprise zone at the time any official action was taken by a
13 public trust or private funds with respect to location of such
14 business in a county, city or town designated as the beneficiary of
15 such public trust or private funds, shall be entitled to such
16 benefit for any taxable year during which such business was located
17 and operating in the area regardless of any changes in the
18 designation of the area as an enterprise zone resulting from a
19 change in employment levels.

20 E. For purposes of obtaining the benefit provided by paragraph
21 1 of subsection A of this section, a business, which prior to July
22 1, 1993, located in an area that was not designated as an enterprise
23 zone at the time of location of the business but such area has since

1 been designated as an enterprise zone by the Oklahoma Department of
2 Commerce as a result of the area's location in County 115, Tract
3 9746, Block Group 4 of the 1990 decennial census, shall be entitled
4 to such benefit for any taxable year during which such business was
5 located and operating in the location regardless of designation of
6 the area in which the business located as an enterprise zone area
7 after the date of initial location of the business.

8 F. The low interest loans as authorized by this section shall
9 be available for a period of five (5) years following the date on
10 which the county or area within the corporate limits of a city or
11 town is designated an enterprise zone, or until said county or area
12 no longer qualifies as an enterprise zone.

13 G. The other benefits and incentives set forth in this section
14 shall be subject to the limitations as provided by law.

15 SECTION 14. AMENDATORY Section 1, Chapter 303, O.S.L.
16 2004 (68 O.S. Supp. 2007, Section 205.4), is amended to read as
17 follows:

18 Section 205.4 A. The Legislature hereby finds that a system to
19 quantify the costs and benefits of existing tax incentives is
20 necessary to determine the achievement of desired objectives in
21 fiscal policy. This system must include a regular and comprehensive
22 review of provisions of state tax incentives. For purposes of this
23 section, "tax incentive" shall include special exclusions, credits,

1 exemptions, or deductions that are not a part of the essential
2 structure of the tax in question and are designed to reduce the tax
3 liability for a special project or that are subject to expiration as
4 provided in this act. A tax incentive shall also include any
5 provision of law that provides direct payment incentives and other
6 measures designed to entice businesses to locate or expand in
7 Oklahoma.

8 B. There is hereby created an Incentive Review Committee, which
9 shall consist of nine (9) members, three each to be appointed by the
10 Governor, the President Pro Tempore of the Senate and the Speaker of
11 the House of Representatives. Each member shall serve a four-year
12 term and can be reappointed up to three times. The Oklahoma Tax
13 Commission and the Oklahoma Department of Commerce shall provide the
14 staffing needs of the Committee. The Committee shall ~~annually~~:

15 1. Annually conduct a review of existing tax incentives in an
16 individual tax code and may conduct an in-depth review of the cost
17 and benefits of selected tax incentives; and

18 2. At least two (2) years prior to the date any tax incentive
19 expires as provided in this act or the expiration date of any tax
20 incentive enacted after the effective date of this act, conduct an
21 in-depth review of the costs and benefits of such incentives. For
22 the purposes of this act, a tax incentive shall expire on the date
23 after which no credit may be claimed, exemption or deduction be

1 taken or incentive payment be made; provided, a tax incentive may be
2 considered expired even if an unused credit may be carried forward
3 beyond the date of expiration.

4 Committee review reports shall be submitted to the Governor,
5 Speaker of the House of Representatives and the President Pro
6 Tempore of the Senate. ~~This review~~

7 C. These reviews shall include:

- 8 1. An identification of the purpose of the tax incentive;
- 9 2. A determination of whether the potential revenue impact on
10 the state can be quantified and if so, an estimate of the potential
11 revenue impact on the state;
- 12 3. A determination of whether the economic gain to the state
13 can be quantified and if so, an estimate of the economic gain
14 measured in jobs, wages, investments, or other economic criteria;
- 15 4. An estimate of the effect on the distribution of the tax
16 burden;
- 17 5. An estimate of the number of taxpayers receiving the
18 benefit;
- 19 6. A determination of the growth potential of the industry
20 eligible to claim the incentive;
- 21 7. A determination of the effectiveness in achieving the
22 desired objective;

1 8. A determination of whether the tax incentive is the most
2 fiscally effective means of achieving its stated purpose;

3 9. An analysis of the costs and burdens of administration;

4 10. An analysis of the competitive position of Oklahoma
5 relative to other states with similar incentives;

6 11. A determination of the effectiveness of evoking a change in
7 taxpayer behavior; and

8 12. A public hearing, at which persons receiving the incentives
9 reviewed, or other interested parties, may testify.

10 Nothing in this section shall preclude the Committee from
11 reviewing incentives outside the tax code selected for the annual
12 review.

13 SECTION 15. AMENDATORY 68 O.S. 2001, Section 2353, as
14 last amended by Section 12, Chapter 272, O.S.L. 2006 (68 O.S. Supp.
15 2007, Section 2353), is amended to read as follows:

16 Section 2353. For the purpose of and when used in Section 2351
17 et seq. of this title, unless the context otherwise requires:

18 1. "Tax Commission" means the Oklahoma Tax Commission;

19 2. "Internal Revenue Code" means the United States Internal
20 Revenue Code, as the same may be amended or adopted from time to
21 time applicable to the taxable year; and other provisions of the
22 laws of the United States relating to federal income taxes, as the

1 same may be or become effective at any time or from time to time
2 applicable to the taxable year;

3 3. Any term used in Section 2351 et seq. of this title shall
4 have the same meaning as when used in a comparable context in the
5 Internal Revenue Code, unless a different meaning is clearly
6 required. For all taxable periods covered by Section 2351 et seq.
7 of this title, the tax status and all elections of all taxpayers
8 covered by Section 2351 et seq. of this title shall be the same for
9 all purposes material hereto as they are for federal income tax
10 purposes except when Section 2351 et seq. of this title specifically
11 provides otherwise;

12 4. "Resident individual" means a natural person who is
13 domiciled in this state, and any other natural person who spends in
14 the aggregate more than seven (7) months of the taxable year within
15 this state shall be presumed to be a resident for purposes of
16 Section 2351 et seq. of this title in absence of proof to the
17 contrary. A natural person who resides less than seven (7) months
18 of the taxable year within this state is presumed to be a "part-year
19 resident individual" for purposes of the Oklahoma Income Tax Code,
20 Section 2351 et seq. of this title, in absence of proof to the
21 contrary. A "nonresident individual" means an individual other than
22 a resident individual or a part-year resident individual.

1 For all tax years beginning after December 31, 1981, a
2 nonresident individual, with respect to foreign earned income and
3 deductions, shall include an individual who:

- 4 a. during any period of twenty-four (24) consecutive
5 months is out of the United States at least five
6 hundred fifty (550) days,
- 7 b. during such period referred to in subparagraph a of
8 this paragraph is not present in this state for more
9 than ninety (90) days during any taxable year,
- 10 c. during any period of less than an entire taxable year,
11 which period is contained within the period referred
12 to in subparagraph a of this paragraph, is not present
13 in this state for a number of days in excess of an
14 amount which bears the same ratio to ninety (90) days
15 as the number of days contained in the period of less
16 than an entire taxable year bears to three hundred
17 sixty-five (365), and
- 18 d. during such period referred to in subparagraph a of
19 this paragraph does not maintain a permanent place of
20 abode in this state at which the spouse of the
21 individual, unless such spouse is legally separated,
22 or minor children of the individual are present for
23 more than one hundred eighty (180) days;

1 5. "Resident estate" means the estate of a decedent who at
2 death was domiciled in this state. "Nonresident estate" means an
3 estate other than a resident estate;

4 6. "Resident trust" means:

5 a. a trust, or a portion of a trust, consisting of
6 property transferred by will of a decedent domiciled
7 in this state at death, or a trust, or a portion of a
8 trust, consisting of the property of a person
9 domiciled in this state if such trust is not
10 irrevocable, and

11 b. a trust, or portion of a trust, consisting of property
12 of a person domiciled in this state at the time such
13 property was transferred to the trust if such trust or
14 portion was then irrevocable or a person domiciled in
15 this state at the time such trust or portion became
16 irrevocable. A trust, or portion of a trust, is
17 irrevocable if it is not subject to a power
18 exercisable solely by the transferor of such property,
19 at any time, to revest title in the transferor.

20 "Nonresident trust" means a trust other than a
21 resident trust;

22 7. "Resident partner" means a partner who is a resident
23 individual, a resident estate, a resident trust or a resident

1 corporation. "Nonresident partner" means a partner other than a
2 resident partner;

3 8. "Resident beneficiary" means a beneficiary of an estate or
4 trust which beneficiary is a resident individual, a resident estate,
5 a resident trust or a resident corporation. "Nonresident
6 beneficiary" means a beneficiary other than a resident beneficiary;

7 9. "Resident corporation" means a corporation whose principal
8 place of business is located within the State of Oklahoma.

9 "Nonresident corporation" means any corporation other than a
10 resident corporation;

11 10. "Taxable income" with respect to any taxpayer means the
12 "taxable income", "life insurance company taxable income", "mutual
13 insurance company taxable income", "(regulated) investment company
14 taxable income", "real estate investment trust taxable income", and
15 "cooperatives' taxable income" and any other "taxable income" as
16 defined in the Internal Revenue Code as applies to such taxpayer or
17 any other income of such taxpayer including, but not limited to,
18 lump sum distributions as defined by the Internal Revenue Code of
19 1986, as amended; provided, in the case of income derived from oil
20 and gas well production, any taxpayer, at his or her option on or
21 before December 31, 2016, may deduct as an allowance for depletion,
22 in lieu of other calculation of depletion based on the cost of the
23 oil and gas deposit, twenty-two percent (22%) of the gross income

1 derived from the properties during the taxable year. Provided
2 further, for tax years beginning on or after January 1, 1997, and
3 ending on or before December 31, 1999, and for tax years beginning
4 on or after January 1, 2001, and ending on or before December 31,
5 2011, for major oil companies as defined in Section 288.2 of Title
6 52 of the Oklahoma Statutes, such allowance shall not exceed fifty
7 percent (50%) of the net income of the taxpayer (computed without
8 allowance for depletion) from the property. During taxable years
9 other than those specified herein but on or before December 31,
10 2016, for all taxpayers, such allowance shall not exceed fifty
11 percent (50%) of the net income of the taxpayer (computed without
12 allowance for depletion) from the property. If a depletion
13 allowance is allowed as a deduction in arriving at the adjusted
14 gross income in the case of an individual, or taxable income for
15 corporations and trusts, or distributable income of partnerships by
16 the Internal Revenue Service, the percentage depletion so calculated
17 shall in no event be a duplication of depletion allowed on the
18 Federal Income Tax Return;

19 11. "Adjusted gross income" means "adjusted gross income" as
20 defined in the Internal Revenue Code;

21 12. "Oklahoma taxable income" means "taxable income" as
22 reported (or as would have been reported by the taxpayer had a
23 return been filed) to the federal government, and in the event of

1 adjustments thereto by the federal government as finally ascertained
2 under the Internal Revenue Code, adjusted further as hereinafter
3 provided;

4 13. "Oklahoma adjusted gross income" means "adjusted gross
5 income" as reported to the federal government (or as would have been
6 reported by the taxpayer had a return been filed), or in the event
7 of adjustments thereby by the federal government as finally
8 ascertained under the Internal Revenue Code, adjusted further as
9 hereinafter provided;

10 14. "State" means any state of the United States, the District
11 of Columbia, the Commonwealth of Puerto Rico, any territory or
12 possession of the United States or any political subdivision
13 thereof; and

14 15. "Taxpayer" means any person subject to a tax imposed by
15 this Article, or whose income is, in whole or in part, subject to a
16 tax imposed by any provision of this article.

17 SECTION 16. AMENDATORY 68 O.S. 2001, Section 2357, as
18 amended by Section 8, Chapter 136, O.S.L. 2007 (68 O.S. Supp. 2007,
19 Section 2357), is amended to read as follows:

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

22 B. 1. There shall be allowed as a credit against the tax
23 imposed by Section 2355 of this title the amount of tax paid another

1 state by a resident individual, as defined in paragraph 4 of Section
2 2353 of this title, upon income received as compensation for
3 personal services in such other state; provided, such credit shall
4 not be allowed with respect to any income specified in Section 114
5 of Title 4 of the United States Code, 4 U.S.C., Section 114, upon
6 which a state is prohibited from imposing an income tax. The credit
7 shall not exceed such proportion of the tax payable under Section
8 2355 of this title as the compensation for personal services subject
9 to tax in the other state and also taxable under Section 2355 of
10 this title bears to the Oklahoma adjusted gross income as defined in
11 paragraph 13 of Section 2353 of this title.

12 2. For tax years beginning after December 31, 2007, and ending
13 before January 1, 2017, there shall be allowed to a resident
14 individual or part-year resident individual or nonresident
15 individual member of the Armed Forces as a credit against the tax
16 imposed by Section 2355 of this title twenty percent (20%) of the
17 credit for child care expenses allowed under the Internal Revenue
18 Code of the United States or five percent (5%) of the child tax
19 credit allowed under the Internal Revenue Code, whichever amount is
20 greater. Neither credit authorized by this paragraph shall exceed
21 the tax imposed by Section 2355 of this title. The maximum child
22 care credit allowable on the Oklahoma income tax return shall be
23 prorated on the ratio that Oklahoma adjusted gross income bears to

1 the federal adjusted gross income. The credit authorized by this
2 paragraph shall not be claimed by any taxpayer if the federal
3 adjusted gross income reflected on the Oklahoma return for the
4 taxpayer is in excess of One Hundred Thousand Dollars (\$100,000.00).

5 C. 1. ~~Every~~ Before January 1, 2018, every taxpayer who
6 operates a manufacturing establishment in the state shall be allowed
7 a direct credit against income taxes owed by such taxpayer to the
8 state, the amount of which credit shall be proportioned to the
9 amount of gas used or consumed in Oklahoma by such taxpayer in the
10 operation of a manufacturing establishment, at a rate of three (3)
11 mills per thousand (1,000) cubic feet of gas used or consumed after
12 May 1, 1971, and during each taxable year of such taxpayer provided
13 that the credit allowed herein shall not apply to the first twenty-
14 five thousand (25,000) MCF of gas used or gas used to generate
15 electricity or consumed after May 1, 1971, and during each taxable
16 year of such taxpayer.

17 2. As used in this subsection:

18 a. "manufacturing establishment" means a plant or
19 establishment which engages in the business of working
20 raw materials into wares suitable for use or which
21 gives new shapes, new qualities or new combinations to
22 matter which has already gone through some artificial
23 process,

1 b. "gas used or consumed" shall include all natural or
2 casinghead gas used in the operation of the
3 manufacturing establishment for whatever purposes, but
4 shall not include the following:

5 (1) gas which, after being severed from the earth, is
6 subsequently injected into a formation in the
7 state for the purpose of storing, recycling,
8 repressuring or pressure maintenance,

9 (2) gas vented or flared directly into the
10 atmosphere,

11 (3) gas used for fuel in connection with the
12 operation and development for or production of
13 oil or gas in the field where produced, and

14 (4) gas, any part of which is resold by the
15 manufacturing establishment, except as to that
16 part and quantity of the gas which is actually
17 used by the establishment and not resold, and

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

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

5 1. Those credits provided in this section; and

6 2. ~~Those~~ Before January 1, 2011, those credits authorized by
7 ~~Sections 2-5-101 through 2-5-118 of Title 27A of the Oklahoma~~
8 ~~Statutes~~ the Oklahoma Clean Air Act, which have been, or may
9 hereafter be, certified pursuant to applications therefor made on or
10 before March 22, 1971. Provided, the total amount of the credits
11 referred to in this subparagraph to be taken by the taxpayer shall
12 not exceed the certified net investment cost of the facilities or
13 processes to which such credits pertain, reduced by the greater of:

14 a. the reduction in federal income tax of taxpayer as the
15 result of deducting depreciation on such facilities or
16 processes, or deducting nondepreciable costs for which
17 credit has been so certified, or

18 b. the increase in the amount of Oklahoma income tax that
19 would result if taxable income were increased by the
20 amount deducted as set forth in subparagraph a of this
21 paragraph.

22 And, provided further, that, after such credits have been exhausted,
23 taxpayer shall each year thereafter adjust taxable income by adding

1 any depreciation taken on such facilities or processes, or any
2 nondepreciable costs having been included in the net investment cost
3 allowed as credit, and which depreciation or costs have been allowed
4 as a deduction in arriving at federal taxable income for such year.

5 SECTION 17. AMENDATORY 68 O.S. 2001, Section 2357.4, as
6 last amended by Section 29, Chapter 281, O.S.L. 2006 (68 O.S. Supp.
7 2007, Section 2357.4), is amended to read as follows:

8 Section 2357.4 A. Except as otherwise provided in subsection F
9 of Section 3658 of this title, for taxable years beginning after
10 December 31, 1987, and ending before January 1, 2012, there shall be
11 allowed a credit against the tax imposed by Section 2355 of this
12 title for:

13 1. Investment in qualified depreciable property placed in
14 service during those years for use in a manufacturing operation, as
15 defined in Section 1352 of this title, which has received a
16 manufacturer exemption permit pursuant to the provisions of Section
17 1359.2 of this title or a qualified aircraft maintenance or
18 manufacturing facility as defined in paragraph 14 of Section 1357 of
19 this title in this state or a qualified web search portal as defined
20 paragraph 35 of Section 1357 of this title; or

21 2. A net increase in the number of full-time-equivalent
22 employees engaged in manufacturing, processing or aircraft

1 maintenance in this state including employees engaged in support
2 services.

3 B. Except as otherwise provided in subsection F of Section 3658
4 of this title, for taxable years beginning after December 31, 1998,
5 and ending before January 1, 2012, there shall be allowed a credit
6 against the tax imposed by Section 2355 of this title for:

7 1. Investment in qualified depreciable property with a total
8 cost equal to or greater than Forty Million Dollars (\$40,000,000.00)
9 within three (3) years from the date of initial qualifying
10 expenditure and placed in service in this state during those years
11 for use in the manufacture of products described by any Industry
12 Number contained in Division D of Part I of the Standard Industrial
13 Classification (SIC) Manual, latest revision; or

14 2. A net increase in the number of full-time-equivalent
15 employees in this state engaged in the manufacture of any goods
16 identified by any Industry Number contained in Division D of Part I
17 of the Standard Industrial Classification (SIC) Manual, latest
18 revision, if the total cost of qualified depreciable property placed
19 in service by the business entity within the state equals or exceeds
20 Forty Million Dollars (\$40,000,000.00) within three (3) years from
21 the date of initial qualifying expenditure.

22 C. The business entity may claim the credit authorized by
23 subsection B of this section for expenditures incurred or for a net

1 increase in the number of full-time-equivalent employees after the
2 business entity provides proof satisfactory to the Oklahoma Tax
3 Commission that the conditions imposed pursuant to paragraph 1 or
4 paragraph 2 of subsection B of this section have been satisfied.

5 D. If a business entity fails to expend the amount required by
6 paragraph 1 or paragraph 2 of subsection B of this section within
7 the time required, the business entity may not claim the credit
8 authorized by subsection B of this section, but shall be allowed to
9 claim a credit pursuant to subsection A of this section if the
10 requirements of subsection A of this section are met with respect to
11 the investment in qualified depreciable property or net increase in
12 the number of full-time-equivalent employees.

13 E. The credit provided for in subsection A of this section, if
14 based upon investment in qualified depreciable property, shall not
15 be allowed unless the investment in qualified depreciable property
16 is at least Fifty Thousand Dollars (\$50,000.00). The credit
17 provided for in subsection A or B of this section shall not be
18 allowed if the applicable investment is the direct cause of a
19 decrease in the number of full-time-equivalent employees. Qualified
20 property shall be limited to machinery, fixtures, equipment,
21 buildings or substantial improvements thereto, placed in service in
22 this state during the taxable year. The taxable years for which the
23 credit may be allowed if based upon investment in qualified

1 depreciable property shall be measured from the year in which the
2 qualified property is placed in service. If the credit provided for
3 in subsection A or B of this section is calculated on the basis of
4 the cost of the qualified property, the credit shall be allowed in
5 each of the four (4) subsequent years. If the qualified property on
6 which a credit has previously been allowed is acquired from a
7 related party, the date such property is placed in service by the
8 transferor shall be considered to be the date such property is
9 placed in service by the transferee, for purposes of determining the
10 aggregate number of years for which credit may be allowed.

11 F. The credit provided for in subsection A or B of this
12 section, if based upon an increase in the number of full-time-
13 equivalent employees, shall be allowed in each of the four (4)
14 subsequent years only if the level of new employees is maintained in
15 the subsequent year. In calculating the credit by the number of new
16 employees, only those employees whose paid wages or salary were at
17 least Seven Thousand Dollars (\$7,000.00) during each year the credit
18 is claimed shall be included in the calculation. Provided, that the
19 first year a credit is claimed for a new employee, such employee may
20 be included in the calculation notwithstanding paid wages of less
21 than Seven Thousand Dollars (\$7,000.00) if the employee was hired in
22 the last three quarters of the tax year, has wages or salary which
23 will result in annual paid wages in excess of Seven Thousand Dollars

1 (\$7,000.00) and the taxpayer submits an affidavit stating that the
2 employee's position will be retained in the following tax year and
3 will result in the payment of wages in excess of Seven Thousand
4 Dollars (\$7,000.00). The number of new employees shall be
5 determined by comparing the monthly average number of full-time
6 employees subject to Oklahoma income tax withholding for the final
7 quarter of the taxable year with the corresponding period of the
8 prior taxable year, as substantiated by such reports as may be
9 required by the Tax Commission.

10 G. The credit allowed by subsection A of this section shall be
11 the greater amount of either:

12 1. One percent (1%) of the cost of the qualified property in
13 the year the property is placed in service; or

14 2. Five Hundred Dollars (\$500.00) for each new employee. No
15 credit shall be allowed in any taxable year for a net increase in
16 the number of full-time-equivalent employees if such increase is a
17 result of an investment in qualified depreciable property for which
18 an income tax credit has been allowed as authorized by this section.

19 H. The credit allowed by subsection B of this section shall be
20 the greater amount of either:

21 1. Two percent (2%) of the cost of the qualified property in
22 the year the property is placed in service; or

23 2. One Thousand Dollars (\$1,000.00) for each new employee.

1 No credit shall be allowed in any taxable year for a net
2 increase in the number of full-time-equivalent employees if such
3 increase is a result of an investment in qualified depreciable
4 property for which an income tax credit has been allowed as
5 authorized by this section.

6 I. Except as provided by subsection G of Section 3658 of this
7 title, any credits allowed but not used in any taxable year may be
8 carried over in order as follows:

9 1. To each of the four (4) years following the year of
10 qualification; and

11 2. To the extent not used in those years in order to each of
12 the fifteen (15) years following the initial five-year period.

13 To the extent not used in paragraphs 1 and 2 of this subsection,
14 such credits from qualified depreciable property placed in service
15 on or after January 1, 2000, may be utilized in any subsequent tax
16 years after the initial twenty-year period.

17 J. Any credit claimed pursuant to the provisions of this act
18 shall be subject to the limitations of subsections A and B of this
19 section.

20 SECTION 18. AMENDATORY 68 O.S. 2001, Section 2357.6, is
21 amended to read as follows:

22 Section 2357.6 Any person or corporation may contribute monies
23 to the Energy Conservation Assistance Fund. ~~Such~~ Before January 1,

1 2013, such contributions shall be entitled to an income tax credit
2 against the state personal or corporate income tax liability of
3 fifty percent (50%) of the amount contributed to the fund for the
4 taxable year in which it was made.

5 SECTION 19. AMENDATORY 68 O.S. 2001, Section 2357.11, as
6 last amended by Section 9, Chapter 44, 2nd Extraordinary Session,
7 O.S.L. 2006 (68 O.S. Supp. 2007, Section 2357.11), is amended to
8 read as follows:

9 Section 2357.11 A. For purposes of this section, the term
10 "person" means any legal business entity including limited and
11 general partnerships, corporations, sole proprietorships, and
12 limited liability companies, but does not include individuals.

13 B. 1. For tax years beginning on or after January 1, 1993 and
14 ending on or before December 31, 2012, there shall be allowed a
15 credit against the tax imposed by Section 1803 or Section 2355 of
16 this title or Section 624 or 628 of Title 36 of the Oklahoma
17 Statutes for every person in this state furnishing water, heat,
18 light or power to the state or its citizens, or for every person in
19 this state burning coal to generate heat, light or power for use in
20 manufacturing operations located in this state.

21 2. For tax years beginning on or after January 1, 1993 and
22 ending on or before December 31, 2005, and for the period of January
23 1, 2006, through June 30, 2006, the credit shall be in the amount of

1 Two Dollars (\$2.00) per ton for each ton of Oklahoma-mined coal
2 purchased by such person.

3 3. For the period of July 1, 2006, through December 31, 2006,
4 and for tax years beginning on or after January 1, 2007, and ending
5 on or before December 31, 2012, the credit shall be in the amount of
6 Two Dollars and eighty-five cents (\$2.85) per ton for each ton of
7 Oklahoma-mined coal purchased by such person.

8 4. In addition to the credit allowed pursuant to the provisions
9 of paragraph 3 of this subsection, for the period of July 1, 2006,
10 through December 31, 2006, and for tax years beginning on or after
11 January 1, 2007, and ending on or before December 31, 2012, there
12 shall be allowed a credit in the amount of Two Dollars and fifteen
13 cents (\$2.15) per ton for each ton of Oklahoma-mined coal purchased
14 by such person. The credit allowed pursuant to the provisions of
15 this paragraph may not be claimed or transferred prior to January 1,
16 2008.

17 C. For tax years beginning on or after January 1, 1995, and
18 ending on or before December 31, 2005, and for the period beginning
19 January 1, 2006, through June 30, 2006, there shall be allowed, in
20 addition to the credits allowed pursuant to subsection B of this
21 section, a credit against the tax imposed by Section 1803 or Section
22 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma
23 Statutes for every person in this state which:

1 1. Furnishes water, heat, light or power to the state or its
2 citizens, or burns coal to generate heat, light or power for use in
3 manufacturing operations located in this state; and

4 2. Purchases at least seven hundred fifty thousand (750,000)
5 tons of Oklahoma-mined coal in the tax year.

6 The additional credit allowed pursuant to this subsection shall
7 be in the amount of Three Dollars (\$3.00) per ton for each ton of
8 Oklahoma-mined coal purchased by such person.

9 D. Except as otherwise provided in subsection E of this
10 section, for tax years beginning on or after January 1, 2001, and
11 ending on or before December 31, 2012, there shall be allowed a
12 credit against the tax imposed by Section 1803 or Section 2355 of
13 this title or Section 624 or 628 of Title 36 of the Oklahoma
14 Statutes for every person in this state primarily engaged in mining,
15 producing or extracting coal, and holding a valid permit issued by
16 the Oklahoma Department of Mines. For tax years beginning on or
17 after January 1, 2001 and ending on or before December 31, 2005, and
18 for the period beginning January 1, 2006 through June 30, 2006, the
19 credit shall be in the amount of ninety-five cents (\$0.95) per ton
20 and for the period of July 1, 2006 through December 31, 2006, and
21 for tax years beginning on or after January 1, 2007, and ending on
22 or before December 31, 2012, the credit shall be in the amount of
23 Five Dollars (\$5.00) for each ton of coal mined, produced or

1 extracted in on, under or through a permit in this state by such
2 person.

3 E. In addition to the credit allowed pursuant to the provisions
4 of subsection D of this section and except as otherwise provided in
5 subsection F of this section, for tax years beginning on or after
6 January 1, 2001 and ending on or before December 31, 2005, and for
7 the period of January 1, 2006 through June 30, 2006, there shall be
8 allowed a credit against the tax imposed by Section 1803 or Section
9 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma
10 Statutes for every person in this state primarily engaged in mining,
11 producing or extracting coal, and holding a valid permit issued by
12 the Oklahoma Department of Mines in the amount of ninety-five cents
13 (\$0.95) per ton for each ton of coal mined, produced or extracted
14 from thin seams in this state by such person; provided, the credit
15 shall not apply to such coal sold to any consumer who purchases at
16 least seven hundred fifty thousand (750,000) tons of Oklahoma-mined
17 coal per year.

18 F. In addition to the credit allowed pursuant to the provisions
19 of subsection D of this section and except as otherwise provided in
20 subsection G of this section, for tax years beginning on or after
21 January 1, 2005 and ending on or before December 31, 2005, and for
22 the period of January 1, 2006, through June 30, 2006, there shall be
23 allowed a credit against the tax imposed by Section 1803 or Section

1 2355 of this title or that portion of the tax imposed by Section 624
2 or 628 of Title 36 of the Oklahoma Statutes, which is actually paid
3 to and placed into the General Revenue Fund, in the amount of
4 ninety-five cents (\$0.95) per ton for each ton of coal mined,
5 produced or extracted from thin seams in this state by such person
6 on or after July 1, 2005.

7 G. The credits provided in subsections D and E of this section
8 shall not be allowed for coal mined, produced or extracted in any
9 month in which the average price of coal is Sixty-eight Dollars
10 (\$68.00) or more per ton, excluding freight charges, as determined
11 by the Tax Commission.

12 H. The additional credits allowed pursuant to subsections B, C,
13 D and E of this section but not used shall be freely transferable
14 after January 1, 2002, by written agreement to subsequent
15 transferees at any time during the five (5) years following the year
16 of qualification; provided, the additional credits allowed pursuant
17 to the provisions of paragraph 4 of subsection B of this section but
18 not used shall be freely transferable after January 1, 2008, by
19 written agreement to subsequent transferees at any time during the
20 five (5) years following the year of qualification. An eligible
21 transferee shall be any taxpayer subject to the tax imposed by
22 Section 1803 or Section 2355 of this title or Section 624 or 628 of
23 Title 36 of the Oklahoma Statutes. The person originally allowed

1 the credit and the subsequent transferee shall jointly file a copy
2 of the written credit transfer agreement with the Tax Commission
3 within thirty (30) days of the transfer. The written agreement
4 shall contain the name, address and taxpayer identification number
5 of the parties to the transfer, the amount of credit being
6 transferred, the year the credit was originally allowed to the
7 transferring person and the tax year or years for which the credit
8 may be claimed. The Tax Commission may promulgate rules to permit
9 verification of the validity and timeliness of a tax credit claimed
10 upon a tax return pursuant to this subsection but shall not
11 promulgate any rules which unduly restrict or hinder the transfers
12 of such tax credit.

13 I. The additional credit allowed pursuant to subsection F of
14 this section but not used shall be freely transferable on or after
15 July 1, 2006, by written agreement to subsequent transferees at any
16 time during the five (5) years following the year of qualification.
17 An eligible transferee shall be any taxpayer subject to the tax
18 imposed by Section 1803 or Section 2355 of this title or Section 624
19 or 628 of Title 36 of the Oklahoma Statutes. The person originally
20 allowed the credit and the subsequent transferee shall jointly file
21 a copy of the written credit transfer agreement with the Tax
22 Commission within thirty (30) days of the transfer. The written
23 agreement shall contain the name, address and taxpayer

1 identification number of the parties to the transfer, the amount of
2 credit being transferred, the year the credit was originally allowed
3 to the transferring person and the tax year or years for which the
4 credit may be claimed. The Tax Commission may promulgate rules to
5 permit verification of the validity and timeliness of a tax credit
6 claimed upon a tax return pursuant to this subsection but shall not
7 promulgate any rules which unduly restrict or hinder the transfers
8 of such tax credit.

9 J. Any person receiving tax credits pursuant to the provisions
10 of this section shall apply the credits against taxes payable or
11 shall transfer the credits as provided in this section. Credits
12 shall not be used to lower the price of any Oklahoma-mined coal sold
13 that is produced by a subsidiary of the person receiving a tax
14 credit under this section to other buyers of the Oklahoma-mined
15 coal.

16 K. The credits allowed by subsections B, C, D, E and F of this
17 section, upon election of the taxpayer, shall be treated and may be
18 claimed as a payment of tax, a prepayment of tax or a payment of
19 estimated tax for purposes of Section 1803 or 2355 of this title or
20 Section 624 or 628 of Title 36 of the Oklahoma Statutes.

21 L. Any credits allowed pursuant to the provisions of
22 subsections B, C, D, E and F of this section but not used in any tax

1 year may be carried over in order to each of the five (5) years
2 following the year of qualification.

3 SECTION 20. AMENDATORY 68 O.S. 2001, Section 2357.13, is
4 amended to read as follows:

5 Section 2357.13 A. For taxable years beginning after December
6 31, 1999, and ending before January 1, 2014, there shall be allowed
7 a credit against the tax imposed by Section 2355 of this title for
8 investments in qualifying projects, the purpose of which is to
9 encourage the development of commercial space industries in this
10 state.

11 B. As used in this section:

12 1. "Commencement of operations" means the beginning of active
13 operations by a qualifying business of the principal function for
14 which a qualifying project was constructed;

15 2. "Cumulative capital investment" means the total capital
16 investment in land, buildings, and equipment made in connection with
17 a qualifying project during the period from the beginning of
18 construction of the project to the commencement of operations;

19 3. "Eligible capital costs" means all expenses incurred by a
20 qualifying business in connection with the acquisition,
21 construction, installation, and equipping of a qualifying project
22 during the period from the beginning of construction of the project
23 to the commencement of operations, including, but not limited to:

- 1 a. costs of acquiring, constructing, installing,
2 equipping, and financing a qualifying project,
3 including all obligations incurred for labor and
4 obligations to contractors, subcontractors, builders,
5 and materialmen,
- 6 b. costs of acquiring land or rights to land and any cost
7 incidental thereto,
- 8 c. costs of architectural and engineering services,
9 including, but not limited to, test borings, surveys,
10 estimates, plans and specifications, preliminary
11 investigations, environmental mitigation, and
12 supervision of construction, as well as the performance
13 of all duties required by or consequent to the
14 acquisition, construction, installation, and equipping
15 of a qualifying project, and
- 16 d. costs associated with the installation of fixtures and
17 equipment, surveys, site tests and inspections,
18 subsurface site work and excavation, removal of
19 structures, roadways, and other surface obstructions,
20 filling, grading, paving, and providing for drainage,
21 storm water retention, and installation of utilities,
22 and offsite construction of utility extensions to the
23 boundaries of the property.

1 "Eligible capital costs" shall not include the cost of any
2 property previously owned or leased by the qualifying business;

3 4. "Jobs" means full-time-equivalent positions, as such term is
4 consistent with terms used by Oklahoma Employment Security
5 Commission and the United States Department of Labor for purposes of
6 unemployment tax administration and employment estimation, resulting
7 directly from a project in this state. Such term does not include
8 temporary construction jobs involved in the construction of the
9 project facility;

10 5. "Qualifying business" means a business which establishes a
11 qualifying project in this state and which is certified by the
12 Oklahoma Tax Commission to receive tax credits pursuant to the
13 provisions of this section; and

14 6. "Qualifying project" means a new or expanding facility in
15 this state or a combination of two new or expanding facilities in
16 this state which facility or combination of facilities creates at
17 least one hundred (100) new jobs in this state and is engaged in an
18 industry which the Oklahoma Space Industry Development Authority is
19 authorized to promote.

20 C. The credit provided for in this section shall be in the
21 amount of five percent (5%) of the eligible capital costs generated
22 by a qualifying project. In order to qualify to receive the credit,
23 application shall be made to the Tax Commission, which shall certify

1 the amount of eligible capital costs generated by a qualifying
2 project and the maximum amount of the tax credit to which the
3 taxpayer will be entitled. The credit shall be granted only against
4 the tax liability upon income generated by or arising out of the
5 qualifying project and shall not exceed the following percentages of
6 the corporate income tax liability upon income generated by or
7 arising out of a qualifying project for any tax year in which a
8 credit may be claimed:

9 1. One hundred percent (100%) for a qualifying project which
10 results in a cumulative capital investment of more than One Hundred
11 Million Dollars (\$100,000,000.00);

12 2. Seventy-five percent (75%) for a qualifying project which
13 results in a cumulative capital investment of more than Fifty
14 Million Dollars (\$50,000,000.00), but not exceeding One Hundred
15 Million Dollars (\$100,000,000.00); and

16 3. Fifty percent (50%) for a qualifying project which results
17 in a cumulative capital investment of Twenty-five Million Dollars
18 (\$25,000,000.00) or more, but not exceeding Fifty Million Dollars
19 (\$50,000,000.00).

20 A qualifying project which results in a cumulative capital
21 investment of less than Twenty-five Million Dollars (\$25,000,000.00)
22 shall not be eligible for the credit. No credit may be claimed for
23 investments made prior to July 1, 1999.

1 The amount of any credit allowed but not used in any tax year
2 may be carried over in order to each of the four (4) years following
3 the year of qualification subject to the limitations provided in
4 this subsection. In no event shall any credit granted pursuant to
5 the provisions of this section be transferable or refundable.

6 D. The credit allowed pursuant to the provisions of this
7 section shall not be allowed for any project undertaken by a
8 qualified space transportation vehicle provider in which a credit
9 for an eligible investment is claimed pursuant to the provisions of
10 Section 1 of this act.

11 SECTION 21. AMENDATORY 68 O.S. 2001, Section 2357.24, is
12 amended to read as follows:

13 Section 2357.24 A. For taxable years beginning after December
14 31, 1994, and ending before January 1, 2015, there shall be allowed
15 a deduction from the taxable income of any resident taxpayer who
16 sells to this state any real property in which the taxpayer is the
17 record owner and which real property was the site of a historic
18 battle during the nineteenth century and is or has been designated a
19 National Historic Landmark. For purposes of this section, a
20 "National Historic Landmark" is a district, site, building,
21 structure or object, designated by the Secretary of the Interior as
22 possessing national significance in American history, archaeology,
23 architecture, engineering or culture.

1 B. The deduction allowed by this section shall be limited to
2 fifty percent (50%) of any capital gain the owner of the property
3 receives or realizes upon the sale of the property and shall be
4 allowed for the taxable year in which the sale occurred.

5 C. A husband and wife who file separate returns for a taxable
6 year in which they could have filed a joint return may each claim
7 only one-half (1/2) of the tax deduction that would have been
8 allowed for a joint return. If record title to the property is held
9 in more than one individual other than a husband and wife, each
10 owner shall be allowed the deduction in the same percentage as that
11 individual's percentage of ownership in the property. In no event
12 shall the total deduction allowed by this section exceed fifty
13 percent (50%) in the taxable year of the capital gain realized on
14 the sale of the property.

15 D. Record title to the property subject to the provisions of
16 this section may be initially transferred or conveyed by the
17 resident taxpayer to a private, nonprofit organization if the
18 organization transfers or conveys record title to the property to
19 this state within one (1) year of the sale or transfer of the
20 property from the resident taxpayer to the organization. The
21 private, nonprofit organization shall not be entitled to the
22 deduction provided by this section. If record title is not
23 transferred or conveyed to this state by the private, nonprofit

1 organization within the one-year period, the resident taxpayer shall
2 not be allowed the deduction.

3 SECTION 22. AMENDATORY 68 O.S. 2001, Section 2357.26, as
4 amended by Section 1, Chapter 441, O.S.L. 2002 (68 O.S. Supp. 2007,
5 Section 2357.26), is amended to read as follows:

6 Section 2357.26 A. For tax years beginning after December 31,
7 2001, and ending before January 1, 2016, there shall be allowed a
8 credit against the tax imposed by Section 2355 of this title for
9 employers incurring eligible expenses in connection with the
10 provision of child care services.

11 B. As used in this section:

12 1. "Eligible expenses" means amounts paid for:

13 a. the purchase of qualifying child care services that
14 are actually provided to children of employees, at a
15 program licensed by the Department of Human Services
16 with a rating of two stars or higher pursuant to rules
17 promulgated by the Department, at a:

18 (1) child care center, or

19 (2) family child care home,

20 b. planning, preparing a site and constructing a child
21 care center,

22 c. renovating or remodeling a structure to be used for a
23 child care center,

- 1 d. purchasing equipment necessary for use by a child care
2 center,
3 e. expanding a child care center,
4 f. maintaining and operating a child care center,
5 including paying direct administrative and staff
6 costs,
7 g. purchasing child care slots actually provided or
8 reserved for children of employees, or
9 h. fees and grants provided to child care resource and
10 referral organizations doing business within this
11 state; and

12 2. "Employer" means a taxpayer who employs one or more full-
13 time-equivalent employees and whose primary source of income is from
14 a business other than the business of providing child care services.

15 C. In lieu of a deduction from taxable income, the credit
16 allowed by subsection A of this section shall be twenty percent
17 (20%) of the amount of eligible expenses.

18 D. The amount of eligible expenses upon which the credit will
19 be based in any taxable year shall be limited to:

20 1. Three Thousand One Hundred Dollars (\$3,100.00) for expenses
21 described in subparagraph a of paragraph 1 of subsection B of this
22 section for each child of an employee receiving qualifying child
23 care services;

1 2. Fifty Thousand Dollars (\$50,000.00) for expenses described
2 in subparagraphs b through g of paragraph 1 of subsection B of this
3 section; and

4 3. Five Thousand Dollars (\$5,000.00) for expenses described in
5 subparagraph h of paragraph 1 of subsection B of this section.

6 E. Any credits allowed but not used in any tax year may be
7 carried over in order to each of the four (4) tax years following
8 the year of qualification.

9 F. The Oklahoma Tax Commission, on or before January 31 of each
10 year, shall submit a report regarding the credit authorized by this
11 section to both houses of the Oklahoma Legislature. Such report
12 shall summarize the total amount of credits claimed and likely to be
13 claimed and allowed under this section.

14 SECTION 23. AMENDATORY 68 O.S. 2001, Section 2357.27, as
15 amended by Section 1, Chapter 347, O.S.L. 2004 (68 O.S. Supp. 2007,
16 Section 2357.27), is amended to read as follows:

17 Section 2357.27 A. For tax years beginning after December 31,
18 1998, and ending before January 1, 2017, there shall be allowed a
19 credit against the tax imposed by Section 2355 of this title for
20 eligible expenses incurred by entities primarily engaged in the
21 business of providing child care services.

22 B. As used in this section, "eligible expenses" means amounts
23 paid by an entity primarily engaged in the business of providing

1 child care services for expenses incurred by the entity to comply
2 with the standards promulgated by a national accrediting association
3 recognized by the Department of Human Services and which would not
4 have been incurred by the entity to comply with the Oklahoma Child
5 Care Facilities Licensing Act.

6 C. The credit allowed by subsection A of this section shall be
7 twenty percent (20%) of the amount of eligible expenses. Such
8 credit shall not be allowed for any amounts for which the entity
9 claims or receives an income tax credit, exemption or deduction.

10 D. Any credits allowed but not used in any tax year may be
11 carried over in order to each of the four (4) tax years following
12 the year of qualification.

13 SECTION 24. AMENDATORY 68 O.S. 2001, Section 2357.30, is
14 amended to read as follows:

15 Section 2357.30 A. As used in this section, "small business"
16 means any corporation, partnership, sole proprietorship or other
17 business entity qualifying as "small" under the standards contained
18 in Section 121 of Title 13 of the Code of Federal Regulations (13
19 C.F.R., Section 121).

20 B. For taxable years beginning after December 31, 1998, and
21 ending before January 1, 2018, every small business operating within
22 this state shall be entitled to claim as a credit against the tax
23 imposed by Section 2355 of ~~Title 68 of the Oklahoma Statutes~~ this

1 title, subject to the limitations provided by subsection C of this
2 section, any amount paid to the U.S. Small Business Administration
3 as a guaranty fee pursuant to the obtaining of financing guaranteed
4 by the Small Business Administration.

5 C. The credit authorized by this section shall only be claimed
6 against the tax liability resulting from income generated by the
7 small business. If an income tax return upon which this credit is
8 claimed includes taxable income from sources other than the small
9 business, the credit shall only be allowed to be claimed upon a
10 percentage of the income tax liability which does not exceed the
11 percentage of income generated by the small business as compared to
12 the total Oklahoma adjusted gross income shown on the return. The
13 Oklahoma Tax Commission shall promulgate rules and prescribe forms
14 to implement the provisions of this section.

15 D. If the credit authorized by this section exceeds the amount
16 of income taxes due or if there are no state income taxes due on the
17 income of the taxpayer as computed pursuant to the provisions of
18 subsection C of this section, the amount of the credit not used may
19 be carried forward as a credit against subsequent income tax
20 liability for a period not to exceed five (5) years. The credit
21 shall be claimable only by the small business which is the primary
22 obligor in the financing transaction and which actually paid the
23 guaranty fee.

1 SECTION 25. AMENDATORY 68 O.S. 2001, Section 2357.31, is
2 amended to read as follows:

3 Section 2357.31 A. As used in this section:

4 1. "Eligible employer" means a corporation, partnership or
5 proprietorship which:

6 a. has done business in this state for at least one (1)
7 year,

8 b. has not provided group health insurance within the
9 fifteen (15) months preceding the offer to purchase
10 group health insurance which meets the requirements of
11 this section to at least seventy-five percent (75%) of
12 its employees who are residents of this state and work
13 an average of twenty-four (24) hours or more a week
14 for said employer,

15 c. offers the state-certified, basic health benefits plan
16 to all eligible employees who worked an average of
17 twenty-four (24) hours or more a week during the
18 calendar quarter preceding the purchase of the policy,
19 and

20 d. pays fifty percent (50%) or more of the full cost of
21 the portion of the premium attributable to the
22 employee for which the employer is claiming credit;

1 2. "Eligible employee" means an employee, proprietor or partner
2 of the employer claiming the credit who:

3 a. is a resident of this state,

4 b. works an average of twenty-four (24) hours a week or
5 more for the employer, and

6 c. was not covered by a group health insurance policy or
7 plan offered by the same employer within the fifteen
8 (15) months preceding the offer to purchase health
9 insurance which meets the requirements of this
10 section; and

11 3. "State-certified, basic health benefits plan" means the
12 basic health benefits plan developed and approved by the Oklahoma
13 Basic Health Benefits Board prior to July 1, 1995.

14 B. 1. For tax years beginning after December 31, 1990, and
15 ending before January 1, 2011, there shall be allowed to an eligible
16 employer a credit against the tax imposed by Section 2355 of this
17 title for premiums paid on behalf of each eligible employee who
18 elects to participate in the state-certified, basic health benefits
19 plan and meets the requirements of this section. The credit shall
20 be in the amount of Fifteen Dollars (\$15.00) a month for each
21 eligible employee and shall be allowed for two (2) consecutive tax
22 years. Provided, if the tax liability of an employer pursuant to
23 Section 2355 of this title is less than the credit to which the

1 employer is entitled pursuant to this section, the Oklahoma Tax
2 Commission shall pay a refund to the employer. The refund shall
3 equal the difference between the amount of taxes owed, after any
4 other credits or exemptions to which the employer is entitled have
5 been applied to the tax liability, and the credit to which the
6 employer is entitled pursuant to this section for the tax year.

7 2. Tax credits or refunds may not be granted pursuant to the
8 provisions of this section to an employer who, prior to July 1,
9 1995, was not covered under a state-certified, basic health benefits
10 plan.

11 C. The credit shall not be granted unless the eligible employer
12 certifies to the ~~Oklahoma~~ Tax Commission that each employee for
13 which the credit is claimed is participating in the state-certified,
14 basic health benefits plan.

15 D. The ~~Oklahoma~~ Tax Commission shall develop and issue
16 appropriate forms and instructions to enable eligible employers to
17 claim the tax credit. The Tax Commission shall promulgate rules to
18 facilitate the implementation of this section.

19 SECTION 26. AMENDATORY 68 O.S. 2001, Section 2357.32A,
20 as last amended by Section 10, Chapter 44, 2nd Extraordinary
21 Session, O.S.L. 2006 (68 O.S. Supp. 2007, Section 2357.32A), is
22 amended to read as follows:

1 Section 2357.32A A. For tax years beginning on or after
2 January 1, 2003, and ending before January 1, 2012, there shall be
3 allowed a credit against the tax imposed by Section 2355 of this
4 title to a taxpayer for the taxpayer's production and sale to an
5 unrelated person of electricity generated by zero-emission
6 facilities located in this state. As used in this section:

7 1. "Electricity generated by zero-emission facilities" means
8 electricity that is exclusively produced by any facility located in
9 this state with a rated production capacity of one megawatt (1 mw)
10 or greater, constructed for the generation of electricity and placed
11 in operation after June 4, 2001, which utilizes eligible renewable
12 resources as its fuel source. The construction and operation of
13 such facilities shall result in no pollution or emissions that are
14 or may be harmful to the environment, pursuant to a determination by
15 the Department of Environmental Quality; and

16 2. "Eligible renewable resources" means resources derived from:
17 a. wind,
18 b. moving water,
19 c. sun, or
20 d. geothermal energy.

21 B. For facilities placed in operation on or after January 1,
22 2003, and before January 1, 2007, the electricity generated on or
23 after January 1, 2003, but prior to January 1, 2004, the amount of

1 the credit shall be seventy-five one hundredths of one cent
2 (\$0.0075) for each kilowatt-hour of electricity generated by zero-
3 emission facilities. For electricity generated on or after January
4 1, 2004, but prior to January 1, 2007, the amount of the credit
5 shall be fifty one hundredths of one cent (\$0.0050) per kilowatt-
6 hour for electricity generated by zero-emission facilities. For
7 electricity generated on or after January 1, 2007, but prior to
8 January 1, 2012, the amount of the credit shall be twenty-five one
9 hundredths of one cent (\$0.0025) per kilowatt-hour of electricity
10 generated by zero-emission facilities. For facilities placed in
11 operation on or after January 1, 2007, and before January 1, ~~2016~~
12 2012, for the electricity generated by these facilities the amount
13 of the credit shall be fifty one hundredths of one cent (\$0.0050)
14 for each kilowatt-hour of electricity generated by zero-emission
15 facilities.

16 C. ~~Credits~~ Subject to the limitations provided in subsection A
17 of this section, credits may be claimed with respect to electricity
18 generated on or after January 1, 2003, during a ten-year period
19 following the date that the facility is placed in operation on or
20 after June 4, 2001.

21 D. If the credit allowed pursuant to this section exceeds the
22 amount of income taxes due or if there are no state income taxes due
23 on the income of the taxpayer, the amount of the credit allowed but

1 not used in any tax year may be carried forward as a credit against
2 subsequent income tax liability for a period not exceeding ten (10)
3 years.

4 E. Any nontaxable entities, including agencies of the State of
5 Oklahoma or political subdivisions thereof, shall be eligible to
6 establish a transferable tax credit in the amount provided in
7 subsection B of this section. Such tax credit shall be a property
8 right available to a state agency or political subdivision of this
9 state to transfer or sell to a taxable entity, whether individual or
10 corporate, who shall have an actual or anticipated income tax
11 liability under Section 2355 of this title. These tax credit
12 provisions are authorized as an incentive to the State of Oklahoma,
13 its agencies and political subdivisions to encourage the expenditure
14 of funds in the development, construction and utilization of
15 electricity from zero-emission facilities as defined in subsection A
16 of this section.

17 F. The amount of the credit allowed, but not used, shall be
18 freely transferable at any time during the ten (10) years following
19 the year of qualification. Any person to whom or to which a tax
20 credit is transferred shall have only such rights to claim and use
21 the credit under the terms that would have applied to the entity by
22 whom or by which the tax credit was transferred. The provisions of
23 this subsection shall not limit the ability of a tax credit

1 transferee to reduce the tax liability of the transferee, regardless
2 of the actual tax liability of the tax credit transferor, for the
3 relevant taxable period. The transferor initially allowed the
4 credit and any subsequent transferees shall jointly file a copy of
5 any written transfer agreement with the Oklahoma Tax Commission
6 within thirty (30) days of the transfer. The written agreement
7 shall contain the name, address and taxpayer identification number
8 or social security number of the parties to the transfer, the amount
9 of the credit being transferred, the year the credit was originally
10 allowed to the transferor, and the tax year or years for which the
11 credit may be claimed. The Tax Commission may promulgate rules to
12 permit verification of the validity and timeliness of the tax credit
13 claimed upon a tax return pursuant to this subsection but shall not
14 promulgate any rules that unduly restrict or hinder the transfers of
15 such tax credit. The tax credit allowed by this section, upon the
16 election of the taxpayer, may be claimed as a payment of tax, a
17 prepayment of tax or a payment of estimated tax for purposes of
18 Section 1803 or Section 2355 of this title.

19 G. For electricity generation produced and sold in a calendar
20 year, the tax credit allowed by the provisions of this section, upon
21 election of the taxpayer, shall be treated and may be claimed as a
22 payment of tax, a prepayment of tax or a payment of estimated tax

1 for purposes of Section 2355 of this title on or after July 1 of the
2 following calendar year.

3 SECTION 27. AMENDATORY 68 O.S. 2001, Section 2357.33, as
4 amended by Section 1, Chapter 144, O.S.L. 2004 (68 O.S. Supp. 2007,
5 Section 2357.33), is amended to read as follows:

6 Section 2357.33 A. For taxable years beginning after December
7 31, 1999, and ending before January 1, 2013, there shall be allowed
8 a credit against the tax imposed by Section 2355 of this title for
9 amounts paid by a taxpayer operating one or more food service
10 establishments for immunizations against Hepatitis A for employees
11 of the taxpayer who work in such establishments.

12 B. As used in this section, "food service establishment" means
13 an establishment where food or drink is offered for sale or sold to
14 the public and which is licensed pursuant to the provisions of
15 Section 1-1118 of Title 63 of the Oklahoma Statutes.

16 C. The amount of the credit allowed pursuant to the provisions
17 of this section for each employee of the taxpayer shall not exceed
18 the usual and customary fee that would be allowed for an
19 immunization against Hepatitis A as approved by the State and
20 Education Employees Group Insurance Board.

21 D. The credit provided by this section shall be available to
22 the taxpayer in the tax year in which an employee was immunized and

1 shall not carry forward to subsequent tax years. Such credit shall
2 not be refunded to the taxpayer.

3 SECTION 28. AMENDATORY 68 O.S. 2001, Section 2357.40, as
4 amended by Section 6, Chapter 429, O.S.L. 2005 (68 O.S. Supp. 2007,
5 Section 2357.40), is amended to read as follows:

6 Section 2357.40 A. Upon receiving notification from the
7 Director of the Oklahoma Tourism and Recreation Department that an
8 approved company has entered into a tourism project agreement or a
9 film and music production and development facility project agreement
10 and is entitled to the inducements provided by the Oklahoma Tourism
11 Development Act, the Oklahoma Tax Commission shall provide the
12 approved company with forms and instructions as necessary to claim
13 those inducements.

14 B. ~~An~~ Before January 1, 2014, an approved company whose
15 agreement provides that it shall expend approved costs of more than
16 Five Hundred Thousand Dollars (\$500,000.00) but less than One
17 Million Dollars (\$1,000,000.00) shall be entitled to an income tax
18 credit or a sales tax credit if the company certifies to the Tax
19 Commission that it has expended at least Five Hundred Thousand
20 Dollars (\$500,000.00) in approved costs, and the Director certifies
21 that the approved company is in compliance with the Oklahoma Tourism
22 Development Act. The Tax Commission shall then issue a tax credit
23 memorandum to the approved company granting an income tax credit or

1 sales tax credit in the amount of ten percent (10%) of the approved
2 costs. Subsequent requests for credit for additional certified
3 approved costs in excess of Five Hundred Thousand Dollars
4 (\$500,000.00) but less than One Million Dollars (\$1,000,000.00)
5 shall result in an income tax credit or sales tax credit in the
6 amount of ten percent (10%) of the approved costs. Income tax
7 credits or sales tax credits allowed pursuant to the provisions of
8 the Oklahoma Tourism Development Act shall not be transferable or
9 assignable.

10 ~~An~~ Before January 1, 2014, an approved company whose agreement
11 provides that it shall expend approved costs in excess of One
12 Million Dollars (\$1,000,000.00) shall be entitled to an income tax
13 credit or sales tax credit if the company certifies to the Tax
14 Commission that it has expended at least One Million Dollars
15 (\$1,000,000.00) in approved costs and the Director certifies that
16 the approved company is in compliance with the Oklahoma Tourism
17 Development Act. The Tax Commission shall then issue a tax credit
18 memorandum to the approved company granting an income tax credit or
19 sales tax credit in the amount of twenty-five percent (25%) of the
20 approved costs. The credit on all subsequent additional certified
21 approved costs shall be in the amount of twenty-five percent (25%)
22 of the costs.

1 The Tax Commission may require proof of expenditures.
2 Additional credit memoranda may be issued as the approved company
3 certifies additional expenditures of approved costs.

4 No tax credit memorandum shall be issued for any approved costs
5 expended after the expiration of two (2) years from the date the
6 agreement was signed by the Director and the approved company.
7 However, the Director, with the advice and consent of the Tax
8 Commission, may authorize tax credits for approved costs expended up
9 to four (4) years from the date the agreement was signed if the
10 Director determines that the failure to complete the tourism
11 attraction project within two (2) years resulted from:

12 1. Unanticipated and unavoidable delay in the construction of
13 the tourism attraction or film and music production and development
14 facility project;

15 2. An original completion date for the tourism attraction or
16 film and music production and development facility project, as
17 originally planned, which will be more than two (2) years from the
18 date construction began; or

19 3. A change in business ownership or business structure
20 resulting from a merger or acquisition.

21 C. 1. An income tax credit allowed pursuant to the provisions
22 of this section shall be applied to the amount of income taxes due
23 from the approved company. If the amount of an income tax credit

1 allowed pursuant to the provisions of this section exceeds the
2 amount of income taxes due for the year in which the credit is
3 granted, the amount of the credit not used may be carried forward
4 for a period not to exceed ten (10) years.

5 2. A sales tax credit allowed pursuant to the provisions of
6 this section may be used to offset a portion of the reported state
7 sales tax liability of the approved company for all sales tax
8 reporting periods following the issuance of the credit memorandum
9 subject to the following limitations:

- 10 a. only increased state sales tax liability may be offset
11 by the issued credit,
- 12 b. an approved company whose agreement provides that it
13 shall expend approved costs in excess of One Million
14 Dollars (\$1,000,000.00) shall be entitled to use only
15 ten percent (10%) of the amount of each issued credit
16 to offset increased state sales tax liability during
17 each calendar year, plus the amount of any unused
18 credit carried forward from a prior calendar year, and
19 an approved company whose agreement provides that it
20 shall expend approved costs of more than Five Hundred
21 Thousand Dollars (\$500,000.00) but less than One
22 Million Dollars (\$1,000,000.00) shall be entitled to
23 use only twenty percent (20%) of the amount of each

1 issued credit to offset increased state sales tax
2 liability during each calendar year, plus the amount
3 of any unused credit carried forward from a prior
4 calendar year, and

5 c. all issued credit memoranda shall expire at the end of
6 the month following the expiration of the agreement as
7 provided in Section 2357.39 of this title.

8 The approved company shall have no obligation to refund or
9 otherwise return any amount of this credit to the person from whom
10 the sales tax was collected.

11 D. The Tax Commission shall promulgate rules as are necessary
12 for the proper administration of the Oklahoma Tourism Development
13 Act. The Tax Commission may also develop forms and instructions as
14 necessary for an approved company to claim the income tax credit
15 provided by the Oklahoma Tourism Development Act.

16 E. The Tax Commission shall have the authority to obtain any
17 information necessary from the approved company and the Director to
18 verify that approved companies have received the proper amounts of
19 tax credits as authorized by the Oklahoma Tourism Development Act.
20 The Oklahoma Tax Commission shall demand the repayment of any
21 credits taken in excess of the credit allowed by the Oklahoma
22 Tourism Development Act.

1 SECTION 29. AMENDATORY 68 O.S. 2001, Section 2357.41, as
2 last amended by Section 15, Chapter 272, O.S.L. 2006 (68 O.S. Supp.
3 2007, Section 2357.41), is amended to read as follows:

4 Section 2357.41 A. For tax years beginning after December 31,
5 2000, and ending before January 1, 2015, there shall be allowed a
6 credit against the tax imposed by Sections 2355 and 2370 of this
7 title or that portion of the tax imposed by Section 624 or 628 of
8 Title 36 of the Oklahoma Statutes that would otherwise have been
9 apportioned to the General Revenue Fund for qualified rehabilitation
10 expenditures incurred in connection with any certified historic
11 hotel or historic newspaper plant building located in an increment
12 or incentive district created pursuant to the Local Development Act
13 or for qualified rehabilitation expenditures incurred after January
14 1, 2006, in connection with any certified historic structure.

15 B. The amount of the credit shall be one hundred percent (100%)
16 of the federal rehabilitation credit provided for in Section 47 of
17 Title 26 of the United States Code. The credit authorized by this
18 section may be claimed at any time after the relevant local
19 governmental body responsible for doing so issues a certificate of
20 occupancy or other document that is a precondition for the
21 applicable use of the building or structure that is the basis upon
22 which the credit authorized by this section is claimed.

1 C. All requirements with respect to qualification for the
2 credit authorized by Section 47 of Title 26 of the United States
3 Code shall be applicable to the credit authorized by this section.

4 D. If the credit allowed pursuant to this section exceeds the
5 amount of income taxes due or if there are no state income taxes due
6 on the income of the taxpayer, the amount of the credit allowed but
7 not used in any taxable year may be carried forward as a credit
8 against subsequent income tax liability for a period not exceeding
9 ten (10) years following the qualified expenditures.

10 E. All rehabilitation work to which the credit may be applied
11 shall be reviewed by the State Historic Preservation Office which
12 will in turn forward the information to the National Park Service
13 for certification in accordance with 36 C.F.R., Part 67. A
14 certified historic structure may be rehabilitated for any lawful use
15 or uses, including without limitation mixed uses and still retain
16 eligibility for the credit provided for in this section.

17 F. The amount of the credit allowed for any credit claimed for
18 a certified historic hotel or historic newspaper plant building or
19 any certified historic structure, but not used, shall be freely
20 transferable to subsequent transferees at any time during the five
21 (5) years following the year of qualification. Any person to whom
22 or to which a tax credit is transferred shall have only such rights
23 to claim and use the credit under the terms that would have applied

1 to the entity by whom or by which the tax credit was transferred.
2 The provisions of this subsection shall not limit the ability of a
3 tax credit transferee to reduce the tax liability of the transferee
4 regardless of the actual tax liability of the tax credit transferor
5 for the relevant taxable period. The transferor originally allowed
6 the credit and the subsequent transferee shall jointly file a copy
7 of the written credit transfer agreement with the Oklahoma Tax
8 Commission within thirty (30) days of the transfer. The written
9 agreement shall contain the name, address and taxpayer
10 identification number of the parties to the transfer, the amount of
11 credit being transferred, the year the credit was originally allowed
12 to the transferor and the tax year or years for which the credit may
13 be claimed. The Tax Commission shall develop a standard form for
14 use by subsequent transferees of the credit demonstrating
15 eligibility for the transferee to reduce its applicable tax
16 liabilities resulting from ownership of the credit. The Tax
17 Commission may promulgate rules to permit verification of the
18 validity and timeliness of a tax credit claimed upon a tax return
19 pursuant to this subsection but shall not promulgate any rules which
20 unduly restrict or hinder the transfers of such tax credit.

21 G. As used in this section:

22 1. "Certified historic hotel or historic newspaper plant
23 building" means a hotel or newspaper plant building that is listed

1 on the National Register of Historic Places within thirty (30)
2 months of taking the credit pursuant to this section.

3 2. "Certified historic structure" means a building that is
4 listed on the National Register of Historic Places within thirty
5 (30) months of taking the credit pursuant to this section or a
6 building located in Oklahoma which is certified by the State
7 Historic Preservation Office as contributing to the historic
8 significance of a certified historic district listed on the National
9 Register of Historic Places, or a local district that has been
10 certified by the State Historic Preservation Office as eligible for
11 listing in the National Register of Historic Places; and

12 3. "Qualified rehabilitation expenditures" means capital
13 expenditures that qualify for the federal rehabilitation credit
14 provided in Section 47 of Title 26 of the United States Code and
15 that were paid after December 31, 2000. Qualified rehabilitation
16 expenditures do not include capital expenditures for nonhistoric
17 additions except an addition that is required by state or federal
18 regulations that relate to safety or accessibility. In addition,
19 qualified rehabilitation expenditures do not include expenditures
20 related to the cost of acquisition of the property.

21 SECTION 30. AMENDATORY Section 19, Chapter 472, O.S.L.
22 2003, as amended by Section 3, Chapter 518, O.S.L. 2004 (68 O.S.
23 Supp. 2007, Section 2357.45), is amended to read as follows:

1 Section 2357.45 A. 1. For tax years beginning after December
2 31, 2004, and ending before January 1, 2016, there shall be allowed
3 against the tax imposed by Section 2355 of this title, a credit for
4 any taxpayer who makes a donation to an independent biomedical
5 research institute. For calendar years 2005 and 2006, the amount of
6 the credit shall be fifty percent (50%) of the amount donated to an
7 independent biomedical research institute but in no event shall the
8 credit exceed One Thousand Dollars (\$1,000.00) for each taxpayer.
9 For calendar year 2007 and all subsequent years, the credit
10 percentage, not to exceed fifty percent (50%), shall be adjusted
11 annually so that the total estimate of the credits does not exceed
12 Two Million Dollars (\$2,000,000.00) annually. The formula to be
13 used for the percentage adjusted shall be fifty percent (50%) times
14 Two Million Dollars (\$2,000,000.00) divided by the credits claimed
15 in the preceding year. In no event shall the credit be claimed more
16 than once by a taxpayer each taxable year nor shall the credit
17 exceed One Thousand Dollars (\$1,000.00) for each taxpayer. In the
18 event the total tax credits authorized by this section exceed Two
19 Million Dollars (\$2,000,000.00) in any calendar year, the Oklahoma
20 Tax Commission shall permit any excess over Two Million Dollars
21 (\$2,000,000.00) but shall factor such excess into the percentage
22 adjustment formula for subsequent years.

1 2. For purposes of this section, "independent biomedical
2 research institute" means an organization which is exempt from
3 taxation pursuant to the provisions of Section 501(c)(3) of the
4 Internal Revenue Code, 26 U.S.C., Section 501(c)(3) whose primary
5 focus is conducting peer-reviewed basic biomedical research. The
6 organization shall:

- 7 a. have a board of directors,
- 8 b. be able to accept grants in its own name,
- 9 c. be an identifiable institute that has its own
10 employees and administrative staff, and
- 11 d. receive at least Fifteen Million Dollars
12 (\$15,000,000.00) in National Institute of Health
13 funding each year.

14 B. In no event shall the amount of the credit exceed the amount
15 of any tax liability of the taxpayer.

16 C. Any credits allowed but not used in any tax year may be
17 carried over, in order, to each of the four (4) years following the
18 year of qualification.

19 D. The Tax Commission shall have the authority to prescribe
20 forms for purposes of claiming the credit authorized by this
21 section.

22 SECTION 31. AMENDATORY 68 O.S. 2001, Section 2357.81, is
23 amended to read as follows:

1 Section 2357.81 A. Subject to the limitation imposed pursuant
2 to ~~subsection C of Section 11 of this act~~ Section 842 of Title 62 of
3 the Oklahoma Statutes, for taxable years beginning after December
4 31, 2000, and ending before January 1, 2017, there shall be allowed
5 as a credit against the tax imposed pursuant to Section 2355 of
6 ~~Title 68 of the Oklahoma Statutes~~ this title, an amount equal to one
7 hundred percent (100%) of the amount of ad valorem taxes exempted
8 pursuant to the provisions of Section 860 of Title 62 of the
9 Oklahoma Statutes for an enterprise locating a new facility within
10 or expanding an existing facility within an enterprise zone as
11 designated pursuant to Section 690.2 of Title ~~68~~ 62 of the Oklahoma
12 Statutes if such facility is also located within an incentive
13 district.

14 B. The income tax credit authorized by this section shall only
15 be available, to the extent otherwise allowable, for ad valorem
16 taxes for which an exemption has been provided pursuant to Section
17 860 of Title 62 of the Oklahoma Statutes on or after January 1,
18 2001. The county assessor of the county in which the facility is
19 located, or any part of the facility, shall provide an annual
20 certification to the Oklahoma Tax Commission not later than January
21 31 of each calendar year as to the amount of ad valorem taxes which
22 would have been payable by the owner of the facility without the

1 exemption provided by Section 860 of Title 62 of the Oklahoma
2 Statutes.

3 C. In order to claim the credit authorized by this section, the
4 taxpayer shall obtain a certification from the local governing body
5 approving the incentive district which shall be acknowledged by the
6 chief elected official of the local governing body. The
7 certification shall be signed by the Director of the Oklahoma
8 Department of Commerce or designee, that the facility is located
9 within an enterprise zone. The signature required by this
10 subsection shall be acknowledged in the manner provided by law.

11 D. The credit authorized by this section shall be allowable
12 only to the extent of ad valorem taxes which would have been levied
13 upon the taxable value of real property and improvements physically
14 attached to real property constituting the eligible facility without
15 the exemption provided by Section 860 of Title 62 of the Oklahoma
16 Statutes and shall not be allowable to the extent that the credit is
17 claimed for ad valorem taxes which would have been levied upon the
18 taxable value of personal property of the enterprise even if the
19 incentive granted by the participating governmental entities in the
20 incentive district includes personal property.

21 E. If the tax credit authorized by this section exceeds the
22 amount of taxes due or if there are no state taxes due of the
23 taxpayer, the amount of the claim not used as an offset against the

1 taxes of a taxable year may be carried forward for a period not to
2 exceed ten (10) years.

3 SECTION 32. AMENDATORY Section 1, Chapter 301, O.S.L.
4 2005, as amended by Section 1, Chapter 260, O.S.L. 2006 (68 O.S.
5 Supp. 2007, Section 2357.101), is amended to read as follows:

6 Section 2357.101 A. For taxable years beginning after December
7 31, 2004, and ending before January 1, 2018, there shall be allowed
8 against the tax imposed by Section 2355 of ~~Title 68 of the Oklahoma~~
9 ~~Statutes~~ this title, a credit equal to twenty-five percent (25%) of
10 the amount of profit made by a taxpayer from investment in an
11 existing Oklahoma film or music project with a production company to
12 pay for production costs that is reinvested by the taxpayer with the
13 production company to pay for the production cost of the production
14 company for a new Oklahoma film or music project.

15 B. In no event shall the amount of the credit provided for in
16 subsection A of this section for an eligible taxpayer exceed the tax
17 liability of the taxpayer in a calendar year.

18 C. The Oklahoma Tax Commission shall have the authority to
19 prescribe forms for purposes of claiming the credit authorized in
20 subsection A of this section. The forms shall include, but not be
21 limited to, requests for information that prove who the investment
22 was with, the amount of the original investment and the amount of
23 the profit realized from the investment.

1 D. As used in this section:

2 1. "Film" means a professional single media, multimedia program
3 or feature, which is not child pornography as defined in subsection
4 A of Section 1024.1 of Title 21 of the Oklahoma Statutes or obscene
5 material as defined in paragraph 1 of subsection B of Section 1024.1
6 of Title 21 of the Oklahoma Statutes including, but not limited to,
7 national advertising messages that are broadcast on a national
8 affiliate or cable network, fixed on film or digital video, which
9 can be viewed or reproduced and which is exhibited in theaters,
10 licensed for exhibition by individual television stations, groups of
11 stations, networks, cable television stations or other means or
12 licensed for home viewing markets;

13 2. "Music project" means a professional recording released on a
14 national or international level, whether via traditional
15 manufacturing or distributing or electronic distribution, using
16 technology currently in use or future technology including, but not
17 limited to, music CDs, radio commercials, jingles, cues, or
18 electronic device recordings;

19 3. "Production company" means a person who produces a film or
20 music project for exhibition in theaters, on television or
21 elsewhere;

22 4. "Total production cost" includes, but is not limited to:

- 1 a. wages or salaries of persons who have earned income
2 from working on a film or music project in this state,
3 including payments to personal services corporations
4 with respect to the services of qualified performing
5 artists, as determined under Section 62(a)(A) of the
6 Internal Revenue Code,
7 b. the cost of construction and operations, wardrobe,
8 accessories and related services,
9 c. the cost of photography, sound synchronization,
10 lighting and related services,
11 d. the cost of editing and related services,
12 e. rental of facilities and equipment, and
13 f. other direct costs of producing a film or music
14 project;

15 5. "Existing Oklahoma film or music project" means a film or
16 music project produced after July 1, 2005;

17 6. "Profit" means the amount made by the taxpayer to be
18 determined as follows:

- 19 a. the gross revenues less gross expenses, including
20 direct production, distribution and marketing costs
21 and an allocation of indirect overhead costs, of the
22 film or music project shall be multiplied by,

- 1 b. a ratio, the numerator of which is Oklahoma production
2 costs, as defined in paragraph 7 of this subsection,
3 and the denominator of which is total production
4 costs, as defined in paragraph 4 of this subsection,
5 which shall be multiplied by,
6 c. the percent of the taxpayer's taxable income allocated
7 to Oklahoma in a taxable year, and
8 d. subtract from the result of the formula calculated
9 pursuant to subparagraphs a through c of this
10 paragraph the profit made by a taxpayer from
11 investment in an existing Oklahoma film or music
12 project in previous taxable years. Profit shall
13 include either a net profit or net loss;

14 7. "Oklahoma production cost" means that portion of total
15 production costs which are incurred with any qualified vendor;

- 16 8. a. "Qualified vendor" means an Oklahoma entity which
17 provides goods or services to a production company and
18 for which:
19 (1) fifty percent (50%) or more of its employees are
20 Oklahoma residents, and
21 (2) fifty percent (50%) or more of gross wages, as
22 reported on Internal Revenue Service Form W-2 or
23 Form 1099, are paid to Oklahoma residents.

1 b. For purposes of this paragraph, an employee shall
2 include a self-employed individual reporting income
3 from a qualified vendor on Internal Revenue Service
4 Form 1040.

5 c. The Oklahoma Tax Commission shall prescribe forms by
6 which an entity may be certified to a production
7 company as a qualified vendor for purposes of this
8 section; and

9 9. "Investment" means costs associated with the original
10 production company. Film or music projects acquired from an
11 original production company do not qualify as investment under
12 subsection A of this section.

13 SECTION 33. AMENDATORY Section 11, Chapter 381, O.S.L.
14 2005 (68 O.S. Supp. 2007, Section 2357.102), is amended to read as
15 follows:

16 Section 2357.102 A. For taxable years beginning after December
17 31, 2005, and ending before January 1, 2011, there shall be allowed
18 a credit against the tax imposed by Section 2355 of ~~Title 68 of the~~
19 ~~Oklahoma Statutes~~ this title for the cost of the purchase of a dry
20 fire hydrant or the cost to provide an acceptable means of water
21 storage for such dry fire hydrant including a pond, tank, or other
22 storage facility with the primary purpose of fire protection within
23 the State of Oklahoma. The credit shall be equal to fifty percent

1 (50%) of the purchase price of the dry fire hydrant or the actual
2 expenditure for any new water storage construction, equipment,
3 development and installation of the dry hydrant, including pipes,
4 valves, hydrants, and labor for each installation of a dry hydrant
5 or new water storage facility but in no event shall the amount of
6 the credit exceed Five Thousand Dollars (\$5,000.00) for each
7 taxpayer.

8 B. In order to qualify for the tax credit provided for in
9 subsection A of this section, the dry fire hydrant or new water
10 storage facility must meet the following minimum requirements:

11 1. Each body of water or water storage structure must be able
12 to provide two hundred fifty (250) gallons per minute for a
13 continuous two-hour period during a fifty-year drought or freeze at
14 a vertical lift of eighteen (18) feet;

15 2. Each dry fire hydrant must be located within twenty-five
16 (25) feet of an all-weather roadway and must be accessible to fire
17 protection equipment; and

18 3. Dry fire hydrants shall be located a reasonable distance
19 from other dry or pressurized hydrants.

20 C. In no event shall the amount of the credit exceed the amount
21 of any tax liability of the taxpayer.

1 D. Any credits allowed but not used in any tax year may be
2 carried over, in order, to each of the four (4) years following the
3 year of qualification.

4 E. The Oklahoma Tax Commission and the State Fire Marshal
5 Commission shall promulgate rules to establish the requirements for
6 the construction of a dry fire hydrant or new water storage facility
7 and permit verification of eligibility of a dry fire hydrant or new
8 water storage facility for the credit provided for in subsection A
9 of this section.

10 F. As used in this section, "dry fire hydrant" means
11 nonpressurized pipes permanently installed in lakes, farm ponds, and
12 streams that provide a ready means of drawing water.

13 SECTION 34. AMENDATORY Section 2, Chapter 442, O.S.L.
14 2005 (68 O.S. Supp. 2007, Section 2357.203), is amended to read as
15 follows:

16 Section 2357.203 A. As used in this section:

17 1. "Nonqualified operating expenditures" means labor costs,
18 salary and other compensation, whether direct or indirect, paid to
19 directors, officers, limited liability company members, limited
20 liability company managers, partners or other principals or
21 employees of the business entity;

22 2. "Qualified direct costs" means expenditures, other than
23 nonqualified operating expenditures, to construct dog kennels,

1 fences, pens, training areas for canines, structures for office
2 space or other improvements to real property necessary for the
3 proper training of a specially trained canine, including the cost of
4 food, water, veterinary expenses and other costs directly related to
5 the operation of the training facility; and

6 3. "Specially trained canines" means dogs that are raised by a
7 person who is officially licensed as a dog breeder by the United
8 States Department of Agriculture.

9 B. For taxable years beginning after December 31, 2005, and
10 ending before January 1, 2012, there shall be allowed a credit
11 against the tax imposed pursuant to Section 2355 of ~~Title 68 of the~~
12 ~~Oklahoma Statutes~~ this title in the amount of fifty percent (50%) of
13 the qualified direct costs associated with the operation of a
14 business enterprise the principal purpose of which is the rearing of
15 specially trained canines.

16 C. The provisions of this section shall not be applicable to
17 nonqualified operating expenditures.

18 D. The credit authorized by this section shall not be used to
19 reduce the tax liability of the taxpayer to less than zero (0). Any
20 credits authorized by this section claimed for a taxable year which
21 are unable to be used may be carried over, in order, to each of the
22 five (5) subsequent taxable years.

1 E. The Oklahoma Tax Commission shall be authorized to prescribe
2 such forms as may be necessary in order to administer the tax credit
3 authorized by this section. The Tax Commission may request such
4 additional documentation as may be required from the taxpayer in
5 order to verify the eligibility for the credit authorized by this
6 section.

7 SECTION 35. AMENDATORY 68 O.S. 2001, Section 2358, as
8 last amended by Section 3, Chapter 346, O.S.L. 2007 (68 O.S. Supp.
9 2007, Section 2358), is amended to read as follows:

10 Section 2358. For all tax years beginning after December 31,
11 1981, taxable income and adjusted gross income shall be adjusted to
12 arrive at Oklahoma taxable income and Oklahoma adjusted gross income
13 as required by this section.

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

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

22 2. There shall be deducted amounts included in such income that
23 the state is prohibited from taxing because of the provisions of the

1 Federal Constitution, the State Constitution, federal laws or laws
2 of Oklahoma.

3 3. ~~The~~ In any tax year ending before January 1, 2013, the
4 amount of any federal net operating loss deduction shall be adjusted
5 as follows:

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

15 b. For carryovers and carrybacks to taxable years
16 beginning after December 31, 1980, the amount of any
17 net operating loss deduction allowed for the taxable
18 year shall be an amount equal to the aggregate of the
19 Oklahoma net operating loss carryovers and carrybacks
20 to such year. Oklahoma net operating losses shall be
21 separately determined by reference to Section 172 of
22 the Internal Revenue Code, 26 U.S.C., Section 172, as
23 modified by the Oklahoma Income Tax Act, ~~Section 2351~~

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

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

- 15 a. Income from real and tangible personal property, such
16 as rents, oil and mining production or royalties, and
17 gains or losses from sales of such property, shall be
18 allocated in accordance with the situs of such
19 property;
- 20 b. Income from intangible personal property, such as
21 interest, dividends, patent or copyright royalties,
22 and gains or losses from sales of such property, shall

1 be allocated in accordance with the domiciliary situs
2 of the taxpayer, except that:

3 (1) where such property has acquired a nonunitary
4 business or commercial situs apart from the
5 domicile of the taxpayer such income shall be
6 allocated in accordance with such business or
7 commercial situs; interest income from
8 investments held to generate working capital for
9 a unitary business enterprise shall be included
10 in apportionable income; a resident trust or
11 resident estate shall be treated as having a
12 separate commercial or business situs insofar as
13 undistributed income is concerned, but shall not
14 be treated as having a separate commercial or
15 business situs insofar as distributed income is
16 concerned,

17 (2) for taxable years beginning after December 31,
18 2003, capital or ordinary gains or losses from
19 the sale of an ownership interest in a publicly
20 traded partnership, as defined by Section 7704(b)
21 of the Internal Revenue Code of 1986, as amended,
22 shall be allocated to this state in the ratio of
23 the original cost of such partnership's tangible

1 property in this state to the original cost of
2 such partnership's tangible property everywhere,
3 as determined at the time of the sale; if more
4 than fifty percent (50%) of the value of the
5 partnership's assets consists of intangible
6 assets, capital or ordinary gains or losses from
7 the sale of an ownership interest in the
8 partnership shall be allocated to this state in
9 accordance with the sales factor of the
10 partnership for its first full tax period
11 immediately preceding its tax period during which
12 the ownership interest in the partnership was
13 sold; the provisions of this division shall only
14 apply if the capital or ordinary gains or losses
15 from the sale of an ownership interest in a
16 partnership do not constitute qualifying gain
17 receiving capital treatment as defined in
18 subparagraph a of paragraph 2 of subsection F of
19 this section,

20 (3) income from such property which is required to be
21 allocated pursuant to the provisions of paragraph
22 5 of this subsection shall be allocated as herein
23 provided;

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

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

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

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

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

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

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

16 (1) except as otherwise provided by division (2) of
17 this subparagraph, taxable income of an insurance
18 company for a taxable year shall be apportioned
19 to this state by multiplying such income by a
20 fraction, the numerator of which is the direct
21 premiums written for insurance on property or
22 risks in this state, and the denominator of which
23 is the direct premiums written for insurance on

1 property or risks everywhere. For purposes of
2 this subsection, the term "direct premiums
3 written" means the total amount of direct
4 premiums written, assessments and annuity
5 considerations as reported for the taxable year
6 on the annual statement filed by the company with
7 the Insurance Commissioner in the form approved
8 by the National Association of Insurance
9 Commissioners, or such other form as may be
10 prescribed in lieu thereof,

11 (2) if the principal source of premiums written by an
12 insurance company consists of premiums for
13 reinsurance accepted by it, the taxable income of
14 such company shall be apportioned to this state
15 by multiplying such income by a fraction, the
16 numerator of which is the sum of (a) direct
17 premiums written for insurance on property or
18 risks in this state, plus (b) premiums written
19 for reinsurance accepted in respect of property
20 or risks in this state, and the denominator of
21 which is the sum of (c) direct premiums written
22 for insurance on property or risks everywhere,
23 plus (d) premiums written for reinsurance

1 accepted in respect of property or risks
2 everywhere. For purposes of this paragraph,
3 premiums written for reinsurance accepted in
4 respect of property or risks in this state,
5 whether or not otherwise determinable, may at the
6 election of the company be determined on the
7 basis of the proportion which premiums written
8 for insurance accepted from companies
9 commercially domiciled in Oklahoma bears to
10 premiums written for reinsurance accepted from
11 all sources, or alternatively in the proportion
12 which the sum of the direct premiums written for
13 insurance on property or risks in this state by
14 each ceding company from which reinsurance is
15 accepted bears to the sum of the total direct
16 premiums written by each such ceding company for
17 the taxable year.

18 5. The net income or loss remaining after the separate
19 allocation in paragraph 4 of this subsection, being that which is
20 derived from a unitary business enterprise, shall be apportioned to
21 this state on the basis of the arithmetical average of three factors
22 consisting of property, payroll and sales or gross revenue
23 enumerated as subparagraphs a, b and c of this paragraph. Net

1 income or loss as used in this paragraph includes that derived from
2 patent or copyright royalties, purchase discounts, and interest on
3 accounts receivable relating to or arising from a business activity,
4 the income from which is apportioned pursuant to this subsection,
5 including the sale or other disposition of such property and any
6 other property used in the unitary enterprise. Deductions used in
7 computing such net income or loss shall not include taxes based on
8 or measured by income. Provided, for corporations whose property
9 for purposes of the tax imposed by Section 2355 of this title has an
10 initial investment cost equaling or exceeding Two Hundred Million
11 Dollars (\$200,000,000.00) and such investment is made on or after
12 July 1, 1997, or for corporations which expand their property or
13 facilities in this state and such expansion has an investment cost
14 equaling or exceeding Two Hundred Million Dollars (\$200,000,000.00)
15 over a period not to exceed three (3) years, and such expansion is
16 commenced on or after January 1, 2000, the three factors shall be
17 apportioned with property and payroll, each comprising twenty-five
18 percent (25%) of the apportionment factor and sales comprising fifty
19 percent (50%) of the apportionment factor. The apportionment
20 factors shall be computed as follows:

21 a. The property factor is a fraction, the numerator of
22 which is the average value of the taxpayer's real and
23 tangible personal property owned or rented and used in

1 this state during the tax period and the denominator
2 of which is the average value of all the taxpayer's
3 real and tangible personal property everywhere owned
4 or rented and used during the tax period.

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

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

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

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

17 (1) In the case of a transportation enterprise, the
18 numerator of the fraction shall include a portion
19 of such expenditure in connection with employees
20 operating equipment over a fixed route, such as
21 railroad employees, airline pilots, or bus
22 drivers, in this state only a part of the time,
23 in the proportion that mileage traveled in

1 Oklahoma bears to total mileage traveled by such
2 employees,

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

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

18 (1) Sales of tangible personal property have a situs
19 in this state if the property is delivered or
20 shipped to a purchaser other than the United
21 States government, within this state regardless
22 of the FOB point or other conditions of the sale;
23 or the property is shipped from an office, store,

1 warehouse, factory or other place of storage in
2 this state and (a) the purchaser is the United
3 States government or (b) the taxpayer is not
4 doing business in the state of the destination of
5 the shipment.

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

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

19 (4) In the case of an oil, gasoline or gas pipeline
20 enterprise, the numerator of the fraction shall
21 be either the total of traffic units of the
22 enterprise within Oklahoma or the revenue
23 allocated to Oklahoma based upon miles moved, at

1 the option of the taxpayer, and the denominator
2 of which shall be the total of traffic units of
3 the enterprise or the revenue of the enterprise
4 everywhere as appropriate to the numerator. A
5 "traffic unit" is hereby defined as the
6 transportation for a distance of one (1) mile of
7 one (1) barrel of oil, one (1) gallon of gasoline
8 or one thousand (1,000) cubic feet of natural or
9 casinghead gas, as the case may be.

10 (5) In the case of a telephone or telegraph or other
11 communication enterprise, the numerator of the
12 fraction shall include that portion of the
13 interstate revenue as is allocated pursuant to
14 the accounting procedures prescribed by the
15 Federal Communications Commission; provided that
16 in respect to each corporation or business entity
17 required by the Federal Communications Commission
18 to keep its books and records in accordance with
19 a uniform system of accounts prescribed by such
20 Commission, the intrastate net income shall be
21 determined separately in the manner provided by
22 such uniform system of accounts and only the
23 interstate income shall be subject to allocation

1 pursuant to the provisions of this subsection.

2 Provided further, that the gross revenue factors
3 shall be those as are determined pursuant to the
4 accounting procedures prescribed by the Federal
5 Communications Commission.

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

1 of the enterprise must attribute to Oklahoma only a reasonable
2 portion thereof.

3 6. For calendar years 1997 and 1998, the owner of a new or
4 expanded agricultural commodity processing facility in this state
5 may exclude from Oklahoma taxable income, or in the case of an
6 individual, the Oklahoma adjusted gross income, fifteen percent
7 (15%) of the investment by the owner in the new or expanded
8 agricultural commodity processing facility. For calendar year 1999,
9 ~~and all subsequent years~~ through the calendar year ending on
10 December 31, 2014, the percentage, not to exceed fifteen percent
11 (15%), available to the owner of a new or expanded agricultural
12 commodity processing facility in this state claiming the exemption
13 shall be adjusted annually so that the total estimated reduction in
14 tax liability does not exceed One Million Dollars (\$1,000,000.00)
15 annually. The Tax Commission shall promulgate rules for determining
16 the percentage of the investment which each eligible taxpayer may
17 exclude. The exclusion provided by this paragraph shall be taken in
18 the taxable year when the investment is made. In the event the
19 total reduction in tax liability authorized by this paragraph
20 exceeds One Million Dollars (\$1,000,000.00) in any calendar year,
21 the Tax Commission shall permit any excess over One Million Dollars
22 (\$1,000,000.00) and shall factor such excess into the percentage for
23 subsequent years. Any amount of the exemption permitted to be

1 excluded pursuant to the provisions of this paragraph but not used
2 in any year may be carried forward as an exemption from income
3 pursuant to the provisions of this paragraph for a period not
4 exceeding six (6) years following the year in which the investment
5 was originally made. No exemption shall be allowed pursuant to this
6 paragraph on or after January 1, 2014.

7 For purposes of this paragraph:

- 8 a. "Agricultural commodity processing facility" means
9 building, structures, fixtures and improvements used
10 or operated primarily for the processing or production
11 of marketable products from agricultural commodities.
12 The term shall also mean a dairy operation that
13 requires a depreciable investment of at least Two
14 Hundred Fifty Thousand Dollars (\$250,000.00) and which
15 produces milk from dairy cows. The term does not
16 include a facility that provides only, and nothing
17 more than, storage, cleaning, drying or transportation
18 of agricultural commodities, and
- 19 b. "Facility" means each part of the facility which is
20 used in a process primarily for:
21 (1) the processing of agricultural commodities,
22 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, and
10 ending before January 1, 2015, in the case of a taxpayer which has a
11 farming loss, such farming loss shall be considered a net operating
12 loss carryback in accordance with and to the extent of the Internal
13 Revenue Code, 26 U.S.C., Section 172(b)(G). However, the amount of
14 the net operating loss 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, and
21 ending before January 1, 2016, all qualified wages equal to the
22 federal income tax credit set forth in 26 U.S.C.A., Section 45A,
23 shall be deducted from taxable income. The deduction allowed

1 pursuant to this paragraph shall only be permitted for the tax years
2 in which the federal tax credit pursuant to 26 U.S.C.A., Section
3 45A, is allowed. For purposes of this paragraph, "qualified wages"
4 means those wages used to calculate the federal credit pursuant to
5 26 U.S.C.A., Section 45A.

6 9. In taxable years beginning after December 31, 2005, and
7 ending before January 1, 2017, an employer that is eligible for and
8 utilizes the Safety Pays OSHA Consultation Service provided by the
9 Oklahoma Department of Labor shall receive an exemption from taxable
10 income in the amount of One Thousand Dollars (\$1,000.00) for the tax
11 year that the service is utilized.

12 B. The taxable income of any corporation shall be further
13 adjusted to arrive at Oklahoma taxable income, except those
14 corporations electing treatment as provided in subchapter S of the
15 Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section
16 2365 of this title, deductions pursuant to the provisions of the
17 Accelerated Cost Recovery System as defined and allowed in the
18 Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C.,
19 Section 168, for depreciation of assets placed into service after
20 December 31, 1981, shall not be allowed in calculating Oklahoma
21 taxable income. ~~Such~~ Before January 1, 2018, such corporations
22 shall be allowed a deduction for depreciation of assets placed into
23 service after December 31, 1981, in accordance with provisions of

1 the Internal Revenue Code, 26 U.S.C., Section 1 et seq., in effect
2 immediately prior to the enactment of the Accelerated Cost Recovery
3 System. The Oklahoma tax basis for all such assets placed into
4 service after December 31, 1981, calculated in this section shall be
5 retained and utilized for all Oklahoma income tax purposes through
6 the final disposition of such assets.

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

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

20 C. 1. For taxable years beginning after December 31, 1987, and
21 ending before January 1, 2011, the taxable income of any corporation
22 shall be further adjusted to arrive at Oklahoma taxable income for
23 transfers of technology to qualified small businesses located in

1 Oklahoma. Such transferor corporation shall be allowed an exemption
2 from taxable income of an amount equal to the amount of royalty
3 payment received as a result of such transfer; provided, however,
4 such amount shall not exceed ten percent (10%) of the amount of
5 gross proceeds received by such transferor corporation as a result
6 of the technology transfer. Such exemption shall be allowed for a
7 period not to exceed ten (10) years from the date of receipt of the
8 first royalty payment accruing from such transfer. No exemption may
9 be claimed for transfers of technology to qualified small businesses
10 made prior to January 1, 1988.

11 2. For purposes of this subsection:

- 12 a. "Qualified small business" means an entity, whether
13 organized as a corporation, partnership, or
14 proprietorship, organized for profit with its
15 principal place of business located within this state
16 and which meets the following criteria:
- 17 (1) Capitalization of not more than Two Hundred Fifty
18 Thousand Dollars (\$250,000.00),
 - 19 (2) Having at least fifty percent (50%) of its
20 employees and assets located in Oklahoma at the
21 time of the transfer, and
 - 22 (3) Not a subsidiary or affiliate of the transferor
23 corporation;

1 federal income tax return of the corporation, estate
2 or trust that result from:

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

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

18 (3) the sale of real property, tangible personal
19 property or intangible personal property located
20 within Oklahoma as part of the sale of all or
21 substantially all of the assets of an Oklahoma
22 company, limited liability company, or
23 partnership where such property has been directly

1 or indirectly owned by such entity owned by the
2 owners of such entity, and used in or derived
3 from such entity for a period of at least three
4 (3) years prior to the date of the transaction
5 from which the net capital gains arise,

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

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

18 d. "direct" means the taxpayer directly owns the asset,
19 and

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

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

14 (2) With respect to sales of stock or ownership
15 interest in or sales of all or substantially all
16 of the assets of an Oklahoma company, limited
17 liability company, or partnership, the deduction
18 described in this subsection shall not apply
19 unless the pass-through entity that makes the
20 sale has held the stock or ownership interest or
21 the assets for not less than three (3)
22 uninterrupted years prior to the date of the
23 transaction that created the capital gain, and

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

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

9 1. a. In the case of individuals, there shall be added or
10 deducted, as the case may be, the difference necessary
11 to allow personal exemptions of One Thousand Dollars
12 (\$1,000.00) in lieu of the personal exemptions allowed
13 by the Internal Revenue Code.

14 b. There shall be allowed an additional exemption of One
15 Thousand Dollars (\$1,000.00) for each taxpayer or
16 spouse who is blind at the close of the tax year. For
17 purposes of this subparagraph, an individual is blind
18 only if the central visual acuity of the individual
19 does not exceed 20/200 in the better eye with
20 correcting lenses, or if the visual acuity of the
21 individual is greater than 20/200, but is accompanied
22 by a limitation in the fields of vision such that the

1 widest diameter of the visual field subtends an angle
2 no greater than twenty (20) degrees.

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

- 11 (1) Twenty-five Thousand Dollars (\$25,000.00) if
12 married and filing jointly;
- 13 (2) Twelve Thousand Five Hundred Dollars (\$12,500.00)
14 if married and filing separately;
- 15 (3) Fifteen Thousand Dollars (\$15,000.00) if single;
16 and
- 17 (4) Nineteen Thousand Dollars (\$19,000.00) if a
18 qualifying head of household.

19 Provided, for taxable years beginning after December
20 31, 1999, amounts included in the calculation of
21 federal adjusted gross income pursuant to the
22 conversion of a traditional individual retirement
23 account to a Roth individual retirement account shall

1 be excluded from federal adjusted gross income for
2 purposes of the income thresholds provided in this
3 subparagraph.

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

13 2. a. For taxable years beginning on or before December 31,
14 2005, in the case of individuals who use the standard
15 deduction in determining taxable income, there shall
16 be added or deducted, as the case may be, the
17 difference necessary to allow a standard deduction in
18 lieu of the standard deduction allowed by the Internal
19 Revenue Code, in an amount equal to the larger of
20 fifteen percent (15%) of the Oklahoma adjusted gross
21 income or One Thousand Dollars (\$1,000.00), but not to
22 exceed Two Thousand Dollars (\$2,000.00), except that
23 in the case of a married individual filing a separate

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

6 b. For taxable years beginning on or after January 1,
7 2006, and before January 1, 2007, in the case of
8 individuals who use the standard deduction in
9 determining taxable income, there shall be added or
10 deducted, as the case may be, the difference necessary
11 to allow a standard deduction in lieu of the standard
12 deduction allowed by the Internal Revenue Code, in an
13 amount equal to:

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

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

19 c. For the taxable year beginning on January 1, 2007, and
20 ending December 31, 2007, in the case of individuals
21 who use the standard deduction in determining taxable
22 income, there shall be added or deducted, as the case
23 may be, the difference necessary to allow a standard

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

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

6 (2) Four Thousand One Hundred Twenty-five Dollars
7 (\$4,125.00) for a head of household; or

8 (3) Two Thousand Seven Hundred Fifty Dollars
9 (\$2,750.00), if the filing status is single or
10 married filing separate.

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

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

21 (2) Four Thousand Eight Hundred Seventy-five Dollars
22 (\$4,875.00) for a head of household, or

1 (3) Three Thousand Two Hundred Fifty Dollars
2 (\$3,250.00), if the filing status is single or
3 married filing separate.

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

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

14 (2) Six Thousand Three Hundred Seventy-five Dollars
15 (\$6,375.00) for a head of household, or

16 (3) Four Thousand Two Hundred Fifty Dollars
17 (\$4,250.00), if the filing status is single or
18 married filing separate.

19 f. For taxable years beginning on or after January 1,
20 2010, in the case of individuals who use the standard
21 deduction in determining taxable income, there shall
22 be added or deducted, as the case may be, the
23 difference necessary to allow a standard deduction

1 equal to the standard deduction allowed by the
2 Internal Revenue Code of 1986, as amended, based upon
3 the amount and filing status prescribed by such Code
4 for purposes of filing federal individual income tax
5 returns.

6 3. In the case of resident and part-year resident individuals
7 having adjusted gross income from sources both within and without
8 the state, the itemized or standard deductions and personal
9 exemptions shall be reduced to an amount which is the same portion
10 of the total thereof as Oklahoma adjusted gross income is of
11 adjusted gross income. To the extent itemized deductions include
12 allowable moving expense, proration of moving expense shall not be
13 required or permitted but allowable moving expense shall be fully
14 deductible for those taxpayers moving within or into Oklahoma and no
15 part of moving expense shall be deductible for those taxpayers
16 moving without or out of Oklahoma. All other itemized or standard
17 deductions and personal exemptions shall be subject to proration as
18 provided by law.

19 4. A resident individual with a physical disability
20 constituting a substantial handicap to employment may deduct from
21 Oklahoma adjusted gross income such expenditures to modify a motor
22 vehicle, home or workplace as are necessary to compensate for his or
23 her handicap. A veteran certified by the Veterans Administration of

1 the federal government as having a service-connected disability
2 shall be conclusively presumed to be an individual with a physical
3 disability constituting a substantial handicap to employment. The
4 Tax Commission shall promulgate rules containing a list of
5 combinations of common disabilities and modifications which may be
6 presumed to qualify for this deduction. The Tax Commission shall
7 prescribe necessary requirements for verification.

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

- 16 a. absence from the United States, which term includes
17 only the states and the District of Columbia;
- 18 b. absence from the State of Oklahoma while on active
19 duty; or
- 20 c. confinement in a hospital within the United States for
21 treatment of wounds, injuries or disease,
22 the time for filing a return and paying an income tax shall
23 be and is hereby extended without incurring liability for

1 interest or penalties, to the fifteenth day of the third
2 month following the month in which:

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

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

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

22 6. The salary or any other form of compensation, received from
23 the United States by a member of any component of the Armed Forces

1 of the United States, shall be deducted from taxable income during
2 the time in which the person is detained by the enemy in a conflict,
3 is a prisoner of war or is missing in action and not deceased.

4 7. Notwithstanding anything in the Internal Revenue Code or in
5 the Oklahoma Income Tax Act to the contrary, it is expressly
6 provided that, in the case of resident individuals, amounts received
7 as dividends or distributions of earnings from savings and loan
8 associations or credit unions located in Oklahoma, and interest
9 received on savings accounts and time deposits from such sources or
10 from state and national banks or trust companies located in
11 Oklahoma, shall qualify as dividends for the purpose of the dividend
12 exclusion, and taxable income for tax years ending before January 1,
13 2013, shall be adjusted accordingly to arrive at Oklahoma taxable
14 income; provided, however, that the dividend, distribution of
15 earnings and/or interest exclusion provided for hereinabove shall
16 not be cumulative to the maximum dividend exclusion allowed by the
17 Internal Revenue Code. Any dividend exclusion already allowed by
18 the Internal Revenue Code and reflected in the taxpayer's Oklahoma
19 taxable income together with exclusion allowed herein shall not
20 exceed the total of One Hundred Dollars (\$100.00) per individual or
21 Two Hundred Dollars (\$200.00) per couple filing a joint return.

22 8. a. An individual taxpayer, whether resident or
23 nonresident, may deduct an amount equal to the federal

1 income taxes paid by the taxpayer during the taxable
2 year.

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

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

1 16, and the advanced refund of such credit shall not
2 be subject to taxation.

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

6 9. Retirement benefits not to exceed Five Thousand Five Hundred
7 Dollars (\$5,500.00) for the 2004 tax year, Seven Thousand Five
8 Hundred Dollars (\$7,500.00) for the 2005 tax year and Ten Thousand
9 Dollars (\$10,000.00) for the 2006 tax year and all subsequent tax
10 years, which are received by an individual from the civil service of
11 the United States, the Oklahoma Public Employees Retirement System,
12 the Teachers' Retirement System of Oklahoma, the Oklahoma Law
13 Enforcement Retirement System, the Oklahoma Firefighters Pension and
14 Retirement System, the Oklahoma Police Pension and Retirement
15 System, the employee retirement systems created by counties pursuant
16 to Section 951 et seq. of Title 19 of the Oklahoma Statutes, the
17 Uniform Retirement System for Justices and Judges, the Oklahoma
18 Wildlife Conservation Department Retirement Fund, the Oklahoma
19 Employment Security Commission Retirement Plan, or the employee
20 retirement systems created by municipalities pursuant to Section 48-
21 101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt
22 from taxable income.

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

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

20 12. In taxable years beginning after December 31, 1995, and
21 ending before January 1, 2014, contributions made to and interest
22 received from a medical savings account established pursuant to

1 ~~Sections 2621 through 2623 of Title 63 of the Oklahoma Statutes~~ the
2 Medical Savings Account Act shall be exempt from taxable income.

3 13. For taxable years beginning after December 31, 1996, and
4 ending before January 1, 2015, the Oklahoma adjusted gross income of
5 any individual taxpayer who is a swine or poultry producer may be
6 further adjusted for the deduction for depreciation allowed for new
7 construction or expansion costs which may be computed using the same
8 depreciation method elected for federal income tax purposes except
9 that the useful life shall be seven (7) years for purposes of this
10 paragraph. If depreciation is allowed as a deduction in determining
11 the adjusted gross income of an individual, any depreciation
12 calculated and claimed pursuant to this section shall in no event be
13 a duplication of any depreciation allowed or permitted on the
14 federal income tax return of the individual.

15 14. a. In taxable years beginning after December 31, 2002,
16 and ending before January 1, 2016, nonrecurring

17 adoption expenses paid by a resident individual
18 taxpayer in connection with:

19 (1) the adoption of a minor, or

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

22 may be deducted from the Oklahoma adjusted gross
23 income.

- 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

1 and alteration of the adoptive parents' home or
2 property, except for a special needs child as
3 authorized by the court.

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

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

22 (1) in taxable years beginning after December 31,
23 2004, and prior to January 1, 2007, the

1 qualifying amount shall be Thirty-seven Thousand
2 Five Hundred Dollars (\$37,500.00) or less if the
3 filing status is single, head of household, or
4 married filing separate, or Seventy-Five Thousand
5 Dollars (\$75,000.00) or less if the filing status
6 is married filing jointly or qualifying widow,

7 (2) in the taxable year beginning January 1, 2007,
8 the qualifying amount shall be Fifty Thousand
9 Dollars (\$50,000.00) or less if the filing status
10 is single, head of household, or married filing
11 separate, or One Hundred Thousand Dollars
12 (\$100,000.00) or less if the filing status is
13 married filing jointly or qualifying widow,

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

22 (4) in the taxable year beginning January 1, 2009,
23 the qualifying amount shall be One Hundred

1 Thousand Dollars (\$100,000.00) or less if the
2 filing status is single, head of household, or
3 married filing separate, or Two Hundred Thousand
4 Dollars (\$200,000.00) or less if the filing
5 status is married filing jointly or qualifying
6 widow, and

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

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

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

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

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

- 1 (4) an employee annuity subject to the provisions of
2 Section 403(a) or (b) of the Internal Revenue
3 Code, 26 U.S.C., Section 403(a) or (b),
4 (5) United States Retirement Bonds which satisfy the
5 requirements of Section 86 of the Internal
6 Revenue Code, 26 U.S.C., Section 86, or
7 (6) lump-sum distributions from a retirement plan
8 which satisfies the requirements of Section
9 402(e) of the Internal Revenue Code, 26 U.S.C.,
10 Section 402(e).

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

1 Ten Thousand Dollars (\$10,000.00) for the 2006 tax
2 year and all subsequent tax years.

3 16. In taxable years beginning after December 31, 1999, and
4 ending before January 1, 2017, for an individual engaged in
5 production agriculture who has filed a Schedule F form with the
6 taxpayer's federal income tax return for such taxable year, there
7 shall be excluded from taxable income any amount which was included
8 as federal taxable income or federal adjusted gross income and which
9 consists of the discharge of an obligation by a creditor of the
10 taxpayer incurred to finance the production of agricultural
11 products.

12 17. In taxable years beginning December 31, 2000, and ending
13 before January 1, 2018, an amount equal to one hundred percent
14 (100%) of the amount of any scholarship or stipend received from
15 participation in the Oklahoma Police Corps Program, as established
16 in Section 2-140.3 of Title 47 of the Oklahoma Statutes shall be
17 exempt from taxable income.

18 18. a. In taxable years beginning after December 31, 2001,
19 and before January 1, 2005, there shall be allowed a
20 deduction in the amount of contributions to accounts
21 established pursuant to the Oklahoma College Savings
22 Plan Act. The deduction shall equal the amount of
23 contributions to accounts, but in no event shall the

1 deduction for each contributor exceed Two Thousand
2 Five Hundred Dollars (\$2,500.00) each taxable year for
3 each account.

4 b. In taxable years beginning after December 31, 2004,
5 and ending before January 1, 2011, each taxpayer shall
6 be allowed a deduction for contributions to accounts
7 established pursuant to the Oklahoma College Savings
8 Plan Act. The maximum annual deduction shall equal
9 the amount of contributions to all such accounts plus
10 any contributions to such accounts by the taxpayer for
11 prior taxable years after December 31, 2004, which
12 were not deducted, but in no event shall the deduction
13 for each tax year exceed Ten Thousand Dollars
14 (\$10,000.00) for each individual taxpayer or Twenty
15 Thousand Dollars (\$20,000.00) for taxpayers filing a
16 joint return. Any amount of a contribution that is
17 not deducted by the taxpayer in the year for which the
18 contribution is made may be carried forward as a
19 deduction from income for the succeeding five (5)
20 years. For taxable years beginning after December 31,
21 2005, deductions may be taken for contributions and
22 rollovers made during a taxable year and up to April
23 15 of the succeeding year, or the due date of a

1 taxpayer's state income tax return, excluding
2 extensions, whichever is later. Provided, a deduction
3 for the same contribution may not be taken for two (2)
4 different taxable years.

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

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

16 (2) for a taxpayer who elects to take a rollover or
17 non-qualified withdrawal within the same tax year
18 in which a contribution was made to the
19 taxpayer's account, the tax deduction otherwise
20 available pursuant to subparagraph b of this
21 paragraph shall be reduced by the amount of the
22 contribution which is equal to the rollover or
23 non-qualified withdrawal.

- 1 d. If a taxpayer elects to take a rollover on a
2 contribution for which a deduction has been taken
3 pursuant to subparagraph b of this paragraph within
4 one year of the date of contribution, the amount of
5 such rollover shall be included in the adjusted gross
6 income of the taxpayer in the taxable year of the
7 rollover.
- 8 e. If a taxpayer makes a non-qualified withdrawal of
9 contributions for which a deduction was taken pursuant
10 to subparagraph b of this paragraph, such non-
11 qualified withdrawal and any earnings thereon shall be
12 included in the adjusted gross income of the taxpayer
13 in the taxable year of the non-qualified withdrawal.
- 14 f. As used in this paragraph:
- 15 (1) "non-qualified withdrawal" means a withdrawal
16 from an Oklahoma College Savings Plan account
17 other than one of the following:
- 18 (a) a qualified withdrawal,
19 (b) a withdrawal made as a result of the death
20 or disability of the designated beneficiary
21 of an account,
22 (c) a withdrawal that is made on the account of
23 a scholarship or the allowance or payment

1 described in Section 135(d)(1)(B) or (C) or
2 by the Internal Revenue Code, received by
3 the designated beneficiary to the extent the
4 amount of the refund does not exceed the
5 amount of the scholarship, allowance, or
6 payment, or

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

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

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

21 20. For taxable years beginning after December 31, 2006,
22 retirement benefits received by federal civil service retirees,
23 including survivor annuities, paid in lieu of Social Security

1 benefits shall be exempt from taxable income to the extent such
2 benefits are included in the federal adjusted gross income pursuant
3 to the provisions of Section 86 of the Internal Revenue Code, 26
4 U.S.C., Section 86, according to the following schedule:

- 5 a. in the taxable year beginning January 1, 2007, twenty
6 percent (20%) of such benefits shall be exempt,
- 7 b. in the taxable year beginning January 1, 2008, forty
8 percent (40%) of such benefits shall be exempt,
- 9 c. in the taxable year beginning January 1, 2009, sixty
10 percent (60%) of such benefits shall be exempt,
- 11 d. in the taxable year beginning January 1, 2010, eighty
12 percent (80%) of such benefits shall be exempt, and
- 13 e. in the taxable year beginning January 1, 2011, and
14 subsequent taxable years, one hundred percent (100%)
15 of such benefits shall be exempt.

16 F. 1. For taxable years beginning after December 31, 2004, and
17 ending before January 1, 2012, a deduction from the Oklahoma
18 adjusted gross income of any individual taxpayer shall be allowed
19 for qualifying gains receiving capital treatment that are included
20 in the federal adjusted gross income of such individual taxpayer
21 during the taxable year.

22 2. As used in this subsection:

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

1 substantially all of the assets of an Oklahoma
2 company, limited liability company, or
3 partnership or an Oklahoma proprietorship
4 business enterprise where such property has been
5 directly or indirectly owned by such entity or
6 business enterprise or owned by the owners of
7 such entity or business enterprise for a period
8 of at least two (2) years prior to the date of
9 the transaction from which the net capital gains
10 arise,

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

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

1 d. "direct" means the individual taxpayer directly owns
2 the asset,
3 e. "indirect" means the individual taxpayer owns an
4 interest in a pass-through entity (or chain of pass-
5 through entities) that sells the asset that gives rise
6 to the qualifying gains receiving capital treatment.
7 (1) With respect to sales of real property or
8 tangible personal property located within
9 Oklahoma, the deduction described in this
10 subsection shall not apply unless the pass-
11 through entity that makes the sale has held the
12 property for not less than five (5) uninterrupted
13 years prior to the date of the transaction that
14 created the capital gain, and each pass-through
15 entity included in the chain of ownership has
16 been a member, partner, or shareholder of the
17 pass-through entity in the tier immediately below
18 it for an uninterrupted period of not less than
19 five (5) years.
20 (2) With respect to sales of stock or ownership
21 interest in or sales of all or substantially all
22 of the assets of an Oklahoma company, limited
23 liability company, partnership or Oklahoma

1 proprietorship business enterprise, the deduction
2 described in this subsection shall not apply
3 unless the pass-through entity that makes the
4 sale has held the stock or ownership interest for
5 not less than two (2) uninterrupted years prior
6 to the date of the transaction that created the
7 capital gain, and each pass-through entity
8 included in the chain of ownership has been a
9 member, partner or shareholder of the pass-
10 through entity in the tier immediately below it
11 for an uninterrupted period of not less than two
12 (2) years. For purposes of this division,
13 uninterrupted ownership prior to the effective
14 date of this act shall be included in the
15 determination of the required holding period
16 prescribed by this division, and

17 f. "Oklahoma proprietorship business enterprise" means a
18 business enterprise whose income and expenses have
19 been reported on Schedule C or F of an individual
20 taxpayer's federal income tax return, or any similar
21 successor schedule published by the Internal Revenue
22 Service and whose primary headquarters have been
23 located in Oklahoma for at least three (3)

1 uninterrupted years prior to the date of the
2 transaction from which the net capital gains arise.

3 SECTION 36. AMENDATORY 68 O.S. 2001, Section 2358.3, is
4 amended to read as follows:

5 Section 2358.3 A Before January 1, 2013, a person who
6 contributes money to a political party or to a candidate or
7 candidate committee shall be entitled to deduct the amount
8 contributed, not to exceed One Hundred Dollars (\$100.00) in any one
9 tax year, from the person's adjusted gross income in the computation
10 of Oklahoma income tax.

11 SECTION 37. AMENDATORY 68 O.S. 2001, Section 2358.4, is
12 amended to read as follows:

13 Section 2358.4 A. For taxable years beginning after December
14 31, 2000, and ending before January 1, 2014, at the election of an
15 individual engaged in a farming business, the tax imposed by Section
16 2355 of ~~Title 68 of the Oklahoma Statutes~~ this title for such
17 taxable year shall be equal to the sum of:

18 1. A tax computed under such section on taxable income reduced
19 by elected farm income; and

20 2. The increase in tax imposed by Section 2355 of ~~Title 68 of~~
21 ~~the Oklahoma Statutes~~ this title which would result if taxable
22 income for each of the three (3) prior taxable years were increased
23 by an amount equal to one-third (1/3) of the elected farm income.

1 Any adjustment under this section for any taxable year shall be
2 taken into account in applying this section for any subsequent
3 taxable year.

4 B. As used in this section:

5 1. "Elected farm income" means so much of the taxable income
6 for the taxable year which is attributable to any farming business,
7 and which is specified in the election under subsection A of this
8 section. For purposes of this paragraph, a gain from the sale or
9 other disposition of property, other than land, regularly used by
10 the taxpayer in such a farming business for a substantial period
11 shall be treated as attributable to such a farming business;

12 2. "Individual" shall not mean or include any estate or trust;
13 and

14 3. "Farming business" shall have the same meaning as the term
15 is defined in the Internal Revenue Code, 26 U.S.C., Section
16 263A(e) (4) .

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

19 SECTION 38. AMENDATORY Section 3, Chapter 515, O.S.L.
20 2004 (68 O.S. Supp. 2007, Section 2358.7), is amended to read as
21 follows:

22 Section 2358.7 A. For taxable years beginning after December
23 31, 2004, and ending before January 1, 2015, there shall be allowed

1 as a credit against the tax imposed pursuant to Section 2355 of
2 ~~Title 68 of the Oklahoma Statutes~~ this title in an amount equal to:

3 1. Two Hundred Dollars (\$200.00) each year for which a
4 volunteer firefighter provides proof of certification as required by
5 subsection B of this section; and

6 2. Four Hundred Dollars (\$400.00) each year following the
7 taxable years for which a taxpayer is eligible for the credit
8 provided by paragraph 1 of this subsection for a volunteer
9 firefighter providing proof of certification as required by
10 subsection D of this section.

11 B. In order to claim the tax credit authorized by paragraph 1
12 of subsection A of this section, a volunteer firefighter shall be
13 required to provide adequate documentation to the Oklahoma Tax
14 Commission of at least twelve (12) credited hours toward the
15 Volunteer Firefighter Practices program offered by Oklahoma State
16 University Fire Service Training prior to or during the first
17 taxable year for which a tax credit is claimed pursuant to paragraph
18 1 of subsection A of this section.

19 C. For each year subsequent to the first year for which a
20 volunteer firefighter may claim the tax credit authorized by
21 paragraph 1 of subsection A of this section, in order to claim any
22 further tax credits pursuant to paragraph 1 of subsection A of this
23 section, the volunteer firefighter shall be required to provide

1 documentation that the firefighter has completed an additional six
2 (6) hours of Fire Service Training Volunteer Firefighter Practices
3 program until such program or its equivalent is completed. For
4 purposes of this subsection, equivalency shall be determined by
5 Oklahoma State University Fire Service Training. For purposes of
6 this subsection, Firefighter I, Firefighter II or Firefighter III
7 certifications or their equivalents may be provided in lieu of the
8 Volunteer Firefighter Practices certification.

9 D. After having completed at least thirty (30) hours of
10 instruction and having completed the Volunteer Firefighter Practices
11 program, in order to be eligible for the tax credit authorized by
12 paragraph 2 of subsection A of this section, the volunteer
13 firefighter shall:

14 1. Attend and receive certification for annual chemical,
15 biological, radiological and nuclear (CBRN) response training and
16 weapons of mass destruction (WMD) training of at least one (1) hour
17 per subject, respectively;

18 2. Complete at least six (6) hours of continuing education each
19 year until the volunteer firefighter completes a certification as
20 Firefighter I or its equivalent. For purposes of this paragraph,
21 equivalency shall be determined by Oklahoma State University Fire
22 Service Training;

1 3. Provide documentation from the fire chief of the applicable
2 department that the firefighter has been provided and participated
3 in all annual training as required by federal and state authorities
4 including, but not limited to, annual fit testing for breathing
5 apparatus, "right-to-know" laws, Homeland Defense, CBRN, WMD or
6 other applicable requirements; and

7 4. Provide documentation from the fire chief of the applicable
8 department that the volunteer firefighter has met the requirements
9 under the fire department's constitution and bylaws and is a member
10 in good standing of the department together with a record of the
11 total number of years of service in good standing with such
12 department.

13 E. In order to assist the Oklahoma Tax Commission with the
14 administration of the tax credits authorized by this section, the
15 Oklahoma State University Fire Service Training program shall
16 provide to all fire departments a uniform document that indicates
17 the annual training hours and continuing education training hours
18 completed by each volunteer firefighter through the Fire Service
19 Training program.

20 F. The Office of the State Fire Marshal shall prescribe a
21 reporting form for use by volunteer fire departments and by
22 volunteer firefighters in order to provide the certifications
23 required by this section.

1 G. The Oklahoma Tax Commission may require copies of such
2 documentation provided by Oklahoma State University Fire Service
3 Training program or the Office of the State Fire Marshal regarding
4 training history to verify eligibility for the tax credits provided
5 by this section.

6 SECTION 39. AMENDATORY 70 O.S. 2001, Section 6014, is
7 amended to read as follows:

8 Section 6014. A. ~~The~~ Before January 1, 2016, the property of
9 the Trust and its income and operation shall be exempt from all
10 taxation by this state or any of its political subdivisions. On or
11 after January 1, 2013, the income of the Trust shall be subject to
12 taxation by this state and any of its political subdivisions.

13 B. ~~The~~ Before January 1, 2016, the purchaser may deduct from
14 taxable income the amount of payment made under an advance tuition
15 payment contract during the tax year.

16 C. An advance tuition payment contract is not a security
17 subject to regulation by the state. An advance tuition contract may
18 not be sold or otherwise transferred by the purchaser or qualified
19 beneficiary without the prior approval of the Regents.

20 SECTION 40. AMENDATORY 74 O.S. 2001, Section 2106, is
21 amended to read as follows:

22 Section 2106. A. ~~An~~ Before January 1, 2017, an export trading
23 company, with a registered office or other office in this state,

1 shall be exempt from state corporate income tax and franchise tax
2 for a period of two (2) years from the date the Commission certifies
3 the export trading company as a qualified export trading company. A
4 copy of such certificate shall be filed with the Oklahoma Tax
5 Commission which shall verify compliance with this act prior to
6 allowing the tax exemption provided for herein. For purposes of the
7 Export Trading Company Act, an export trading company shall be
8 deemed to have an office in Oklahoma if it performs export trade
9 services in this state.

10 B. Export trading companies shall not qualify for the tax
11 exemptions of this section for sales made within the United States.

12 C. A subsidiary or affiliate of a qualified export trading
13 company shall not be entitled to the tax exemptions provided for in
14 this section unless such subsidiary or affiliate is certified as a
15 qualified export trading company pursuant to Section 2107 of this
16 title.

17 SECTION 41. AMENDATORY 74 O.S. 2001, Section 5064.7, is
18 amended to read as follows:

19 Section 5064.7 A. The following incentives shall be available
20 to inventors for products developed and manufactured in this state
21 and to instate manufacturers of said products; provided, to qualify
22 for the incentives, the product shall be patented or have patent
23 pending pursuant to federal law and shall be registered with the

1 Oklahoma Center for the Advancement of Science and Technology
2 (OCAST) :

3 1. ~~Royalty~~ Before January 1, 2018, royalty earned by an
4 inventor from a product developed and manufactured in this state
5 shall be exempt from state income tax for a period of seven (7)
6 years, or the time period eligible subject to the limitations of
7 this subsection, from January 1 of the first year in which such
8 royalty is received as long as the manufacturer remains in the
9 state; and

10 2. An instate manufacturer of a product developed in this state
11 by an inventor shall be eligible for a tax credit, as provided for
12 in Section 2357.4 of Title 68 of the Oklahoma Statutes. In
13 addition, before January 1, 2018, such manufacturer may exclude from
14 Oklahoma taxable income, or in the case of an individual, the
15 Oklahoma adjusted gross income, sixty-five percent (65%) of the cost
16 of depreciable property purchased and utilized directly in
17 manufacturing the product. The maximum exclusion shall not exceed
18 Five Hundred Thousand Dollars (\$500,000.00). If the exclusion
19 allowed by this paragraph exceeds the Oklahoma taxable income, or in
20 the case of an individual, the Oklahoma adjusted gross income, the
21 amount of the exclusion that is in excess of such income may be
22 carried forward as an exclusion against subsequent Oklahoma taxable
23 income or in the case of an individual, subsequent Oklahoma adjusted

1 gross income, for a period not to exceed four (4) years. For the
2 purposes of this paragraph, "depreciable property" means machinery,
3 fixtures, equipment, buildings, or substantial improvements thereto,
4 placed in service in this state during the taxable year.

5 B. The Oklahoma Tax Commission, in conjunction with the
6 Oklahoma Center for the Advancement of Science and Technology, shall
7 promulgate rules to implement the provisions of this section.

8 SECTION 42. AMENDATORY 74 O.S. 2001, Section 5075, is
9 amended to read as follows:

10 Section 5075. A. ~~Income~~ Before January 1, 2011, income earned
11 by a sponsor from rental fees, service fees or any other form of
12 payment for services provided to a tenant as an operator of an
13 incubator, or for providing funding for such a facility, shall be
14 exempt from state income tax for a period not to exceed ten (10)
15 years from the date of the tenant's occupancy in an incubator or for
16 the time period eligible subject to the limitations of this
17 subsection.

18 B. The Oklahoma Tax Commission shall promulgate rules and
19 regulations to implement the provisions of this section.

20 SECTION 43. AMENDATORY 74 O.S. 2001, Section 5078, as
21 amended by Section 11, Chapter 486, O.S.L. 2003 (74 O.S. Supp. 2007,
22 Section 5078), is amended to read as follows:

1 Section 5078. A. ~~For~~ Before January 1, 2012, for a period of
2 up to ten (10) years from the date of tenant's occupancy in an
3 incubator, or for the time period eligible subject to the
4 limitations of this subsection, income earned by the tenant as a
5 result of activities conducted as an occupant in an incubator,
6 including income distributed to partners, shareholders of a
7 corporation for which a Subchapter S election is in effect and to
8 the members of a limited liability company, shall be exempt from
9 state income tax. The exemption provided by this section shall
10 remain in effect for such activities by such tenant after the date
11 the tenant is no longer an occupant in an incubator, but not to
12 exceed a total duration of ten (10) years for any tenant, or for the
13 time period eligible subject to the limitations of this subsection.

14 B. In order to qualify for the income tax exemption for the
15 sixth through tenth year as authorized by this section, the tenant
16 must make at least seventy-five percent (75%) of its gross sales
17 constituting the principal business activity of the business to
18 buyers located outside the state or to buyers whose principal
19 business activity is conducted outside the state or to the federal
20 government or to buyers located within the state if the product or
21 service is resold to an out-of-state customer or buyer for ultimate
22 use. Provided, if a tenant does not achieve the qualifying
23 percentage for any one of the above tax years, the tenant shall not

1 be disqualified for subsequent tax years in which the qualifying
2 percentage is achieved.

3 The Oklahoma Tax Commission shall promulgate rules to implement
4 the provisions of this section.

5 SECTION 44. AMENDATORY 68 O.S. 2001, Section 1354, as
6 last amended by Section 5, Chapter 155, O.S.L. 2007 (68 O.S. Supp.
7 2007, Section 1354), is amended to read as follows:

8 Section 1354. A. There is hereby levied upon all sales, not
9 otherwise exempted in the Oklahoma Sales Tax Code, an excise tax of
10 four and one-half percent (4.5%) of the gross receipts or gross
11 proceeds of each sale of the following:

12 1. Tangible personal property, except newspapers and
13 periodicals sold before January 1, 2011;

14 2. Natural or artificial gas, electricity, ice, steam, or any
15 other utility or public service, except water, sewage and refuse
16 sold before January 1, 2012. Provided, the rate of four and one-
17 half percent (4.5%) shall not apply to sales subject to the
18 provisions of paragraph 6 of Section 1357 of this title;

19 3. Transportation for hire to persons by common carriers,
20 including railroads both steam and electric, motor transportation
21 companies, pullman car companies, airlines, and other means of
22 transportation for hire, excluding sales before January 1, 2013 of:

- 1 a. transportation services provided by a tourism service
2 broker which are incidental to the rendition of
3 tourism brokerage services by such broker to a
4 customer regardless of whether or not such
5 transportation services are actually owned and
6 operated by the tourism service broker. For purposes
7 of this subsection, "tourism service broker" means any
8 person, firm, association or corporation or any
9 employee of such person, firm, association or
10 corporation which, for a fee, commission or other
11 valuable consideration, arranges or offers to arrange
12 trips, tours or other vacation or recreational travel
13 plans for a customer, and
- 14 b. transportation services provided by a funeral
15 establishment to family members and other persons for
16 purposes of conducting a funeral in this state;

17 4. Intrastate, interstate and international telecommunications
18 services sourced to this state in accordance with Section 1354.30 of
19 this title and ancillary services. Provided:

- 20 a. the term "telecommunications services" shall mean the
21 electronic transmission, conveyance, or routing of
22 voice, data, audio, video, or any other information or
23 signals to a point, or between or among points. The

1 term "telecommunications services" includes such
2 transmission, conveyance, or routing in which computer
3 processing applications are used to act on the form,
4 code or protocol of the content for purposes of
5 transmission, conveyance or routing without regard to
6 whether such service is referred to as voice-over
7 Internet protocol services or is classified by the
8 Federal Communications Commission as enhanced or value
9 added. "Telecommunications services" do not include:
10 (1) data processing and information services that
11 allow data to be generated, acquired, stored,
12 processed, or retrieved and delivered by an
13 electronic transmission to a purchaser where such
14 purchaser's primary purpose for the underlying
15 transaction is the processed data or information,
16 (2) installation or maintenance of wiring or
17 equipment on a customer's premises,
18 (3) tangible personal property,
19 (4) advertising, including but not limited to
20 directory advertising,
21 (5) billing and collection services provided to third
22 parties,
23 (6) Internet access services,

1 (7) radio and television audio and video programming
2 services, regardless of the medium, including the
3 furnishing of transmission, conveyance and
4 routing of such services by the programming
5 service provider. Radio and television audio and
6 video programming services shall include, but not
7 be limited to, cable service as defined in 47
8 U.S.C. 522(6) and audio and video programming
9 services delivered by commercial mobile radio
10 service providers, as defined in 47 C.F.R. 20.3;

11 (8) ancillary services, or

12 (9) digital products delivered electronically,
13 including but not limited to, software, music,
14 video, reading materials or ring tones,

15 b. the term "interstate" means a "telecommunications
16 service" that originates in one United States state,
17 or a United States territory or possession, and
18 terminates in a different United States state or a
19 United States territory or possession,

20 c. the term "intrastate" means a telecommunications
21 service that originates in one United States state or
22 a United States territory or possession, and

1 terminates in the same United States state or a United
2 States territory or possession,

3 d. the term "ancillary services" means services that are
4 associated with or incidental to the provision of
5 telecommunications services, including but not limited
6 to "detailed telecommunications billing", "directory
7 assistance", "vertical service", and "voice mail
8 services".

9 e. in the case of a bundled transaction that includes
10 telecommunication service, ancillary service, internet
11 access or audio or video programming service:

12 (1) if the price is attributable to products that are
13 taxable and products that are nontaxable, the
14 portion of the price attributable to the
15 nontaxable products may be subject to tax unless
16 the provider can identify by reasonable and
17 verifiable standards such portion for its books
18 and records kept in the regular course of
19 business for other purposes, including, but not
20 limited to, nontax purposes, and

21 (2) the provisions of this paragraph shall apply
22 unless otherwise provided by federal law,

1 f. a sale of prepaid calling service or prepaid wireless
2 calling service shall be taxable at the time of sale
3 to the customer;

4 5. Telecommunications nonrecurring charges, which means an
5 amount billed for the installation, connection, change or initiation
6 of telecommunications services received by a customer;

7 6. Printing or printed matter of all types, kinds, or character
8 and, except for services sold before January 1, 2014, of printing,
9 copying or photocopying performed by a privately owned scientific
10 and educational library sustained by monthly or annual dues paid by
11 members sharing the use of such services with students interested in
12 the study of geology, petroleum engineering or related subjects, any
13 service of printing or overprinting, including the copying of
14 information by mimeograph, multigraph, or by otherwise duplicating
15 written or printed matter in any manner, or the production of
16 microfiche containing information from magnetic tapes or other media
17 furnished by customers;

18 7. Service of furnishing rooms by hotel, apartment hotel,
19 public rooming house, motel, public lodging house, or tourist camp;

20 8. Service of furnishing storage or parking privileges by auto
21 hotels or parking lots;

22 9. Computer hardware, software, coding sheets, cards, magnetic
23 tapes or other media on which prewritten programs have been coded,

1 punched, or otherwise recorded, including the gross receipts from
2 the licensing of software programs;

3 10. Foods, confections, and all drinks sold or dispensed by
4 hotels, restaurants, or other dispensers, and sold for immediate
5 consumption upon the premises or delivered or carried away from the
6 premises for consumption elsewhere;

7 11. Advertising of all kinds, types, and characters, including
8 any and all devices used for advertising purposes except those
9 specifically exempt pursuant to the provisions of Section 1357 of
10 this title;

11 12. Dues or fees to clubs including free or complimentary dues
12 or fees which have a value equivalent to the charge that would have
13 otherwise been made, including any fees paid for the use of
14 facilities or services rendered at a health spa or club or any
15 similar facility or business;

16 13. Tickets for admission to or voluntary contributions made to
17 places of amusement, sports, entertainment, exhibition, display, or
18 other recreational events or activities, including free or
19 complimentary admissions which have a value equivalent to the charge
20 that would have otherwise been made;

21 14. Charges made for the privilege of entering or engaging in
22 any kind of activity, such as tennis, racquetball, or handball, when
23 spectators are charged no admission fee;

1 15. Charges made for the privilege of using items for
2 amusement, sports, entertainment, or recreational activity, such as
3 trampolines or golf carts;

4 16. The rental of equipment for amusement, sports,
5 entertainment, or other recreational activities, such as bowling
6 shoes, skates, golf carts, or other sports or athletic equipment;

7 17. The gross receipts from sales from any vending machine
8 without any deduction for rental to locate the vending machine on
9 the premises of a person who is not the owner or any other
10 deductions therefrom;

11 18. The gross receipts or gross proceeds from the rental or
12 lease of tangible personal property, including rental or lease of
13 personal property when the rental or lease agreement requires the
14 vendor to launder, clean, repair, or otherwise service the rented or
15 leased property on a regular basis, without any deduction for the
16 cost of the service rendered. If the rental or lease charge is
17 based on the retail value of the property at the time of making the
18 rental or lease agreement and the expected life of the property, and
19 the rental or lease charge is separately stated from the service
20 cost in the statement, bill, or invoice delivered to the consumer,
21 the cost of services rendered shall be deducted from the gross
22 receipts or gross proceeds;

1 19. Flowers, plants, shrubs, trees, and other floral items,
2 whether or not produced by the vendor, sold by persons engaged in
3 florist or nursery business in this state, including all orders
4 taken by an Oklahoma business for delivery in another state. All
5 orders taken outside this state for delivery within this state shall
6 not be subject to the taxes levied in this section;

7 20. Tangible personal property sold to persons, peddlers,
8 solicitors, or other salesmen, for resale when there is likelihood
9 that this state will lose tax revenue due to the difficulty of
10 enforcing the provisions of the Oklahoma Sales Tax Code because of:

- 11 a. the operation of the business,
- 12 b. the nature of the business,
- 13 c. the turnover of independent contractors,
- 14 d. the lack of place of business in which to display a
15 permit or keep records,
- 16 e. lack of adequate records,
- 17 f. the fact that the persons are minors or transients,
- 18 g. the fact that the persons are engaged in service
19 businesses, or
- 20 h. any other reasonable reason;

21 21. Any taxable services and tangible personal property
22 including materials, supplies, and equipment sold to contractors for
23 the purpose of developing and improving real estate even though said

1 real estate is intended for resale as real property, hereby declared
2 to be sales to consumers or users, however, taxable materials,
3 supplies and equipment sold to contractors as provided by this
4 subsection which are purchased as a result of and subsequent to the
5 date of a contract entered into either prior to the effective date
6 of any law increasing the rate of sales tax imposed by this article,
7 or entered into prior to the effective date of an ordinance or other
8 measure increasing the sales tax levy of a political subdivision
9 shall be subject to the rate of sales tax applicable, as of the date
10 such contract was entered into, to sales of such materials, supplies
11 and equipment if such purchases are required in order to complete
12 the contract. Such rate shall be applicable to purchases made
13 pursuant to the contract or any change order under the contract
14 until the contract or any change order has been completed, accepted
15 and the contractor has been discharged from any further obligation
16 under the contract or change order or until two (2) years from the
17 date on which the contract was entered into whichever occurs first.
18 The increased sales tax rate shall be applicable to all such
19 purchases at the time of sale and the contractor shall file a claim
20 for refund before the expiration of three (3) years after the date
21 of contract completion or five (5) years after the contract was
22 entered into, whichever occurs earlier. However, the Oklahoma Tax
23 Commission shall prescribe rules and regulations and shall provide

1 procedures for the refund to a contractor of sales taxes collected
2 on purchases eligible for the lower sales tax rate authorized by
3 this subsection; and

4 22. Any taxable services and tangible personal property sold to
5 persons who are primarily engaged in selling their services, such as
6 repairmen, hereby declared to be sales to consumers or users.

7 B. All solicitations or advertisements in print or electronic
8 media by Group Three vendors, for the sale of tangible property to
9 be delivered within this state, shall contain a notice that the sale
10 is subject to Oklahoma sales tax, unless the sale is exempt from
11 such taxation.

12 SECTION 45. AMENDATORY 68 O.S. 2001, Section 1356, as
13 last amended by Section 5, Chapter 353, O.S.L. 2007 (68 O.S. Supp.
14 2007, Section 1356), is amended to read as follows:

15 Section 1356. Exemptions - Governmental and nonprofit entities.

16 There are hereby specifically exempted from the tax levied by
17 Section 1350 et seq. of this title:

18 1. Sale of tangible personal property or services to the United
19 States government or to the State of Oklahoma, any political
20 subdivision of this state or any agency of a political subdivision
21 of this state; provided, all sales to contractors in connection with
22 the performance of any contract with the United States government,
23 State of Oklahoma or any of its political subdivisions shall not be

1 exempted from the tax levied by Section 1350 et seq. of this title,
2 except as hereinafter provided;

3 2. Sales of property to agents appointed by or under contract
4 with agencies or instrumentalities of the United States government
5 if ownership and possession of such property transfers immediately
6 to the United States government;

7 3. Sales of property to agents appointed by or under contract
8 with a political subdivision of this state if the sale of such
9 property is associated with the development of a qualified federal
10 facility, as provided in the Oklahoma Federal Facilities Development
11 Act, and if ownership and possession of such property transfers
12 immediately to the political subdivision or the state;

13 4. Sales made directly by county, district or state fair
14 authorities of this state, upon the premises of the fair authority,
15 for the sole benefit of the fair authority or sales of admission
16 tickets to such fairs or fair events at any location in the state
17 authorized by county, district or state fair authorities; provided,
18 the exemption provided by this paragraph for admission tickets to
19 fair events shall apply only to any portion of the admission price
20 that is retained by or distributed to the fair authority. As used
21 in this paragraph, "fair event" shall be limited to an event held on
22 the premises of the fair authority in conjunction with and during
23 the time period of a county, district or state fair;

1 5. Sale of food in cafeterias or lunch rooms of elementary
2 schools, high schools, colleges or universities which are operated
3 primarily for teachers and pupils and are not operated primarily for
4 the public or for profit;

5 6. ~~Dues~~ Before January 1, 2015, dues paid to fraternal,
6 religious, civic, charitable or educational societies or
7 organizations by regular members thereof, provided, such societies
8 or organizations operate under what is commonly termed the lodge
9 plan or system, and provided such societies or organizations do not
10 operate for a profit which inures to the benefit of any individual
11 member or members thereof to the exclusion of other members and dues
12 paid monthly or annually to privately owned scientific and
13 educational libraries by members sharing the use of services
14 rendered by such libraries with students interested in the study of
15 geology, petroleum engineering or related subjects;

16 7. Sale of tangible personal property or services to or by
17 churches, except sales made in the course of business for profit or
18 savings, competing with other persons engaged in the same or a
19 similar business or sale of tangible personal property or services
20 by an organization exempt from federal income tax pursuant to
21 Section 501(c)(3) of the Internal Revenue Code of 1986, as amended,
22 made on behalf of or at the request of a church or churches if the
23 sale of such property is conducted not more than once each calendar

1 year for a period not to exceed three (3) days by the organization
2 and proceeds from the sale of such property are used by the church
3 or churches or by the organization for charitable purposes. Sales
4 exempt pursuant to this paragraph shall be subject to the tax levied
5 by Section 1350 et seq. of this title on and after January 1, 2016;

6 8. The amount of proceeds received before January 1, 2017, from
7 the sale of admission tickets which is separately stated on the
8 ticket of admission for the repayment of money borrowed by any
9 accredited state-supported college or university or any public trust
10 of which a county in this state is the beneficiary, for the purpose
11 of constructing or enlarging any facility to be used for the staging
12 of an athletic event, a theatrical production, or any other form of
13 entertainment, edification or cultural cultivation to which entry is
14 gained with a paid admission ticket. Such facilities include, but
15 are not limited to, athletic fields, athletic stadiums, field
16 houses, amphitheaters and theaters. To be eligible for this sales
17 tax exemption, the amount separately stated on the admission ticket
18 shall be a surcharge which is imposed, collected and used for the
19 sole purpose of servicing or aiding in the servicing of debt
20 incurred by the college or university to effect the capital
21 improvements hereinbefore described;

22 9. Sales of tangible personal property or services made before
23 January 1, 2018, to the council organizations or similar state

1 supervisory organizations of the Boy Scouts of America, Girl Scouts
2 of U.S.A. and the Campfire Boys and Girls;

3 10. Sale of tangible personal property or services to any
4 county, municipality, rural water district, public school district,
5 the institutions of The Oklahoma State System of Higher Education,
6 the Grand River Dam Authority, the Northeast Oklahoma Public
7 Facilities Authority, the Oklahoma Municipal Power Authority, City
8 of Tulsa-Rogers County Port Authority, Muskogee City-County Port
9 Authority, the Oklahoma Department of Veterans Affairs, the Broken
10 Bow Economic Development Authority, Ardmore Development Authority,
11 Durant Industrial Authority, Oklahoma Ordnance Works Authority or to
12 any person with whom any of the above-named subdivisions or agencies
13 of this state has duly entered into a public contract pursuant to
14 law, necessary for carrying out such public contract or to any
15 subcontractor to such a public contract. Any person making
16 purchases on behalf of such subdivision or agency of this state
17 shall certify, in writing, on the copy of the invoice or sales
18 ticket to be retained by the vendor that the purchases are made for
19 and on behalf of such subdivision or agency of this state and set
20 out the name of such public subdivision or agency. Any person who
21 wrongfully or erroneously certifies that purchases are for any of
22 the above-named subdivisions or agencies of this state or who
23 otherwise violates this section shall be guilty of a misdemeanor and

1 upon conviction thereof shall be fined an amount equal to double the
2 amount of sales tax involved or incarcerated for not more than sixty
3 (60) days or both;

4 11. Sales of tangible personal property or services made before
5 January 1, 2011, to private institutions of higher education and
6 private elementary and secondary institutions of education
7 accredited by the State Department of Education or registered by the
8 State Board of Education for purposes of participating in federal
9 programs or accredited as defined by the Oklahoma State Regents for
10 Higher Education which are exempt from taxation pursuant to the
11 provisions of the Internal Revenue Code, 26 U.S.C., Section
12 501(c)(3), including materials, supplies, and equipment used in the
13 construction and improvement of buildings and other structures owned
14 by the institutions and operated for educational purposes.

15 Any person, firm, agency or entity making purchases on behalf of
16 any institution, agency or subdivision in this state, shall certify
17 in writing, on the copy of the invoice or sales ticket the nature of
18 the purchases, and violation of this paragraph shall be a
19 misdemeanor as set forth in paragraph 10 of this section;

20 12. Tuition and educational fees paid before January 1, 2012,
21 to private institutions of higher education and private elementary
22 and secondary institutions of education accredited by the State
23 Department of Education or registered by the State Board of

1 Education for purposes of participating in federal programs or
2 accredited as defined by the Oklahoma State Regents for Higher
3 Education which are exempt from taxation pursuant to the provisions
4 of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

5 13. a. Sales of tangible personal property made before
6 January 1, 2013, by:

- 7 (1) a public school,
- 8 (2) a private school offering instruction for grade
9 levels kindergarten through twelfth grade,
- 10 (3) a public school district,
- 11 (4) a public or private school board,
- 12 (5) a public or private school student group or
13 organization,
- 14 (6) a parent-teacher association or organization
15 other than as specified in subparagraph b of this
16 paragraph, or
- 17 (7) public or private school personnel for purposes
18 of raising funds for the benefit of a public or
19 private school, public school district, public or
20 private school board or public or private school
21 student group or organization, or

22 b. Sales of tangible personal property made before
23 January 1, 2013, by or to nonprofit parent-teacher

1 associations or organizations exempt from taxation
2 pursuant to the provisions of the Internal Revenue
3 Code, 26 U.S.C., Section 501(c)(3).

4 The exemption provided by this paragraph for sales made by a
5 public or private school shall be limited to those public or private
6 schools accredited by the State Department of Education or
7 registered by the State Board of Education for purposes of
8 participating in federal programs. Sale of tangible personal
9 property in this paragraph shall include sale of admission tickets
10 and concessions at athletic events;

11 14. Sales of tangible personal property made before January 1,
12 2014, by:

- 13 a. local 4-H clubs,
- 14 b. county, regional or state 4-H councils,
- 15 c. county, regional or state 4-H committees,
- 16 d. 4-H leader associations,
- 17 e. county, regional or state 4-H foundations, and
- 18 f. authorized 4-H camps and training centers.

19 The exemption provided by this paragraph shall be limited to
20 sales for the purpose of raising funds for the benefit of such
21 organizations. Sale of tangible personal property exempted by this
22 paragraph shall include sale of admission tickets;

1 15. The first Seventy-five Thousand Dollars (\$75,000.00) each
2 year before January 1, 2015, from sale of tickets and concessions at
3 athletic events by each organization exempt from taxation pursuant
4 to the provisions of the Internal Revenue Code, 26 U.S.C., Section
5 501(c)(4);

6 16. Items or services which are subsequently given away by the
7 Oklahoma Tourism and Recreation Department as promotional items
8 pursuant to Section 1834 of Title 74 of the Oklahoma Statutes and
9 the sale of advertising in travel brochures and other promotional
10 materials produced at the direction of the Department;

11 17. Sales of tangible personal property or services made before
12 January 1, 2016, to fire departments organized pursuant to Section
13 592 of Title 18 of the Oklahoma Statutes which items are to be used
14 for the purposes of the fire department. Any person making
15 purchases on behalf of any such fire department shall certify, in
16 writing, on the copy of the invoice or sales ticket to be retained
17 by the vendor that the purchases are made for and on behalf of such
18 fire department and set out the name of such fire department. Any
19 person who wrongfully or erroneously certifies that the purchases
20 are for any such fire department or who otherwise violates the
21 provisions of this section shall be deemed guilty of a misdemeanor
22 and upon conviction thereof, shall be fined an amount equal to

1 double the amount of sales tax involved or incarcerated for not more
2 than sixty (60) days, or both;

3 18. Complimentary or free tickets for admission to places of
4 amusement, sports, entertainment, exhibition, display or other
5 recreational events or activities which are issued before January 1,
6 2017, through a box office or other entity which is operated by a
7 state institution of higher education with institutional employees
8 or by a municipality with municipal employees;

9 19. The first Fifteen Thousand Dollars (\$15,000.00) each year
10 before January 1, 2018, from sales of tangible personal property by
11 fire departments organized pursuant to Titles 11, 18, or 19 of the
12 Oklahoma Statutes for the purposes of raising funds for the benefit
13 of the fire department. Fire departments selling tangible personal
14 property for the purposes of raising funds shall be limited to no
15 more than six (6) days each year to raise such funds in order to
16 receive the exemption granted by this paragraph;

17 20. Sales of tangible personal property or services made before
18 January 1, 2011, to any Boys & Girls Clubs of America affiliate in
19 this state which is not affiliated with the Salvation Army and which
20 is exempt from taxation pursuant to the provisions of the Internal
21 Revenue Code, 26 U.S.C., Section 501(c)(3);

22 21. Sales of tangible personal property or services made before
23 January 1, 2012, to any organization, which takes court-adjudicated

1 juveniles for purposes of rehabilitation, and which is exempt from
2 taxation pursuant to the provisions of the Internal Revenue Code, 26
3 U.S.C., Section 501(c)(3), provided that at least fifty percent
4 (50%) of the juveniles served by such organization are court
5 adjudicated and the organization receives state funds in an amount
6 less than ten percent (10%) of the annual budget of the
7 organization;

8 22. Sales of tangible personal property or services made before
9 January 1, 2013, to:

- 10 a. any federally qualified community health center as
11 defined in Section 254c of Title 42 of the United
12 States Code,
13 b. any migrant health center as defined in Section 254b
14 of Title 42 of the United States Code,
15 c. any clinic receiving disbursements of state monies
16 from the Indigent Health Care Revolving Fund pursuant
17 to the provisions of Section 66 of Title 56 of the
18 Oklahoma Statutes,
19 d. any community based health center which meets all of
20 the following criteria:
21 (1) provides primary care services at no cost to the
22 recipient, and

1 (2) is exempt from taxation pursuant to the
2 provisions of Section 501(c)(3) of the Internal
3 Revenue Code, 26 U.S.C., Section 501(c)(3), and
4 e. any community mental health center as defined in
5 Section 3-302 of Title 43A of the Oklahoma Statutes;

6 23. Dues or fees paid before January 1, 2014, including free or
7 complimentary dues or fees which have a value equivalent to the
8 charge that could have otherwise been made, to YMCAs, YWCAs or
9 municipally-owned recreation centers for the use of facilities and
10 programs;

11 24. The first Fifteen Thousand Dollars (\$15,000.00) each year
12 before January 1, 2015, from sales of tangible personal property or
13 services to or by a cultural organization established to sponsor and
14 promote educational, charitable and cultural events for
15 disadvantaged children, and which organization is exempt from
16 taxation pursuant to the provisions of the Internal Revenue Code, 26
17 U.S.C., Section 501(c)(3);

18 25. Sales of tangible personal property or services made before
19 January 1, 2016, to museums or other entities which have been
20 accredited by the American Association of Museums. Any person
21 making purchases on behalf of any such museum or other entity shall
22 certify, in writing, on the copy of the invoice or sales ticket to
23 be retained by the vendor that the purchases are made for and on

1 behalf of such museum or other entity and set out the name of such
2 museum or other entity. Any person who wrongfully or erroneously
3 certifies that the purchases are for any such museum or other entity
4 or who otherwise violates the provisions of this paragraph shall be
5 deemed guilty of a misdemeanor and, upon conviction thereof, shall
6 be fined an amount equal to double the amount of sales tax involved
7 or incarcerated for not more than sixty (60) days, or by both such
8 fine and incarceration;

9 26. Sales of tickets for admission made before January 1, 2017,
10 by any museum accredited by the American Association of Museums. In
11 order to be eligible for the exemption provided by this paragraph,
12 an amount equivalent to the amount of the tax which would otherwise
13 be required to be collected pursuant to the provisions of Section
14 1350 et seq. of this title shall be separately stated on the
15 admission ticket and shall be collected and used for the sole
16 purpose of servicing or aiding in the servicing of debt incurred by
17 the museum to effect the construction, enlarging or renovation of
18 any facility to be used for entertainment, edification or cultural
19 cultivation to which entry is gained with a paid admission ticket;

20 27. Sales of tangible personal property or services occurring
21 on or after June 1, 1995, and before January 1, 2018, to children's
22 homes which are supported or sponsored by one or more churches,
23 members of which serve as trustees of the home;

1 28. Sales of tangible personal property or services made before
2 January 1, 2011, to the organization known as the Disabled American
3 Veterans, Department of Oklahoma, Inc., and subordinate chapters
4 thereof;

5 29. Sales of tangible personal property or services made before
6 January 1, 2012, to youth camps which are supported or sponsored by
7 one or more churches, members of which serve as trustees of the
8 organization;

9 30. Transfer of tangible personal property made pursuant to
10 Section 3226 of Title 63 of the Oklahoma Statutes by the University
11 Hospitals Trust;

12 31. Sales of tangible personal property or services to a
13 municipality, county or school district pursuant to a lease or
14 lease-purchase agreement executed between the vendor and a
15 municipality, county or school district. A copy of the lease or
16 lease-purchase agreement shall be retained by the vendor;

17 32. Sales of tangible personal property or services made before
18 January 1, 2013, to any spaceport user, as defined in the Oklahoma
19 Space Industry Development Act;

20 33. ~~The~~ Before January 1, 2014, the sale, use, storage,
21 consumption, or distribution in this state, whether by the importer,
22 exporter, or another person, of any satellite or any associated
23 launch vehicle, including components of, and parts and motors for,

1 any such satellite or launch vehicle, imported or caused to be
2 imported into this state for the purpose of export by means of
3 launching into space. This exemption provided by this paragraph
4 shall not be affected by:

- 5 a. the destruction in whole or in part of the satellite
6 or launch vehicle,
- 7 b. the failure of a launch to occur or be successful, or
- 8 c. the absence of any transfer or title to, or possession
9 of, the satellite or launch vehicle after launch;

10 34. ~~The~~ Before January 1, 2015, the sale, lease, use, storage,
11 consumption, or distribution in this state of any space facility,
12 space propulsion system or space vehicle, satellite, or station of
13 any kind possessing space flight capacity, including components
14 thereof;

15 35. ~~The~~ Before January 1, 2015, the sale, lease, use, storage,
16 consumption, or distribution in this state of tangible personal
17 property, placed on or used aboard any space facility, space
18 propulsion system or space vehicle, satellite, or station possessing
19 space flight capacity, which is launched into space, irrespective of
20 whether such tangible property is returned to this state for
21 subsequent use, storage, or consumption in any manner;

22 36. ~~The~~ Before January 1, 2015, the sale, lease, use, storage,
23 consumption, or distribution in this state of tangible personal

1 property meeting the definition of "section 38 property" as defined
2 in Sections 48(a)(1)(A) and (B)(i) of the Internal Revenue Code of
3 1986, that is an integral part of and used primarily in support of
4 space flight; however, section 38 property used in support of space
5 flight shall not include general office equipment, any boat, mobile
6 home, motor vehicle, or other vehicle of a class or type required to
7 be registered, licensed, titled, or documented in this state or by
8 the United States government, or any other property not specifically
9 suited to supporting space activity. The term "in support of space
10 flight", for purposes of this paragraph, means the altering,
11 monitoring, controlling, regulating, adjusting, servicing, or
12 repairing of any space facility, space propulsion systems or space
13 vehicle, satellite, or station possessing space flight capacity,
14 including the components thereof;

15 37. The Before January 1, 2015, the purchase or lease of
16 machinery and equipment for use at a fixed location in this state,
17 which is used exclusively in the manufacturing, processing,
18 compounding, or producing of any space facility, space propulsion
19 system or space vehicle, satellite, or station of any kind
20 possessing space flight capacity. Provided, the exemption provided
21 for in this paragraph shall not be allowed unless the purchaser or
22 lessee signs an affidavit stating that the item or items to be
23 exempted are for the exclusive use designated herein. Any person

1 furnishing a false affidavit to the vendor for the purpose of
2 evading payment of any tax imposed by Section 1354 of this title
3 shall be subject to the penalties provided by law. As used in this
4 paragraph, "machinery and equipment" means "section 38 property" as
5 defined in Sections 48(a)(1)(A) and (B)(i) of the Internal Revenue
6 Code of 1986, which is used as an integral part of the
7 manufacturing, processing, compounding, or producing of items of
8 tangible personal property. Such term includes parts and
9 accessories only to the extent that the exemption thereof is
10 consistent with the provisions of this paragraph;

11 38. The amount of a surcharge or any other amount which is
12 separately stated on an admission ticket which is imposed, collected
13 and used before January 1, 2016, for the sole purpose of
14 constructing, remodeling or enlarging facilities of a public trust
15 having a municipality or county as its sole beneficiary;

16 39. Sales of tangible personal property or services made before
17 January 1, 2017, which are directly used in or for the benefit of a
18 state park in this state, which are made to an organization which is
19 exempt from taxation pursuant to the provisions of the Internal
20 Revenue Code, 26 U.S.C., Section 501(c)(3) and which is organized
21 primarily for the purpose of supporting one or more state parks
22 located in this state;

1 40. The sale, lease or use of parking privileges by an
2 institution of The Oklahoma State System of Higher Education;

3 41. Sales of tangible personal property or services for use on
4 campus or school construction projects for the benefit of
5 institutions of The Oklahoma State System of Higher Education,
6 private institutions of higher education accredited by the Oklahoma
7 State Regents for Higher Education or any public school or school
8 district when such projects are financed by or through the use of
9 nonprofit entities which are exempt from taxation pursuant to the
10 provisions of the Internal Revenue Code, 26 U.S.C., Section
11 501(c)(3);

12 42. Sales of tangible personal property or services made before
13 January 1, 2018, by an organization which is exempt from taxation
14 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,
15 Section 501(c)(3), in the course of conducting a national
16 championship sports event, but only if all or a portion of the
17 payment in exchange therefor would qualify as the receipt of a
18 qualified sponsorship payment described in Internal Revenue Code, 26
19 U.S.C., Section 513(i). Sales exempted pursuant to this paragraph
20 shall be exempt from all Oklahoma sales, use, excise and gross
21 receipts taxes;

22 43. Sales of tangible personal property or services made before
23 January 1, 2011, to or by an organization which:

1 taxation pursuant to the provisions of the Internal Revenue Code, 26
2 U.S.C., Section 501(c)(3) and is operating the Oklahoma City
3 National Memorial and Museum, an affiliate of the National Park
4 System;

5 47. Sales of tangible personal property or services made before
6 January 1, 2015, to organizations which are exempt from federal
7 taxation pursuant to the provisions of Section 501(c)(3) of the
8 Internal Revenue Code, 26 U.S.C., Section 501(c)(3), the memberships
9 of which are limited to honorably discharged veterans, and which
10 furnish financial support to area veterans' organizations to be used
11 for the purpose of constructing a memorial or museum;

12 48. Sales of tangible personal property or services on or after
13 January 1, 2003, and before January 1, 2016, to an organization
14 which is exempt from taxation pursuant to the provisions of the
15 Internal Revenue Code, 26 U.S.C., Section 501(c)(3) that is
16 expending monies received from a private foundation grant in
17 conjunction with expenditures of local sales tax revenue to
18 construct a local public library;

19 49. Sales of tangible personal property or services to a state
20 that borders this state or any political subdivision of that state,
21 but only to the extent that the other state or political subdivision
22 exempts or does not impose a tax on similar sales of items to this
23 state or a political subdivision of this state;

1 50. ~~Effective~~ On or after July 1, 2005, and before January 1,
2 2017, sales of tangible personal property or services to the Career
3 Technology Student Organizations under the direction and supervision
4 of the Oklahoma Department of Career and Technology Education;

5 51. Sales of tangible personal property made before January 1,
6 2018, to a public trust having either a single city, town or county
7 or multiple cities, towns or counties or combination thereof as
8 beneficiary or beneficiaries or a nonprofit organization which is
9 exempt from taxation pursuant to the provisions of the Internal
10 Revenue Code, 26 U.S.C., Section 501(c)(3) for the purpose of
11 constructing improvements to or expanding a hospital or nursing home
12 owned and operated by any such public trust or nonprofit entity
13 prior to the effective date of this act in counties with a
14 population of less than one hundred thousand (100,000) persons,
15 according to the most recent Federal Decennial Census. As used in
16 this paragraph, "constructing improvements to or expanding" shall
17 not mean any expense for routine maintenance or general repairs and
18 shall require a project cost of at least One Hundred Thousand
19 Dollars (\$100,000.00). For purposes of this paragraph, sales made
20 to a contractor or subcontractor that enters into a contractual
21 relationship with a public trust or nonprofit entity as described by
22 this paragraph shall be considered sales made to the public trust or
23 nonprofit entity. The exemption authorized by this paragraph shall

1 be administered in the form of a refund from the sales tax revenues
2 apportioned pursuant to Section 1353 of this title and the vendor
3 shall be required to collect the sales tax otherwise applicable to
4 the transaction. The purchaser may apply for a refund of the sales
5 tax paid in the manner prescribed by this paragraph. Within thirty
6 (30) days after the end of each fiscal year, any purchaser that is
7 entitled to make application for a refund based upon the exempt
8 treatment authorized by this paragraph may file an application for
9 refund of the sales taxes paid during such preceding fiscal year.
10 The Tax Commission shall prescribe a form for purposes of making the
11 application for refund. The Tax Commission shall determine whether
12 or not the total amount of sales tax exemptions claimed by all
13 purchasers is equal to or less than Six Hundred Fifty Thousand
14 Dollars (\$650,000.00). If such claims are less than or equal to
15 that amount, the Tax Commission shall make refunds to the purchasers
16 in the full amount of the documented and verified sales tax amounts.
17 If such claims by all purchasers are in excess of Six Hundred Fifty
18 Thousand Dollars (\$650,000.00), the Tax Commission shall determine
19 the amount of each purchaser's claim, the total amount of all claims
20 by all purchasers, and the percentage each purchaser's claim amount
21 bears to the total. The resulting percentage determined for each
22 purchaser shall be multiplied by Six Hundred Fifty Thousand Dollars
23 (\$650,000.00) to determine the amount of refundable sales tax to be

1 paid to each purchaser. The pro rata refund amount shall be the
2 only method to recover sales taxes paid during the preceding fiscal
3 year and no balance of any sales taxes paid on a pro rata basis
4 shall be the subject of any subsequent refund claim pursuant to this
5 paragraph;

6 52. ~~Effective~~ On or after July 1, 2006, and before January 1,
7 2011, sales of tangible personal property or services to any
8 organization which assists, trains, educates, and provides housing
9 for physically and mentally handicapped persons and which is exempt
10 from taxation pursuant to the provisions of the Internal Revenue
11 Code, 26 U.S.C., Section 501(c)(3) and that receives at least
12 eighty-five percent (85%) of its annual budget from state or federal
13 funds. In order to receive the benefit of the exemption authorized
14 by this paragraph, the taxpayer shall be required to make payment of
15 the applicable sales tax at the time of sale to the vendor in the
16 manner otherwise required by law. Notwithstanding any other
17 provision of the Oklahoma Uniform Tax Procedure Code to the
18 contrary, the taxpayer shall be authorized to file a claim for
19 refund of sales taxes paid that qualify for the exemption authorized
20 by this paragraph for a period of one (1) year after the date of the
21 sale transaction. The taxpayer shall be required to provide
22 documentation as may be prescribed by the Oklahoma Tax Commission in
23 support of the refund claim. The total amount of sales tax

1 qualifying for exempt treatment pursuant to this paragraph shall not
2 exceed One Hundred Seventy-five Thousand Dollars (\$175,000.00) each
3 fiscal year. Claims for refund shall be processed in the order in
4 which such claims are received by the Oklahoma Tax Commission. If a
5 claim otherwise timely filed exceeds the total amount of refunds
6 payable for a fiscal year, such claim shall be barred;

7 53. The first Two Thousand Dollars (\$2,000.00) each year before
8 January 1, 2012, of sales of tangible personal property or services
9 to, by, or for the benefit of a qualified neighborhood watch
10 organization that is endorsed or supported by or working directly
11 with a law enforcement agency with jurisdiction in the area in which
12 the neighborhood watch organization is located. As used in this
13 paragraph, "qualified neighborhood watch organization" means an
14 organization that is a not-for-profit corporation under the laws of
15 the State of Oklahoma that was created to help prevent criminal
16 activity in an area through community involvement and interaction
17 with local law enforcement and which is one of the first two
18 thousand organizations which makes application to the Oklahoma Tax
19 Commission for the exemption after the effective date of this act;

20 54. Sales of tangible personal property to a nonprofit
21 organization, exempt from taxation pursuant to the provisions of the
22 Internal Revenue Code, 26 U.S.C., Section 501(c)(3), organized
23 primarily for the purpose of providing services to homeless persons

1 during the day and located in a metropolitan area with a population
2 in excess of five hundred thousand (500,000) persons according to
3 the latest Federal Decennial Census. The exemption authorized by
4 this paragraph shall be applicable to sales of tangible personal
5 property to a qualified entity occurring on or after January 1,
6 2005, and before January 1, 2013;

7 55. Sales of tangible personal property or services made before
8 January 1, 2014, by an organization which is exempt from taxation
9 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,
10 Section 501(c)(3) made during auction events the principal purpose
11 of which is to provide funding for the preservation of wetlands and
12 habitat for wild ducks;

13 56. Sales of tangible personal property or services made before
14 January 1, 2015, by an organization which is exempt from taxation
15 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,
16 Section 501(c)(3) made during auction events the principal purpose
17 of which is to provide funding for the preservation and conservation
18 of wild turkeys;

19 57. Sales of tangible personal property or services made before
20 January 1, 2016, to an organization which:

21 a. is exempt from taxation pursuant to the provisions of
22 the Internal Revenue Code, 26 U.S.C., Section
23 501(c)(3), and

1 b. is part of a network of community-based, autonomous
2 member organizations that meets the following
3 criteria:

4 (1) serves people with workplace disadvantages and
5 disabilities by providing job training and
6 employment services, as well as job placement
7 opportunities and post-employment support,

8 (2) has locations in the United States and at least
9 twenty other countries,

10 (3) collects donated clothing and household goods to
11 sell in retail stores and provides contract labor
12 services to business and government, and

13 (4) provides documentation to the Oklahoma Tax
14 Commission that over seventy-five percent (75%)
15 of its revenues are channeled into employment,
16 job training and placement programs and other
17 critical community services;

18 58. Sales of tickets made on or after September 21, 2005, and
19 before January 1, 2017, and complimentary or free tickets for
20 admission issued on or after September 21, 2005, and before January
21 1, 2017, which have a value equivalent to the charge that would have
22 otherwise been made, for admission to a professional athletic event
23 in which a team in the National Basketball Association is a

1 participant, which is held in a facility owned or operated by a
2 municipality, a county or a public trust of which a municipality or
3 a county is the sole beneficiary, and sales of tickets made on or
4 after the effective date of this act, and complimentary or free
5 tickets for admission issued on or after the effective date of this
6 act, which have a value equivalent to the charge that would have
7 otherwise been made, for admission to a professional athletic event
8 in which a team in the National Hockey League is a participant,
9 which is held in a facility owned or operated by a municipality, a
10 county or a public trust of which a municipality or a county is the
11 sole beneficiary;

12 59. Sales made before January 1, 2018, of tickets for admission
13 and complimentary or free tickets for admission which have a value
14 equivalent to the charge that would have otherwise been made to a
15 professional sporting event involving ice hockey, baseball,
16 basketball, football or arena football, or soccer. As used in this
17 paragraph, "professional sporting event" means an organized athletic
18 competition between teams that are members of an organized league or
19 association with centralized management, other than a national
20 league or national association, that imposes requirements for
21 participation in the league upon the teams, the individual athletes
22 or both, and which uses a salary structure to compensate the
23 athletes;

1 60. Sales of tickets made before January 1, 2011, for admission
2 to an annual event sponsored by an educational and charitable
3 organization of women which is exempt from taxation pursuant to the
4 provisions of the Internal Revenue Code, 26 U.S.C., Section
5 501(c)(3) and has as its mission promoting volunteerism, developing
6 the potential of women and improving the community through the
7 effective action and leadership of trained volunteers;

8 61. Sales of tangible personal property or services made before
9 January 1, 2012, to an organization, which is exempt from taxation
10 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,
11 Section 501(c)(3), and which is itself a member of an organization
12 which is exempt from taxation pursuant to the provisions of the
13 Internal Revenue Code, 26 U.S.C., Section 501(c)(3), if the
14 membership organization is primarily engaged in advancing the
15 purposes of its member organizations through fundraising, public
16 awareness or other efforts for the benefit of its member
17 organizations, and if the member organization is primarily engaged
18 either in providing educational services and programs concerning
19 health-related diseases and conditions to individuals suffering from
20 such health-related diseases and conditions or their caregivers and
21 family members or support to such individuals, or in health-related
22 research as to such diseases and conditions, or both. In order to
23 qualify for the exemption authorized by this paragraph, the member

1 nonprofit organization shall be required to provide proof to the
2 Oklahoma Tax Commission of its membership status in the membership
3 organization;

4 62. Sales of tangible personal property or services made before
5 January 1, 2013, to or by an organization which is part of a
6 national volunteer women's service organization dedicated to
7 promoting patriotism, preserving American history and securing
8 better education for children and which has at least 168,000 members
9 in 3,000 chapters across the United States;

10 63. Sales of tangible personal property or services made before
11 January 1, 2014, to or by a YWCA or YMCA organization which is part
12 of a national nonprofit community service organization working to
13 meet the health and social service needs of its members across the
14 United States;

15 64. Sales of tangible personal property or services made before
16 January 1, 2015, to or by a veteran's organization which is exempt
17 from taxation pursuant to the provisions of the Internal Revenue
18 Code, 26 U.S.C., Section 501 (c) (19) and which is known as the
19 Veterans of Foreign Wars of the United States, Oklahoma Chapters;

20 65. Sales of boxes of food before January 1, 2016, by a church
21 or by an organization, which is exempt from taxation pursuant to the
22 provisions of the Internal Revenue Code, 26 U.S.C., Section
23 501(c) (3). To qualify under the provisions of this paragraph, the

1 organization must be organized for the primary purpose of feeding
2 needy individuals or to encourage volunteer service by requiring
3 such service in order to purchase food. These boxes shall only
4 contain edible staple food items;

5 66. Sales of tangible personal property or services made before
6 January 1, 2017, to any person with whom a church has duly entered
7 into a construction contract, necessary for carrying out such
8 contract or to any subcontractor to such a construction contract;

9 67. Sales of tangible personal property or services made before
10 January 1, 2018, used exclusively for charitable or educational
11 purposes, to or by an organization which:

12 a. is exempt from taxation pursuant to the provisions of
13 the Internal Revenue Code, 26 U.S.C., Section
14 501(c)(3),

15 b. has filed a Not-for-Profit Certificate of
16 Incorporation in this state, and

17 c. is organized for the purpose of:

18 (1) providing training and education to
19 developmentally disabled individuals,

20 (2) educating the community about the rights,
21 abilities and strengths of developmentally
22 disabled individuals, and

1 (3) promoting unity among developmentally disabled
2 individuals in their community and geographic
3 area;

4 68. Sales of tangible personal property or services made before
5 January 1, 2011, to any organization which is a shelter for abused,
6 neglected, or abandoned children and which is exempt from taxation
7 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,
8 Section 501(c)(3); provided, until July 1, 2008, such exemption
9 shall apply only to eligible shelters for children from birth to age
10 twelve (12) and after July 1, 2008, such exemption shall apply to
11 eligible shelters for children from birth to age eighteen (18);

12 69. Sales of tangible personal property or services made before
13 January 1, 2012, to a child care center which is licensed pursuant
14 to the Oklahoma Child Care Facilities Licensing Act and which:

- 15 a. possesses a 3-star rating from the Department of Human
16 Services Reaching for the Stars Program or a national
17 accreditation, and
18 b. allows on site universal pre-kindergarten education to
19 be provided to four-year-old children through a
20 contractual agreement with any public school or school
21 district.

22 For the purposes of this paragraph, sales made to any person,
23 firm, agency or entity that has entered previously into a

1 contractual relationship with a child care center for construction
2 and improvement of buildings and other structures owned by the child
3 care center and operated for educational purposes shall be
4 considered sales made to a child care center. Any such person,
5 firm, agency or entity making purchases on behalf of a child care
6 center shall certify in writing, on the copy of the invoice or sales
7 ticket the nature of the purchase. Any such person, or person
8 acting on behalf of a firm, agency or entity making purchases on
9 behalf of a child care center in violation of this paragraph shall
10 be guilty of a misdemeanor and upon conviction thereof shall be
11 fined an amount equal to double the amount of sales tax involved or
12 incarcerated for not more than sixty (60) days or both; and

13 70. a. Sales of tangible personal property made before
14 January 1, 2013, to a service organization of mothers
15 who have children who are serving or who have served
16 in the military, which service organization is exempt
17 from taxation pursuant to the provisions of the
18 Internal Revenue Code, 26 U.S.C., Section 501(c)(19)
19 and which is known as the Blue Star Mothers of
20 America, Inc. The exemption provided by this
21 paragraph shall only apply to the purchase of tangible
22 personal property actually sent to United States
23 military personnel overseas who are serving in a

1 combat zone and not to any other tangible personal
2 property purchased by the organization. Provided,
3 this exemption shall not apply to any sales tax levied
4 by a city, town, county, or any other jurisdiction in
5 this state.

6 b. The exemption authorized by this paragraph shall be
7 administered in the form of a refund from the sales
8 tax revenues apportioned pursuant to Section 1353 of
9 this title, and the vendor shall be required to
10 collect the sales tax otherwise applicable to the
11 transaction. The purchaser may apply for a refund of
12 the state sales tax paid in the manner prescribed by
13 this paragraph. Within sixty (60) days after the end
14 of each calendar quarter, any purchaser that is
15 entitled to make application for a refund based upon
16 the exempt treatment authorized by this paragraph may
17 file an application for refund of the state sales
18 taxes paid during such preceding calendar quarter.
19 The Tax Commission shall prescribe a form for purposes
20 of making the application for refund.

21 c. A purchaser who applies for a refund pursuant to this
22 paragraph shall certify that the items were actually
23 sent to military personnel overseas in a combat zone.

1 Any purchaser that applies for a refund for the
2 purchase of items that are not authorized for
3 exemption under this paragraph shall be subject to a
4 penalty in the amount of Five Hundred Dollars
5 (\$500.00).

6 SECTION 46. AMENDATORY 68 O.S. 2001, Section 1357, as
7 last amended by Section 1, Chapter 253, O.S.L. 2007 (68 O.S. Supp.
8 2007, Section 1357), is amended to read as follows:

9 Section 1357. There are hereby specifically exempted from the
10 tax levied by the Oklahoma Sales Tax Code:

11 1. Transportation which occurs before January 1, 2014, of
12 school pupils to and from elementary schools or high schools in
13 motor or other vehicles;

14 2. Transportation which occurs before January 1, 2015, of
15 persons where the fare of each person does not exceed One Dollar
16 (\$1.00), or local transportation of persons within the corporate
17 limits of a municipality except by taxicabs;

18 3. Sales for resale to persons engaged in the business of
19 reselling the articles purchased, whether within or without the
20 state, provided that such sales to residents of this state are made
21 to persons to whom sales tax permits have been issued as provided in
22 the Oklahoma Sales Tax Code. This exemption shall not apply to the
23 sales of articles made to persons holding permits when such persons

1 purchase items for their use and which they are not regularly
2 engaged in the business of reselling; neither shall this exemption
3 apply to sales of tangible personal property to peddlers, solicitors
4 and other salespersons who do not have an established place of
5 business and a sales tax permit. The exemption provided by this
6 paragraph shall apply to sales of motor fuel or diesel fuel to a
7 Group Five vendor, but the use of such motor fuel or diesel fuel by
8 the Group Five vendor shall not be exempt from the tax levied by the
9 Oklahoma Sales Tax Code. The purchase of motor fuel or diesel fuel
10 is exempt from sales tax when the motor fuel is for shipment outside
11 this state and consumed by a common carrier by rail in the conduct
12 of its business. The sales tax shall apply to the purchase of motor
13 fuel or diesel fuel in Oklahoma by a common carrier by rail when
14 such motor fuel is purchased for fueling, within this state, of any
15 locomotive or other motorized flanged wheel equipment;

16 4. Sales made before January 1, 2016, of advertising space in
17 newspapers and periodicals;

18 5. Sales of programs relating to sporting and entertainment
19 events, and sales of advertising on billboards (including signage,
20 posters, panels, marquees, or on other similar surfaces, whether
21 indoors or outdoors) or in programs relating to sporting and
22 entertainment events, and sales of any advertising, to be displayed
23 at or in connection with a sporting event, via the Internet,

1 electronic display devices, or through public address or broadcast
2 systems. The exemption authorized by this paragraph shall be
3 effective for all sales made on or after January 1, 2001, and before
4 January 1, 2017;

5 6. Sales made before January 1, 2018, of any advertising, other
6 than the advertising described by paragraph 5 of this section, via
7 the Internet, electronic display devices, or through the electronic
8 media, including radio, public address or broadcast systems,
9 television (whether through closed circuit broadcasting systems or
10 otherwise), and cable and satellite television, and the servicing of
11 any advertising devices;

12 7. Eggs, feed, supplies, machinery and equipment purchased
13 before January 1, 2011, by persons regularly engaged in the business
14 of raising worms, fish, any insect or any other form of terrestrial
15 or aquatic animal life and used for the purpose of raising same for
16 marketing. This exemption shall only be granted and extended to the
17 purchaser when the items are to be used and in fact are used in the
18 raising of animal life as set out above. Each purchaser shall
19 certify, in writing, on the invoice or sales ticket retained by the
20 vendor that the purchaser is regularly engaged in the business of
21 raising such animal life and that the items purchased will be used
22 only in such business. The vendor shall certify to the Oklahoma Tax
23 Commission that the price of the items has been reduced to grant the

1 full benefit of the exemption. Violation hereof by the purchaser or
2 vendor shall be a misdemeanor;

3 8. Sale of natural or artificial gas and electricity, and
4 associated delivery or transmission services, when sold exclusively
5 for residential use before January 1, 2012. Provided, this
6 exemption shall not apply to any sales tax levied by a city or town,
7 or a county, or any other jurisdiction in this state;

8 9. In addition to the exemptions authorized by Section 1357.6
9 of this title, sales of drugs sold before January 1, 2013, pursuant
10 to a prescription written for the treatment of human beings by a
11 person licensed to prescribe the drugs, and sales of insulin and
12 medical oxygen. Provided, this exemption shall not apply to over-
13 the-counter drugs;

14 10. Transfers of title or possession of empty, partially
15 filled, or filled returnable oil and chemical drums made before
16 January 1, 2014, to any person who is not regularly engaged in the
17 business of selling, reselling or otherwise transferring empty,
18 partially filled, or filled returnable oil drums;

19 11. Sales made before January 1, 2015, of one-way utensils,
20 paper napkins, paper cups, disposable hot containers and other one-
21 way carry out materials to a vendor of meals or beverages;

22 12. Sales of food or food products for home consumption which
23 are purchased in whole or in part with coupons issued pursuant to

1 the federal food stamp program as authorized by Sections 2011
2 through 2029 of Title 7 of the United States Code, as to that
3 portion purchased with such coupons. The exemption provided for
4 such sales shall be inapplicable to such sales upon the effective
5 date of any federal law that removes the requirement of the
6 exemption as a condition for participation by the state in the
7 federal food stamp program;

8 13. Sales of food or food products, or any equipment or
9 supplies used in the preparation of the food or food products made
10 before January 1, 2016, to or by an organization which:

11 a. is exempt from taxation pursuant to the provisions of
12 Section 501(c)(3) of the Internal Revenue Code, 26
13 U.S.C., Section 501(c)(3), and which provides and
14 delivers prepared meals for home consumption to
15 elderly or homebound persons as part of a program
16 commonly known as "Meals on Wheels" or "Mobile Meals",
17 or

18 b. is exempt from taxation pursuant to the provisions of
19 Section 501(c)(3) of the Internal Revenue Code, 26
20 U.S.C., Section 501(c)(3), and which receives federal
21 funding pursuant to the Older Americans Act of 1965,
22 as amended, for the purpose of providing nutrition
23 programs for the care and benefit of elderly persons;

1 taxation pursuant to the provisions of the Internal Revenue Code, 26
2 U.S.C., Section 501(c)(3);

3 16. Sales made before January 1, 2011, of computers, data
4 processing equipment, related peripherals and telephone, telegraph
5 or telecommunications service and equipment for use in a qualified
6 aircraft maintenance or manufacturing facility. For purposes of
7 this paragraph, "qualified aircraft maintenance or manufacturing
8 facility" means a new or expanding facility primarily engaged in
9 aircraft repair, building or rebuilding whether or not on a factory
10 basis, whose total cost of construction exceeds the sum of Five
11 Million Dollars (\$5,000,000.00) and which employs at least two
12 hundred fifty (250) new full-time-equivalent employees, as certified
13 by the Oklahoma Employment Security Commission, upon completion of
14 the facility. In order to qualify for the exemption provided for by
15 this paragraph, the cost of the items purchased by the qualified
16 aircraft maintenance or manufacturing facility shall equal or exceed
17 the sum of Two Million Dollars (\$2,000,000.00);

18 17. Sales made before January 1, 2012, of tangible personal
19 property consumed or incorporated in the construction or expansion
20 of a qualified aircraft maintenance or manufacturing facility as
21 defined in paragraph 16 of this section. For purposes of this
22 paragraph, sales made to a contractor or subcontractor that has
23 previously entered into a contractual relationship with a qualified

1 aircraft maintenance or manufacturing facility for construction or
2 expansion of such a facility shall be considered sales made to a
3 qualified aircraft maintenance or manufacturing facility;

4 18. Sales made before January 1, 2013, of the following
5 telecommunications services:

- 6 a. Interstate and International "800 service". "800
7 service" means a "telecommunications service" that
8 allows a caller to dial a toll-free number without
9 incurring a charge for the call. The service is
10 typically marketed under the name "800", "855", "866",
11 "877", and "888" toll-free calling, and any subsequent
12 numbers designated by the Federal Communications
13 Commission, or
- 14 b. Interstate and International "900 service". "900
15 service" means an inbound toll "telecommunications
16 service" purchased by a subscriber that allows the
17 subscriber's customers to call in to the subscriber's
18 prerecorded announcement or live service. "900
19 service" does not include the charge for: collection
20 services provided by the seller of the
21 "telecommunications services" to the subscriber, or
22 service or product sold by the subscriber to the
23 subscriber's customer. The service is typically

1 marketed under the name "900" service, and any
2 subsequent numbers designated by the Federal
3 Communications Commission,
4 c. Interstate and International "private communications
5 service". "Private communications service" means a
6 "telecommunications service" that entitles the
7 customer to exclusive or priority use of a
8 communications channel or group of channels between or
9 among termination points, regardless of the manner in
10 which such channel or channels are connected, and
11 includes switching capacity, extension lines,
12 stations, and any other associated services that are
13 provided in connection with the use of such channel or
14 channels,
15 d. "Value-added nonvoice data service". "Value-added
16 nonvoice data service" means a service that otherwise
17 meets the definition of "telecommunications services"
18 in which computer processing applications are used to
19 act on the form, content, code, or protocol of the
20 information or data primarily for a purpose other than
21 transmission, conveyance or routing,
22 e. Interstate and International telecommunications
23 service which is:

1 (1) rendered by a company for private use within its
2 organization, or

3 (2) used, allocated, or distributed by a company to
4 its affiliated group,

5 f. Regulatory assessments and charges, including charges
6 to fund the Oklahoma Universal Service Fund, the
7 Oklahoma Lifeline Fund and the Oklahoma High Cost
8 Fund, and

9 g. Telecommunications nonrecurring charges, including but
10 not limited to the installation, connection, change or
11 initiation of telecommunications services which are
12 not associated with a retail consumer sale;

13 19. Sales made before January 1, 2014, of railroad track spikes
14 manufactured and sold for use in this state in the construction or
15 repair of railroad tracks, switches, sidings and turnouts;

16 20. Sales made before January 1, 2015, of aircraft and aircraft
17 parts provided such sales occur at a qualified aircraft maintenance
18 facility. As used in this paragraph, "qualified aircraft
19 maintenance facility" means a facility operated by an air common
20 carrier at which there were employed at least two thousand (2,000)
21 full-time-equivalent employees in the preceding year as certified by
22 the Oklahoma Employment Security Commission and which is primarily
23 related to the fabrication, repair, alteration, modification,

1 refurbishing, maintenance, building or rebuilding of commercial
2 aircraft or aircraft parts used in air common carriage. For
3 purposes of this paragraph, "air common carrier" shall also include
4 members of an affiliated group as defined by Section 1504 of the
5 Internal Revenue Code, 26 U.S.C., Section 1504;

6 21. Sales made before January 1, 2016, of machinery and
7 equipment purchased and used by persons and establishments primarily
8 engaged in computer services and data processing:

9 a. as defined under Industrial Group Numbers 7372 and
10 7373 of the Standard Industrial Classification (SIC)
11 Manual, latest version, which derive at least fifty
12 percent (50%) of their annual gross revenues from the
13 sale of a product or service to an out-of-state buyer
14 or consumer, and

15 b. as defined under Industrial Group Number 7374 of the
16 SIC Manual, latest version, which derive at least
17 eighty percent (80%) of their annual gross revenues
18 from the sale of a product or service to an out-of-
19 state buyer or consumer.

20 Eligibility for the exemption set out in this paragraph shall be
21 established, subject to review by the Tax Commission, by annually
22 filing an affidavit with the Tax Commission stating that the
23 facility so qualifies and such information as required by the Tax

1 Commission. For purposes of determining whether annual gross
2 revenues are derived from sales to out-of-state buyers or consumers,
3 all sales to the federal government shall be considered to be to an
4 out-of-state buyer or consumer;

5 22. Sales made before January 1, 2017, of prosthetic devices to
6 an individual for use by such individual. For purposes of this
7 paragraph, "prosthetic device" shall have the same meaning as
8 provided in Section 1357.6 of this title, but shall not include
9 corrective eye glasses, contact lenses or hearing aids;

10 23. Sales of tangible personal property or services to a motion
11 picture or television production company to be used or consumed in
12 connection with an eligible production. For purposes of this
13 paragraph, "eligible production" means a documentary, special, music
14 video, or a television commercial or television program that will
15 serve as a pilot for or be a segment of an ongoing dramatic or
16 situation comedy series filmed or taped for network or national or
17 regional syndication or a feature-length motion picture intended for
18 theatrical release or for network or national or regional
19 syndication or broadcast. The provisions of this paragraph shall
20 apply to sales occurring on or after July 1, 1996, and before
21 January 1, 2018. In order to qualify for the exemption, the motion
22 picture or television production company shall file any

1 documentation and information required to be submitted pursuant to
2 rules promulgated by the Tax Commission;

3 24. Sales of diesel fuel sold before January 1, 2011, for
4 consumption by commercial vessels, barges and other commercial
5 watercraft;

6 25. Sales of tangible personal property or services made before
7 January 1, 2012, to tax-exempt independent nonprofit biomedical
8 research foundations that provide educational programs for Oklahoma
9 science students and teachers and to tax-exempt independent
10 nonprofit community blood banks headquartered in this state;

11 26. ~~Effective~~ On or after May 6, 1992, and before January 1,
12 2013, sales of wireless telecommunications equipment to a vendor who
13 subsequently transfers the equipment at no charge or for a
14 discounted charge to a consumer as part of a promotional package or
15 as an inducement to commence or continue a contract for wireless
16 telecommunications services;

17 27. ~~Effective~~ On or after January 1, 1991, and before January
18 1, 2014, leases of rail transportation cars to haul coal to coal-
19 fired plants located in this state which generate electric power;

20 28. ~~Beginning~~ On or after July 1, 2005, and before January 1,
21 2015, sales of aircraft engine repairs, modification, and
22 replacement parts, sales of aircraft frame repairs and modification,
23 aircraft interior modification, and paint, and sales of services

1 employed in the repair, modification and replacement of parts of
2 aircraft engines, aircraft frame and interior repair and
3 modification, and paint;

4 29. Sales of materials and supplies before January 1, 2016, to
5 the owner or operator of a ship, motor vessel or barge that is used
6 in interstate or international commerce if the materials and
7 supplies:

8 a. are loaded on the ship, motor vessel or barge and used
9 in the maintenance and operation of the ship, motor
10 vessel or barge, or

11 b. enter into and become component parts of the ship,
12 motor vessel or barge;

13 30. Sales of tangible personal property made before January 1,
14 2017, at estate sales at which such property is offered for sale on
15 the premises of the former residence of the decedent by a person who
16 is not required to be licensed pursuant to the Transient Merchant
17 Licensing Act, or who is not otherwise required to obtain a sales
18 tax permit for the sale of such property pursuant to the provisions
19 of Section 1364 of this title; provided:

20 a. such sale or event may not be held for a period
21 exceeding three (3) consecutive days,

22 b. the sale must be conducted within six (6) months of
23 the date of death of the decedent, and

1 c. the exemption allowed by this paragraph shall not be
2 allowed for property that was not part of the
3 decedent's estate;

4 31. ~~Beginning~~ On or after January 1, 2004, and before January
5 1, 2018, sales of electricity and associated delivery and
6 transmission services, when sold exclusively for use by an oil and
7 gas operator for reservoir dewatering projects and associated
8 operations commencing on or after July 1, 2003, in which the initial
9 water-to-oil ratio is greater than or equal to five-to-one water-to-
10 oil, and such oil and gas development projects have been classified
11 by the Corporation Commission as a reservoir dewatering unit;

12 32. Sales of prewritten computer software before January 1,
13 2011, that is delivered electronically. For purposes of this
14 paragraph, "delivered electronically" means delivered to the
15 purchaser by means other than tangible storage media;

16 33. Sales of modular dwelling units before January 1, 2012,
17 when built at a production facility and moved in whole or in parts,
18 to be assembled on-site, and permanently affixed to the real
19 property and used for residential or commercial purposes. The
20 exemption provided by this paragraph shall equal forty-five percent
21 (45%) of the total sales price of the modular dwelling unit. For
22 purposes of this paragraph, "modular dwelling unit" means a

1 structure that is not subject to the motor vehicle excise tax
2 imposed pursuant to Section 2103 of this title;

3 34. Sales of tangible personal property or services to persons
4 who are residents of Oklahoma and have been honorably discharged
5 from active service in any branch of the Armed Forces of the United
6 States or Oklahoma National Guard and who have been certified by the
7 United States Department of Veterans Affairs or its successor to be
8 in receipt of disability compensation at the one-hundred-percent
9 rate and the disability shall be permanent and have been sustained
10 through military action or accident or resulting from disease
11 contracted while in such active service; provided, sales for the
12 benefit of the person to a spouse of the eligible person or to a
13 member of the household in which the eligible person resides and who
14 is authorized to make purchases on the person's behalf, when such
15 eligible person is not present at the sale, shall also be exempt for
16 purposes of this paragraph. Sales qualifying for the exemption
17 authorized by this paragraph shall not exceed Twenty-five Thousand
18 Dollars (\$25,000.00) per year per individual. Upon request of the
19 Tax Commission, a person asserting or claiming the exemption
20 authorized by this paragraph shall provide a statement, executed
21 under oath, that the total sales amounts for which the exemption is
22 applicable have not exceeded Twenty-five Thousand Dollars
23 (\$25,000.00) per year. If the amount of such exempt sales exceeds

1 such amount, the sales tax in excess of the authorized amount shall
2 be treated as a direct sales tax liability and may be recovered by
3 the Tax Commission in the same manner provided by law for other
4 taxes, including penalty and interest;

5 35. Sales of electricity before January 1, 2013, to the
6 operator, specifically designated by the Oklahoma Corporation
7 Commission, of a spacing unit or lease from which oil is produced or
8 attempted to be produced using enhanced recovery methods, including,
9 but not limited to, increased pressure in a producing formation
10 through the use of water or saltwater if the electrical usage is
11 associated with and necessary for the operation of equipment
12 required to inject or circulate fluids in a producing formation for
13 the purpose of forcing oil or petroleum into a wellbore for eventual
14 recovery and production from the wellhead. In order to be eligible
15 for the sales tax exemption authorized by this paragraph, the total
16 content of oil recovered after the use of enhanced recovery methods
17 shall not exceed one percent (1%) by volume. The exemption
18 authorized by this paragraph shall be applicable only to the state
19 sales tax rate and shall not be applicable to any county or
20 municipal sales tax rate;

21 36. Sales made before January 1, 2014, of intrastate charter
22 and tour bus transportation. As used in this paragraph, "intrastate
23 charter and tour bus transportation" means the transportation of

1 persons from one location in this state to another location in this
2 state in a motor vehicle which has been constructed in such a manner
3 that it may lawfully carry more than eighteen persons, and which is
4 ordinarily used or rented to carry persons for compensation.

5 Provided, this exemption shall not apply to regularly scheduled bus
6 transportation for the general public;

7 37. Sales of vitamins, minerals and dietary supplements made
8 before January 1, 2015, by a licensed chiropractor to a person who
9 is the patient of such chiropractor at the physical location where
10 the chiropractor provides chiropractic care or services to such
11 patient. The provisions of this paragraph shall not be applicable
12 to any drug, medicine or substance for which a prescription by a
13 licensed physician is required;

14 38. Sales of goods, wares, merchandise, tangible personal
15 property, machinery and equipment made before January 1, 2016, to a
16 web search portal located in this state which derives at least
17 eighty percent (80%) of its annual gross revenue from the sale of a
18 product or service to an out-of-state buyer or consumer. For
19 purposes of this paragraph, "web search portal" means an
20 establishment classified under NAICS code 518112 which operates web
21 sites that use a search engine to generate and maintain extensive
22 databases of Internet addresses and content in an easily searchable
23 format;

1 39. Sales made before January 1, 2017, of tangible personal
2 property consumed or incorporated in the construction or expansion
3 of a facility for a corporation organized under Section 437 et seq.
4 of Title 18 of the Oklahoma Statutes as a rural electric
5 cooperative. For purposes of this paragraph, sales made to a
6 contractor or subcontractor that has previously entered into a
7 contractual relationship with a rural electric cooperative for
8 construction or expansion of a facility shall be considered sales
9 made to a rural electric cooperative; and

10 40. Sales of tangible personal property or services made before
11 January 1, 2018, to a business primarily engaged in the repair of
12 consumer electronic goods, including, but not limited to, cell
13 phones, compact disc players, personal computers, MP3 players,
14 digital devices for the storage and retrieval of information through
15 hard-wired or wireless computer or Internet connections, if the
16 devices are sold to the business by the original manufacturer of
17 such devices and the devices are repaired, refitted or refurbished
18 for sale by the entity qualifying for the exemption authorized by
19 this paragraph directly to retail consumers or if the devices are
20 sold to another business entity for sale to retail consumers.

21 SECTION 47. AMENDATORY 68 O.S. 2001, Section 1357.7, is
22 amended to read as follows:

1 Section 1357.7 There are hereby specifically exempted from the
2 tax levied by this article, sales of horses after January 1, 1989,
3 and before January 1, 2011.

4 SECTION 48. AMENDATORY Section 1, Chapter 462, O.S.L.
5 2003 (68 O.S. Supp. 2007, Section 1357.9), is amended to read as
6 follows:

7 Section 1357.9 A. ~~There~~ Until January 1, 2012, there are
8 exempt from the taxes imposed by Section ~~1351~~ 1350 et seq. of Title
9 ~~68 of the Oklahoma Statutes~~ this title service transactions among
10 related entities.

11 B. For purposes of this section, "related entity" includes
12 persons as defined by subsection (b) of Section 267 of the Internal
13 Revenue Code.

14 C. An exemption authorized by this section does not apply to a
15 service that would have been taxable under Section ~~1351~~ 1350 et seq.
16 of Title ~~68 of the Oklahoma Statutes~~ this title as it existed on
17 July 1, 2003.

18 D. Services that are exempt under this section may not be
19 purchased for resale by the providing company.

20 E. Tangible personal property that is transferred as an
21 integral part of a service exempted under this section may not be
22 purchased for resale by the providing company.

1 SECTION 49. AMENDATORY Section 3, Chapter 136, O.S.L.
2 2007 (68 O.S. Supp. 2007, Section 1357.10), is amended to read as
3 follows:

4 Section 1357.10 A. ~~The~~ Before January 1, 2013, the sale of an
5 article of clothing or footwear designed to be worn on or about the
6 human body shall be exempt from the tax imposed by Section 1354 of
7 ~~Title 68 of the Oklahoma Statutes~~ this title if:

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

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

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

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

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

22 3. The rental of clothing or footwear.

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

3 SECTION 50. AMENDATORY 68 O.S. 2001, Section 1358 is
4 amended to read as follows:

5 Section 1358. Exemptions - Agriculture.

6 A. There are hereby specifically exempted from the tax levied
7 by Section 1350 et seq. of this title:

8 1. Sales made before January 1, 2014, of agricultural products
9 produced in this state by the producer thereof directly to the
10 consumer or user when such articles are sold at or from a farm and
11 not from some other place of business, as follows:

12 a. farm, orchard or garden products, and

13 b. dairy products sold by a dairy producer or farmer who
14 owns all the cows from which the dairy products
15 offered for sale are produced;

16 provided, the provisions of this paragraph shall not be construed as
17 exempting sales by florists, nursery operators or chicken
18 hatcheries, or sales of dairy products by any other business except
19 as set out herein;

20 2. Livestock, including cattle, horses, mules or other domestic
21 or draft animals, sold before January 1, 2015, by the producer by
22 private treaty or at a special livestock sale;

1 3. ~~Sale~~ Sales made before January 1, 2016, of baby chicks,
2 turkey poults and starter pullets used in the commercial production
3 of chickens, turkeys and eggs, provided that the purchaser
4 certifies, in writing, on the copy of the invoice or sales ticket to
5 be retained by the vendor that the pullets will be used primarily
6 for egg production;

7 4. ~~Sale~~ Sales made before January 1, 2017, of salt, grains,
8 tankage, oyster shells, mineral supplements, limestone and other
9 generally recognized animal feeds for the following purposes and
10 subject to the following limitations:

11 a. feed which is fed to poultry and livestock, including
12 breeding stock and wool-bearing stock, for the purpose
13 of producing eggs, poultry, milk or meat for human
14 consumption,

15 b. feed purchased in Oklahoma for the purpose of being
16 fed to and which is fed by the purchaser to horses,
17 mules or other domestic or draft animals used directly
18 in the producing and marketing of agricultural
19 products, and

20 c. any stock tonics, water purifying products, stock
21 sprays, disinfectants or other such agricultural
22 supplies.

1 "Poultry" shall not be construed to include any fowl other than
2 domestic fowl kept and raised for the market or production of eggs.
3 "Livestock" shall not be construed to include any pet animals such
4 as dogs, cats, birds or such other fur-bearing animals. This
5 exemption shall only be granted and extended where the purchaser of
6 feed that is to be used and in fact is used for a purpose that would
7 bring about an exemption hereunder executes an invoice or sales
8 ticket in duplicate on a form to be prescribed by the Oklahoma Tax
9 Commission. The purchaser may demand and receive a copy of the
10 invoice or sales ticket and the vendor shall retain a copy;

11 5. Sales made before January 1, 2018, of items to be and in
12 fact used in the production of agricultural products. Sale of the
13 following items shall be subject to the following limitations:
14 a. sales of agricultural fertilizer to any person
15 regularly engaged, for profit, in the business of
16 farming or ranching,
17 b. sales of agricultural fertilizer to any person engaged
18 in the business of applying such materials on a
19 contract or custom basis to land owned or leased and
20 operated by persons regularly engaged, for profit, in
21 the business of farming or ranching. In addition to
22 providing the vendor proof of eligibility as provided
23 in Section 1358.1 of this title, the purchaser shall

1 provide the name or names of such owner or lessee and
2 operator and the location of the lands on which said
3 materials are to be applied to each such land,
4 c. sales of agricultural fertilizer, pharmaceuticals and
5 biologicals to persons engaged in the business of
6 applying such materials on a contract or custom basis
7 shall not be considered to be sales to contractors
8 under this article, and said sales shall not be
9 considered to be taxable sales within the meaning of
10 the Oklahoma Sales Tax Code. As used in this section,
11 "agricultural fertilizer", "pharmaceuticals" and
12 "biologicals" mean any substance sold and used for
13 soil enrichment or soil corrective purposes or for
14 promoting the growth and productivity of plants or
15 animals,
16 d. sales of agricultural seed or plants to any person
17 regularly engaged, for profit, in the business of
18 farming or ranching. This section shall not be
19 construed as exempting from sales tax, seed which is
20 packaged and sold for use in noncommercial flower and
21 vegetable gardens, and
22 e. sales of agricultural chemical pesticides to any
23 person regularly engaged, for profit, in the business

1 of farming or ranching. For the purposes of this
2 subparagraph, "agricultural chemical pesticides" shall
3 include any substance or mixture of substances
4 intended for preventing, destroying, repelling or
5 mitigating any insect, snail, slug, rodent, bird,
6 nematode, fungus, weed or any other form of
7 terrestrial or aquatic plant or animal life or virus,
8 bacteria or other microorganism, except viruses,
9 bacteria or other microorganisms on or in living man,
10 or any substance or mixture of substances intended for
11 use as a plant regulator, defoliant or desiccant.

12 The exemption provided in this paragraph shall only be granted
13 and extended to the purchaser where the items are to be used and in
14 fact are used in the production of agricultural products;

15 6. ~~Sale~~ Sales made before January 1, 2011, of farm machinery,
16 repair parts thereto or fuel, oil, lubricants and other substances
17 used for operation and maintenance of the farm machinery to be used
18 directly on a farm or ranch in the production, cultivation,
19 planting, sowing, harvesting, processing, spraying, preservation or
20 irrigation of any livestock, poultry, agricultural or dairy products
21 produced from such lands. The exemption specified in this paragraph
22 shall apply to such farm machinery, repair parts or fuel, oil,
23 lubricants and other substances used by persons engaged in the

1 business of custom production, cultivation, planting, sowing,
2 harvesting, processing, spraying, preservation, or irrigation of any
3 livestock, poultry, agricultural, or dairy products for farmers or
4 ranchers. The exemption provided for herein shall not apply to
5 motor vehicles;

6 7. Sales of supplies, machinery and equipment made before
7 January 1, 2012, to persons regularly engaged in the business of
8 raising evergreen trees for retail sale in which such trees are cut
9 down on the premises by the consumer purchasing such tree. This
10 exemption shall only be granted and extended when the items in fact
11 are used in the raising of such evergreen trees; and

12 8. Sales of materials, supplies and equipment made before
13 January 1, 2013, to an agricultural permit holder or to any person
14 with whom the permit holder has contracted to construct facilities
15 which are or which will be used directly in the production of any
16 livestock, including, but not limited to, facilities used in the
17 production and storage of feed for livestock owned by the permit
18 holder. Any person making purchases on behalf of the agricultural
19 permit holder shall certify, in writing, on the copy of the invoice
20 or sales ticket to be retained by the vendor that the purchases are
21 made for and on behalf of such permit holder and set out the name
22 and permit number of such holder. Any person who wrongfully or
23 erroneously certifies that purchases are for an agricultural permit

1 holder or who otherwise violates this subsection shall be guilty of
2 a misdemeanor and upon conviction thereof shall be punishable by a
3 fine of an amount equal to double the amount of sales tax involved
4 or imprisonment in the county jail for not more than sixty (60) days
5 or by both such fine and imprisonment.

6 B. As used in this section and Section 1358.1 of this title:

7 1. "Agricultural products" shall include horses; and

8 2. "Ranching" or "ranch" shall include the business, or
9 facilities for the business, of raising horses.

10 Provided, sales of items at race meetings as defined in Section
11 200.1 of Title 3A of the Oklahoma Statutes shall not be exempt
12 pursuant to the provisions of this section and Section 1358.1 of
13 this title.

14 SECTION 51. AMENDATORY 68 O.S. 2001, Section 1359, as
15 last amended by Section 8, Chapter 44, 2nd Extraordinary Session,
16 O.S.L. 2006 (68 O.S. Supp. 2007, Section 1359), is amended to read
17 as follows:

18 Section 1359. Exemptions - Manufacturing.

19 There are hereby specifically exempted from the tax levied by
20 Section 1350 et seq. of this title:

21 1. Sales of goods, wares, merchandise, tangible personal
22 property, machinery and equipment made before January 1, 2014, to a
23 manufacturer for use in a manufacturing operation. Goods, wares,

1 merchandise, property, machinery and equipment used in a
2 nonmanufacturing activity or process as set forth in paragraph 9 of
3 Section 1352 of this title shall not be eligible for the exemption
4 provided for in this subsection by virtue of the activity or process
5 being performed in conjunction with or integrated into a
6 manufacturing operation;

7 2. Ethyl alcohol when sold before January 1, 2015, and used for
8 the purpose of blending same with motor fuel on which motor fuel tax
9 is levied by Section 500.4 of this title;

10 3. Sales of containers when sold before January 1, 2016, to a
11 person regularly engaged in the business of reselling empty or
12 filled containers or when purchased for the purpose of packaging raw
13 products of farm, garden, or orchard for resale to the consumer or
14 processor. This exemption shall not apply to the sale of any
15 containers used more than once and which are ordinarily known as
16 returnable containers, except returnable soft drink bottles and the
17 cartons, crates, pallets, and containers used to transport
18 returnable soft drink bottles. Each and every transfer of title or
19 possession of such returnable containers in this state to any person
20 who is not regularly engaged in the business of selling, reselling
21 or otherwise transferring empty or filled containers shall be
22 taxable under this Code. Additionally, this exemption shall not
23 apply to the sale of labels or other materials delivered along with

1 items sold but which are not necessary or absolutely essential to
2 the sale of the sold merchandise;

3 4. Sales of or transfers of title to or possession of any
4 containers, after June 30, 1987, and before January 1, 2017, used or
5 to be used more than once and which are ordinarily known as
6 returnable containers and which do or will contain beverages defined
7 by paragraphs 4 and 14 of Section 506 of Title 37 of the Oklahoma
8 Statutes, or water for human consumption and the cartons, crates,
9 pallets, and containers used to transport such returnable
10 containers;

11 5. Sale of tangible personal property when sold before January
12 1, 2018, by the manufacturer to a person who transports it to a
13 state other than Oklahoma for immediate and exclusive use in a state
14 other than Oklahoma. Provided, no sales at a retail outlet shall
15 qualify for the exemption under this paragraph;

16 6. ~~Machinery~~ Before January 1, 2011, the sale of machinery,
17 equipment, fuels and chemicals or other materials incorporated into
18 and directly used or consumed in the process of treatment to
19 substantially reduce the volume or harmful properties of hazardous
20 waste at treatment facilities specifically permitted pursuant to the
21 Oklahoma Hazardous Waste Management Act and operated at the place of
22 waste generation, or facilities approved by the Department of
23 Environmental Quality for the cleanup of a site of contamination.

1 The term "hazardous" waste may include low-level radioactive waste
2 for the purpose of this paragraph;

3 7. Except as otherwise provided by subsection I of Section 3658
4 of this title pursuant to which the exemption authorized by this
5 paragraph may not be claimed, sales of tangible personal property
6 before January 1, 2012, to a qualified manufacturer or distributor
7 to be consumed or incorporated in a new manufacturing or
8 distribution facility or to expand an existing manufacturing or
9 distribution facility. For purposes of this paragraph, sales made
10 to a contractor or subcontractor that has previously entered into a
11 contractual relationship with a qualified manufacturer or
12 distributor for construction or expansion of a manufacturing or
13 distribution facility shall be considered sales made to a qualified
14 manufacturer or distributor. For the purposes of this paragraph,
15 "qualified manufacturer or distributor" means:

16 a. any manufacturing enterprise whose total cost of
17 construction of a new or expanded facility exceeds the
18 sum of Five Million Dollars (\$5,000,000.00) and in
19 which at least one hundred (100) new full-time-
20 equivalent employees, as certified by the Oklahoma
21 Employment Security Commission, are added and
22 maintained for a period of at least thirty-six (36)

1 months as a direct result of the new or expanded
2 facility,
3 b. any manufacturing enterprise whose total cost of
4 construction of a new or expanded facility exceeds the
5 sum of Ten Million Dollars (\$10,000,000.00) and the
6 combined cost of construction material, machinery,
7 equipment and other tangible personal property exempt
8 from sales tax under the provisions of this paragraph
9 exceeds the sum of Fifty Million Dollars
10 (\$50,000,000.00) and in which at least seventy-five
11 (75) new full-time-equivalent employees, as certified
12 by the Oklahoma Employment Security Commission, are
13 added and maintained for a period of at least thirty-
14 six (36) months as a direct result of the new or
15 expanded facility,
16 c. any manufacturing enterprise whose total cost of
17 construction of an expanded facility exceeds the sum
18 of Three Hundred Million Dollars (\$300,000,000.00) and
19 in which the manufacturer has and maintains an average
20 employment level of at least one thousand seven
21 hundred fifty (1,750) full-time-equivalent employees,
22 as certified by the Employment Security Commission, or

1 d. any enterprise primarily engaged in the general
2 wholesale distribution of groceries defined or
3 classified in the North American Industry
4 Classification System (NAICS) Manual under Industry
5 Groups No. 4244 and 4245 and which has at least
6 seventy-five percent (75%) of its total sales to in-
7 state customers or buyers and whose total cost of
8 construction of a new or expanded facility exceeds the
9 sum of Forty Million Dollars (\$40,000,000.00) with
10 such construction commencing on or after July 1, 2005,
11 and before December 31, 2005, and which at least fifty
12 new full-time-equivalent employees, as certified by
13 the Oklahoma Employment Security Commission, are added
14 and maintained for a period of at least thirty-six
15 (36) months as a direct result of the new or expanded
16 facility.

17 For purposes of this paragraph, the total cost of construction
18 shall include building and construction material and engineering and
19 architectural fees or charges directly associated with the
20 construction of a new or expanded facility. The total cost of
21 construction shall not include attorney fees. For purposes of
22 subparagraph c of this paragraph, the total cost of construction
23 shall also include the cost of qualified depreciable property as

1 defined in Section 2357.4 of this title and labor services performed
2 in the construction of an expanded facility. For the purpose of
3 subparagraph d of this paragraph, the total cost of construction
4 shall also include the cost of all parking, security and dock
5 structures or facilities necessary to manage, process or secure
6 vehicles used to receive and/or distribute groceries through such a
7 facility. The employment requirement of this paragraph can be
8 satisfied by the employment of a portion of the required number of
9 new full-time-equivalent employees at a manufacturing or
10 distribution facility that is related to or supported by the new or
11 expanded manufacturing or distribution facility as long as both
12 facilities are owned by one person or business entity. For purposes
13 of this section, "manufacturing facility" shall mean building and
14 land improvements used in manufacturing as defined in Section 1352
15 of this title and shall also mean building and land improvements
16 used for the purpose of packing, repackaging, labeling or assembling
17 for distribution to market, products at least seventy percent (70%)
18 of which are made in Oklahoma by the same company but at an off-
19 site, in-state manufacturing or distribution facility or facilities.
20 It shall not include a retail outlet unless the retail outlet is
21 operated in conjunction with and on the same site or premises as the
22 manufacturing facility. Up to ten percent (10%) of the square feet
23 of a manufacturing or distribution facility building may be devoted

1 to office space used to provide clerical support for the
2 manufacturing operation. Such ten percent (10%) may be in a
3 separate building as long as it is part of the same contiguous tract
4 of property on which the manufacturing or distribution facility is
5 located. Only sales of tangible personal property made after June
6 1, 1988, and before January 1, 2012, shall be eligible for the
7 exemption provided by this paragraph. The exemption authorized
8 pursuant to subparagraph d of this paragraph shall only become
9 effective when the governing body of the municipality in which the
10 enterprise is located approves a resolution expressing the
11 municipality's support for the construction for such new or expanded
12 facility. Upon approval by the municipality, the municipality shall
13 forward a copy of such resolution to the Oklahoma Tax Commission;

14 8. Sales before January 1, 2013, of tangible personal property
15 purchased and used by a licensed radio or television station in
16 broadcasting. This exemption shall not apply unless such machinery
17 and equipment is used directly in the manufacturing process, is
18 necessary for the proper production of a broadcast signal or is such
19 that the failure of the machinery or equipment to operate would
20 cause broadcasting to cease. This exemption begins with the
21 equipment used in producing live programming or the electronic
22 equipment directly behind the satellite receiving dish or antenna,
23 and ends with the transmission of the broadcast signal from the

1 broadcast antenna system. For purposes of this paragraph, "proper
2 production" shall include, but not be limited to, machinery or
3 equipment required by Federal Communications Commission rules and
4 regulations;

5 9. Sales before January 1, 2014, of tangible personal property
6 purchased or used by a licensed cable television operator in
7 cablecasting. This exemption shall not apply unless such machinery
8 and equipment is used directly in the manufacturing process, is
9 necessary for the proper production of a cablecast signal or is such
10 that the failure of the machinery or equipment to operate would
11 cause cablecasting to cease. This exemption begins with the
12 equipment used in producing local programming or the electronic
13 equipment behind the satellite receiving dish, microwave tower or
14 antenna, and ends with the transmission of the signal from the
15 cablecast head-end system. For purposes of this paragraph, "proper
16 production" shall include, but not be limited to, machinery or
17 equipment required by Federal Communications Commission rules and
18 regulations;

19 10. Sales of packaging materials before January 1, 2015, for
20 use in packing, shipping or delivering tangible personal property
21 for sale when sold to a producer of agricultural products. This
22 exemption shall not apply to the sale of any packaging material
23 which is ordinarily known as a returnable container;

1 11. Sales before January 1, 2016, of any pattern used in the
2 process of manufacturing iron, steel or other metal castings. The
3 exemption provided by this paragraph shall be applicable
4 irrespective of ownership of the pattern provided that such pattern
5 is used in the commercial production of metal castings;

6 12. Deposits or other charges made before January 1, 2017, and
7 which are subsequently refunded for returnable cartons, crates,
8 pallets, and containers used to transport cement and cement
9 products;

10 13. ~~Beginning~~ On or after January 1, 1998, and before January
11 1, 2018, machinery, electricity, fuels, explosives and materials,
12 excluding chemicals, used in the mining of coal in this state;

13 14. Deposits, rent or other charges made before January 1,
14 2011, for returnable cartons, crates, pallets, and containers used
15 to transport mushrooms or mushroom products from a farm for resale
16 to the consumer or processor; and

17 15. Sales made before January 1, 2012, of tangible personal
18 property and services used or consumed in all phases of the
19 extraction and manufacturing of crushed stone and sand, including
20 but not limited to site preparation, dredging, overburden removal,
21 explosive placement and detonation, onsite material hauling and/or
22 transfer, material washing, screening and/or crushing, product
23 weighing and site reclamation.

1 SECTION 52. AMENDATORY 68 O.S. 2001, Section 1360, as
2 amended by Section 1, Chapter 346, O.S.L. 2007 (68 O.S. Supp. 2007,
3 Section 1360), is amended to read as follows:

4 Section 1360. Exemptions - Corporations - Partnerships.

5 There are hereby specifically exempted from the tax levied in
6 this article:

7 1. The transfer of tangible personal property, made before
8 January 1, 2013, as follows:

9 a. from one corporation to another corporation pursuant
10 to a reorganization. As used in this subparagraph the
11 term "reorganization" means a statutory merger or
12 consolidation or the acquisition by a corporation of
13 substantially all of the properties of another
14 corporation when the consideration is solely all or a
15 part of the voting stock of the acquiring corporation,
16 or of its parent or subsidiary corporation,

17 b. in connection with the winding up, dissolution or
18 liquidation of a corporation only when there is a
19 distribution in kind to the shareholders of the
20 property of such corporation,

21 c. to a corporation for the purpose of organization of
22 such corporation where the former owners of the
23 property transferred are immediately after the

1 transfer in control of the corporation, and the value
2 of the stock or securities received by each is
3 substantially in proportion to the value of such
4 person's interest in the property transferred by all
5 the former owners,

6 d. to a partnership in the organization of such
7 partnership if the former owners of the property
8 transferred are, immediately after the transfer,
9 members of such partnership and the value of the
10 interest in the partnership, received by each, is
11 substantially in proportion to the value of such
12 person's interest in the property transferred by all
13 former owners,

14 e. from a partnership to the members thereof when made in
15 kind in the dissolution of such partnership,

16 f. to a limited liability company in the organization of
17 the limited liability company if the former owners of
18 the property transferred are, immediately after the
19 transfer, members of the limited liability company and
20 the value of the interest in the limited liability
21 company received by each is substantially in
22 proportion to the value of the interest in the
23 property transferred by all the former owners, and

1 g. from a limited liability company to the members
2 thereof when made in kind in the dissolution of the
3 limited liability company; and

4 2. Sale of an interest in tangible personal property to a
5 partner or other person who after such sale owns a joint interest in
6 such tangible personal property where the Oklahoma Sales or Use Tax
7 has previously been paid on such tangible personal property.

8 SECTION 53. AMENDATORY 68 O.S. 2001, Section 1404, is
9 amended to read as follows:

10 Section 1404. The provisions of Section 1401 et seq. of this
11 title shall not apply:

12 1. In respect to the use of any article of tangible personal
13 property brought into the State of Oklahoma by a nonresident
14 individual, visiting in this state, for his or her personal use or
15 enjoyment, while within the state;

16 2. In respect to the use of tangible personal property
17 purchased for resale before being used;

18 3. In respect to the use of any article of tangible personal
19 property on which a tax, equal to or in excess of that levied by
20 Section 1401 et seq. of this title, has been paid by the person
21 using such tangible personal property in this state, whether such
22 tax was levied under the laws of this state or some other state of
23 the United States. If any article of tangible personal property has

1 already been subjected to a tax, by this or any other state, in
2 respect to its sale or use, in an amount less than the tax imposed
3 by Section 1401 et seq. of this title, the provisions of Section
4 1401 et seq. of this title shall apply to it by a rate measured by
5 the difference only between the rate herein provided and the rate by
6 which the previous tax upon the sale or use was computed. Provided,
7 that no credit shall be given for taxes paid in another state, if
8 that state does not grant like credit for taxes paid in Oklahoma;

9 4. In respect to the use of tangible personal property now
10 specifically exempted from taxation under Oklahoma Sales Tax Code;

11 5. In respect to the use of any article or tangible personal
12 property brought into the state by an individual with intent to
13 become a resident of this state where such personal property is for
14 such individual's personal use or enjoyment;

15 6. ~~In~~ Before January 1, 2014, in respect to the use of any
16 article of tangible personal property used or to be used by
17 commercial airlines or railroads;

18 7. ~~In~~ Before January 1, 2015, in respect to livestock purchased
19 outside this state and brought into this state for feeding or
20 breeding purposes, and which is later resold; and

21 8. ~~Effective~~ On or after January 1, 1991, and before January 1,
22 2016, in respect to the use of rail transportation cars to haul coal

1 to coal-fired plants located in this state which generate electric
2 power.

3 SECTION 54. AMENDATORY 68 O.S. 2001, Section 54003, is
4 amended to read as follows:

5 Section 54003. A. There are hereby specifically exempted from
6 the taxes levied by Section 1354 and Section 1402 of ~~Title 68 of the~~
7 ~~Oklahoma Statutes~~ this title sales made before January 1, 2017, of
8 qualified purchases to a qualified purchaser which is primarily
9 engaged in computer services and data processing as defined under
10 Industrial Group Numbers 7372, 7373, 7374 and 7375 of the SIC
11 Manual, latest revision, or a qualified purchaser which is primarily
12 engaged in research and development as defined under Industrial
13 Group Numbers 8731, 8732, 8733 and 8734 of the SIC Manual, latest
14 revision.

15 B. A qualified purchaser which is primarily engaged in computer
16 services and data processing as defined under Industrial Group
17 Number 7374 of the SIC Manual, latest revision, shall be required to
18 have a minimum of One Hundred Thousand Dollars (\$100,000.00) in
19 qualified purchases in order to be eligible to receive the exemption
20 provided for in this section.

21 C. In order to be eligible to receive the exemption provided
22 for in this section, a new or expanding business shall not include
23 the existing employee positions of any business enterprise that is

1 directly or beneficially owned by a corporation, trust, joint
2 venture, proprietorship, or partnership doing business in this state
3 as of January 1, 1992.

4 D. Eligibility to receive the exemption provided for in this
5 subsection pursuant to the requirement to derive fifty percent (50%)
6 of revenues from out-of-state buyers or consumers and pursuant to
7 the requirement that the business be primarily engaged in computer
8 services and data processing or in research and development shall be
9 established, subject to review by the Oklahoma Tax Commission, by
10 annually filing an affidavit with the ~~Oklahoma~~ Tax Commission
11 stating that the business so qualifies and such other information as
12 required by the Tax Commission. For purposes of determining whether
13 annual gross revenues are derived from sales to out-of-state buyers
14 or consumers, all sales to the federal government shall be
15 considered to be sales to an out-of-state buyer or consumer.

16 SECTION 55. This act shall become effective November 1, 2010.

17 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-19-08 - DO PASS,
18 As Amended and Coauthored.