

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 3539

By: Boatman

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5
6 AS INTRODUCED

7 An Act relating to early education; enacting the
8 Oklahoma Early Education Savings Plan Act; providing
9 short title; providing definitions; creating Board of
10 Trustees for the Oklahoma Early Education Savings
11 Plan program; providing for appointment of members of
12 the Board; allowing the use of designees for members
13 of the Board; providing for reimbursement of Board
14 members pursuant to the State Travel Reimbursement
15 Act; prescribing quorum of the Board; prescribing
16 vote record for the Board to take action; requiring
17 the Board to comply with the Oklahoma Open Meeting
18 Act and the Oklahoma Open Records Act; authorizing
19 the Board to delegate certain duties to the State
20 Department of Education; providing certain immunity
21 to Board members; stating the duties of the Board;
22 prescribing the Board to implement certain program
23 through use of financial institutions; requiring
24 Board to solicit certain proposals; prescribing
criteria by which the Board shall select financial
institutions; requiring the Board to enter into
certain contract; requiring the Board to set certain
terms and procedures for contracts; allowing the
Board to select more than one financial institution
under certain conditions; requiring the program
manager to perform certain duties for the program;
allowing the Board to terminate a contract for good
cause; prescribing means by which a person can open
an account; allowing any person to contribute to an
account; requiring that contributions to accounts be
in cash; allowing for withdrawal of certain funds in
accordance with certain provisions; providing for
changing of beneficiaries; prohibiting certain
changes in beneficiaries and certain rollover;
providing for certain penalty for nonqualified
withdrawals; allowing the Board to adjust certain

1 penalty; providing for the collection of certain
2 penalties; requiring maintenance of certain records;
3 prohibiting certain persons from directing
4 investments of certain account; providing for the
5 transfer of certain accounts when the Board
6 terminates authority of a financial institution to
7 hold certain accounts; requiring the Board to adopt
8 certain rules; requiring financial institutions to
9 comply with certain reporting requirements; requiring
10 program managers to provide statements to account
11 owners; allowing certain organizations to open an
12 account without naming a designated beneficiary;
13 providing certain construction; requiring the Board
14 to submit certain reports; amending 68 O.S. 2011,
15 Section 2358, as last amended by Section 5, Chapter
16 201, O.S.L. 2019 (68 O.S. Supp. 2019, Section 2358),
17 which relates to adjustments to Oklahoma taxable
18 income and Oklahoma adjusted gross income; providing
19 certain tax deduction; providing limitation for
20 certain deduction; requiring certain withdrawals to
21 be included in certain income; providing definition;
22 providing for codification; and providing an
23 effective date.

24
BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1-125 of Title 70, unless there
is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Early
Education Savings Plan Act".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1-126 of Title 70, unless there
is created a duplication in numbering, reads as follows:

As used in this act:

1 1. "Account" means an individual trust account or savings
2 account established as prescribed in this act;

3 2. "Account owner" means the person or other entity designated
4 at the time an account is opened as having the right to withdraw
5 monies from the account before the account is disbursed to or for
6 the benefit of the designated beneficiary;

7 3. "Affinity program" means any supplemental feature to the
8 Oklahoma Early Education Savings Plan that offers additional value
9 for plan participants including, but not limited to, rebate
10 contributions from affiliated credit cards;

11 4. "Board" means the Board of Trustees of the Oklahoma Early
12 Education Savings Plan;

13 5. "Designated beneficiary" means:

14 a. with respect to an account, the person designated at
15 the time the account is opened as the person whose
16 early education expenses are expected to be paid from
17 the account,

18 b. in the case of a change in beneficiaries described in
19 Section 6 of this act, the individual who is the new
20 beneficiary, or

21 c. in the case of an interest in the program created by
22 this act purchased by the State of Oklahoma or a local
23 government in this state, or an agency or
24 instrumentality of such state or local government, or

1 an organization described in Section 501(c)(3) of the
2 Internal Revenue Code and exempt from taxation under
3 Section 501(a) of that Code as part of an early
4 education scholarship program operated by such
5 government or organization, the individual(s)
6 receiving such interest or scholarship;

7 6. "Eligible early educational institution" means a child care
8 facility which has been rated as a three-star child care center
9 pursuant to the Oklahoma Child Care Facilities Licensing Act and any
10 applicable rules adopted by the Department of Human Services, family
11 child care home, large family child care home, part-day child care
12 program or a residential child care facility, as defined by Section
13 402 of Title 10 of the Oklahoma Statutes, or a preschool;

14 7. "Financial institution" means any bank, commercial bank,
15 national bank, savings bank, savings and loan association, credit
16 union, an insurance company, brokerage firm, or other similar entity
17 that is authorized to do business in this state;

18 8. "Member of family" means an individual who bears a
19 relationship to another individual which is a relationship described
20 in paragraph (2) of Section 152(d) of the Internal Revenue Code, or
21 the spouse of an individual described therein;

22 9. "Nonqualified withdrawal" means a withdrawal from an account
23 other than one of the following:

24 a. a qualified withdrawal,

1 b. a withdrawal made as a result of the death or
2 disability of the designated beneficiary of an
3 account, or

4 c. a change of designated beneficiary as permitted by
5 subsection F of Section 6 of this act;

6 10. "Program" means the Oklahoma Early Education Savings Plan
7 established under this act;

8 11. "Qualified early education expenses" means expenses related
9 to services provided by a child care facility which has been rated
10 as a three-star child care center pursuant to the Oklahoma Child
11 Care Facilities Licensing Act and any applicable rules adopted by
12 the Department of Human Services, family child care home, large
13 family child care home, part-day child care program or a residential
14 child care facility, as defined by Section 402 of Title 10 of the
15 Oklahoma Statutes, and tuition and fees for enrollment in a
16 preschool for the benefit of the designated beneficiary; and

17 12. "Qualified withdrawal" means a withdrawal from an account
18 to pay the qualified early education expenses of the designated
19 beneficiary of the account, but only if the withdrawal is made in
20 accordance with this act.

21 SECTION 3. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1-127 of Title 70, unless there
23 is created a duplication in numbering, reads as follows:

1 A. There is hereby created the Board of Trustees of the
2 Oklahoma Early Education Savings Plan program composed of seven (7)
3 members as follows:

4 1. The State Treasurer;

5 2. The State Auditor and Inspector;

6 3. The State Superintendent of Public Instruction;

7 4. The Director of the Department of Human Services; and

8 5. Three members, from the general public, each of whom
9 possesses knowledge, skill and experience in accounting, risk
10 management, investments, financial management or actuarial science;
11 one of whom is appointed by the Governor, one by the Speaker of the
12 House of Representatives and one by the President Pro Tempore of the
13 Senate. The initial appointee of the Governor shall serve a term of
14 two (2) years. The initial appointee of the President Pro Tempore
15 of the Senate shall serve a term of three (3) years. The initial
16 appointee of the Speaker of the House of Representatives shall serve
17 a term of four (4) years. Upon expiration of the initial terms,
18 subsequent terms shall be for four (4) years.

19 B. The State Treasurer shall serve as chair of the Board. The
20 Board shall select a vice-chair.

21 C. Members of the Board may designate members of their
22 respective staffs to attend meetings of the Board and to vote in
23 their absence. Such designations shall be in writing to the chair
24 of the Board and filed with the Secretary of State.

1 D. Members of the Board shall serve without compensation but
2 shall receive reasonable reimbursement from their respective office
3 or agency or in the case of appointed members from the appointing
4 authority for actual and necessary travel expenses in accordance
5 with the State Travel Reimbursement Act.

6 E. A majority of the members of the Board serving shall
7 constitute a quorum for the transaction of business at a meeting of
8 the Board. Voting upon action to be taken by the Board shall be
9 conducted by a majority vote of the members present at the meeting
10 of the Board.

11 F. The business of the Board shall be conducted at meetings of
12 the Board held in compliance with the Oklahoma Open Meeting Act.
13 The Board shall make available to the public records as required by
14 the Oklahoma Open Records Act.

15 G. The Board may delegate to the State Department of Education
16 some or all of the duties to carry out the day-to-day operations and
17 responsibilities of the program. The Department shall provide staff
18 for the Board. In exercising such delegation, the Department shall
19 be authorized to exercise such powers as are vested in the Board
20 which are necessary to fulfill the delegated duties and
21 responsibilities, and may assign any such duties and
22 responsibilities to the staff as the Department deems necessary and
23 proper.

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1 H. The members of the Board are immune from personal liability
2 with respect to all actions that are taken in good faith and within
3 the scope of the Board's authority.

4 SECTION 4. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1-128 of Title 70, unless there
6 is created a duplication in numbering, reads as follows:

7 The Board of Trustees of the Oklahoma Early Education Savings
8 Plan shall:

9 1. Develop and implement the program in a manner consistent
10 with this act through the adoption of guidelines and procedures;

11 2. Retain professional services, if necessary, including
12 accountants, auditors, consultants and other experts;

13 3. Seek rulings and other guidance, if necessary, from the
14 Office of the State Treasurer, the Oklahoma Tax Commission and the
15 Oklahoma Attorney General relating to the program;

16 4. Interpret, in policies, guidelines and procedures, the
17 provisions of this act broadly in light of its purpose and
18 objectives;

19 5. Develop a schedule of application fees and other necessary
20 fees and charges in connection with any agreement, contract or
21 transaction relating to the program that are sufficient to offset
22 the administrative and staffing costs associated with the
23 implementation and administration of this program;

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1 6. Select the financial institution or institutions to act as
2 the depositories and managers of the program accounts in accordance
3 with this act. For purposes of selecting such institutions and
4 managers, the Board shall be exempt from The Oklahoma Central
5 Purchasing Act. The Board shall develop a competitive process by
6 which the institutions and managers will be selected;

7 7. Develop procedures to assist in the administration and
8 implementation of this act. Any guidelines or procedures affecting
9 existing or potential participants in this act may only be
10 implemented after reasonable notice to the public and a public
11 hearing in a manner similar to requirements of the Administrative
12 Procedures Act;

13 8. Have the authority to implement affinity programs for plan
14 participants; and

15 9. Submit a report summarizing any findings and recommendations
16 concerning the program to the Speaker of the House of
17 Representatives, the President Pro Tempore of the Senate and the
18 Governor by February 1 of each year.

19 SECTION 5. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1-129 of Title 70, unless there
21 is created a duplication in numbering, reads as follows:

22 A. The Board of Trustees of the Oklahoma Early Education
23 Savings Plan shall implement the program through the use of one or
24 more financial institutions to act as the depositories and managers.

1 Under the program, persons may establish accounts through the
2 program at a depository that has been selected by the Board.

3 B. The Board shall solicit proposals from financial
4 institutions to act as the depositories and managers of the program.
5 Financial institutions that submit proposals shall provide all
6 information required by the Board which is sufficient to enable the
7 evaluation of the investment strategies and asset allocations
8 consistent with the program objectives set by the Board.

9 C. The Board shall select as program depositories and managers
10 the financial institution or institutions from among bidding
11 financial institutions that demonstrate the most advantageous
12 combination, both to potential program participants and this state,
13 of the following factors:

14 1. Financial stability and integrity;

15 2. The safety of the investment instruments being offered by
16 the financial institution, taking into account any insurance
17 provided with respect to these instruments;

18 3. The ability of the financial institution to ensure that the
19 plan it offers tracks requirements of the Internal Revenue Code,
20 regulations of the Internal Revenue Service, other pertinent federal
21 and state laws and regulations;

22 4. The ability of the financial institution to track estimated
23 costs of early education as provided by the State Department of
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1 Education and the Department of Human Services and provided by the
2 financial institution to the account holder;

3 5. The ability of the financial institutions, directly or
4 through a subcontract, to satisfy recordkeeping and reporting
5 requirements;

6 6. The financial institution's plan for promoting the program
7 and the investment it is willing to make to promote the program,
8 including any use of institutions with offices in Oklahoma as plan
9 marketers and enrollment agents;

10 7. The fees, if any, proposed to be charged to persons for
11 maintaining accounts;

12 8. The minimum initial deposit and minimum contributions that
13 the financial institution will require and the willingness of the
14 financial institution to accept contributions through payroll
15 deduction plans and other deposit plans; and

16 9. Any other benefits to this state or its residents included
17 in the proposal, including an account opening fee payable to the
18 Board by the account owner and an additional fee from the financial
19 institution for statewide program marketing by the Board.

20 D. The Board shall enter into a contract with a financial
21 institution or institutions as provided in subsection E of this
22 section to serve as program managers and depositories.

23 E. The Board shall determine a minimum term for contracts
24 executed between the Board and a financial institution pursuant to

1 this section and shall establish procedures by which a contract may
2 be renewed.

3 F. The Board may select more than one financial institution and
4 investment for the program if the Board concludes that the choice of
5 instrument vehicles is in the best interest of early education
6 savers and will not interfere with the promotion of the program.

7 G. A program manager shall:

8 1. Take all action required to keep the program in compliance
9 with the requirements of this act and shall not take action contrary
10 to this act or its contract to manage the program;

11 2. Keep adequate records of each account, keep each account
12 segregated from each other account and provide the Board with the
13 information necessary to prepare statements required by federal and
14 state law or regulation or file these statements on behalf of the
15 Board;

16 3. Compile and total information contained in statements
17 required to be prepared under federal and state law and regulation
18 and provide these compilations to the Board;

19 4. If there is more than one program manager, the program
20 managers shall provide the Board with sufficient information to
21 determine compliance with subsection P of Section 6 of this act;

22 5. Provide representatives of the Board, including other
23 contractors or other state agencies, access to the books and records
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1 of the program manager to the extent needed to determine compliance
2 with the contract; and

3 6. Hold all accounts in trust for the benefit of this state and
4 the account owner.

5 H. If a contract executed between the Board and a financial
6 institution pursuant to this section is not renewed, all of the
7 following conditions apply at the end of the term of the nonrenewed
8 contract:

9 1. Accounts previously established and held in investment
10 instruments at the financial institution shall not be terminated;

11 2. Additional contributions may be made to the accounts; and

12 3. No new accounts may be placed with that financial
13 institution.

14 I. The Board may terminate a contract with a financial
15 institution at any time for good cause. If a contract is terminated
16 pursuant to this section, the Board shall take custody of accounts
17 held at that financial institution and shall seek to promptly
18 transfer the accounts to another financial institution that is
19 selected as a program manager and into investment instruments as
20 similar to the original investments as possible.

21 SECTION 6. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1-130 of Title 70, unless there
23 is created a duplication in numbering, reads as follows:

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1 A. The program shall be operated through the use of accounts.
2 An account may be opened by any person who desires to save to pay
3 the qualified early education expenses of a person by:

4 1. Completing an application in the form prescribed by the
5 Board;

6 2. Paying the one-time application fee established by the
7 Board;

8 3. Making the minimum contribution required by the Board or by
9 opening an account; and

10 4. Designating the type of account to be opened if more than
11 one type of account is offered.

12 B. Any person may make contributions to an account after the
13 account is opened.

14 C. Contributions to accounts may be made only in cash.

15 D. Account owners may withdraw all or part of the balance from
16 an account on sixty (60) days' notice, or a shorter period as may be
17 authorized by the Board, under rules prescribed by the Board. The
18 rules shall include provisions that will generally enable the Board
19 or program manager to determine if a withdrawal is a nonqualified
20 withdrawal or a qualified withdrawal. The rules may, but need not,
21 require one or more of the following:

22 1. Account owners seeking to make a qualified withdrawal or
23 other withdrawal that is not a nonqualified withdrawal shall provide
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1 certifications, copies of bills for qualified early education
2 expenses or other supporting material;

3 2. Qualified withdrawals from an account shall be made only by
4 a check payable jointly to the designated beneficiary and an
5 eligible early education institution; or

6 3. Withdrawals not meeting certain requirements shall be
7 treated as nonqualified withdrawals by the program manager.

8 E. An account owner may change the designated beneficiary of an
9 account to an individual who is a member of the family of the former
10 designated beneficiary in accordance with procedures established by
11 the Board.

12 F. An account owner may make the following changes and
13 transfers relating to the account:

14 1. Change the beneficiary of the account;

15 2. Transfer funds between accounts; and

16 3. Transfer funds between an account and a qualified account in
17 another state or make a deposit to a new or existing account or to
18 an account in another state.

19 The account owner shall be informed that certain tax
20 consequences may apply to these changes.

21 G. An account owner may make the changes, transfers and
22 withdrawals described in subsection F of this section to an account
23 that is owned by the account owner. The account owner may also make
24 transfers to an account that is owned by another person. If a

1 change of beneficiary or transfer causes the total account balance
2 for all accounts under the program for the new beneficiary to exceed
3 the maximum account balance limit, the excess amount shall be
4 rejected and returned to the account owner.

5 H. In the case of any nonqualified withdrawal from an account,
6 an amount of not more than five percent (5%) of the proposed
7 withdrawal may be withheld as a penalty and paid to the Board for
8 use in operating and marketing the program.

9 I. The Board may set the percentage of the penalty prescribed
10 in subsection H of this section or change the basis of this penalty
11 if the Board determines that establishing a penalty or raising an
12 existing penalty is needed to discourage nonqualified withdrawals.

13 J. If an account owner makes a nonqualified withdrawal and no
14 penalty amount is withheld pursuant to subsection H of this section
15 or the amount withheld was less than the amount required to be
16 withheld under that subsection for nonqualified withdrawals, the
17 account owner shall pay the unpaid portion of the penalty to the
18 Board on or before April 15 of the following tax year.

19 K. Each account for each designated beneficiary shall be
20 maintained separately from each other account under the program.

21 L. Separate records and accounting shall be maintained for each
22 account for each designated beneficiary.

23 M. No contributor to, account owner of, or designated
24 beneficiary of any account may directly or indirectly direct the

1 investment of any contributions to an account or the earnings from
2 the account.

3 N. If the Board terminates the authority of a financial
4 institution to hold accounts and accounts must be moved from that
5 financial institution to another financial institution, the Board
6 shall select the financial institution and type of investment to
7 which the balance of the account is moved.

8 O. Neither an account owner nor a designated beneficiary may
9 use an interest in an account as security for a loan. Any pledge of
10 an interest in an account is of no force and effect.

11 P. The Board shall adopt guidelines and procedures to prevent
12 contributions on behalf of a designated beneficiary in excess of
13 those necessary to pay the qualified early education expenses of the
14 designated beneficiaries. The guidelines may address the following:

15 1. Procedures for aggregating the total balances of multiple
16 accounts established for a designated beneficiary;

17 2. The establishment of a maximum total balance that may be
18 held in accounts for a designated beneficiary;

19 3. Requirements that persons who contribute to an account
20 certify that to the best of their knowledge the balance in all
21 accounts of which the designated beneficiary is the designated
22 beneficiary does not exceed the lesser of:

23 a. a maximum early education savings amount established
24 by the Board from time to time, and

1 b. the cost in current dollars of qualified early
2 education expenses that the contributor reasonably
3 anticipates the designated beneficiary will incur; or

4 4. Requirements that any excess balances with respect to a
5 designated beneficiary be promptly withdrawn in a nonqualified
6 withdrawal or transferred to another account of a family member or
7 rolled over to another family member beneficiary in accordance with
8 this section.

9 Q. The financial institution(s) shall make all reports and
10 informational returns as required by the Internal Revenue Service,
11 the Oklahoma Tax Commission and other pertinent federal and state
12 laws and regulations.

13 R. The program manager shall make such reports with respect to
14 contributions, distributions and other matters that the Board may
15 require pursuant to federal and state law reporting requirements.
16 The statement shall identify the contributions made during a
17 preceding twelve-month period, the total contributions made through
18 the end of the period, the value of the account as of the end of
19 this period, distributions made during this period and any other
20 matters that the Board requires be reported to the account owner.

21 S. The State of Oklahoma, a local government of this state or
22 organizations described in Section 501(c)(3) of the Internal Revenue
23 Code may open and become the account owner of an account to fund
24 qualified early education expenses for persons whose identity will

1 be determined after an account is opened. Accounts established
2 pursuant to this section shall be exempt from the requirement that a
3 beneficiary be designated when an account is opened. Each person
4 who receives an interest in the account established pursuant to this
5 section in the form of a scholarship shall be considered a
6 designated beneficiary for the purposes of this act.

7 SECTION 7. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1-131 of Title 70, unless there
9 is created a duplication in numbering, reads as follows:

10 A. Nothing in this act shall be construed to:

11 1. Give a designated beneficiary any rights or legal interest
12 with respect to an account unless the designated beneficiary is the
13 account owner;

14 2. Guarantee that a designated beneficiary will be admitted to
15 an eligible early educational institution or be allowed to continue
16 enrollment at an institution located in this state after admission;

17 3. Establish state residency for a person merely because the
18 person is a designated beneficiary; or

19 4. Guarantee that amounts saved pursuant to the program will be
20 sufficient to cover the qualified early education expenses of a
21 designated beneficiary.

22 B. Nothing in this act establishes any obligation of this state
23 or any agency or instrumentality of this state to guarantee for the
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1 benefit of any account owner, contributor to an account or
2 designated beneficiary any of the following:

- 3 1. The return of any amounts contributed to an account;
- 4 2. The rate of interest or other returns on any account;
- 5 3. The payment of interest or other return on any account; or
- 6 4. Tuition rates or the cost of related early education
7 expenditures.

8 C. Under rules adopted by the Board, every contract,
9 application, deposit slip or other similar document that may be used
10 in connection with a contribution to an account shall clearly
11 indicate that the account is not insured by this state and neither
12 the principal deposited nor the investment return is guaranteed by
13 this state.

14 SECTION 8. AMENDATORY 68 O.S. 2011, Section 2358, as
15 last amended by Section 5, Chapter 201, O.S.L. 2019 (68 O.S. Supp.
16 2019, Section 2358), is amended to read as follows:

17 Section 2358. For all tax years beginning after December 31,
18 1981, taxable income and adjusted gross income shall be adjusted to
19 arrive at Oklahoma taxable income and Oklahoma adjusted gross income
20 as required by this section.

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

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

6 2. There shall be deducted amounts included in such income that
7 the state is prohibited from taxing because of the provisions of the
8 Federal Constitution, the State Constitution, federal laws or laws
9 of Oklahoma.

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

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

21 b. For carryovers and carrybacks to taxable years
22 beginning after December 31, 1980, the amount of any
23 net operating loss deduction allowed for the taxable
24 year shall be an amount equal to the aggregate of the

1 Oklahoma net operating loss carryovers and carrybacks
2 to such year. Oklahoma net operating losses shall be
3 separately determined by reference to Section 172 of
4 the Internal Revenue Code, 26 U.S.C., Section 172, as
5 modified by the Oklahoma Income Tax Act, Section 2351
6 et seq. of this title, and shall be allowed without
7 regard to the existence of a federal net operating
8 loss. For tax years beginning after December 31,
9 2000, and ending before January 1, 2008, the years to
10 which such losses may be carried shall be determined
11 solely by reference to Section 172 of the Internal
12 Revenue Code, 26 U.S.C., Section 172, with the
13 exception that the terms "net operating loss" and
14 "taxable income" shall be replaced with "Oklahoma net
15 operating loss" and "Oklahoma taxable income". For
16 tax years beginning after December 31, 2007, and
17 ending before January 1, 2009, years to which such
18 losses may be carried back shall be limited to two (2)
19 years. For tax years beginning after December 31,
20 2008, the years to which such losses may be carried
21 back shall be determined solely by reference to
22 Section 172 of the Internal Revenue Code, 26 U.S.C.,
23 Section 172, with the exception that the terms "net
24 operating loss" and "taxable income" shall be replaced

1 with "Oklahoma net operating loss" and "Oklahoma
2 taxable income".

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

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

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

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

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

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

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

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

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

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

21 (1) sales having a situs without this state, shipped
22 directly to a point from without the state to a
23 purchaser within the state, commonly known as
24 interstate sales,

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

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

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

22 e. In the case of insurance companies, Oklahoma taxable
23 income shall be taxable income of the taxpayer for
24 federal tax purposes, as adjusted for the adjustments

1 provided pursuant to the provisions of paragraphs 1
2 and 2 of this subsection, apportioned as follows:

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

21 (2) if the principal source of premiums written by an
22 insurance company consists of premiums for
23 reinsurance accepted by it, the taxable income of
24 such company shall be apportioned to this state

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

1 premiums written by each such ceding company for
2 the taxable year.

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

1 apporportioned with property and payroll, each comprising twenty-five
2 percent (25%) of the apporportionment factor and sales comprising fifty
3 percent (50%) of the apporportionment factor. The apporportionment
4 factors shall be computed as follows:

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

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

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

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

15 b. The payroll factor is a fraction, the numerator of
16 which is the total compensation for services rendered
17 in the state during the tax period, and the
18 denominator of which is the total compensation for
19 services rendered everywhere during the tax period.
20 "Compensation", as used in this subsection means those
21 paid-for services to the extent related to the unitary
22 business but does not include officers' salaries,
23 wages and other compensation.
24

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

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

17 c. The sales factor is a fraction, the numerator of which
18 is the total sales or gross revenue of the taxpayer in
19 this state during the tax period, and the denominator
20 of which is the total sales or gross revenue of the
21 taxpayer everywhere during the tax period. "Sales",
22 as used in this subsection does not include sales or
23 gross revenue which are separately allocated in
24 paragraph 4 of this subsection.

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

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

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

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

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

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

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

1 factors which has the effect of increasing the portion of net income
2 attributable to Oklahoma must not be inherently arbitrary, and
3 application of the recomputed final apportionment to the net income
4 of the enterprise must attribute to Oklahoma only a reasonable
5 portion thereof.

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

1 the percentage for subsequent years. Any amount of the exemption
2 permitted to be excluded pursuant to the provisions of this
3 paragraph but not used in any year may be carried forward as an
4 exemption from income pursuant to the provisions of this paragraph
5 for a period not exceeding six (6) years following the year in which
6 the investment was originally made.

7 For purposes of this paragraph:

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

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

4 (3) packaging or otherwise preparing the product for
5 sale or shipment.

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

13 a. Sixty Thousand Dollars (\$60,000.00), or

14 b. the loss properly shown on Schedule F of the Internal
15 Revenue Service Form 1040 reduced by one-half (1/2) of
16 the income from all other sources other than reflected
17 on Schedule F.

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

1 paragraph, "qualified wages" means those wages used to calculate the
2 federal credit pursuant to 26 U.S.C.A., Section 45A.

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

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

19 11. For taxable years beginning on or after January 1, 2019,
20 there shall be subtracted from Oklahoma taxable income or adjusted
21 gross income any item of income or gain, and there shall be added to
22 Oklahoma taxable income or adjusted gross income any item of loss or
23 deduction that in the absence of an election pursuant to the
24 provisions of the Pass-Through Entity Tax Equity Act of 2019 would

1 be allocated to a member or to an indirect member of an electing
2 pass-through entity pursuant to Section 2351 et seq. of this title,
3 if (i) the electing pass-through entity has accounted for such item
4 in computing its Oklahoma net entity income or loss pursuant to the
5 provisions of the Pass-Through Entity Tax Equity Act of 2019, and
6 (ii) the total amount of tax attributable to any resulting Oklahoma
7 net entity income has been paid. The Oklahoma Tax Commission shall
8 promulgate rules for the reporting of such exclusion to direct and
9 indirect members of the electing pass-through entity. As used in
10 this paragraph, "electing pass-through entity", "indirect member",
11 and "member" shall be defined in the same manner as prescribed by
12 Section 2 of this act. Notwithstanding the application of this
13 paragraph, the adjusted tax basis of any ownership interest in a
14 pass-through entity for purposes of Section 2351 et seq. of this
15 title shall be equal to its adjusted tax basis for federal income
16 tax purposes.

17 B. 1. The taxable income of any corporation shall be further
18 adjusted to arrive at Oklahoma taxable income, except those
19 corporations electing treatment as provided in subchapter S of the
20 Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section
21 2365 of this title, deductions pursuant to the provisions of the
22 Accelerated Cost Recovery System as defined and allowed in the
23 Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C.,
24 Section 168, for depreciation of assets placed into service after

1 December 31, 1981, shall not be allowed in calculating Oklahoma
2 taxable income. Such corporations shall be allowed a deduction for
3 depreciation of assets placed into service after December 31, 1981,
4 in accordance with provisions of the Internal Revenue Code, 26
5 U.S.C., Section 1 et seq., in effect immediately prior to the
6 enactment of the Accelerated Cost Recovery System. The Oklahoma tax
7 basis for all such assets placed into service after December 31,
8 1981, calculated in this section shall be retained and utilized for
9 all Oklahoma income tax purposes through the final disposition of
10 such assets.

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

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

24

1 2. For tax years beginning on or after January 1, 2009, and
2 ending on or before December 31, 2009, there shall be added to
3 Oklahoma taxable income any amount in excess of One Hundred Seventy-
4 five Thousand Dollars (\$175,000.00) which has been deducted as a
5 small business expense under Internal Revenue Code, Section 179 as
6 provided in the American Recovery and Reinvestment Act of 2009.

7 C. 1. For taxable years beginning after December 31, 1987, the
8 taxable income of any corporation shall be further adjusted to
9 arrive at Oklahoma taxable income for transfers of technology to
10 qualified small businesses located in Oklahoma. Such transferor
11 corporation shall be allowed an exemption from taxable income of an
12 amount equal to the amount of royalty payment received as a result
13 of such transfer; provided, however, such amount shall not exceed
14 ten percent (10%) of the amount of gross proceeds received by such
15 transferor corporation as a result of the technology transfer. Such
16 exemption shall be allowed for a period not to exceed ten (10) years
17 from the date of receipt of the first royalty payment accruing from
18 such transfer. No exemption may be claimed for transfers of
19 technology to qualified small businesses made prior to January 1,
20 1988.

21 2. For purposes of this subsection:

22 a. "Qualified small business" means an entity, whether
23 organized as a corporation, partnership, or
24 proprietorship, organized for profit with its

1 principal place of business located within this state
2 and which meets the following criteria:

- 3 (1) Capitalization of not more than Two Hundred Fifty
4 Thousand Dollars (\$250,000.00),
5 (2) Having at least fifty percent (50%) of its
6 employees and assets located in Oklahoma at the
7 time of the transfer, and
8 (3) Not a subsidiary or affiliate of the transferor
9 corporation;

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

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

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

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

1 capital treatment earned by the corporation, estate or trust during
2 the taxable year and included in the federal taxable income of such
3 corporation, estate or trust.

4 2. As used in this subsection:

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

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

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

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, and ending on December 31, 2016, in the case of
16 individuals who use the standard deduction in
17 determining taxable income, there shall be added or
18 deducted, as the case may be, the difference necessary
19 to allow a standard deduction equal to the standard
20 deduction allowed by the Internal Revenue Code, based
21 upon the amount and filing status prescribed by such
22 Code for purposes of filing federal individual income
23 tax returns.

1 g. For taxable years beginning on or after January 1,
2 2017, in the case of individuals who use the standard
3 deduction in determining taxable income, there shall
4 be added or deducted, as the case may be, the
5 difference necessary to allow a standard deduction in
6 lieu of the standard deduction allowed by the Internal
7 Revenue Code, as follows:

8 (1) Six Thousand Three Hundred Fifty Dollars
9 (\$6,350.00) for single or married filing
10 separately,

11 (2) Twelve Thousand Seven Hundred Dollars
12 (\$12,700.00) for married filing jointly or
13 qualifying widower with dependent child, and

14 (3) Nine Thousand Three Hundred Fifty Dollars
15 (\$9,350.00) for head of household.

16 3. a. In the case of resident and part-year resident
17 individuals having adjusted gross income from sources
18 both within and without the state, the itemized or
19 standard deductions and personal exemptions shall be
20 reduced to an amount which is the same portion of the
21 total thereof as Oklahoma adjusted gross income is of
22 adjusted gross income. To the extent itemized
23 deductions include allowable moving expense, proration
24 of moving expense shall not be required or permitted

1 but allowable moving expense shall be fully deductible
2 for those taxpayers moving within or into Oklahoma and
3 no part of moving expense shall be deductible for
4 those taxpayers moving without or out of Oklahoma.
5 All other itemized or standard deductions and personal
6 exemptions shall be subject to proration as provided
7 by law.

8 b. For taxable years beginning on or after January 1,
9 2018, the net amount of itemized deductions allowable
10 on an Oklahoma income tax return, subject to the
11 provisions of paragraph 24 of this subsection, shall
12 not exceed Seventeen Thousand Dollars (\$17,000.00).
13 For purposes of this subparagraph, charitable
14 contributions and medical expenses deductible for
15 federal income tax purposes shall be excluded from the
16 amount of Seventeen Thousand Dollars (\$17,000.00) as
17 specified by this subparagraph.

18 4. A resident individual with a physical disability
19 constituting a substantial handicap to employment may deduct from
20 Oklahoma adjusted gross income such expenditures to modify a motor
21 vehicle, home or workplace as are necessary to compensate for his or
22 her handicap. A veteran certified by the Department of Veterans
23 Affairs of the federal government as having a service-connected
24 disability shall be conclusively presumed to be an individual with a

1 physical disability constituting a substantial handicap to
2 employment. The Tax Commission shall promulgate rules containing a
3 list of combinations of common disabilities and modifications which
4 may be presumed to qualify for this deduction. The Tax Commission
5 shall prescribe necessary requirements for verification.

6 5. a. Before July 1, 2010, 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 deducted from taxable income.

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

18 c. Whenever the filing of a timely income tax return by a
19 member of the Armed Forces of the United States is
20 made impracticable or impossible of accomplishment by
21 reason of:

22 (1) absence from the United States, which term
23 includes only the states and the District of
24 Columbia;

1 (2) absence from the State of Oklahoma while on
2 active duty; or

3 (3) confinement in a hospital within the United
4 States for treatment of wounds, injuries or
5 disease,

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

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

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

22 Provided, that the Tax Commission may, in its discretion, grant
23 any member of the Armed Forces of the United States an extension of
24 time for filing of income tax returns and payment of income tax

1 without incurring liabilities for interest or penalties. Such
2 extension may be granted only when in the judgment of the Tax
3 Commission a good cause exists therefor and may be for a period in
4 excess of six (6) months. A record of every such extension granted,
5 and the reason therefor, shall be kept.

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

14 7. a. An individual taxpayer, whether resident or
15 nonresident, may deduct an amount equal to the federal
16 income taxes paid by the taxpayer during the taxable
17 year.

18 b. Federal taxes as described in subparagraph a of this
19 paragraph shall be deductible by any individual
20 taxpayer, whether resident or nonresident, only to the
21 extent they relate to income subject to taxation
22 pursuant to the provisions of the Oklahoma Income Tax
23 Act. The maximum amount allowable in the preceding
24 paragraph shall be prorated on the ratio of the

1 Oklahoma adjusted gross income to federal adjusted
2 gross income.

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

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

19 8. Retirement benefits not to exceed Five Thousand Five Hundred
20 Dollars (\$5,500.00) for the 2004 tax year, Seven Thousand Five
21 Hundred Dollars (\$7,500.00) for the 2005 tax year and Ten Thousand
22 Dollars (\$10,000.00) for the 2006 tax year and all subsequent tax
23 years, which are received by an individual from the civil service of
24 the United States, the Oklahoma Public Employees Retirement System,

1 the Teachers' Retirement System of Oklahoma, the Oklahoma Law
2 Enforcement Retirement System, the Oklahoma Firefighters Pension and
3 Retirement System, the Oklahoma Police Pension and Retirement
4 System, the employee retirement systems created by counties pursuant
5 to Section 951 et seq. of Title 19 of the Oklahoma Statutes, the
6 Uniform Retirement System for Justices and Judges, the Oklahoma
7 Wildlife Conservation Department Retirement Fund, the Oklahoma
8 Employment Security Commission Retirement Plan, or the employee
9 retirement systems created by municipalities pursuant to Section 48-
10 101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt
11 from taxable income.

12 9. In taxable years beginning after December 31, 1984, Social
13 Security benefits received by an individual shall be exempt from
14 taxable income, to the extent such benefits are included in the
15 federal adjusted gross income pursuant to the provisions of Section
16 86 of the Internal Revenue Code, 26 U.S.C., Section 86.

17 10. For taxable years beginning after December 31, 1994, lump-
18 sum distributions from employer plans of deferred compensation,
19 which are not qualified plans within the meaning of Section 401(a)
20 of the Internal Revenue Code, 26 U.S.C., Section 401(a), and which
21 are deposited in and accounted for within a separate bank account or
22 brokerage account in a financial institution within this state,
23 shall be excluded from taxable income in the same manner as a
24 qualifying rollover contribution to an individual retirement account

1 within the meaning of Section 408 of the Internal Revenue Code, 26
2 U.S.C., Section 408. Amounts withdrawn from such bank or brokerage
3 account, including any earnings thereon, shall be included in
4 taxable income when withdrawn in the same manner as withdrawals from
5 individual retirement accounts within the meaning of Section 408 of
6 the Internal Revenue Code.

7 11. In taxable years beginning after December 31, 1995,
8 contributions made to and interest received from a medical savings
9 account established pursuant to Sections 2621 through 2623 of Title
10 63 of the Oklahoma Statutes shall be exempt from taxable income.

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

23
24

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

4 (1) the adoption of a minor, or

5 (2) a proposed adoption of a minor which did not
6 result in a decreed adoption,

7 may be deducted from the Oklahoma adjusted gross
8 income.

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

12 c. The Tax Commission shall promulgate rules to implement
13 the provisions of this paragraph which shall contain a
14 specific list of nonrecurring adoption expenses which
15 may be presumed to qualify for the deduction. The Tax
16 Commission shall prescribe necessary requirements for
17 verification.

18 d. "Nonrecurring adoption expenses" means adoption fees,
19 court costs, medical expenses, attorney fees and
20 expenses which are directly related to the legal
21 process of adoption of a child including, but not
22 limited to, costs relating to the adoption study,
23 health and psychological examinations, transportation
24 and reasonable costs of lodging and food for the child

1 or adoptive parents which are incurred to complete the
2 adoption process and are not reimbursed by other
3 sources. The term "nonrecurring adoption expenses"
4 shall not include attorney fees incurred for the
5 purpose of litigating a contested adoption, from and
6 after the point of the initiation of the contest,
7 costs associated with physical remodeling, renovation
8 and alteration of the adoptive parents' home or
9 property, except for a special needs child as
10 authorized by the court.

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

1 less than the qualifying amount specified in this
2 paragraph, shall be exempt from taxable income.

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

5 (1) in taxable years beginning after December 31,
6 2004, and prior to January 1, 2007, the
7 qualifying amount shall be Thirty-seven Thousand
8 Five Hundred Dollars (\$37,500.00) or less if the
9 filing status is single, head of household, or
10 married filing separate, or Seventy-five Thousand
11 Dollars (\$75,000.00) or less if the filing status
12 is married filing jointly or qualifying widow,

13 (2) in the taxable year beginning January 1, 2007,
14 the qualifying amount shall be Fifty Thousand
15 Dollars (\$50,000.00) or less if the filing status
16 is single, head of household, or married filing
17 separate, or One Hundred Thousand Dollars
18 (\$100,000.00) or less if the filing status is
19 married filing jointly or qualifying widow,

20 (3) in the taxable year beginning January 1, 2008,
21 the qualifying amount shall be Sixty-two Thousand
22 Five Hundred Dollars (\$62,500.00) or less if the
23 filing status is single, head of household, or
24 married filing separate, or One Hundred Twenty-

1 five Thousand Dollars (\$125,000.00) or less if
2 the filing status is married filing jointly or
3 qualifying widow,

4 (4) in the taxable year beginning January 1, 2009,
5 the qualifying amount shall be One Hundred
6 Thousand Dollars (\$100,000.00) or less if the
7 filing status is single, head of household, or
8 married filing separate, or Two Hundred Thousand
9 Dollars (\$200,000.00) or less if the filing
10 status is married filing jointly or qualifying
11 widow, and

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

15 c. For purposes of this paragraph, "retirement benefits"
16 means the total distributions or withdrawals from the
17 following:

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

21 (2) an eligible deferred compensation plan that
22 satisfies the requirements of Section 457 of the
23 Internal Revenue Code, 26 U.S.C., Section 457,
24

- 1 (3) an individual retirement account, annuity or
2 trust or simplified employee pension that
3 satisfies the requirements of Section 408 of the
4 Internal Revenue Code, 26 U.S.C., Section 408,
5 (4) an employee annuity subject to the provisions of
6 Section 403(a) or (b) of the Internal Revenue
7 Code, 26 U.S.C., Section 403(a) or (b),
8 (5) United States Retirement Bonds which satisfy the
9 requirements of Section 86 of the Internal
10 Revenue Code, 26 U.S.C., Section 86, or
11 (6) lump-sum distributions from a retirement plan
12 which satisfies the requirements of Section
13 402(e) of the Internal Revenue Code, 26 U.S.C.,
14 Section 402(e).

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

1 exceeding Five Thousand Five Hundred Dollars
2 (\$5,500.00) for the 2004 tax year, Seven Thousand Five
3 Hundred Dollars (\$7,500.00) for the 2005 tax year and
4 Ten Thousand Dollars (\$10,000.00) for the 2006 tax
5 year and all subsequent tax years.

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

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

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

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

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

1 Provided, a deduction for the same contribution may
2 not be taken for two (2) different taxable years.

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

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

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

22 d. If a taxpayer elects to take a rollover on a
23 contribution for which a deduction has been taken
24 pursuant to subparagraph b of this paragraph within

1 one (1) year of the date of contribution, the amount
2 of such rollover shall be included in the adjusted
3 gross income of the taxpayer in the taxable year of
4 the rollover.

5 e. If a taxpayer makes a nonqualified withdrawal of
6 contributions for which a deduction was taken pursuant
7 to subparagraph b of this paragraph, such nonqualified
8 withdrawal and any earnings thereon shall be included
9 in the adjusted gross income of the taxpayer in the
10 taxable year of the nonqualified withdrawal.

11 f. As used in this paragraph:

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

15 (a) a qualified withdrawal,

16 (b) a withdrawal made as a result of the death
17 or disability of the designated beneficiary
18 of an account,

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

1 amount of the scholarship, allowance, or
2 payment, or

3 (d) a rollover or change of designated
4 beneficiary as permitted by subsection F of
5 Section 3970.7 of Title 70 of Oklahoma
6 Statutes, and

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

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

17 19. For taxable years beginning after December 31, 2006,
18 retirement benefits received by federal civil service retirees,
19 including survivor annuities, paid in lieu of Social Security
20 benefits shall be exempt from taxable income to the extent such
21 benefits are included in the federal adjusted gross income pursuant
22 to the provisions of Section 86 of the Internal Revenue Code, 26
23 U.S.C., Section 86, according to the following schedule:
24

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

- 12 20. a. For taxable years beginning after December 31, 2007, a
13 resident individual may deduct up to Ten Thousand
14 Dollars (\$10,000.00) from Oklahoma adjusted gross
15 income if the individual, or the dependent of the
16 individual, while living, donates one or more human
17 organs of the individual to another human being for
18 human organ transplantation. As used in this
19 paragraph, "human organ" means all or part of a liver,
20 pancreas, kidney, intestine, lung, or bone marrow. A
21 deduction that is claimed under this paragraph may be
22 claimed in the taxable year in which the human organ
23 transplantation occurs.
24

1 b. An individual may claim this deduction only once, and
2 the deduction may be claimed only for unreimbursed
3 expenses that are incurred by the individual and
4 related to the organ donation of the individual.

5 c. The Oklahoma Tax Commission shall promulgate rules to
6 implement the provisions of this paragraph which shall
7 contain a specific list of expenses which may be
8 presumed to qualify for the deduction. The Tax
9 Commission shall prescribe necessary requirements for
10 verification.

11 21. For taxable years beginning after December 31, 2009, there
12 shall be exempt from taxable income any amount received by the
13 beneficiary of the death benefit for an emergency medical technician
14 or a registered emergency medical responder provided by Section 1-
15 2505.1 of Title 63 of the Oklahoma Statutes.

16 22. For taxable years beginning after December 31, 2008,
17 taxable income shall be increased by any unemployment compensation
18 exempted under Section 85(c) of the Internal Revenue Code, 26
19 U.S.C., Section 85(c) (2009).

20 23. For taxable years beginning after December 31, 2008, there
21 shall be exempt from taxable income any payment in an amount less
22 than Six Hundred Dollars (\$600.00) received by a person as an award
23 for participation in a competitive livestock show event. For
24 purposes of this paragraph, the payment shall be treated as a

1 scholarship amount paid by the entity sponsoring the event and the
2 sponsoring entity shall cause the payment to be categorized as a
3 scholarship in its books and records.

4 24. For taxable years beginning on or after January 1, 2016,
5 taxable income shall be increased by any amount of state and local
6 sales or income taxes deducted under 26 U.S.C., Section 164 of the
7 Internal Revenue Code. If the amount of state and local taxes
8 deducted on the federal return is limited, taxable income on the
9 state return shall be increased only by the amount actually deducted
10 after any such limitations are applied.

11 25. a. In taxable years beginning after December 31, 2020,
12 there shall be allowed a deduction in the amount of
13 contributions to accounts established pursuant to the
14 Oklahoma Early Education Savings Plan Act. The
15 deduction shall equal the amount of contributions to
16 accounts, but in no event shall the deduction for each
17 taxpayer exceed Two Thousand Five Hundred Dollars
18 (\$2,500.00) per tax year.

19 b. If a taxpayer makes a nonqualified withdrawal of
20 contributions for which a deduction was taken pursuant
21 to subparagraph a 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 c. As used in this paragraph, "nonqualified withdrawal"
2 shall have the same meaning as provided for in Section
3 2 of this act.

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

9 2. As used in this subsection:

10 a. "qualifying gains receiving capital treatment" means
11 the amount of net capital gains, as defined in Section
12 1222(11) of the Internal Revenue Code, included in an
13 individual taxpayer's federal income tax return that
14 result from:

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

21 (2) the sale of stock or the sale of a direct or
22 indirect ownership interest in an Oklahoma
23 company, limited liability company, or
24 partnership where such stock or ownership

1 interest has been directly or indirectly owned by
2 the individual taxpayer for a holding period of
3 at least two (2) years prior to the date of the
4 transaction from which the net capital gains
5 arise, or

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

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

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

7 d. "direct" means the individual taxpayer directly owns
8 the asset,

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

13 (1) With respect to sales of real property or
14 tangible personal property located within
15 Oklahoma, the deduction described in this
16 subsection shall not apply unless the pass-
17 through entity that makes the sale has held the
18 property for not less than five (5) uninterrupted
19 years prior to the date of the transaction that
20 created the capital gain, and each pass-through
21 entity included in the chain of ownership has
22 been a member, partner, or shareholder of the
23 pass-through entity in the tier immediately below
24

1 it for an uninterrupted period of not less than
2 five (5) years.

3 (2) With respect to sales of stock or ownership
4 interest in or sales of all or substantially all
5 of the assets of an Oklahoma company, limited
6 liability company, partnership or Oklahoma
7 proprietorship business enterprise, the deduction
8 described in this subsection shall not apply
9 unless the pass-through entity that makes the
10 sale has held the stock or ownership interest for
11 not less than two (2) uninterrupted years prior
12 to the date of the transaction that created the
13 capital gain, and each pass-through entity
14 included in the chain of ownership has been a
15 member, partner or shareholder of the pass-
16 through entity in the tier immediately below it
17 for an uninterrupted period of not less than two
18 (2) years. For purposes of this division,
19 uninterrupted ownership prior to July 1, 2007,
20 shall be included in the determination of the
21 required holding period prescribed by this
22 division, and

23 f. "Oklahoma proprietorship business enterprise" means a
24 business enterprise whose income and expenses have

1 been reported on Schedule C or F of an individual
2 taxpayer's federal income tax return, or any similar
3 successor schedule published by the Internal Revenue
4 Service and whose primary headquarters have been
5 located in Oklahoma for at least three (3)
6 uninterrupted years prior to the date of the
7 transaction from which the net capital gains arise.

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

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

19 a. the term "real estate investment trust" or "REIT"
20 means the meaning ascribed to such term in Section 856
21 of the Internal Revenue Code,

22 b. the term "captive real estate investment trust" means
23 a real estate investment trust, the shares or
24 beneficial interests of which are not regularly traded

1 on an established securities market and more than
2 fifty percent (50%) of the voting power or value of
3 the beneficial interests or shares of which are owned
4 or controlled, directly or indirectly, or
5 constructively, by a single entity that is:

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

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

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

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

1 subsidiary of a "captive real estate investment
2 trust", or

3 (3) any Listed Australian Property Trust (meaning an
4 Australian unit trust registered as a "Managed
5 Investment Scheme" under the Australian
6 Corporations Act in which the principal class of
7 units is listed on a recognized stock exchange in
8 Australia and is regularly traded on an
9 established securities market), or an entity
10 organized as a trust, provided that a Listed
11 Australian Property Trust owns or controls,
12 directly or indirectly, seventy-five percent
13 (75%) or more of the voting power or value of the
14 beneficial interests or shares of such trust, or

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

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

1 beneficial interest in any real estate
2 investment trust, cash and cash equivalents,
3 and U.S. Government securities,

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

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

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

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

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

1 Section 856(d) (5) of the Internal Revenue Code, shall apply in
2 determining the ownership of stock, assets, or net profits of any
3 person.

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

18 SECTION 9. This act shall become effective January 1, 2021.

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