STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

SENATE BILL 1463 By: Brecheen

AS INTRODUCED

An Act relating to income tax; amending 27A O.S. 2011, Section 2-11-303, which relates to the Recycling, Reuse and Source Reduction Incentive Act; providing for expiration of credit after specified date; amending 68 O.S. 2011, Section 205.4, which relates to the Incentive Review Committee; modifying duties of Committee; requiring review of certain tax credits by Incentive Review Committee during specified time period; providing for expiration of certain tax credits after specified time period and exception thereto; providing for expiration of reauthorized credits; amending 68 O.S. 2011, Sections 2357, 2357.4, 2357.6, 2357.11, 2357.25, 2357.26, 2357.27, 2357.30, 2357.32A, 2357.32B, 2357.33, 2357.41, 2357.46, 2357.47, 2357.59, 2357.66, 2357.67, 2357.81, 2357.100, 2357.101, 2357.102, 2357.104, 2357.203, 2357.302, 2357.303, 2357.304, 2370, 2370.3 and 54006, which relate to income tax credits; providing for expiration of credits after specified date; providing for codification; providing effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-11-303, is amended to read as follows:

Section 2-11-303. A. Except as otherwise provided in subsection C of this section, any person, firm, corporation or other

legal entity engaged, or proposing to engage, in the recycling, reuse or source reduction of any hazardous waste, the processing of which is certified as provided in Section 2-11-305 of this title, shall be entitled to a one-time credit against its income tax liability, as provided in Section 2-11-304 of this title, of not to exceed twenty percent (20%) of the net investment cost of equipment and installation of processes used for the recycling, reuse, or source reduction of hazardous waste. Provided, that:

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

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

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

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

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

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

C. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, for which the credit would otherwise be allowable. ~~The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section.~~

SECTION 2. AMENDATORY 68 O.S. 2011, Section 205.4, is amended to read as follows:

Section 205.4. A. The Legislature hereby finds that a system to quantify the costs and benefits of existing tax incentives is necessary to determine the achievement of desired objectives in fiscal policy. This system must include a regular and comprehensive review of provisions of state tax incentives. For purposes of this section, "tax incentive" shall include special exclusions, credits, exemptions, or deductions that are not a part of the essential structure of the tax in question and are designed to reduce the tax liability for a special project. A tax incentive shall also include any provision of law that provides direct payment incentives and other measures designed to entice businesses to locate or expand in Oklahoma.

B. There is hereby created an Incentive Review Committee, which shall consist of nine (9) members, three each to be appointed by the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives. Each member shall serve a four-year term and can be reappointed up to three times. The Oklahoma Tax Commission and the Oklahoma Department of Commerce shall provide the staffing needs of the Committee. The Committee shall annually conduct a review of existing tax incentives in an individual tax code and may conduct an in-depth review of the cost and benefits of selected tax incentives. <u>As provided in Section 3 of this act, the Committee shall also review any income tax credits which are enacted by the Legislature after the effective date of this act.</u> Committee review reports shall be submitted to the Governor, Speaker of the House of Representatives and the President Pro Tempore of the Senate. This review shall include:

1. A determination of whether the potential revenue impact on the state can be quantified and if so, an estimate of the potential revenue impact on the state;

2. A determination of whether the economic gain to the state can be quantified and if so, an estimate of the economic gain measured in jobs, wages, investments, or other economic criteria;

3. An estimate of the effect on the distribution of the tax burden;

4. An estimate of the number of taxpayers receiving the benefit;

5. A determination of the growth potential of the industry eligible to claim the incentive;

6. A determination of the effectiveness in achieving the desired objective;

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

8. An analysis of the costs and burdens of administration;

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

10. A determination of the effectiveness of evoking a change in taxpayer behavior; and

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

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

C. The Oklahoma Tax Commission and the Oklahoma Employment Security Commission shall collect, organize and produce information in compliance with requests from the Incentive Review Committee subject to any confidentiality or privacy restrictions placed on information collected by either agency.

D. If the Incentive Review Committee makes a request for information from either the Oklahoma Tax Commission or the Oklahoma Employment Security Commission and the agency cannot respond to the request because of the features of its information technology or information management systems, the agency shall prepare a written summary of the request for which a response could not be provided and a description of the deficiency in the applicable information system and deliver both to the chair of the standing committee of the Oklahoma House of Representatives and the Oklahoma State Senate primarily responsible for the consideration of revenue and taxation measures. Such summaries shall be provided not later than thirty (30) days after the agency notifies the Incentive Review Committee regarding the inability to respond to requested information.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.1B of Title 68, unless there is created a duplication in numbering, reads as follows:

All income tax credits enacted by law after the effective date of this act shall be subject to the following:

1. Within two (2) years of the date of enactment, the credit shall be reviewed by the Incentive Review Committee pursuant to Section 205.4 of Title 68 of the Oklahoma Statutes;

2. Three (3) years from the date of enactment, the credit shall expire unless reauthorized by the Legislature; and

3. If reauthorized by the Legislature pursuant to paragraph 2 of this section, the credit shall expire five (5) years from the date of reauthorization.

SECTION 4. AMENDATORY 68 O.S. 2011, Section 2357, is amended to read as follows:

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

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

2. For tax years beginning after December 31, 2007, there shall be allowed to a resident individual or part-year resident individual or nonresident individual member of the Armed Forces as a credit against the tax imposed by Section 2355 of this title twenty percent

(20%) of the credit for child care expenses allowed under the Internal Revenue Code of the United States or five percent (5%) of the child tax credit allowed under the Internal Revenue Code, whichever amount is greater. Neither credit authorized by this paragraph shall exceed the tax imposed by Section 2355 of this title. The maximum child care credit allowable on the Oklahoma income tax return shall be prorated on the ratio that Oklahoma adjusted gross income bears to the federal adjusted gross income. The credit authorized by this paragraph shall not be claimed by any taxpayer if the federal adjusted gross income reflected on the Oklahoma return for the taxpayer is in excess of One Hundred Thousand Dollars ($100,000.00).

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

2. As used in this subsection:

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

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

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

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

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

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

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

3. No credit otherwise authorized by the provisions of this subsection may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010~~, for which the credit would otherwise be allowable. The provisions of this paragraph shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this subsection may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this subsection~~.

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

1. Those credits provided in this section; and

2. Those credits authorized by Sections 2-5-101 through 2-5-118 of Title 27A of the Oklahoma Statutes, which have been, or may hereafter be, certified pursuant to applications therefor made on or before March 22, 1971. Provided, the total amount of the credits

referred to in this subparagraph to be taken by the taxpayer shall not exceed the certified net investment cost of the facilities or processes to which such credits pertain, reduced by the greater of:

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

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

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

SECTION 5. AMENDATORY 68 O.S. 2011, Section 2357.4, is amended to read as follows:

Section 2357.4. A. Except as otherwise provided in subsection F of Section 3658 of this title and in subsection J of this section, for taxable years beginning after December 31, 1987, there shall be allowed a credit against the tax imposed by Section 2355 of this title for:

1. Investment in qualified depreciable property placed in service during those years for use in a manufacturing operation, as defined in Section 1352 of this title, which has received a manufacturer exemption permit pursuant to the provisions of Section 1359.2 of this title or a qualified aircraft maintenance or manufacturing facility as defined in paragraph ~~14~~ 20 of Section 1357 of this title in this state or a qualified web search portal as defined paragraph ~~35~~ 38 of Section 1357 of this title; or

2. A net increase in the number of full-time-equivalent employees engaged in manufacturing, processing or aircraft maintenance in this state including employees engaged in support services.

B. Except as otherwise provided in subsection F of Section 3658 of this title and in subsection J of this section, for taxable years beginning after December 31, 1998, there shall be allowed a credit against the tax imposed by Section 2355 of this title for:

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

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

C. The business entity may claim the credit authorized by subsection B of this section for expenditures incurred or for a net increase in the number of full-time-equivalent employees after the business entity provides proof satisfactory to the Oklahoma Tax Commission that the conditions imposed pursuant to paragraph 1 or paragraph 2 of subsection B of this section have been satisfied.

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

E. The credit provided for in subsection A of this section, if based upon investment in qualified depreciable property, shall not

be allowed unless the investment in qualified depreciable property is at least Fifty Thousand Dollars ($50,000.00). The credit provided for in subsection A or B of this section shall not be allowed if the applicable investment is the direct cause of a decrease in the number of full-time-equivalent employees. Qualified property shall be limited to machinery, fixtures, equipment, buildings or substantial improvements thereto, placed in service in this state during the taxable year. The taxable years for which the credit may be allowed if based upon investment in qualified depreciable property shall be measured from the year in which the qualified property is placed in service. If the credit provided for in subsection A or B of this section is calculated on the basis of the cost of the qualified property, the credit shall be allowed in each of the four (4) subsequent years. If the qualified property on which a credit has previously been allowed is acquired from a related party, the date such property is placed in service by the transferor shall be considered to be the date such property is placed in service by the transferee, for purposes of determining the aggregate number of years for which credit may be allowed.

F. The credit provided for in subsection A or B of this section, if based upon an increase in the number of full-time-equivalent employees, shall be allowed in each of the four (4) subsequent years only if the level of new employees is maintained in the subsequent year. In calculating the credit by the number of new

employees, only those employees whose paid wages or salary were at least Seven Thousand Dollars ($7,000.00) during each year the credit is claimed shall be included in the calculation. Provided, that the first year a credit is claimed for a new employee, such employee may be included in the calculation notwithstanding paid wages of less than Seven Thousand Dollars ($7,000.00) if the employee was hired in the last three quarters of the tax year, has wages or salary which will result in annual paid wages in excess of Seven Thousand Dollars ($7,000.00) and the taxpayer submits an affidavit stating that the employee's position will be retained in the following tax year and will result in the payment of wages in excess of Seven Thousand Dollars ($7,000.00). The number of new employees shall be determined by comparing the monthly average number of full-time employees subject to Oklahoma income tax withholding for the final quarter of the taxable year with the corresponding period of the prior taxable year, as substantiated by such reports as may be required by the Tax Commission.

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

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

2. Five Hundred Dollars ($500.00) for each new employee. No credit shall be allowed in any taxable year for a net increase in the number of full-time-equivalent employees if such increase is a

result of an investment in qualified depreciable property for which an income tax credit has been allowed as authorized by this section.

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

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

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

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

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

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

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

3. If a C corporation that otherwise qualified for the credits under subsection A of this section subsequently changes its operating status to that of a pass-through entity which is being treated as the same entity for federal tax purposes, the credits will continue to be available as if the pass-through entity had

originally qualified for the credits subject to the limitations of this section.

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

J. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, ~~for which the credit would otherwise be allowable until the provisions of this subsection shall cease to be operative on July 1, 2012.~~ except as provided in paragraph 1 of this subsection:

1. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010 and through June 30, 1012, according to the provisions of this section; provided, credits accrued during the period from July 1, 2010, through June 30, 2012, shall be limited to a period of two (2) taxable years. The credit shall be limited in each taxable year to fifty percent (50%) of the total amount of the accrued credit. Any tax credits which accrue during the period of July 1, 2010, through June 30, 2012, may not be claimed for any period prior to the taxable year beginning January 1, 2012. No credits which accrue during the period of July 1, 2010, through June 30, 2012, may—be

used to file an amended tax return for any taxable year prior to the taxable year beginning January 1, 2012; and

2. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012.

SECTION 6. AMENDATORY 68 O.S. 2011, Section 2357.6, is amended to read as follows:

Section 2357.6. A. Any person or corporation may contribute monies to the Energy Conservation Assistance Fund. Except as otherwise provided in subsection B of this section, such contributions shall be entitled to an income tax credit against the state personal or corporate income tax liability of fifty percent (50%) of the amount contributed to the fund for the taxable year in which it was made.

B. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010~~, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section~~.

SECTION 7. AMENDATORY 68 O.S. 2011, Section 2357.11, is amended to read as follows:

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

B. 1. Except as provided in subsection M of this section, for tax years beginning on or after January 1, 1993, and ending on or before December 31, 2014, there shall be allowed a credit against the tax imposed by Section 1803 or Section 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes for every person in this state furnishing water, heat, light or power to the state or its citizens, or for every person in this state burning coal to generate heat, light or power for use in manufacturing operations located in this state.

2. For tax years beginning on or after January 1, 1993, and ending on or before December 31, 2005, and for the period of January 1, 2006, through June 30, 2006, the credit shall be in the amount of Two Dollars ($2.00) per ton for each ton of Oklahoma-mined coal purchased by such person.

3. For the period of July 1, 2006 through December 31, 2006, and for tax years beginning on or after January 1, 2007, and ending on or before December 31, 2014, the credit shall be in the amount of

Two Dollars and eighty-five cents ($2.85) per ton for each ton of Oklahoma-mined coal purchased by such person.

4. In addition to the credit allowed pursuant to the provisions of paragraph 3 of this subsection, for the period of July 1, 2006, through December 31, 2006, and except as provided in subsection M of this section, for tax years beginning on or after January 1, 2007, and ending on or before December 31, 2014, there shall be allowed a credit in the amount of Two Dollars and fifteen cents ($2.15) per ton for each ton of Oklahoma-mined coal purchased by such person. The credit allowed pursuant to the provisions of this paragraph may not be claimed or transferred prior to January 1, 2008.

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

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

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

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

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

E. In addition to the credit allowed pursuant to the provisions of subsection D of this section and except as otherwise provided in subsection F of this section, for tax years beginning on or after January 1, 2001, and ending on or before December 31, 2005, and for the period of January 1, 2006, through June 30, 2006, there shall be

allowed a credit against the tax imposed by Section 1803 or Section 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes for every person in this state primarily engaged in mining, producing or extracting coal, and holding a valid permit issued by the Oklahoma Department of Mines in the amount of ninety-five cents ($0.95) per ton for each ton of coal mined, produced or extracted from thin seams in this state by such person; provided, the credit shall not apply to such coal sold to any consumer who purchases at least seven hundred fifty thousand (750,000) tons of Oklahoma-mined coal per year.

F. In addition to the credit allowed pursuant to the provisions of subsection D of this section and except as otherwise provided in subsection G of this section, for tax years beginning on or after January 1, 2005, and ending on or before December 31, 2005, and for the period of January 1, 2006, through June 30, 2006, there shall be allowed a credit against the tax imposed by Section 1803 or Section 2355 of this title or that portion of the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes, which is actually paid to and placed into the General Revenue Fund, in the amount of ninety-five cents ($0.95) per ton for each ton of coal mined, produced or extracted from thin seams in this state by such person on or after July 1, 2005.

G. The credits provided in subsections D and E of this section shall not be allowed for coal mined, produced or extracted in any

month in which the average price of coal is Sixty-eight Dollars ($68.00) or more per ton, excluding freight charges, as determined by the Tax Commission.

H. The additional credits allowed pursuant to subsections B, C, D and E of this section but not used shall be freely transferable after January 1, 2002, by written agreement to subsequent transferees at any time during the five (5) years following the year of qualification; provided, the additional credits allowed pursuant to the provisions of paragraph 4 of subsection B of this section but not used shall be freely transferable after January 1, 2008, by written agreement to subsequent transferees at any time during the five (5) years following the year of qualification. An eligible transferee shall be any taxpayer subject to the tax imposed by Section 1803 or Section 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes. The person originally allowed the credit and the subsequent transferee shall jointly file a copy of the written credit transfer agreement with the Tax Commission within thirty (30) days of the transfer. The written agreement shall contain the name, address and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferring person and the tax year or years for which the credit may be claimed. The Tax Commission may promulgate rules to permit verification of the validity and timeliness of a tax credit claimed

upon a tax return pursuant to this subsection but shall not promulgate any rules which unduly restrict or hinder the transfers of such tax credit.

I. The additional credit allowed pursuant to subsection F of this section but not used shall be freely transferable on or after July 1, 2006, by written agreement to subsequent transferees at any time during the five (5) years following the year of qualification. An eligible transferee shall be any taxpayer subject to the tax imposed by Section 1803 or Section 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes. The person originally allowed the credit and the subsequent transferee shall jointly file a copy of the written credit transfer agreement with the Tax Commission within thirty (30) days of the transfer. The written agreement shall contain the name, address and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferring person and the tax year or years for which the credit may be claimed. The Tax Commission may promulgate rules to permit verification of the validity and timeliness of a tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules which unduly restrict or hinder the transfers of such tax credit.

J. Any person receiving tax credits pursuant to the provisions of this section shall apply the credits against taxes payable or

shall transfer the credits as provided in this section. Credits shall not be used to lower the price of any Oklahoma-mined coal sold that is produced by a subsidiary of the person receiving a tax credit under this section to other buyers of the Oklahoma-mined coal.

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

L. Any credits allowed pursuant to the provisions of subsections B, C, D, E and F of this section but not used in any tax year may be carried over in order to each of the five (5) years following the year of qualification.

M. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010~~, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section~~.

SECTION 8. AMENDATORY 68 O.S. 2011, Section 2357.25, is amended to read as follows:

Section 2357.25. A. Except as provided in subsection K of this section, there shall be allowed a credit against the tax imposed by Section 2355 of this title for direct investments by Oklahoma agricultural producers in Oklahoma producer-owned agricultural processing cooperatives, Oklahoma producer-owned agricultural processing ventures, or Oklahoma producer-owned agricultural processing marketing associations or Oklahoma-owned and -based corporations or partnerships created and designed to develop and advance the production, processing, handling and marketing of agricultural commodities grown, made or manufactured in Oklahoma. For calendar years 1997 and 1998, the amount of the credit shall be thirty percent (30%) of the amount of the investment by the Oklahoma agricultural producer in Oklahoma producer-owned agricultural processing cooperatives, ventures, or marketing associations.

B. For calendar year 2006, and all subsequent years, the credit percentage, not to exceed thirty percent (30%), shall be adjusted annually so that the total estimate of credits does not exceed Two Million Dollars ($2,000,000.00) annually. The formula to be used for the percentage adjustment shall be thirty percent (30%) times Two Million Dollars ($2,000,000.00) divided by the credits claimed in the preceding year. In no event shall the credit be claimed more than once by a taxpayer each taxable year.

C. In the event the total tax credits authorized by this section exceed Two Million Dollars ($2,000,000.00) in any calendar year, the Oklahoma Tax Commission shall permit any excess over Two Million Dollars ($2,000,000.00) but shall factor such excess into the percentage adjustment formula for subsequent years.

D. The credits authorized by this act may only be claimed for taxable years beginning after December 31, 2006, and ending before January 1, 2010. The provisions of this subsection shall not be applicable to any credits earned, but not utilized, prior to the effective date of this act.

E. If the credit allowed pursuant to this section exceeds the amount of state income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of credit allowed but not used in any taxable year may be carried forward as a credit against subsequent income tax liability for a period not exceeding six (6) years following the year in which the investment was originally made.

F. The Oklahoma Tax Commission shall have the authority to prescribe forms for purposes of claiming the credit authorized by this section. The Oklahoma Tax Commission shall be authorized to conduct an investigation of the relevant facts as may be required in order to verify the eligibility of a claimant to receive a credit for any applicable income tax year.

G. 1. For any taxable year during which a taxpayer sells or otherwise disposes of the ownership interest for which a tax credit has previously been allowed to the taxpayer or for which a tax credit will be allowed to the taxpayer for the year in which the sale or other disposition of the ownership interest is made, the taxpayer shall be required to reduce the cost of the ownership interest in the Oklahoma producer-owned agricultural processing cooperative, venture, or marketing association, as reported upon the applicable income tax return, by the amount of the tax credit which has previously been granted or for which the taxpayer is claiming credit if the credit is allowable for the year during which the sale or other disposition is made.

2. If a taxpayer sells or otherwise disposes of an ownership interest in the Oklahoma producer-owned agricultural processing cooperative, venture, or marketing association for which the tax credit authorized by this section may be taken in a taxable year following the year in which the ownership interest in the Oklahoma producer-owned agricultural processing cooperative, venture, or marketing association is sold or otherwise disposed of, the credit authorized by this section shall be reduced to account for the prior sale or other disposition.

H. The tax credit authorized by this section shall not be available or taken for any calendar year during which the claimant

of the credit received any incentive payments pursuant to the Oklahoma Quality Jobs Program Act or the Saving Quality Jobs Act.

I. As used in this section:

1. "Direct investment" means the payment of money in an Oklahoma producer-owned agricultural processing cooperative, venture, or marketing association or the transfer of any form of economic value, whether tangible or intangible, other than money;

2. "Oklahoma producer-owned agricultural processing cooperative" means a legal entity in the nature of a partnership or business undertaking agricultural transactions or agricultural commercial enterprises for mutual profit which are owned and controlled by Oklahoma agricultural producers. An Oklahoma producer-owned agricultural processing cooperative requires a community of interest in the performance of the undertaking, transaction or enterprise, a right to direct and govern the policy in connection therewith and the duty, which may be altered by agreement, to share both in profit and losses. The term does not include a cooperative that provides only, and nothing more than, storage, cleaning, or transportation of agricultural commodities;

3. "Oklahoma producer-owned agricultural processing venture" means a legal entity in the nature of a corporation or company organized to invest in or operate an agricultural commodity processing facility operated primarily for the processing or production of marketable products from agricultural commodities.

The term shall include a dairy operation that requires a depreciable investment of at least Two Hundred Fifty Thousand Dollars ($250,000.00) and which produces milk from dairy cows. The term does not include a venture that provides only, and nothing more than, storage, cleaning, or transportation of agricultural commodities;

4. "Oklahoma producer-owned agricultural processing marketing association" means:

a. a legal entity owned by Oklahoma producers of agricultural commodities and organized to jointly market agricultural commodities and/or natural-resource-based recreational activities, facilitate the marketing process and to promote and stimulate the processing, sales, and marketing of agricultural commodities, or

b. a legal entity owned by Oklahoma producers of agricultural commodities and organized for collective marketing and improvement of land for natural-resource-based recreational activity;

The term does not include a marketing association that provides only, and nothing more than, storage, cleaning, or transportation of agricultural commodities;

5. "Oklahoma agricultural producer" means any person who produces agricultural commodities in this state;

6. "Oklahoma-based corporation or partnership" means an entity created pursuant to the Oklahoma General Corporation Act or other laws of the state authorizing either a corporate entity or an entity with limited liability or any form of partnership, whether general, limited or other authorized partnership form having either its principal place of business within the state or substantial assets located within the state. For the purpose of this section, the definition contained in this paragraph shall not include an Oklahoma-based corporation or partnership that engages only in and nothing more than the storage, cleaning, and transportation or production of its commodity;

7. "Agricultural commodities" means a farm or ranch product, including but not limited to, wheat, corn, soybeans, cotton, timber, cattle, hogs, sheep, horses, poultry, animals of the families bovidae, cervidae and antilocapridae or birds of the ratite group produced in farming or ranching operations or a product of such crop or livestock in its unmanufactured state such as ginned cotton, wool-dip, maple syrup, milk and eggs, or any other commodity listed under any Industry Group Number under Major Group 20 of Division D of the Standard Industrial Classification (SIC) Manual; and

8. "Dairy operation" means and includes equipment and facilities to store and prepare feed, dairy cows, milking parlors, bulk cooling tanks, buildings, and all such depreciable investment commonly utilized in the dairy industry.

J. For purposes of this section, an agricultural commodity shall be deemed to be produced within this state if it is substantially produced, by any person, partnership, company, association or corporation:

1. Authorized to do and doing business under the laws of this state;

2. Paying all taxes duly assessed; and

3. Domiciled within this state by having a location of production within this state.

K. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010~~, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section~~.

SECTION 9. AMENDATORY 68 O.S. 2011, Section 2357.26, is amended to read as follows:

Section 2357.26. A. Except as otherwise provided by subsection G of this section, for tax years beginning after December 31, 2001, there shall be allowed a credit against the tax imposed by Section

2355 of this title for employers incurring eligible expenses in connection with the provision of child care services.

B. As used in this section:

1. "Eligible expenses" means amounts paid for:

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

(1) child care center, or

(2) family child care home,

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

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

d. purchasing equipment necessary for use by a child care center,

e. expanding a child care center,

f. maintaining and operating a child care center, including paying direct administrative and staff costs,

g. purchasing child care slots actually provided or reserved for children of employees, or

h. fees and grants provided to child care resource and referral organizations doing business within this state; and

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

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

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

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

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

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

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

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

G. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010~~, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section~~.

SECTION 10. AMENDATORY 68 O.S. 2011, Section 2357.27, is amended to read as follows:

Section 2357.27. A. Except as otherwise provided by subsection E of this section, for tax years beginning after December 31, 1998 there shall be allowed a credit against the tax imposed by Section 2355 of this title for eligible expenses incurred by entities primarily engaged in the business of providing child care services.

B. As used in this section, "eligible expenses" means amounts paid by an entity primarily engaged in the business of providing child care services for expenses incurred by the entity to comply

with the standards promulgated by a national accrediting association recognized by the Department of Human Services and which would not have been incurred by the entity to comply with the Oklahoma Child Care Facilities Licensing Act.

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

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

E. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010~~, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section~~.

SECTION 11. AMENDATORY 68 O.S. 2011, Section 2357.30, is amended to read as follows:

Section 2357.30. A. As used in this section, "small business" means any corporation, partnership, sole proprietorship or other

business entity qualifying as "small" under the standards contained in Section 121 of Title 13 of the Code of Federal Regulations (13 C.F.R., Section 121).

B. Except as otherwise provided in subsection E of this section, for taxable years beginning after December 31, 1998, every small business operating within this state shall be entitled to claim as a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes, subject to the limitations provided by subsection C of this section, any amount paid to the U.S. Small Business Administration as a guaranty fee pursuant to the obtaining of financing guaranteed by the Small Business Administration.

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

D. If the credit authorized by this section exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer as computed pursuant to the provisions of

subsection C of this section, the amount of the credit not used may be carried forward as a credit against subsequent income tax liability for a period not to exceed five (5) years. The credit shall be claimable only by the small business which is the primary obligor in the financing transaction and which actually paid the guaranty fee.

E. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010~~, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section~~.

SECTION 12. AMENDATORY 68 O.S. 2011, Section 2357.32A, is amended to read as follows:

Section 2357.32A. A. Except as otherwise provided in subsection H of this section, for tax years beginning on or after January 1, 2003, there shall be allowed a credit against the tax imposed by Section 2355 of this title to a taxpayer for the taxpayer's production and sale to an unrelated person of electricity generated by zero-emission facilities located in this state. As used in this section:

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

2. "Eligible renewable resources" means resources derived from:

a. wind,

b. moving water,

c. sun, or

d. geothermal energy.

B. For facilities placed in operation on or after January 1, 2003, and before January 1, 2007, the electricity generated on or after January 1, 2003, but prior to January 1, 2004, the amount of the credit shall be seventy-five one hundredths of one cent ($0.0075) for each kilowatt-hour of electricity generated by zero-emission facilities. For electricity generated on or after January 1, 2004, but prior to January 1, 2007, the amount of the credit shall be fifty one hundredths of one cent ($0.0050) per kilowatt-hour for electricity generated by zero-emission facilities. For electricity generated on or after January 1, 2007, but prior to

January 1, 2012, the amount of the credit shall be twenty-five one hundredths of one cent ($0.0025) per kilowatt-hour of electricity generated by zero-emission facilities. For facilities placed in operation on or after January 1, 2007, and before January 1, 2016, for the electricity generated by these facilities the amount of the credit shall be fifty one hundredths of one cent ($0.0050) for each kilowatt-hour of electricity generated by zero-emission facilities.

C. Credits may be claimed with respect to electricity generated on or after January 1, 2003, during a ten-year period following the date that the facility is placed in operation on or after June 4, 2001.

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

E. Any nontaxable entities, including agencies of the State of Oklahoma or political subdivisions thereof, shall be eligible to establish a transferable tax credit in the amount provided in subsection B of this section. Such tax credit shall be a property right available to a state agency or political subdivision of this state to transfer or sell to a taxable entity, whether individual or corporate, who shall have an actual or anticipated income tax

liability under Section 2355 of this title. These tax credit provisions are authorized as an incentive to the State of Oklahoma, its agencies and political subdivisions to encourage the expenditure of funds in the development, construction and utilization of electricity from zero-emission facilities as defined in subsection A of this section.

F. The amount of the credit allowed, but not used, shall be freely transferable at any time during the ten (10) years following the year of qualification. Any person to whom or to which a tax credit is transferred shall have only such rights to claim and use the credit under the terms that would have applied to the entity by whom or by which the tax credit was transferred. The provisions of this subsection shall not limit the ability of a tax credit transferee to reduce the tax liability of the transferee, regardless of the actual tax liability of the tax credit transferor, for the relevant taxable period. The transferor initially allowed the credit and any subsequent transferees shall jointly file a copy of any written transfer agreement with the Oklahoma Tax Commission within thirty (30) days of the transfer. The written agreement shall contain the name, address and taxpayer identification number or social security number of the parties to the transfer, the amount of the credit being transferred, the year the credit was originally allowed to the transferor, and the tax year or years for which the credit may be claimed. The Tax Commission may promulgate rules to

permit verification of the validity and timeliness of the tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules that unduly restrict or hinder the transfers of such tax credit. The tax credit allowed by this section, upon the election of the taxpayer, may be claimed as a payment of tax, a prepayment of tax or a payment of estimated tax for purposes of Section 1803 or Section 2355 of this title.

G. For electricity generation produced and sold in a calendar year, the tax credit allowed by the provisions of this section, upon election of the taxpayer, shall be treated and may be claimed as a payment of tax, a prepayment of tax or a payment of estimated tax for purposes of Section 2355 of this title on or after July 1 of the following calendar year.

H. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, ~~for which the credit would otherwise be allowable until the provisions of this subsection shall cease to be operative on July 1, 2011. Beginning July 1, 2011, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, according to the provisions of this section.~~ <u>except as follows:</u>

<u>1.</u> Any tax credits which accrue during the period of July 1, 2010, through June 30, 2011, may not be claimed for any period prior

to the taxable year beginning January 1, 2012. No credits which accrue during the period of July 1, 2010, through June 30, 2011, may be used to file an amended tax return for any taxable year prior to the taxable year beginning January 1, 2012;

2. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1,2012.

SECTION 13. AMENDATORY 68 O.S. 2011, Section 2357.32B, is amended to read as follows:

Section 2357.32B. A. Except as otherwise provided by subsection G of this section, for tax years beginning on or after January 1, 2003, and ending on or before December 31, 2012, there shall be allowed a credit against the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes, and actually paid to and placed into the General Revenue Fund, or Section 2370 or 2355 of this title to Oklahoma manufacturers of advanced small wind turbines. As used in this section:

1. "Oklahoma manufacturers" means manufacturers who operate facilities located in this state which have the capability to manufacture small wind turbine products, including rotor blade and alternator fabrication; and

2. "Advanced small wind turbines" means upwind, furling wind turbines that meet the following requirements:

a. have a rated capacity of at least one kilowatt (1 kw) but not greater than fifty kilowatts (50 kw),

b. incorporate advanced technologies such as new airfoils, new generators, and new power electronics, variable speed,

c. at least one unit of each model has undergone testing at the US-DOE National Wind Technology Center, and

d. comply with appropriate interconnection safety standards of the Institute of Electrical and Electronics Engineers applicable to small wind turbines.

B. The amount of the credit shall be based on the square footage of rotor swept area of advanced small wind turbines manufactured in this state. The amount of the credit shall be Twenty-five Dollars ($25.00) per square foot produced in calendar year 2003, Twelve Dollars and fifty cents ($12.50) per square foot produced in calendar year 2004, and Twenty-five Dollars ($25.00) per square foot produced in calendar years 2005 through 2012.

C. The companies claiming the credit allowed by this section shall agree in advance to allow their production and claims to be audited by the Oklahoma Tax Commission and they must be able to show that they have made economic development investments in this state over the period of time for which the credit was claimed that exceed the net proceeds from the amount of credit claimed.

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

E. The amount of the credit allowed but not used shall be freely transferable at any time during the ten (10) years following the year of qualification. Any person to whom or to which a tax credit is transferred shall have only such rights to claim and use the credit under the terms that would have applied to the entity by whom or by which the tax credit was transferred. The provisions of this subsection shall not limit the ability of a tax credit transferee to reduce the tax liability of the transferee regardless of the actual tax liability of the tax credit transferor for the relevant taxable period. The transferor originally allowed the credit and the subsequent transferee shall jointly file a copy of the written credit transfer agreement with the Tax Commission within thirty (30) days of the transfer. The written agreement shall contain the name, address and taxpayer identification number of the parties to the transfer, the amount of the credit being transferred, the year the credit was originally allowed to the transferor and the tax year or years for which the credit may be claimed. The Tax Commission may promulgate rules to permit verification of the

validity and timeliness of a tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules that unduly restrict or hinder the transfers of such tax credit.

F. For advanced small wind turbines produced in a calendar year, the tax credit allowed by the provisions of this section, upon election of the taxpayer, shall be treated and may be claimed as a payment of tax, a prepayment of tax or a payment of estimated tax for purposes of Section 624 or 628 of Title 36 of the Oklahoma Statutes, and actually paid to and placed into the General Revenue Fund, or Section 2370 or 2355 of this title on or after July 1 of the following calendar year.

G. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010~~, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section~~.

SECTION 14. AMENDATORY 68 O.S. 2011, Section 2357.33, is amended to read as follows:

Section 2357.33. A. Except as otherwise provided by subsection E of this section, for taxable years beginning after December 31,

1999, there shall be allowed a credit against the tax imposed by Section 2355 of this title for amounts paid by a taxpayer operating one or more food service establishments for immunizations against Hepatitis A for employees of the taxpayer who work in such establishments.

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

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

D. The credit provided by this section shall be available to the taxpayer in the tax year in which an employee was immunized and shall not carry forward to subsequent tax years. Such credit shall not be refunded to the taxpayer.

E. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010~~, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be~~

~~claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section~~.

SECTION 15. AMENDATORY 68 O.S. 2011, Section 2357.41, is amended to read as follows:

Section 2357.41. A. Except as otherwise provided by subsection I of this section, for tax years beginning after December 31, 2000, there shall be allowed a credit against the tax imposed by Sections 2355 and 2370 of this title or that portion of the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes that would otherwise have been apportioned to the General Revenue Fund for qualified rehabilitation expenditures incurred in connection with any certified historic hotel or historic newspaper plant building located in an increment or incentive district created pursuant to the Local Development Act or for qualified rehabilitation expenditures incurred after January 1, 2006, in connection with any certified historic structure.

B. The amount of the credit shall be one hundred percent (100%) of the federal rehabilitation credit provided for in Section 47 of Title 26 of the United States Code. The credit authorized by this section may be claimed at any time after the relevant local governmental body responsible for doing so issues a certificate of occupancy or other document that is a precondition for the

applicable use of the building or structure that is the basis upon which the credit authorized by this section is claimed.

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

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

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

F. The amount of the credit allowed for any credit claimed for a certified historic hotel or historic newspaper plant building or any certified historic structure, but not used, shall be freely transferable, in whole or in part, to subsequent transferees at any time during the five (5) years following the year of qualification. Any person to whom or to which a tax credit is transferred shall

have only such rights to claim and use the credit under the terms that would have applied to the entity by whom or by which the tax credit was transferred. The provisions of this subsection shall not limit the ability of a tax credit transferee to reduce the tax liability of the transferee regardless of the actual tax liability of the tax credit transferor for the relevant taxable period. The transferor of the credit and the transferee shall jointly file a copy of the written credit transfer agreement with the Oklahoma Tax Commission within thirty (30) days of the transfer. Such filing of the written credit transfer agreement with the Oklahoma Tax Commission shall perfect such transfer. The written agreement shall contain the name, address and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferor, the tax year or years for which the credit may be claimed, and a representation by the transferor that the transferor has neither claimed for its own behalf nor conveyed such credits to any other transferee. The Tax Commission shall develop a standard form for use by subsequent transferees of the credit demonstrating eligibility for the transferee to reduce its applicable tax liabilities resulting from ownership of the credit. The Tax Commission shall develop a system to record and track the transfers of the credit and certify the ownership of the credit and may promulgate rules to permit verification of the validity and

timeliness of a tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules which unduly restrict or hinder the transfers of such tax credit.

G. Notwithstanding any other provisions in this section, on or after January 1, 2009, if a credit allowed pursuant to this section which has been transferred is subsequently reduced as the result of an adjustment by the Internal Revenue Service, Tax Commission, or any other applicable government agency, only the transferor originally allowed the credit and not any subsequent transferee of the credit, shall be held liable to repay any amount of disallowed credit.

H. As used in this section:

1. "Certified historic hotel or historic newspaper plant building" means a hotel or newspaper plant building that is listed on the National Register of Historic Places within thirty (30) months of taking the credit pursuant to this section.

2. "Certified historic structure" means a building that is listed on the National Register of Historic Places within thirty (30) months of taking the credit pursuant to this section or a building located in Oklahoma which is certified by the State Historic Preservation Office as contributing to the historic significance of a certified historic district listed on the National Register of Historic Places, or a local district that has been

certified by the State Historic Preservation Office as eligible for listing in the National Register of Historic Places; and

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

I. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, ~~for which the credit would otherwise be allowable until the provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, according to the provisions of this section.~~ except as follows:

1. Any tax credits which accrue during the period of July 1, 2010, through June 30, 2012, may not be claimed for any period prior to the taxable year beginning January 1, 2012. No credits which accrue during the period of July 1, 2010, through June 30, 2012, may

be used to file an amended tax return for any taxable year prior to the taxable year beginning January 1, 2012;

2. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1,2012.

SECTION 16. AMENDATORY 68 O.S. 2011, Section 2357.46, is amended to read as follows:

Section 2357.46. A. Except as otherwise provided by subsection G of this section, for tax years beginning after December 31, 2005, there shall be allowed a credit against the tax imposed by Section 2355 of Title 68 of Oklahoma Statutes for eligible expenditures incurred by a contractor in the construction of energy efficient residential property of two thousand (2,000) square feet or less. The amount of the credit shall be based upon the following:

1. For any eligible energy efficient residential property constructed and certified as forty percent (40%) or more above the International Energy Conservation Code 2003 and any supplement in effect at the time of completion, the amount of the credit shall be equal to the eligible expenses, not to exceed Four Thousand Dollars ($4,000.00) for the taxpayer who is the contractor; and

2. For any eligible energy efficient residential property constructed and certified as between twenty percent (20%) and thirty-nine percent (39%) above the International Energy Conservation Code 2003 and any supplement in effect at the time of

completion, the credit shall be equal to the eligible expenditures, not to exceed Two Thousand Dollars ($2,000.00) for the taxpayer who is the contractor.

B. As used in this section:

1. "Eligible expenditure" means any:

a. energy efficient heating or cooling system,

b. insulation material or system which is specifically and primarily designed to reduce the heat gain or loss of a residential property when installed in or on such property,

c. exterior windows, including skylights,

d. exterior doors, and

e. any metal roof installed on a residential property, but only if such roof has appropriate pigmented coatings which are specifically and primarily designed to reduce the heat gain of such dwelling unit and which meet Energy Star program requirements;

2. "Contractor" means the taxpayer who constructed the residential property or manufactured home, or if more than one taxpayer qualifies as the contractor, the primary contractor; and

3. "Eligible energy efficient residential property" means a newly constructed residential property or manufactured home property which is located in the State of Oklahoma and substantially complete

after December 31, 2005, and which is two thousand (2,000) square feet or less:

a. for the credit provided pursuant to paragraph 1 of subsection A of this section, which is certified by an accredited Residential Energy Services Network Provider using the Home Energy Rating System to have:

(1) a level of annual heating and cooling energy consumption which is at least forty percent (40%) below the annual level of heating and cooling energy consumption of a comparable residential property constructed in accordance with the standards of Chapter 4 of the 2003 International Energy Conservation Code, as such code is in effect on the effective date of this act,

(2) heating and cooling equipment efficiencies which correspond to the minimum allowed under the regulations established by the Department of Energy pursuant to the National Appliance Energy Conservation Act of 1987 and in effect at the time of construction of the property, and

(3) building envelope component improvements which account for at least one-fifth of the reduced annual heating and cooling energy consumption levels,

b. for the credit provided pursuant to paragraph 2 of subsection A of this section, which is certified by an accredited Residential Energy Services Network Provider using the Home Energy Rating System to have:

(1) a level of annual heating and cooling energy consumption which is between twenty percent (20%) and thirty-nine percent (39%) below the annual level of heating and cooling energy consumption of a comparable residential property constructed in accordance with the standards of Chapter 4 of the 2003 International Energy Conservation Code, as such code is in effect on the effective date of this act,

(2) heating and cooling equipment efficiencies which correspond to the minimum allowed under the regulations established by the Department of Energy pursuant to the National Appliance Energy Conservation Act of 1987 and in effect at the time of construction of the property, and

(3) building envelope component improvements which account for at least one-third of the reduced annual heating and cooling energy consumption levels.

C. The credit provided for in subsection A of this section may only be claimed once for the contractor of any eligible residential energy efficient property during the taxable year when the property is substantially complete.

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

E. For credits earned on or after the effective date of this act, the credits authorized by this section shall be freely transferable to subsequent transferees.

F. The Oklahoma Tax Commission shall promulgate rules necessary to implement this act.

G. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010 ~~for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section~~.

SECTION 17. AMENDATORY 68 O.S. 2011, Section 2357.47, is amended to read as follows:

Section 2357.47. A. 1. Except as otherwise provided in subsection D of this section, for tax years beginning after December 31, 2005, there shall be allowed against the tax imposed by Section 2355 of this title, a credit for eligible wages paid by an employer to an employee. The amount of the credit shall be ten percent (10%) of the amount of the gross wages paid to the employee for a period not to exceed ninety (90) days but in no event shall the credit exceed Five Thousand Dollars ($5,000.00) for each employee of each taxpayer. In no event shall the total credit claimed exceed Twenty-five Thousand Dollars ($25,000.00) in any one year for any taxpayer.

2. Except as otherwise provided by subsection D of this section, for tax years beginning after December 31, 2005, there shall be allowed against the tax imposed by Section 2355 of this title, a credit for eligible modification expenses of an employer. The amount of the credit shall be fifty percent (50%) of the amount of the funds expended for eligible modification expenses or new tools or equipment but in no event shall the credit exceed One Thousand Dollars ($1,000.00) for eligible modification expenses incurred for any single employee. In no event shall the total credit claimed exceed Ten Thousand Dollars ($10,000.00) in any year for any taxpayer.

3. As used in this section:

a. "employee", "employer", "maximum medical improvement", "treating physician", and "wages" shall be defined as in Section 3 of Title 85 of the Oklahoma Statutes,

b. "eligible wages" means gross wages paid by an employer to an employee who is injured as a result of an injury which is compensable under the Workers' Compensation Act and which are paid beginning when the employee returns to work with restricted duties as provided by the employee's treating physician or an independent medical examiner before the employee has reached maximum medical improvement, and ending after ninety (90) days or when the employee has reached maximum medical improvement, and

c. "eligible modification expenses" means expenses incurred by an employer to modify a workplace, tools or equipment or to obtain new tools or equipment and which are incurred by an employer solely to enable a specific injured employee who is injured as a result of an injury which is compensable under the Workers' Compensation Act to return to work with restricted duties as provided by the employee's treating physician or an independent medical examiner before the employee has reached maximum medical improvement,

and which workplace, tools or equipment are used primarily by the injured employee.

B. In no event shall the amount of the credit(s) exceed the amount of any tax liability of the taxpayer.

C. The Oklahoma Tax Commission shall have the authority to promulgate rules necessary to effectuate the purposes of this section.

D. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010~~, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section~~.

SECTION 18. AMENDATORY 68 O.S. 2011, Section 2357.59, is amended to read as follows:

Section 2357.59. A. Except as otherwise provided by subsection F of this section, if any person, firm, corporation, partnership or other legal entity has made application or filed an information report on forms prescribed by the Oklahoma Tax Commission to receive a credit against the tax imposed by Section 2355 of this title or Section 624 of Title 36 of the Oklahoma Statutes pursuant to the

provisions of Sections 2357.23, 2357.51, 2357.52, 2357.53, 2357.54, 2357.55, 2357.56, 2357.57 or 2357.58 of this title on or before July 1, 1993, such credit may be received notwithstanding the provisions of Section 51 of Senate Bill No. 459 of the 1st Session of the 44th Oklahoma Legislature or that the other requirements for allowance of such credit are not established until after July 1, 1993.

B. Except as provided in this section, no person, firm, corporation, partnership or other legal entity shall qualify to receive any such credit after July 1, 1993.

C. For any person, firm, corporation, partnership or other legal entity or its successor who has filed the information report specified in subsection A of this section, for taxable years beginning after December 31, 1995, and ending on or before December 31, 2000, there shall be allowed a credit against the tax imposed by Section 2355 of this title for fifteen percent (15%) of the investment cost of a new qualified recycling facility. A person, firm, corporation, partnership or other legal entity or its successor which has withdrawn its application or information report specified in subsection A of this section shall not be eligible for such credit. For purposes of this subsection, a "qualified recycling facility" shall mean buildings, land, improvements, machinery and equipment located in Oklahoma and used in manufacturing as defined by the Standard Industrial Classification Code and at which facility is produced a qualified finished product,

provided that up to ten percent (10%) of the square feet of a building may be devoted to office space used to provide clerical support for the manufacturing operation. Such ten percent (10%) may be in a separate building as long as it is part of the same contiguous tract of property on which the manufacturing facility is located. For purposes of this subsection, a "qualified finished product" shall mean a marketable product or component thereof which has economic value to the consumer and ninety percent (90%) of which is composed of materials which have been separated, diverted or removed from the waste stream and incorporated into the finished product by any means or method.

D. The credit provided for in subsection C of this section shall be subject to the following limitations:

1. The credit shall apply to investment in a qualified recycling facility only if construction or on-site installation of the facility commences on or after January 1, 1996, and before December 31, 1999;

2. The credit shall only be available if the total cost of the new qualified recycling facility exceeds Twenty Million Dollars ($20,000,000.00) and employs at least seventy-five new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission;

3. The credit shall be initially allowed for the tax year in which the qualified recycling facility is placed in service.

However, any credit allowed but not used in any tax year due to the limitation provided in paragraph 4 of this subsection shall be carried over in order, but used only once, to each of the fourteen (14) years following the year of initial allowance; and

4. The credit shall not be utilized in any tax year to reduce the income tax liability of the owner of the qualified recycling facility for such year by more than fifty percent (50%) of the tax liability calculated from the income of the qualified recycling facility. For purposes of subsections C and D of this section, the "owner" shall include the user of a qualified recycling facility under a lease with a term of five (5) years or more.

E. The Oklahoma Tax Commission may promulgate rules in order to implement the provisions of this section including requirements to submit any additional information as deemed necessary to implement and administer this credit.

F. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010~~, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section~~.

SECTION 19. AMENDATORY 68 O.S. 2011, Section 2357.66, is amended to read as follows:

Section 2357.66. A. Except as otherwise provided by subsection H of this section, for tax years beginning after December 31, 2003, and before January 1, 2013, there shall be allowed a credit against the tax imposed by Section 2355 of this title, and against the tax imposed by Section 2370 of this title, and against the taxes imposed by Sections 624 and 628 of Title 36 of the Oklahoma Statutes and actually paid to and placed into the General Revenue Fund for any ethanol facility which is in production at the rate of at least twenty-five percent (25%) of its name plate design capacity for the production of ethanol, before denaturing, on or before December 31, 2010. The completion of the construction of such facilities must be after July 1, 2003. The credit shall be in the amount of twenty cents ($0.20) per gallon of ethanol produced and shall be allowed for up to sixty (60) months beginning with the first month for which the facility is eligible to receive such credit and ending not later than December 31, 2012. The credit may only be claimed if the ethanol facility maintains an average production rate of at least twenty-five percent (25%) of its name plate design capacity for at least six (6) months after the first month for which it is eligible to receive such credit.

B. As used in this section:

1. "Ethanol facility" means a plant or facility primarily engaged in the production of ethanol or ethyl alcohol derived from grain components, coproducts, or byproducts; and

2. "Name plate design capacity" means the original designed capacity of an ethanol facility. Capacity may be specified as bushels of grain ground or gallons of ethanol produced per year.

C. Any ethanol facility eligible for a tax credit under subsection A of this section shall also receive a credit against the tax imposed by Section 2355 of this title in the amount of twenty cents ($0.20) per gallon of ethanol produced in excess of the original name plate design capacity which results from expansion of the facility completed on or after July 1, 2003, and before December 31, 2008. Such tax credit shall be allowed for up to sixty (60) months beginning with the first month for which production from the expanded facility is eligible to receive such tax credit and ending not later than December 31, 2012.

D. 1. Beginning January 1, 2013, an ethanol facility shall receive a credit against the tax imposed by Section 2355 of this title in the amount of seven and one-half cents ($0.075) per gallon of ethanol, before denaturing, for new production for a period not to exceed thirty-six (36) consecutive months.

2. For purposes of this subsection, "new production" means production which results from a new facility, a facility which has not received credits prior to January 1, 2013, or the expansion of

the capacity of an existing facility by at least two million (2,000,000) gallons first placed into service after January 1, 2013, as certified by the design engineer of the facility to the Oklahoma Tax Commission.

3. For expansion of the capacity of an existing facility, "new production" means annual production in excess of twelve times the monthly average of the highest three (3) months of ethanol production at an ethanol facility during the twenty-four-month period immediately preceding certification of the facility by the design engineer.

4. No credits shall be allowed under this subsection for expansion of the capacity of an existing facility until production is in excess of twelve times the three-month average amount determined under this subsection during any twelve-consecutive-month period beginning no sooner than January 1, 2013.

5. The amount of a credit granted pursuant to this section based on new production shall be approved by the Tax Commission based on such ethanol production records as may be necessary to reasonably determine the level of new production.

E. 1. The credits described in this section shall be given only for ethanol produced at a plant in this state at which all fermentation, distillation, and dehydration takes place. No credit shall be given on ethanol produced or sold for use in the production of distilled spirits.

2. Not more than twenty-five million (25,000,000) gallons of ethanol produced annually at any single ethanol facility nor more than seventy-five million (75,000,000) gallons of ethanol produced annually at all ethanol facilities in this state shall be eligible for the credits in subsections A and C of this section, and the credits may only be claimed by a producer for the periods specified in subsections A and C of this section.

3. Not more than ten million (10,000,000) gallons of ethanol produced during any twelve-consecutive-month period at any single ethanol facility nor more than thirty million (30,000,000) gallons of ethanol produced annually at all ethanol facilities in this state shall be eligible for the credit described in subsection D of this section, and the credit may only be claimed by a producer for the periods specified in subsection D of this section.

4. Not more than one hundred twenty-five million (125,000,000) gallons of ethanol produced at an ethanol facility by the end of the sixty-month period set forth in subsection A or C of this section shall be eligible for the credit under such subsection. An ethanol facility which receives a credit for ethanol produced under subsection A or C of this section shall not receive a credit under subsection D of this section until its eligibility to receive a credit under subsection A or C of this section has been completed.

F. The Tax Commission shall prescribe an application form and promulgate rules for claiming credits under this section.

G. For purposes of ascertaining the correctness of any application for claiming a credit provided in this section, the Tax Commission may examine or cause to have examined, by any agent or representative designated for that purpose, any books, papers, records, or memoranda bearing upon such matters.

H. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010~~, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section~~.

SECTION 20. AMENDATORY 68 O.S. 2011, Section 2357.67, is amended to read as follows:

Section 2357.67. A. Except as otherwise provided by subsection I of this section, for tax years beginning after December 31, 2004, and before January 1, 2013, there shall be allowed a credit against the tax imposed by Section 2355 of this title for any biodiesel facility which is in production at the rate of at least twenty-five percent (25%) of its name plate design capacity for the production of biodiesel, on or before December 31, 2008. The completion of the construction of such facilities must be after the date of this act.

The credit shall be in the amount of twenty cents ($0.20) per gallon of biodiesel produced and shall be allowed for sixty (60) months beginning with the first month for which the facility is eligible to receive such credit and ending not later than December 31, 2012. The credit may only be claimed if the biodiesel facility maintains an average production rate of at least twenty-five percent (25%) of its name plate design capacity for at least six (6) months after the first month for which it is eligible to receive such credit.

B. As used in this section:

1. "Biodiesel facility" means a plant or facility located within the State of Oklahoma and primarily engaged in the production of biodiesel derived from animal fats, grain components, coproducts, or byproducts; and

2. "Name plate design capacity" means the original designed capacity of a biodiesel facility. Capacity may be specified as gallons of biodiesel produced per year.

C. Any biodiesel facility eligible for a tax credit under subsection A of this section shall also receive a credit against the tax imposed by Section 2355 of this title in the amount of twenty cents ($0.20) per gallon of biodiesel produced in excess of the original name plate design capacity which results from expansion of the facility completed on or after the effective date of this act and before December 31, 2008. Except as otherwise provided by subsection I of this section, such tax credit shall be allowed for

sixty (60) months beginning with the first month for which production from the expanded facility is eligible to receive such tax credit and ending not later than December 31, 2012.

D. 1. Beginning January 1, 2013, a biodiesel facility shall receive a credit against the tax imposed by Section 2355 of this title in the amount of seven and one-half cents ($0.075) per gallon of biodiesel, for new production for a period not to exceed thirty-six (36) consecutive months.

2. For purposes of this subsection, "new production" means production which results from a new facility, a facility which has not received credits prior to January 1, 2013, or the expansion of the capacity of an existing facility by at least two million (2,000,000) gallons first placed into service after January 1, 2013, as certified by the design engineer of the facility to the Oklahoma Tax Commission.

3. For expansion of the capacity of an existing facility, "new production" means annual production in excess of twelve times the monthly average of the highest three (3) months of biodiesel production at a biodiesel facility during the twenty-four-month period immediately preceding certification of the facility by the design engineer.

4. No credits shall be allowed under this subsection for expansion of the capacity of an existing facility until production is in excess of twelve times the three-month average amount

determined under this subsection during any twelve-consecutive-month period beginning no sooner than January 1, 2013.

5. The amount of a credit granted pursuant to this section based on new production shall be approved by the Tax Commission based on such biodiesel production records as may be necessary to reasonably determine the level of new production.

E. 1. The credits described in this section shall be given only for biodiesel produced at a plant in this state at which all biodiesel esterification takes place.

2. Not more than twenty-five million (25,000,000) gallons of biodiesel produced annually at a biodiesel facility shall be eligible for the credits in subsections A and C of this section, and the credits may only be claimed by a producer for the periods specified in subsections A and C of this section.

3. Not more than ten million (10,000,000) gallons of biodiesel produced during any twelve-consecutive-month period at a biodiesel facility shall be eligible for the credit described in subsection D of this section, and the credit may only be claimed by a producer for the periods specified in subsection D of this section.

4. Not more than one hundred twenty-five million (125,000,000) gallons of biodiesel produced at a biodiesel facility by the end of the sixty-month period set forth in subsection A or C of this section shall be eligible for the credit under such subsection. A biodiesel facility which receives a credit for biodiesel produced

under subsection A or C of this section shall not receive a credit under subsection D of this section until its eligibility to receive a credit under subsection A or C of this section has been completed.

F. The Tax Commission shall prescribe an application form and promulgate rules for claiming credits under this section.

G. For purposes of ascertaining the correctness of any application for claiming a credit provided in this section, the Tax Commission may examine or cause to have examined, by any agent or representative designated for that purpose, any books, papers, records, or memoranda bearing upon such matters.

H. If the credit allowed pursuant to this section exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of the credit allowed but not used in any tax year may be carried forward as a credit against subsequent income tax liability for a period not exceeding five (5) years.

I. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010~~, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other~~

~~act occurring on or after July 1, 2012, according to the provisions of this section~~.

SECTION 21. AMENDATORY 68 O.S. 2011, Section 2357.81, is amended to read as follows:

Section 2357.81. A. Subject to the limitation imposed pursuant to subsection C of Section 842 of Title 62 of the Oklahoma Statutes and except as otherwise provided by subsection F of this section, for taxable years beginning after December 31, 2000, there shall be allowed as a credit against the tax imposed pursuant to Section 2355 of ~~Title 68 of the Oklahoma Statutes~~ this title, an amount equal to one hundred percent (100%) of the amount of ad valorem taxes exempted pursuant to the provisions of Section 860 of Title 62 of the Oklahoma Statutes for an enterprise locating a new facility within or expanding an existing facility within an enterprise zone as designated pursuant to Section 690.2 of ~~Title 68 of the Oklahoma Statutes~~ this title if such facility is also located within an incentive district.

B. The income tax credit authorized by this section shall only be available, to the extent otherwise allowable and except as otherwise provided by subsection F of this section, for ad valorem taxes for which an exemption has been provided pursuant to Section 860 of Title 62 of the Oklahoma Statutes on or after January 1, 2001. The county assessor of the county in which the facility is located, or any part of the facility, shall provide an annual

certification to the Oklahoma Tax Commission not later than January 31 of each calendar year as to the amount of ad valorem taxes which would have been payable by the owner of the facility without the exemption provided by Section 860 of Title 62 of the Oklahoma Statutes.

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

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

E. If the tax credit authorized by this section exceeds the amount of taxes due or if there are no state taxes due of the taxpayer, the amount of the claim not used as an offset against the taxes of a taxable year may be carried forward for a period not to exceed ten (10) years.

F. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010~~, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section~~.

SECTION 22. AMENDATORY 68 O.S. 2011, Section 2357.100, is amended to read as follows:

Section 2357.100. A. For taxable years beginning after December 31, 2004, and ending on or before December 31, 2009, there shall be allowed a credit against the tax imposed by Section 2355 of this title for the purchase and transportation of poultry litter. Subject to the limitations provided in subsection C of this section, the credit shall be available to the purchaser of the poultry litter and shall equal Five Dollars ($5.00) per ton purchased and transported.

B. Except as provided in subsection F of this section, for taxable years beginning after December 31, 2009, and ending on or before December 31, 2013, there shall be allowed a credit against the tax imposed by Section 2355 of this title for the purchase and transportation of poultry litter. Subject to the limitations provided in subsection C of this section, the credit shall be available to the purchaser of the poultry litter and shall equal Ten Dollars ($10.00) per ton purchased and transported.

C. 1. The total of the credits authorized by this section shall not exceed Three Hundred Seventy-five Thousand Dollars ($375,000.00) annually. The amount of the credit for each purchaser shall be adjusted annually so that the total estimate of the credits authorized by this section does not exceed Three Hundred Seventy-five Thousand Dollars ($375,000.00). The formula to be used for the percentage adjustment shall be Three Hundred Seventy-five Thousand Dollars ($375,000.00) divided by the credits claimed in the preceding year. In no event shall the credit be claimed more than once by a taxpayer each taxable year.

2. In the event the total tax credits authorized by this section exceed Three Hundred Seventy-five Thousand Dollars ($375,000.00) in any calendar year, the Oklahoma Tax Commission shall permit any excess over Three Hundred Seventy-five Thousand Dollars ($375,000.00) but shall factor such excess into the percentage adjustment formula for subsequent years.

D. In order to qualify for the credit provided for in subsections A and B of this section:

1. The poultry litter shall only be purchased from an Oklahoma-based poultry operation registered with the State Board of Agriculture and located within an environmentally sensitive and nutrient-limited watershed area as defined in the most recent Oklahoma Water Quality Standards;

2. The poultry litter shall be used or spread in a watershed that is not environmentally sensitive and nutrient-limited as defined in the most recent Oklahoma Water Quality Standards; and

3. The poultry litter shall be applied by a certified poultry waste applicator as defined by Section 10-9.1 of Title 2 of the Oklahoma Statutes and in accordance with the provisions of Sections 10-9.16 through 10-9.21 of Title 2 of the Oklahoma Statutes and any rules promulgated by the Oklahoma Department of Agriculture, Food, and Forestry.

E. The credit allowed by this section shall be available to the taxpayer in the year in which the poultry litter was purchased and transported, provided the taxpayer is found by the Oklahoma Department of Agriculture, Food, and Forestry to have applied the poultry litter in a manner consistent with an Animal Waste Management Plan, as defined in Section 10-9.1 of Title 2 of the Oklahoma Statutes, specifically designed to restore and protect beneficial uses from impairment from nutrients. If the credit

exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of the credit not used as an offset against the income taxes for a year may be carried forward as a credit against subsequent income tax liability for a period not to exceed five (5) years.

F. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010~~, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section~~.

SECTION 23. AMENDATORY 68 O.S. 2011, Section 2357.101, is amended to read as follows:

Section 2357.101. A. Except as otherwise provided in subsection ~~G~~ E of this section, for taxable years beginning after December 31, 2004, there shall be allowed against the tax imposed by Section 2355 of ~~Title 68 of the Oklahoma Statutes~~ this title, a credit equal to twenty-five percent (25%) of the amount of profit made by a taxpayer from investment in an existing Oklahoma film or music project with a production company to pay for production costs that is reinvested by the taxpayer with the production company to

pay for the production cost of the production company for a new Oklahoma film or music project.

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

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

D. As used in this section:

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

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

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

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

a. wages or salaries of persons who have earned income from working on a film or music project in this state, including payments to personal services corporations with respect to the services of qualified performing artists, as determined under Section 62(a)(A) of the Internal Revenue Code,

b. the cost of construction and operations, wardrobe, accessories and related services,

c. the cost of photography, sound synchronization, lighting and related services,

d. the cost of editing and related services,

e. rental of facilities and equipment, and

f. other direct costs of producing a film or music project;

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

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

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

b. a ratio, the numerator of which is Oklahoma production costs, as defined in paragraph 7 of this subsection, and the denominator of which is total production costs, as defined in paragraph 4 of this subsection, which shall be multiplied by,

c. the percent of the taxpayer's taxable income allocated to Oklahoma in a taxable year, and

d. subtract from the result of the formula calculated pursuant to subparagraphs a through c of this paragraph the profit made by a taxpayer from investment in an existing Oklahoma film or music project in previous taxable years. Profit shall include either a net profit or net loss;

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

8. a. "Qualified vendor" means an Oklahoma entity which provides goods or services to a production company and for which:

(1) fifty percent (50%) or more of its employees are Oklahoma residents, and

(2) fifty percent (50%) or more of gross wages, as reported on Internal Revenue Service Form W-2 or Form 1099, are paid to Oklahoma residents.

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

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

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

E. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010~~, for which the credit would otherwise be allowable. The provisions of~~

~~this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section~~.

SECTION 24. AMENDATORY 68 O.S. 2011, Section 2357.102, is amended to read as follows:

Section 2357.102. A. Except as otherwise provided by subsection G of this section, for taxable years beginning after December 31, 2005, there shall be allowed a credit against the tax imposed by Section 2355 of ~~Title 68 of the Oklahoma Statutes~~ this title for the cost of the purchase of a dry fire hydrant or the cost to provide an acceptable means of water storage for such dry fire hydrant including a pond, tank, or other storage facility with the primary purpose of fire protection within the State of Oklahoma. The credit shall be equal to fifty percent (50%) of the purchase price of the dry fire hydrant or the actual expenditure for any new water storage construction, equipment, development and installation of the dry hydrant, including pipes, valves, hydrants, and labor for each installation of a dry hydrant or new water storage facility but in no event shall the amount of the credit exceed Five Thousand Dollars ($5,000.00) for each taxpayer.

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

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

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

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

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

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

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

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

G. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010~~, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section~~.

SECTION 25. AMENDATORY 68 O.S. 2011, Section 2357.104, is amended to read as follows:

Section 2357.104. A. Except as otherwise provided by subsection G of this section, for taxable years beginning after December 31, 2005, there shall be allowed a credit against the tax imposed by Section 2355 of this title equal to fifty percent (50%) of an eligible taxpayer's qualified railroad reconstruction or replacement expenditures.

B. 1. Except as provided in paragraph 2 of this subsection, the amount of the credit shall be limited to the product of Five Hundred Dollars ($500.00) for tax year 2007 and Two Thousand Dollars ($2,000.00) for tax year 2008 and subsequent tax years and the

number of miles of railroad track owned or leased within this state by the eligible taxpayer as of the close of the taxable year.

2. In tax year 2009 and subsequent tax years, a taxpayer may elect to increase the limit provided in paragraph 1 of this subsection to an amount equal to three times the limit specified in paragraph 1 of this subsection for qualified expenditures made in the tax year, provided the taxpayer may only claim one third (1/3) of the credit in any one taxable period.

C. The credit allowed pursuant to subsection A of this section but not used shall be freely transferable, by written agreement, to subsequent transferees at any time during the five (5) years following the year of qualification. An eligible transferee shall be any taxpayer subject to the tax imposed by Section 2355 of this title. The person originally allowed the credit and the subsequent transferee shall jointly file a copy of the written credit transfer agreement with the Oklahoma Tax Commission within thirty (30) days of the transfer. The written agreement shall contain the name, address and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferring person and the tax year or years for which the credit may be claimed. The Tax Commission shall promulgate rules to permit verification of the timeliness of a tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules which unduly

restrict or hinder the transfers of such tax credit. The Department of Transportation shall promulgate rules to permit verification of the eligibility of an eligible taxpayer's expenditures for the purpose of claiming the credit. The rules shall provide for the approval of qualified railroad reconstruction or replacement expenditures prior to commencement of a project and provide a certificate of verification upon completion of a project that uses qualified railroad reconstruction or replacement expenditures. The certificate of verification shall satisfy all requirements of the Tax Commission pertaining to the eligibility of the person claiming the credit.

D. Any credits allowed pursuant to the provisions of subsection A of this section but not used in any tax year may be carried over in order to each of the five (5) years following the year of qualification.

E. A taxpayer who elects to increase the limitation on the credit under paragraph 2 of subsection B of this section shall not be granted additional credits under subsection A of this section during the period of such election.

F. As used in this section:

1. "Class II and Class III railroad" means a railroad that is classified by the United States Surface Transportation Board as a Class II or Class III railroad;

2. "Eligible taxpayer" means any Class II or Class III railroad; and

3. "Qualified railroad reconstruction or replacement expenditures" means expenditures for:

a. reconstruction or replacement of railroad infrastructure including track, roadbed, bridges, industrial leads and track-related structures owned or leased by a Class II or Class III railroad as of January 1, 2006, or

b. new construction of industrial leads, switches, spurs and sidings and extensions of existing sidings by a Class II or Class III railroad.

G. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010~~, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section~~.

SECTION 26. AMENDATORY 68 O.S. 2011, Section 2357.203, is amended to read as follows:

Section 2357.203. A. As used in this section:

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

2. "Qualified direct costs" means expenditures, other than nonqualified operating expenditures, to construct dog kennels, fences, pens, training areas for canines, structures for office space or other improvements to real property necessary for the proper training of a specially trained canine, including the cost of food, water, veterinary expenses and other costs directly related to the operation of the training facility; and

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

B. Except as provided in subsection F of this section, for taxable years beginning after December 31, 2005, there shall be allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes in the amount of fifty percent (50%) of the qualified direct costs associated with the operation of a business enterprise the principal purpose of which is the rearing of specially trained canines.

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

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

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

F. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010~~, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section~~.

SECTION 27. AMENDATORY 68 O.S. 2011, Section 2357.302, is amended to read as follows:

Section 2357.302. A. Except as provided in subsection F of this section, for taxable years beginning after December 31, 2008,

and ending before January 1, 2015, a qualified employer shall be allowed a credit against the tax imposed pursuant to Section 2355 of this title for tuition reimbursed to a qualified employee.

B. The credit authorized by subsection A of this section may be claimed only if the qualified employee has been awarded an undergraduate or graduate degree within one (1) year of commencing employment with the qualified employer.

C. The credit authorized by subsection A of this section shall be in the amount of fifty percent (50%) of the tuition reimbursed to a qualified employee for the first through fourth years of employment. In no event shall this credit exceed fifty percent (50%) of the average annual amount paid by a qualified employee for enrollment and instruction in a qualified program at a public institution in Oklahoma.

D. The credit authorized by subsection A of this section shall not be used to reduce the tax liability of the qualified employer to less than zero (0).

E. No credit authorized by this section shall be claimed after the fourth year of employment.

F. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, through June 30, 2011, and on or after July 1, 2012, for which the credit would otherwise be allowable. The ~~provisions of this subsection~~

~~shall cease to be operative on July 1, 2011. Beginning July 1, 2011, the~~ credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2011, through June 30, 2012, according to the provisions of this section.

SECTION 28. AMENDATORY 68 O.S. 2011, Section 2357.303, is amended to read as follows:

Section 2357.303. A. Except as provided in subsection F of this section, for taxable years beginning after December 31, 2008, and ending before January 1, 2015, a qualified employer shall be allowed a credit against the tax imposed pursuant to Section 2355 of this title for compensation paid to a qualified employee.

B. The credit authorized by subsection A of this section shall be in the amount of:

1. Ten percent (10%) of the compensation paid for the first through fifth years of employment in the aerospace sector if the qualified employee graduated from an institution located in this state; or

2. Five percent (5%) of the compensation paid for the first through fifth years of employment in the aerospace sector if the qualified employee graduated from an institution located outside this state.

C. The credit authorized by this section shall not exceed Twelve Thousand Five Hundred Dollars ($12,500.00) for each qualified employee annually.

D. The credit authorized by this section shall not be used to reduce the tax liability of the qualified employer to less than zero (0).

E. No credit authorized pursuant to this section shall be claimed after the fifth year of employment.

F. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, through June 30, 2011 and on or after July 1, 2012, for which the credit would otherwise be allowable. The ~~provisions of this subsection shall cease to be operative on July 1, 2011. Beginning July 1, 2011, the~~ credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2011, through June 30, 2012, according to the provisions of this section.

SECTION 29. AMENDATORY 68 O.S. 2011, Section 2357.304, is amended to read as follows:

Section 2357.304. A. Except as provided in subsection D of this section, for taxable years beginning after December 31, 2008, and ending before January 1, 2015, a qualified employee shall be allowed a credit against the tax imposed pursuant to Section 2355 of

this title of up to Five Thousand Dollars ($5,000.00) per year for a period of time not to exceed five (5) years.

B. The credit authorized by this section shall not be used to reduce the tax liability of the taxpayer to less than zero (0).

C. Any credit claimed, but not used, may be carried over, in order, to each of the five (5) subsequent taxable years.

D. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, through June 30, 2011 and on or after July 1, 2012, for which the credit would otherwise be allowable. The ~~provisions of this subsection shall cease to be operative on July 1, 2011. Beginning July 1, 2011, the~~ credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2011, through June 30, 2012, according to the provisions of this section.

SECTION 30. AMENDATORY 68 O.S. 2011, Section 2370, is amended to read as follows:

Section 2370. A. For taxable years beginning after December 31, 1989, for the privilege of doing business within this state, every state banking association, national banking association and credit union organized under the laws of this state, located or doing business within the limits of the State of Oklahoma shall annually pay to this state a privilege tax at the rate of six

percent (6%) of the amount of the taxable income as provided in this section.

B. 1. The privilege tax levied by this section shall be in addition to the Business Activity Tax levied in Section 1218 of this title and the franchise tax levied in Article 12 of this title and in lieu of the tax levied by Section 2355 of this title and in lieu of all taxes levied by the State of Oklahoma, or any subdivision thereof, upon the shares of stock or personal property of any banking association or credit union subject to taxation under this section.

2. Nothing in this section shall be construed to exempt the real property of any banking associations or credit unions from taxation to the same extent, according to its value, as other real property is taxed. Nothing herein shall be construed to exempt an association from payment of any fee or tax authorized or levied pursuant to the banking laws.

3. Personal property which is subject to a lease agreement between a bank or credit union, as lessor, and a nonbanking business entity or individual, as lessee, is not exempt from personal property ad valorem taxation. Provided further, that it shall be the duty of the lessee of such personal property to return sworn lists or schedules of their taxable property within each county to the county assessor of such county as provided in Sections 2433 and 2434 of this title.

C. Any tax levied under this section shall accrue on the last day of the taxable year and be payable as provided in Section 2375 of this title. The accrual of such tax for the first taxable year to which this act applies, shall apply notwithstanding the prior accrual of a tax in the same taxable year based upon the net income of the next preceding taxable year; provided, however, any additional deduction enuring to the benefit of the taxpayer shall be deducted in accordance with the optional transitional deduction procedures in Section 2354 of this title.

D. The basis of the tax shall be United States taxable income as defined in paragraph 10 of Section 2353 of this title and any adjustments thereto under the provisions of Section 2358 of this title with the following adjustments:

1. There shall be deducted all interest income on obligations of the United States government and agencies thereof not otherwise exempted and all interest income on obligations of the State of Oklahoma or political subdivisions thereof, including public trust authorities, not otherwise exempted under the laws of this state; and

2. Expense deductions claimed in arriving at taxable income under paragraph 10 of Section 2353 of this title shall be reduced by an amount equal to fifty percent (50%) of excluded interest income on obligations of the United States government or agencies thereof

and obligations of the State of Oklahoma or political subdivisions thereof.

E. 1. Except as otherwise provided in paragraph 2 of this subsection, there shall be allowed a credit against the tax levied in subsection A of this section in an amount equal to the amount of taxable income received by a participating financial institution as defined in Section 90.2 of Title 62 of the Oklahoma Statutes pursuant to a loan made under the Rural Economic Development Loan Act. Such credit shall be limited each year to five percent (5%) of the amount of annual payroll certified by the Oklahoma Rural Economic Development Loan Program Review Board pursuant to the provisions of paragraph 3 of subsection B of Section 90.4 of Title 62 of the Oklahoma Statutes with respect to the loan made by the participating financial institution and may be claimed for any number of years necessary until the amount of total credits claimed is equal to the total amount of taxable income received by the participating financial institution pursuant to the loan. Any credit allowed but not used in a taxable year may be carried forward for a period not to exceed five (5) taxable years. In no event shall a credit allowed pursuant to the provisions of this subsection be transferable or refundable.

2. No credit otherwise authorized by the provisions of this subsection may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010 ~~for~~

~~which the credit would otherwise be allowable. The provisions of this paragraph shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this subsection may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this subsection~~.

SECTION 31. AMENDATORY 68 O.S. 2011, Section 2370.3, is amended to read as follows:

Section 2370.3. A. There shall be allowed a credit against the tax imposed by Section 2370 of ~~Title 68 of the Oklahoma Statutes~~ this title for any state banking association, national banking association, or credit union domiciled in this state for the amount of the origination fee paid by the banking association or credit union to the United States Department of Education pursuant to the "Stafford" loan guaranty program for an Oklahoma resident.

B. Except as provided in subsection F of this section, the credit authorized by this section may be claimed for origination fees paid on or after July 1, 2007.

C. No credit may be claimed pursuant to this section if, pursuant to the agreement between the banking association or credit union and the student to which proceeds are made available, the banking association or credit union adds the amount of the U.S. Department of Education origination fee to the amount financed by

the borrower or in any other way recovers the origination fee amount from the borrower.

D. The credit authorized by this section may be claimed, and if not fully used in the initial year for which the credit is claimed, may be carried over, in order, to each of the five (5) succeeding taxable years. The credit authorized by this section may not be used to reduce the tax liability of the credit claimant below zero (0).

E. The Oklahoma Tax Commission shall prepare a report regarding the amount of tax credits claimed as authorized by this section. The report shall be submitted to the Speaker of the House of Representatives and to the President Pro Tempore of the Senate not later than March 31 of each year.

F. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010~~, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section~~.

SECTION 32. AMENDATORY 68 O.S. 2011, Section 54006, is amended to read as follows:

Section 54006. A. Except as provided in subsection F of this section, for taxable years beginning after December 31, 1992, and before January 1, 2003, and for taxable years beginning after December 31, 2005, there shall be allowed a credit against the tax imposed by Section 2355 of this title for a net increase in the number of full-time-equivalent employees engaged in computer services, data processing or research and development as defined in Section 54003 of this title, in this state including employees engaged in support services.

B. The credit provided for in subsection A of this section shall be allowed in each of the four (4) subsequent years only if the level of new employees is maintained in the subsequent year; provided, such credit shall be allowed in each of the eight (8) subsequent years only if the level of new employees is maintained in the subsequent year and if the credit is taken for taxable years beginning after December 31, 2005. In calculating the credit by the number of new employees, only those employees whose paid wages or salary were at least Thirty-five Thousand Dollars ($35,000.00) during each year the credit is claimed shall be included in the calculation. The number of new employees shall be determined by comparing the monthly average number of full-time employees subject to Oklahoma income tax withholding for the final quarter of the taxable year with the corresponding period of the prior taxable

year, as substantiated by such reports as may be required by the Tax Commission.

C. For credits taken for taxable years beginning after December 31, 1992, and before January 1, 2003, in order to be eligible to receive the credit provided for in subsection A of this section, a new or expanding business shall not include the existing employee positions of any business enterprise that is directly or beneficially owned by a corporation, trust, joint venture, proprietorship, or partnership doing business in this state as of January 1, 1992. For credits taken for taxable years beginning after December 31, 2005, in order to be eligible to receive the credit provided for in subsection A of this section, a new or expanding business shall not include the existing employee positions of any business enterprise that is directly or beneficially owned by a corporation, trust, joint venture, proprietorship, or partnership doing business in this state as of January 1, 2005.

D. The credit allowed by subsection A of this section shall be Five Hundred Dollars ($500.00) for each new employee, but not to exceed fifty new employees.

E. Any credits allowed but not used in any taxable year may be carried over in order to each of the four (4) years following the year of qualification and to the extent not used in those years in order to each of the five (5) years following the initial five-year period.

F. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010~~, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section~~.

SECTION 33. This act shall become effective July 1, 2012.

SECTION 34. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

53-2-2676 JCR 1/18/2012 4:21:51 PM