

SUBCOMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1027 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

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

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Mike Reynolds _____

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 PROPOSED SUBCOMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1027

By: Reynolds

7
8 PROPOSED SUBCOMMITTEE SUBSTITUTE

9 An Act relating to schools; creating the Opportunity
10 Scholarship Act; stating purpose and legislative
11 findings; establishing eligibility criteria for
12 participation in the opportunity scholarship program;
13 providing an exception for students in the custody of
14 the state; setting time period in which an
15 opportunity scholarship is in force; allowing a
16 parent of a student to withdraw from program;
17 requiring school districts to continue providing
18 related services to certain students in certain
19 circumstances; allowing school districts to continue
20 receiving certain funding; establishing eligibility
21 criteria for private schools participating in the
22 program; requiring participating students to comply
23 with certain attendance and discipline requirements;
24 requiring parents of participating students to comply
with parental involvement requirements; providing for
forfeiture of scholarship for noncompliance with the
act; establishing maximum amount of an opportunity
scholarship; providing for determination of
scholarship amount for each student; allowing
inclusion of certain fees; requiring school districts
to make certain reports; providing for removal of a
student from school district membership; providing
for funding for students with an individualized
education program; directing the State Department of
Education to make scholarship calculations and
adjustments in allocations; directing the Department
to transfer scholarship funds to a separate account;
providing for disbursement of scholarship funds;
requiring certain verification prior to disbursement;

1 providing for payments by warrants; limiting
2 liability of the state; directing the State Board of
3 Education to adopt rules; limiting regulatory
4 authority over private school; amending 68 O.S. 2011,
5 Section 2358, which relates to income tax
6 adjustments; making opportunity scholarship amounts
7 exempt from taxable income; providing for
8 codification; providing an effective date; and
9 declaring an emergency.

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

11 SECTION 1. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 3-181 of Title 70, unless there
13 is created a duplication in numbering, reads as follows:

14 Sections 1 through 9 of this act shall be known and may be cited
15 as the "Opportunity Scholarship Act".

16 SECTION 2. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 3-182 of Title 70, unless there
18 is created a duplication in numbering, reads as follows:

19 The purpose of this act is to provide enhanced opportunity for
20 students in this state to gain the knowledge and skills necessary
21 for postsecondary education, a career education, or the world of
22 work. The Oklahoma Legislature finds that it is the goal of the
23 state to provide a uniform, safe, secure, efficient, and high-
24 quality system of education which allows the opportunity for
students to obtain a high-quality education. Beginning with the
2013-2014 school year, the Legislature shall make available

1 scholarships in order to give parents the opportunity for their
2 children to attend an eligible private school when the parent
3 chooses to apply the equivalent of the public education funds
4 generated by the child to the cost of tuition in the eligible
5 private school or to provide education by other means when the
6 parent chooses to use the equivalent of the public education funds
7 generated by the child to the cost of education by other means as
8 provided for pursuant to the Opportunity Scholarship Act.

9 Eligibility of a private school to participate in the opportunity
10 scholarship program shall include the accountability requirements as
11 delineated in Section 5 of this act that, coupled with the exercise
12 of parental choice, are reasonably necessary to secure the public
13 purpose of educational accountability. As used in this act,
14 "parent" includes the parent or legal guardian of the student.

15 SECTION 3. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 3-183 of Title 70, unless there
17 is created a duplication in numbering, reads as follows:

18 A. A parent of a school-aged child may request and receive an
19 opportunity scholarship to be used to enroll the student in and
20 attend a private school or to provide education by other means to
21 the student in accordance with the provisions of the Opportunity
22 Scholarship Act if the student:

23 1. Resides in Oklahoma;
24

1 2. Is a member of a family with a total income that does not
2 exceed two hundred fifty percent (250%) of the current federal
3 poverty guidelines as established by the federal Office of
4 Management and Budget and who meets any one of the following
5 criteria:

6 a. is entering kindergarten and has enrolled in the
7 public school district in which the student would have
8 otherwise attended,

9 b. was enrolled in a public school district during the
10 most recent previous school year and the public school
11 site in which the student was enrolled received a
12 letter grade of "C", "D" or "F" for the most recent
13 previous school year pursuant to the state
14 accountability system as provided for in Section
15 1210.545 of Title 70 of the Oklahoma Statutes, or

16 c. received an opportunity scholarship in the previous
17 school year;

18 3. Has applied for admission to a private school eligible for
19 the opportunity scholarship program pursuant to Section 5 of this
20 act or has submitted evidence that the student will be educated by
21 other means; and

22 4. Has submitted a request to the State Department of Education
23 and the resident school district for an opportunity scholarship no
24

1 later than September 1 of the first year in which the student
2 intends to use the scholarship.

3 B. The provisions of this section shall not apply to a student
4 who is enrolled in a public school who is in the custody of the
5 state and is residing in a group setting.

6 C. For purposes of continuity of educational choice, the
7 opportunity scholarship shall remain in force until the student
8 returns to a public school or until the student completes the
9 highest grade offered by the private school the student is enrolled
10 in and returns to the public schools. Nothing in this act shall
11 prohibit the parent of a student who is receiving an opportunity
12 scholarship from removing the student from a private school and
13 enrolling in a public school.

14 SECTION 4. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 3-184 of Title 70, unless there
16 is created a duplication in numbering, reads as follows:

17 Students who have individualized education programs pursuant to
18 the Individuals with Disabilities Education Act (IDEA) and who are
19 eligible to receive related services from the resident school
20 district pursuant to state and federal law and who participate in
21 the opportunity scholarship program shall continue to be eligible to
22 receive related services from the resident school district if the
23 private school does not offer the services. If the resident school
24

1 district is offering the services, it may continue to count the
2 student for federal and state funding purposes.

3 SECTION 5. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3-185 of Title 70, unless there
5 is created a duplication in numbering, reads as follows:

6 To be eligible to participate in the opportunity scholarship
7 program, a private school shall be located in Oklahoma. The private
8 school may be sectarian or nonsectarian. In addition, the private
9 school shall:

10 1. Demonstrate fiscal soundness by being in operation for not
11 less than one (1) year or by providing the State Department of
12 Education with a statement by a certified public accountant
13 confirming that the private school is insured and the owner or
14 owners have sufficient capital or credit to operate the school for
15 the upcoming year serving the number of students anticipated with
16 expected revenues from tuition and other sources that may be
17 reasonably expected. In lieu of a statement, a surety bond or
18 letter of credit for the amount equal to the opportunity scholarship
19 funds for any quarter may be filed with the Department;

20 2. Meet all state and local health and safety laws and codes;

21 3. Accept opportunity scholarship students on a random and
22 religious-neutral basis and without regard to the past academic
23 performance of the student. The private school may give preference
24

1 in accepting applications to siblings of students who have already
2 been accepted and students previously enrolled;

3 4. Be subject to the instruction, curriculum, and attendance
4 criteria by an appropriated nonpublic school accrediting body and be
5 academically accountable to the parents of students for meeting the
6 educational needs of the student. The private school shall provide
7 a school profile, which shall include student performance results,
8 to parents of students interested in enrolling in the school;

9 5. Employ or contract with teachers who hold a baccalaureate or
10 higher degree, or have at least three (3) years of teaching
11 experience in public or private schools, or have special skills,
12 knowledge, or expertise that qualify them to provide instruction in
13 subjects taught;

14 6. Comply with all state laws relating to private schools;

15 7. Adhere to the published disciplinary procedures of the
16 private school when proposing to expel or suspend an opportunity
17 scholarship student;

18 8. Accept the scholarship amounts provided to scholarship
19 recipients as full payment of all educational costs, including
20 incidental or supplementary fees that are charged to all enrolled
21 students including but not limited to meals, field trips, and
22 before- or after-school care; and

23 9. Allow scholarship recipients to remain enrolled in the
24 school for the duration of the school year at no additional cost to

1 the state or the parents or legal guardians of the recipient if the
2 school voluntarily withdraws from the scholarship program.

3 SECTION 6. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3-186 of Title 70, unless there
5 is created a duplication in numbering, reads as follows:

6 A. Any student participating in the opportunity scholarship
7 program shall comply with the attendance requirements as set forth
8 in Section 10-106 of Title 70 of the Oklahoma Statutes unless
9 excused for illness or other good causes as defined by the private
10 school and shall comply with the code of conduct or control and
11 discipline policy of the private school.

12 B. The parent of a student participating in the opportunity
13 scholarship program shall comply fully with the parental involvement
14 requirements of the private school unless excused by the school for
15 illness or other good cause.

16 C. A participating student that fails to comply with the
17 requirements of the Opportunity Scholarship Act shall be subject to
18 forfeiture of the scholarship. A private school shall notify the
19 State Department of Education of the failure of a student to comply
20 with the requirements of this act. Upon notification, the
21 Department shall cease payment of the scholarship to the parent.

22 SECTION 7. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 3-187 of Title 70, unless there
24 is created a duplication in numbering, reads as follows:

1 A. The maximum amount of an opportunity scholarship for each
2 eligible student enrolled in a private school shall be the amount
3 equivalent to eighty percent (80%) of the average local and county
4 revenue of the resident school district which is chargeable in the
5 state aid formula, state-dedicated revenue, and state-appropriated
6 funds per average daily membership generated by its students for the
7 applicable year.

8 B. The maximum amount of an opportunity scholarship for an
9 eligible student who is being educated by other means shall be the
10 amount equivalent to forty percent (40%) of the average local and
11 county revenue of the resident school district which is chargeable
12 in the state aid formula, state-dedicated revenue, and state-
13 appropriated funds per average daily membership generated by its
14 students for the applicable year.

15 C. The amount of the opportunity scholarship for each student
16 attending an eligible private school shall be either the amount
17 calculated pursuant to subsection A of this section or the amount of
18 tuition and fees for the private school, whichever amount is less.
19 Private school fees eligible to be paid with a scholarship are
20 transportation fees, textbook fees, laboratory fees, and other fees
21 related to instruction.

22 D. The resident school district shall report to the State
23 Department of Education all students who are participating in the
24 opportunity scholarship program. After a student enrolls in a

1 private school or notifies the district that the student is being
2 educated by other means, the resident school district shall remove
3 the student from the attendance rolls and the student shall not be
4 included in the average daily membership of the school district.

5 E. If the private school provides educational and related
6 services to a student participating in the opportunity scholarship
7 program who has an individualized education program pursuant to the
8 Individuals with Disabilities Education Act (IDEA), the school shall
9 receive an amount equal to ninety percent (90%) of the weighted
10 funding generated by the student in the state aid formula.

11 F. After September 1 of each year, the State Department of
12 Education shall calculate, based upon the number of requests
13 received from students pursuant to Section 3 of this act, the amount
14 necessary to fund all of the opportunity scholarships for the
15 upcoming school year. The Department shall make adjustments in the
16 allocations to each school district with students participating in
17 the opportunity scholarship program. The Department shall transfer
18 the funds to a separate account for the opportunity scholarship
19 program for disbursement to the parents of participating students.

20 G. Upon filing proper documentation as approved by the State
21 Department of Education, the Department shall make opportunity
22 scholarship payments to the parents of participating students in
23 four equal payments no later than October 1, December 1, February 1,
24 and April 1 of each school year in which the student is eligible.

1 The initial payment shall be made only after verification of
2 admission to a participating eligible private school or
3 participation in another means of education, and subsequent payments
4 shall be made upon verification of continued enrollment in a private
5 school or participation in another means of education and compliance
6 with the requirements of the Opportunity Scholarship Act. For
7 students enrolled in a private school, payment shall be made by
8 individual warrants made payable to the parent of the student and
9 mailed by the Department to the private school at which the student
10 is enrolled. The parent shall restrictively endorse the warrant to
11 the private school. For students being educated by other means,
12 payment shall be made by individual warrants made payable to the
13 parent of the student and mailed by the Department to the parent.

14 SECTION 8. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 3-188 of Title 70, unless there
16 is created a duplication in numbering, reads as follows:

17 No liability shall arise on the part of the State of Oklahoma
18 based on any grant or use of an opportunity scholarship.

19 SECTION 9. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 3-189 of Title 70, unless there
21 is created a duplication in numbering, reads as follows:

22 A. The State Board of Education shall adopt rules necessary to
23 implement the provisions of the Opportunity Scholarship Act
24 beginning with the 2013-2014 school year.

1 B. The provisions of the Opportunity Scholarship Act providing
2 public school students the option of enrolling in eligible private
3 schools shall not be construed to expand the regulatory authority of
4 the State of Oklahoma, its officers, or any school district over
5 private schools or impose any additional regulations on private
6 schools beyond those reasonably necessary to enforce the
7 requirements expressly set forth in this act.

8 SECTION 10. AMENDATORY 68 O.S. 2011, Section 2358, is
9 amended to read as follows:

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

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

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

22 2. There shall be deducted amounts included in such income that
23 the state is prohibited from taxing because of the provisions of the
24

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

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

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

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

1 loss. For tax years beginning after December 31,
2 2000, and ending before January 1, 2008, the years to
3 which such losses may be carried shall be determined
4 solely by reference to Section 172 of the Internal
5 Revenue Code, 26 U.S.C., Section 172, with the
6 exception that the terms "net operating loss" and
7 "taxable income" shall be replaced with "Oklahoma net
8 operating loss" and "Oklahoma taxable income". For
9 tax years beginning after December 31, 2007, and
10 ending before January 1, 2009, years to which such
11 losses may be carried back shall be limited to two (2)
12 years. For tax years beginning after December 31,
13 2008, the years to which such losses may be carried
14 back shall be determined solely by reference to
15 Section 172 of the Internal Revenue Code, 26 U.S.C.,
16 Section 172, with the exception that the terms "net
17 operating loss" and "taxable income" shall be replaced
18 with "Oklahoma net operating loss" and "Oklahoma
19 taxable income".

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

1 a. Income from real and tangible personal property, such
2 as rents, oil and mining production or royalties, and
3 gains or losses from sales of such property, shall be
4 allocated in accordance with the situs of such
5 property;

6 b. Income from intangible personal property, such as
7 interest, dividends, patent or copyright royalties,
8 and gains or losses from sales of such property, shall
9 be allocated in accordance with the domiciliary situs
10 of the taxpayer, except that:

11 (1) where such property has acquired a nonunitary
12 business or commercial situs apart from the
13 domicile of the taxpayer such income shall be
14 allocated in accordance with such business or
15 commercial situs; interest income from
16 investments held to generate working capital for
17 a unitary business enterprise shall be included
18 in apportionable income; a resident trust or
19 resident estate shall be treated as having a
20 separate commercial or business situs insofar as
21 undistributed income is concerned, but shall not
22 be treated as having a separate commercial or
23 business situs insofar as distributed income is
24 concerned,

1 (2) for taxable years beginning after December 31,
2 2003, capital or ordinary gains or losses from
3 the sale of an ownership interest in a publicly
4 traded partnership, as defined by Section 7704(b)
5 of the Internal Revenue Code of 1986, as amended,
6 shall be allocated to this state in the ratio of
7 the original cost of such partnership's tangible
8 property in this state to the original cost of
9 such partnership's tangible property everywhere,
10 as determined at the time of the sale; if more
11 than fifty percent (50%) of the value of the
12 partnership's assets consists of intangible
13 assets, capital or ordinary gains or losses from
14 the sale of an ownership interest in the
15 partnership shall be allocated to this state in
16 accordance with the sales factor of the
17 partnership for its first full tax period
18 immediately preceding its tax period during which
19 the ownership interest in the partnership was
20 sold; the provisions of this division shall only
21 apply if the capital or ordinary gains or losses
22 from the sale of an ownership interest in a
23 partnership do not constitute qualifying gain
24 receiving capital treatment as defined in

1 subparagraph a of paragraph 2 of subsection F of
2 this section,

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

7 c. Net income or loss from a business activity which is
8 not a part of business carried on within or without
9 the state of a unitary character shall be separately
10 allocated to the state in which such activity is
11 conducted;

12 d. In the case of a manufacturing or processing
13 enterprise the business of which in Oklahoma consists
14 solely of marketing its products by:

15 (1) sales having a situs without this state, shipped
16 directly to a point from without the state to a
17 purchaser within the state, commonly known as
18 interstate sales,

19 (2) sales of the product stored in public warehouses
20 within the state pursuant to "in transit"
21 tariffs, as prescribed and allowed by the
22 Interstate Commerce Commission, to a purchaser
23 within the state,

24

1 (3) sales of the product stored in public warehouses
2 within the state where the shipment to such
3 warehouses is not covered by "in transit"
4 tariffs, as prescribed and allowed by the
5 Interstate Commerce Commission, to a purchaser
6 within or without the state,

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

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

22 (1) except as otherwise provided by division (2) of
23 this subparagraph, taxable income of an insurance
24 company for a taxable year shall be apportioned

1 to this state by multiplying such income by a
2 fraction, the numerator of which is the direct
3 premiums written for insurance on property or
4 risks in this state, and the denominator of which
5 is the direct premiums written for insurance on
6 property or risks everywhere. For purposes of
7 this subsection, the term "direct premiums
8 written" means the total amount of direct
9 premiums written, assessments and annuity
10 considerations as reported for the taxable year
11 on the annual statement filed by the company with
12 the Insurance Commissioner in the form approved
13 by the National Association of Insurance
14 Commissioners, or such other form as may be
15 prescribed in lieu thereof,

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

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

22 5. The net income or loss remaining after the separate
23 allocation in paragraph 4 of this subsection, being that which is
24 derived from a unitary business enterprise, shall be apportioned to

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

24

1 a. The property factor is a fraction, the numerator of
2 which is the average value of the taxpayer's real and
3 tangible personal property owned or rented and used in
4 this state during the tax period and the denominator
5 of which is the average value of all the taxpayer's
6 real and tangible personal property everywhere owned
7 or rented and used during the tax period.

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

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

1 rental rate received by the taxpayer from
2 subrentals,

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

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

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

1 in the proportion that mileage traveled in
2 Oklahoma bears to total mileage traveled by such
3 employees,

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

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

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

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

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

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

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

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

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

1 shall be those as are determined pursuant to the
2 accounting procedures prescribed by the Federal
3 Communications Commission.

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

1 6. For calendar years 1997 and 1998, the owner of a new or
2 expanded agricultural commodity processing facility in this state
3 may exclude from Oklahoma taxable income, or in the case of an
4 individual, the Oklahoma adjusted gross income, fifteen percent
5 (15%) of the investment by the owner in the new or expanded
6 agricultural commodity processing facility. For calendar year 1999,
7 and all subsequent years, the percentage, not to exceed fifteen
8 percent (15%), available to the owner of a new or expanded
9 agricultural commodity processing facility in this state claiming
10 the exemption shall be adjusted annually so that the total estimated
11 reduction in tax liability does not exceed One Million Dollars
12 (\$1,000,000.00) annually. The Tax Commission shall promulgate rules
13 for determining the percentage of the investment which each eligible
14 taxpayer may exclude. The exclusion provided by this paragraph
15 shall be taken in the taxable year when the investment is made. In
16 the event the total reduction in tax liability authorized by this
17 paragraph exceeds One Million Dollars (\$1,000,000.00) in any
18 calendar year, the Tax Commission shall permit any excess over One
19 Million Dollars (\$1,000,000.00) and shall factor such excess into
20 the percentage for subsequent years. Any amount of the exemption
21 permitted to be excluded pursuant to the provisions of this
22 paragraph but not used in any year may be carried forward as an
23 exemption from income pursuant to the provisions of this paragraph
24

1 for a period not exceeding six (6) years following the year in which
2 the investment was originally made.

3 For purposes of this paragraph:

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

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

17 (1) the processing of agricultural commodities,
18 including receiving or storing agricultural
19 commodities, or the production of milk at a dairy
20 operation,

21 (2) transporting the agricultural commodities or
22 product before, during or after the processing,
23 or
24

1 (3) packaging or otherwise preparing the product for
2 sale or shipment.

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

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

15 8. In taxable years beginning after December 31, 1995, all
16 qualified wages equal to the federal income tax credit set forth in
17 26 U.S.C.A., Section 45A, shall be deducted from taxable income.
18 The deduction allowed pursuant to this paragraph shall only be
19 permitted for the tax years in which the federal tax credit pursuant
20 to 26 U.S.C.A., Section 45A, is allowed. For purposes of this
21 paragraph, "qualified wages" means those wages used to calculate the
22 federal credit pursuant to 26 U.S.C.A., Section 45A.

23 9. In taxable years beginning after December 31, 2005, an
24 employer that is eligible for and utilizes the Safety Pays OSHA

1 Consultation Service provided by the Oklahoma Department of Labor
2 shall receive an exemption from taxable income in the amount of One
3 Thousand Dollars (\$1,000.00) for the tax year that the service is
4 utilized.

5 10. For taxable years beginning on or after January 1, 2010,
6 there shall be added to Oklahoma taxable income an amount equal to
7 the amount of deferred income not included in such taxable income
8 pursuant to Section 108(i)(1) of the Internal Revenue Code of 1986
9 as amended by Section 1231 of the American Recovery and Reinvestment
10 Act of 2009 (P.L. No. 111-5). There shall be subtracted from
11 Oklahoma taxable income an amount equal to the amount of deferred
12 income included in such taxable income pursuant to Section 108(i)(1)
13 of the Internal Revenue Code of 1986, as amended by Section 1231 of
14 the American Recovery and Reinvestment Act of 2009 (P.L. No. 111-5).

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

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

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

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

22 2. For tax years beginning on or after January 1, 2009, and
23 ending on or before December 31, 2009, there shall be added to
24 Oklahoma taxable income any amount in excess of One Hundred Seventy-

1 five Thousand Dollars (\$175,000.00) which has been deducted as a
2 small business expense under Internal Revenue Code, Section 179 as
3 provided in the American Recovery and Reinvestment Act of 2009.

4 C. 1. For taxable years beginning after December 31, 1987, the
5 taxable income of any corporation shall be further adjusted to
6 arrive at Oklahoma taxable income for transfers of technology to
7 qualified small businesses located in Oklahoma. Such transferor
8 corporation shall be allowed an exemption from taxable income of an
9 amount equal to the amount of royalty payment received as a result
10 of such transfer; provided, however, such amount shall not exceed
11 ten percent (10%) of the amount of gross proceeds received by such
12 transferor corporation as a result of the technology transfer. Such
13 exemption shall be allowed for a period not to exceed ten (10) years
14 from the date of receipt of the first royalty payment accruing from
15 such transfer. No exemption may be claimed for transfers of
16 technology to qualified small businesses made prior to January 1,
17 1988.

18 2. For purposes of this subsection:

19 a. "Qualified small business" means an entity, whether
20 organized as a corporation, partnership, or
21 proprietorship, organized for profit with its
22 principal place of business located within this state
23 and which meets the following criteria:

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

3 (2) Having at least fifty percent (50%) of its
4 employees and assets located in Oklahoma at the
5 time of the transfer, and

6 (3) Not a subsidiary or affiliate of the transferor
7 corporation;

8 b. "Technology" means a proprietary process, formula,
9 pattern, device or compilation of scientific or
10 technical information which is not in the public
11 domain;

12 c. "Transferor corporation" means a corporation which is
13 the exclusive and undisputed owner of the technology
14 at the time the transfer is made; and

15 d. "Gross proceeds" means the total amount of
16 consideration for the transfer of technology, whether
17 the consideration is in money or otherwise.

18 D. 1. For taxable years beginning after December 31, 2005, the
19 taxable income of any corporation, estate or trust, shall be further
20 adjusted for qualifying gains receiving capital treatment. Such
21 corporations, estates or trusts shall be allowed a deduction from
22 Oklahoma taxable income for the amount of qualifying gains receiving
23 capital treatment earned by the corporation, estate or trust during
24

1 the taxable year and included in the federal taxable income of such
2 corporation, estate or trust.

3 2. As used in this subsection:

4 a. "qualifying gains receiving capital treatment" means
5 the amount of net capital gains, as defined in Section
6 1222(11) of the Internal Revenue Code, included in the
7 federal income tax return of the corporation, estate
8 or trust that result from:

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

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

24

1 (3) the sale of real property, tangible personal
2 property or intangible personal property located
3 within Oklahoma as part of the sale of all or
4 substantially all of the assets of an Oklahoma
5 company, limited liability company, or
6 partnership where such property has been directly
7 or indirectly owned by such entity owned by the
8 owners of such entity, and used in or derived
9 from such entity for a period of at least three
10 (3) years prior to the date of the transaction
11 from which the net capital gains arise,

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

18 c. "Oklahoma company", "limited liability company", or
19 "partnership" means an entity whose primary
20 headquarters have been located in Oklahoma for at
21 least three (3) uninterrupted years prior to the date
22 of the transaction from which the net capital gains
23 arise,
24

1 d. "direct" means the taxpayer directly owns the asset,
2 and

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

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

20 (2) With respect to sales of stock or ownership
21 interest in or sales of all or substantially all
22 of the assets of an Oklahoma company, limited
23 liability company, or partnership, the deduction
24 described in this subsection shall not apply

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

11 E. The Oklahoma adjusted gross income of any individual
12 taxpayer shall be further adjusted as follows to arrive at Oklahoma
13 taxable income:

14 1. a. In the case of individuals, there shall be added or
15 deducted, as the case may be, the difference necessary
16 to allow personal exemptions of One Thousand Dollars
17 (\$1,000.00) in lieu of the personal exemptions allowed
18 by the Internal Revenue Code.

19 b. There shall be allowed an additional exemption of One
20 Thousand Dollars (\$1,000.00) for each taxpayer or
21 spouse who is blind at the close of the tax year. For
22 purposes of this subparagraph, an individual is blind
23 only if the central visual acuity of the individual
24 does not exceed 20/200 in the better eye with

1 correcting lenses, or if the visual acuity of the
2 individual is greater than 20/200, but is accompanied
3 by a limitation in the fields of vision such that the
4 widest diameter of the visual field subtends an angle
5 no greater than twenty (20) degrees.

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

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

22 Provided, for taxable years beginning after December
23 31, 1999, amounts included in the calculation of
24 federal adjusted gross income pursuant to the

1 conversion of a traditional individual retirement
2 account to a Roth individual retirement account shall
3 be excluded from federal adjusted gross income for
4 purposes of the income thresholds provided in this
5 subparagraph.

6 2. a. For taxable years beginning on or before December 31,
7 2005, in the case of individuals who use the standard
8 deduction in determining taxable income, there shall
9 be added or deducted, as the case may be, the
10 difference necessary to allow a standard deduction in
11 lieu of the standard deduction allowed by the Internal
12 Revenue Code, in an amount equal to the larger of
13 fifteen percent (15%) of the Oklahoma adjusted gross
14 income or One Thousand Dollars (\$1,000.00), but not to
15 exceed Two Thousand Dollars (\$2,000.00), except that
16 in the case of a married individual filing a separate
17 return such deduction shall be the larger of fifteen
18 percent (15%) of such Oklahoma adjusted gross income
19 or Five Hundred Dollars (\$500.00), but not to exceed
20 the maximum amount of One Thousand Dollars
21 (\$1,000.00),

22 b. For taxable years beginning on or after January 1,
23 2006, and before January 1, 2007, in the case of
24 individuals who use the standard deduction in

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

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

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

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

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

21 (2) Four Thousand One Hundred Twenty-five Dollars
22 (\$4,125.00) for a head of household; or
23
24

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

4 d. For the taxable year beginning on January 1, 2008, and
5 ending December 31, 2008, in the case of individuals
6 who use the standard deduction in determining taxable
7 income, there shall be added or deducted, as the case
8 may be, the difference necessary to allow a standard
9 deduction in lieu of the standard deduction allowed by
10 the Internal Revenue Code, in an amount equal to:

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

14 (2) Four Thousand Eight Hundred Seventy-five Dollars
15 (\$4,875.00) for a head of household, or

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

19 e. For the taxable year beginning on January 1, 2009, and
20 ending December 31, 2009, in the case of individuals
21 who use the standard deduction in determining taxable
22 income, there shall be added or deducted, as the case
23 may be, the difference necessary to allow a standard
24

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

- 3 (1) Eight Thousand Five Hundred Dollars (\$8,500.00),
4 if the filing status is married filing joint or
5 qualifying widow, or
6 (2) Six Thousand Three Hundred Seventy-five Dollars
7 (\$6,375.00) for a head of household, or
8 (3) Four Thousand Two Hundred Fifty Dollars
9 (\$4,250.00), if the filing status is single or
10 married filing separate.

11 Oklahoma adjusted gross income shall be increased by
12 any amounts paid for motor vehicle excise taxes which
13 were deducted as allowed by the Internal Revenue Code.

- 14 f. For taxable years beginning on or after January 1,
15 2010, in the case of individuals who use the standard
16 deduction in determining taxable income, there shall
17 be added or deducted, as the case may be, the
18 difference necessary to allow a standard deduction
19 equal to the standard deduction allowed by the
20 Internal Revenue Code of 1986, as amended, based upon
21 the amount and filing status prescribed by such Code
22 for purposes of filing federal individual income tax
23 returns.

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

14 4. A resident individual with a physical disability
15 constituting a substantial handicap to employment may deduct from
16 Oklahoma adjusted gross income such expenditures to modify a motor
17 vehicle, home or workplace as are necessary to compensate for his or
18 her handicap. A veteran certified by the Department of Veterans
19 Affairs of the federal government as having a service-connected
20 disability shall be conclusively presumed to be an individual with a
21 physical disability constituting a substantial handicap to
22 employment. The Tax Commission shall promulgate rules containing a
23 list of combinations of common disabilities and modifications which
24

1 may be presumed to qualify for this deduction. The Tax Commission
2 shall prescribe necessary requirements for verification.

3 5. a. Before July 1, 2010, the first One Thousand Five
4 Hundred Dollars (\$1,500.00) received by any person
5 from the United States as salary or compensation in
6 any form, other than retirement benefits, as a member
7 of any component of the Armed Forces of the United
8 States shall be deducted from taxable income.

9 b. On or after July 1, 2010, and ending before January 1,
10 2015, one hundred percent (100%) of the income
11 received by any person from the United States as
12 salary or compensation in any form, other than
13 retirement benefits, as a member of any component of
14 the Armed Forces of the United States shall be
15 deducted from taxable income.

16 c. For the taxable year beginning on January 1, 2015, and
17 every year thereafter, if the State Board of
18 Equalization makes a determination pursuant to Section
19 2355.1D of this title that, for the purposes of this
20 paragraph, revenue collections exceed revenue
21 reductions, the one hundred percent (100%) deduction
22 provided for in subparagraph b of this paragraph may
23 be claimed.

24

1 d. For the taxable year beginning on January 1, 2015, and
2 every year thereafter, if the State Board of
3 Equalization makes a determination pursuant to Section
4 2355.1D of this title that, for the purposes of this
5 paragraph, revenue collections do not exceed revenue
6 reductions, a deduction of the first One Thousand Five
7 Hundred Dollars (\$1,500.00) received by any person
8 from the United States as salary or compensation in
9 any form, other than retirement benefits, as a member
10 of any component of the Armed Forces of the United
11 States shall be allowed.

12 e. Whenever the filing of a timely income tax return by a
13 member of the Armed Forces of the United States is
14 made impracticable or impossible of accomplishment by
15 reason of:

- 16 (1) absence from the United States, which term
17 includes only the states and the District of
18 Columbia;
- 19 (2) absence from the State of Oklahoma while on
20 active duty; or
- 21 (3) confinement in a hospital within the United
22 States for treatment of wounds, injuries or
23 disease,

1 the time for filing a return and paying an income tax shall
2 be and is hereby extended without incurring liability for
3 interest or penalties, to the fifteenth day of the third
4 month following the month in which:

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

14 (b) An executor, administrator, or conservator
15 of the estate of the taxpayer is appointed,
16 whichever event occurs the earliest.

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

1 6. Before July 1, 2010, the salary or any other form of
2 compensation, received from the United States by a member of any
3 component of the Armed Forces of the United States, shall be
4 deducted from taxable income during the time in which the person is
5 detained by the enemy in a conflict, is a prisoner of war or is
6 missing in action and not deceased; provided, after July 1, 2010,
7 all such salary or compensation shall be subject to the deduction as
8 provided pursuant to paragraph 5 of this subsection.

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

1 Dollars (\$100.00) per individual or Two Hundred Dollars (\$200.00)
2 per couple filing a joint return.

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

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

16 c. For the purpose of this paragraph, "federal income
17 taxes paid" shall mean federal income taxes, surtaxes
18 imposed on incomes or excess profits taxes, as though
19 the taxpayer was on the accrual basis. In determining
20 the amount of deduction for federal income taxes for
21 tax year 2001, the amount of the deduction shall not
22 be adjusted by the amount of any accelerated ten
23 percent (10%) tax rate bracket credit or advanced
24 refund of the credit received during the tax year

1 provided pursuant to the federal Economic Growth and
2 Tax Relief Reconciliation Act of 2001, P.L. No. 107-
3 16, and the advanced refund of such credit shall not
4 be subject to taxation.

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

8 9. Retirement benefits not to exceed Five Thousand Five Hundred
9 Dollars (\$5,500.00) for the 2004 tax year, Seven Thousand Five
10 Hundred Dollars (\$7,500.00) for the 2005 tax year and Ten Thousand
11 Dollars (\$10,000.00) for the 2006 tax year and all subsequent tax
12 years, which are received by an individual from the civil service of
13 the United States, the Oklahoma Public Employees Retirement System,
14 the Teachers' Retirement System of Oklahoma, the Oklahoma Law
15 Enforcement Retirement System, the Oklahoma Firefighters Pension and
16 Retirement System, the Oklahoma Police Pension and Retirement
17 System, the employee retirement systems created by counties pursuant
18 to Section 951 et seq. of Title 19 of the Oklahoma Statutes, the
19 Uniform Retirement System for Justices and Judges, the Oklahoma
20 Wildlife Conservation Department Retirement Fund, the Oklahoma
21 Employment Security Commission Retirement Plan, or the employee
22 retirement systems created by municipalities pursuant to Section 48-
23 101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt
24 from taxable income.

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

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

20 12. In taxable years beginning after December 31, 1995,
21 contributions made to and interest received from a medical savings
22 account established pursuant to Sections 2621 through 2623 of Title
23 63 of the Oklahoma Statutes shall be exempt from taxable income.
24

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

13 14. a. In taxable years beginning after December 31, 2002,
14 nonrecurring adoption expenses paid by a resident
15 individual taxpayer in connection with:

- 16 (1) the adoption of a minor, or
17 (2) a proposed adoption of a minor which did not
18 result in a decreed adoption,
19 may be deducted from the Oklahoma adjusted gross
20 income.

21 b. The deductions for adoptions and proposed adoptions
22 authorized by this paragraph shall not exceed Twenty
23 Thousand Dollars (\$20,000.00) per calendar year.

24

1 c. The Tax Commission shall promulgate rules to implement
2 the provisions of this paragraph which shall contain a
3 specific list of nonrecurring adoption expenses which
4 may be presumed to qualify for the deduction. The Tax
5 Commission shall prescribe necessary requirements for
6 verification.

7 d. "Nonrecurring adoption expenses" means adoption fees,
8 court costs, medical expenses, attorney fees and
9 expenses which are directly related to the legal
10 process of adoption of a child including, but not
11 limited to, costs relating to the adoption study,
12 health and psychological examinations, transportation
13 and reasonable costs of lodging and food for the child
14 or adoptive parents which are incurred to complete the
15 adoption process and are not reimbursed by other
16 sources. The term "nonrecurring adoption expenses"
17 shall not include attorney fees incurred for the
18 purpose of litigating a contested adoption, from and
19 after the point of the initiation of the contest,
20 costs associated with physical remodeling, renovation
21 and alteration of the adoptive parents' home or
22 property, except for a special needs child as
23 authorized by the court.
24

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

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

19 (1) in taxable years beginning after December 31,
20 2004, and prior to January 1, 2007, the
21 qualifying amount shall be Thirty-seven Thousand
22 Five Hundred Dollars (\$37,500.00) or less if the
23 filing status is single, head of household, or
24 married filing separate, or Seventy-Five Thousand

- 1 Dollars (\$75,000.00) or less if the filing status
2 is married filing jointly or qualifying widow,
3 (2) in the taxable year beginning January 1, 2007,
4 the qualifying amount shall be Fifty Thousand
5 Dollars (\$50,000.00) or less if the filing status
6 is single, head of household, or married filing
7 separate, or One Hundred Thousand Dollars
8 (\$100,000.00) or less if the filing status is
9 married filing jointly or qualifying widow,
10 (3) in the taxable year beginning January 1, 2008,
11 the qualifying amount shall be Sixty-two Thousand
12 Five Hundred Dollars (\$62,500.00) or less if the
13 filing status is single, head of household, or
14 married filing separate, or One Hundred Twenty-
15 five Thousand Dollars (\$125,000.00) or less if
16 the filing status is married filing jointly or
17 qualifying widow,
18 (4) in the taxable year beginning January 1, 2009,
19 the qualifying amount shall be One Hundred
20 Thousand Dollars (\$100,000.00) or less if the
21 filing status is single, head of household, or
22 married filing separate, or Two Hundred Thousand
23 Dollars (\$200,000.00) or less if the filing
24

1 status is married filing jointly or qualifying
2 widow, and

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

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

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

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

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

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

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

1 (6) lump-sum distributions from a retirement plan
2 which satisfies the requirements of Section
3 402(e) of the Internal Revenue Code, 26 U.S.C.,
4 Section 402(e).

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

20 16. In taxable years beginning after December 31, 1999, for an
21 individual engaged in production agriculture who has filed a
22 Schedule F form with the taxpayer's federal income tax return for
23 such taxable year, there shall be excluded from taxable income any
24 amount which was included as federal taxable income or federal

1 adjusted gross income and which consists of the discharge of an
2 obligation by a creditor of the taxpayer incurred to finance the
3 production of agricultural products.

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

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

18 b. In taxable years beginning after December 31, 2004,
19 each taxpayer shall be allowed a deduction for
20 contributions to accounts established pursuant to the
21 Oklahoma College Savings Plan Act. The maximum annual
22 deduction shall equal the amount of contributions to
23 all such accounts plus any contributions to such
24 accounts by the taxpayer for prior taxable years after

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

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

21 (1) for a taxpayer who qualified for the five-year
22 carryforward election and who takes a rollover or
23 nonqualified withdrawal during that period, the
24 tax deduction otherwise available pursuant to

1 subparagraph b of this paragraph shall be reduced
2 by the amount which is equal to the rollover or
3 nonqualified withdrawal, and

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

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

19 e. If a taxpayer makes a nonqualified withdrawal of
20 contributions for which a deduction was taken pursuant
21 to subparagraph b of this paragraph, such nonqualified
22 withdrawal and any earnings thereon shall be included
23 in the adjusted gross income of the taxpayer in the
24 taxable year of the nonqualified withdrawal.

1 f. As used in this paragraph:

2 (1) "non-qualified withdrawal" means a withdrawal
3 from an Oklahoma College Savings Plan account
4 other than one of the following:

5 (a) a qualified withdrawal,

6 (b) a withdrawal made as a result of the death
7 or disability of the designated beneficiary
8 of an account,

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

17 (d) a rollover or change of designated
18 beneficiary as permitted by subsection F of
19 Section 3970.7 of Title 70 of Oklahoma
20 Statutes, and

21 (2) "rollover" means the transfer of funds from the
22 Oklahoma College Savings Plan to any other plan
23 under Section 529 of the Internal Revenue Code.
24

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

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

- 15 a. in the taxable year beginning January 1, 2007, twenty
16 percent (20%) of such benefits shall be exempt,
- 17 b. in the taxable year beginning January 1, 2008, forty
18 percent (40%) of such benefits shall be exempt,
- 19 c. in the taxable year beginning January 1, 2009, sixty
20 percent (60%) of such benefits shall be exempt,
- 21 d. in the taxable year beginning January 1, 2010, eighty
22 percent (80%) of such benefits shall be exempt, and

23
24

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

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

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

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

1 Commission shall prescribe necessary requirements for
2 verification.

3 22. For taxable years beginning after December 31, 2009, there
4 shall be exempt from taxable income any amount received by the
5 beneficiary of the death benefit for an emergency medical technician
6 or a registered emergency medical responder provided by Section 1-
7 2505.1 of Title 63 of the Oklahoma Statutes.

8 23. For taxable years beginning after December 31, 2008,
9 taxable income shall be increased by any unemployment compensation
10 exempted under Section 85 (c) of the Internal Revenue Code, 26
11 U.S.C., Section 85(c) (2009).

12 24. For taxable years beginning after December 31, 2008, there
13 shall be exempt from taxable income any payment in an amount less
14 than Six Hundred Dollars (\$600.00) received by a person as an award
15 for participation in a competitive livestock show event. For
16 purposes of this paragraph, the payment shall be treated as a
17 scholarship amount paid by the entity sponsoring the event and the
18 sponsoring entity shall cause the payment to be categorized as a
19 scholarship in its books and records.

20 25. For taxable years beginning after December 31, 2013, an
21 amount equal to one hundred percent (100%) of the amount of any
22 opportunity scholarship received from participation in the
23 opportunity scholarship program as established in the Opportunity
24 Scholarship Act shall be exempt from taxable income.

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

6 2. As used in this subsection:

7 a. "qualifying gains receiving capital treatment" means
8 the amount of net capital gains, as defined in Section
9 1222(11) of the Internal Revenue Code, included in an
10 individual taxpayer's federal income tax return that
11 result from:

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

18 (2) the sale of stock or the sale of a direct or
19 indirect ownership interest in an Oklahoma
20 company, limited liability company, or
21 partnership where such stock or ownership
22 interest has been directly or indirectly owned by
23 the individual taxpayer for a holding period of
24 at least two (2) years prior to the date of the

1 transaction from which the net capital gains
2 arise, or

3 (3) the sale of real property, tangible personal
4 property or intangible personal property located
5 within Oklahoma as part of the sale of all or
6 substantially all of the assets of an Oklahoma
7 company, limited liability company, or
8 partnership or an Oklahoma proprietorship
9 business enterprise where such property has been
10 directly or indirectly owned by such entity or
11 business enterprise or owned by the owners of
12 such entity or business enterprise for a period
13 of at least two (2) years prior to the date of
14 the transaction from which the net capital gains
15 arise,

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

22 c. "Oklahoma company," "limited liability company," or
23 "partnership" means an entity whose primary
24 headquarters have been located in Oklahoma for at

1 least three (3) uninterrupted years prior to the date
2 of the transaction from which the net capital gains
3 arise,

4 d. "direct" means the individual taxpayer directly owns
5 the asset,

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

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

23 (2) With respect to sales of stock or ownership
24 interest in or sales of all or substantially all

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

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

1 located in Oklahoma for at least three (3)
2 uninterrupted years prior to the date of the
3 transaction from which the net capital gains arise.

4 G. 1. For purposes of computing its Oklahoma taxable income
5 under this section, the dividends-paid deduction otherwise allowed
6 by federal law in computing net income of a real estate investment
7 trust that is subject to federal income tax shall be added back in
8 computing the tax imposed by this state under this title if the real
9 estate investment trust is a captive real estate investment trust.

10 2. For purposes of computing its Oklahoma taxable income under
11 this section, a taxpayer shall add back otherwise deductible rents
12 and interest expenses paid to a captive real estate investment trust
13 that is not subject to the provisions of paragraph 1 of this
14 subsection. As used in this subsection:

- 15 a. the term "real estate investment trust" or "REIT"
16 means the meaning ascribed to such term in Section 856
17 of the Internal Revenue Code of 1986, as amended,
18 b. the term "captive real estate investment trust" means
19 a real estate investment trust, the shares or
20 beneficial interests of which are not regularly traded
21 on an established securities market and more than
22 fifty percent (50%) of the voting power or value of
23 the beneficial interests or shares of which are owned
24

1 or controlled, directly or indirectly, or
2 constructively, by a single entity that is:

- 3 (1) treated as an association taxable as a
4 corporation under the Internal Revenue Code of
5 1986, as amended, and
6 (2) not exempt from federal income tax pursuant to
7 the provisions of Section 501(a) of the Internal
8 Revenue Code of 1986, as amended.

9 The term shall not include a real estate investment
10 trust that is intended to be regularly traded on an
11 established securities market, and that satisfies the
12 requirements of Section 856(a) (5) and (6) of the U.S.
13 Internal Revenue Code by reason of Section 856(h) (2)
14 of the Internal Revenue Code,

15 c. the term "association taxable as a corporation" shall
16 not include the following entities:

- 17 (1) any real estate investment trust as defined in
18 paragraph a of this subsection other than a
19 "captive real estate investment trust", or
20 (2) any qualified real estate investment trust
21 subsidiary under Section 856(i) of the Internal
22 Revenue Code of 1986, as amended, other than a
23 qualified REIT subsidiary of a "captive real
24 estate investment trust", or

1 (3) any Listed Australian Property Trust (meaning an
2 Australian unit trust registered as a "Managed
3 Investment Scheme" under the Australian
4 Corporations Act in which the principal class of
5 units is listed on a recognized stock exchange in
6 Australia and is regularly traded on an
7 established securities market), or an entity
8 organized as a trust, provided that a Listed
9 Australian Property Trust owns or controls,
10 directly or indirectly, seventy-five percent
11 (75%) or more of the voting power or value of the
12 beneficial interests or shares of such trust, or

13 (4) any Qualified Foreign Entity, meaning a
14 corporation, trust, association or partnership
15 organized outside the laws of the United States
16 and which satisfies the following criteria:

17 (a) at least seventy-five percent (75%) of the
18 entity's total asset value at the close of
19 its taxable year is represented by real
20 estate assets, as defined in Section
21 856(c)(5)(B) of the Internal Revenue Code of
22 1986, as amended, thereby including shares
23 or certificates of beneficial interest in
24 any real estate investment trust, cash and

1 cash equivalents, and U.S. Government
2 securities,

3 (b) the entity receives a dividend-paid
4 deduction comparable to Section 561 of the
5 Internal Revenue Code of 1986, as amended,
6 or is exempt from entity level tax,

7 (c) the entity is required to distribute at
8 least eighty-five percent (85%) of its
9 taxable income, as computed in the
10 jurisdiction in which it is organized, to
11 the holders of its shares or certificates of
12 beneficial interest on an annual basis,

13 (d) not more than ten percent (10%) of the
14 voting power or value in such entity is held
15 directly or indirectly or constructively by
16 a single entity or individual, or the shares
17 or beneficial interests of such entity are
18 regularly traded on an established
19 securities market, and

20 (e) the entity is organized in a country which
21 has a tax treaty with the United States.

22 3. For purposes of this subsection, the constructive ownership
23 rules of Section 318(a) of the Internal Revenue Code of 1986, as
24 amended, as modified by Section 856(d) (5) of the Internal Revenue

1 Code of 1986, as amended, shall apply in determining the ownership
2 of stock, assets, or net profits of any person.

3 4. A real estate investment trust that does not become
4 regularly traded on an established securities market within one (1)
5 year of the date on which it first becomes a real estate investment
6 trust shall be deemed not to have been regularly traded on an
7 established securities market, retroactive to the date it first
8 became a real estate investment trust, and shall file an amended
9 return reflecting such retroactive designation for any tax year or
10 part year occurring during its initial year of status as a real
11 estate investment trust. For purposes of this subsection, a real
12 estate investment trust becomes a real estate investment trust on
13 the first day it has both met the requirements of Section 856 of the
14 Internal Revenue Code and has elected to be treated as a real estate
15 investment trust pursuant to Section 856(c)(1) of the Internal
16 Revenue Code.

17 SECTION 11. This act shall become effective July 1, 2013.

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

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