

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

**SENATE FLOOR VERSION**

February 24, 2015

**AS AMENDED**

SENATE BILL NO. 609

By: Jolley and Loveless of the  
Senate

and

Nelson of the House

[ schools - Oklahoma Education Empowerment  
Scholarship Act - Oklahoma Education Empowerment  
Scholarship Savings Program - directing remaining  
State Aid calculated amount to be used to provide  
teacher bonuses - Oklahoma Education Empowerment  
Scholarship Savings Revolving Fund - codification -  
~~effective date -~~

**emergency ]**

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 28-101 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  
Education Empowerment Scholarship Act".

SECTION 2. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 28-102 of Title 70, unless there  
is created a duplication in numbering, reads as follows:

As used in the Oklahoma Education Empowerment Scholarship Act:

1        1. "Qualified expenditure" means an expenditure that serves an  
2 educational purpose, including but not limited to:

- 3            a. online curriculum,
- 4            b. tuition at a private school accredited or in the  
5                process of obtaining accreditation by the Oklahoma  
6                Private School Accrediting Council,
- 7            c. receiving educational services from a public school  
8                district, including a charter school, that is not the  
9                resident district for the student,
- 10           d. co-curricular and extracurricular activities such as  
11                athletics drama, music, student clubs and other such  
12                activities,
- 13           e. textbooks,
- 14           f. tutoring,
- 15           g. testing for college entrance examinations,
- 16           h. college tuition and fees for concurrent enrollment,  
17                and
- 18           i. technology center school fees and tuition for  
19                concurrent enrollment;

20        2. "Qualified student" means a resident of the state other than  
21 a student who is being provided an education by other means and who  
22 otherwise is eligible to enroll in pre-kindergarten, a resident of  
23 the state who is eligible to enroll in grades kindergarten through  
24 twelve in a public school district who previously was enrolled the

1 first one hundred (100) days of the prior school year in an Oklahoma  
2 public school district or a child with a parent serving in active  
3 duty in the United States Military; and

4 3. "Resident district" means the public school district in  
5 which the student resides as defined in Section 1-113 of Title 70 of  
6 the Oklahoma Statutes.

7 SECTION 3. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 28-103 of Title 70, unless there  
9 is created a duplication in numbering, reads as follows:

10 A. There is hereby created the Oklahoma Education Empowerment  
11 Scholarship Savings Program to be administered by the Office of the  
12 State Treasurer to provide an education empowerment scholarship  
13 savings card for qualified expenditures to support the education of  
14 qualified students in this state.

15 B. To enroll for an education empowerment scholarship savings  
16 card, the parent or legal guardian of a qualified student must sign  
17 an agreement to do all of the following:

18 1. Use the education empowerment scholarship savings card only  
19 for qualified expenditures that serve an educational purpose,  
20 including but not limited to education in, at a minimum, the  
21 subjects of reading, English language arts, mathematics, social  
22 studies and science;

23 2. Not enroll the qualified student in a resident district  
24 unless the parent or legal guardian agrees to reimburse the Office

1 of the State Treasurer for any funds expended through the education  
2 empowerment scholarship savings card;

3 3. Not accept a scholarship from the Lindsey Nicole Henry  
4 Scholarships for Students with Disabilities Program created by  
5 Section 13-101.2 of Title 70 of the Oklahoma Statutes while  
6 participating in the Oklahoma Education Empowerment Scholarship  
7 Savings Program;

8 4. Release the resident district from all obligations to  
9 educate the qualified student; and

10 5. Not use the education empowerment scholarship savings card  
11 for computer hardware or other technological devices, transportation  
12 of the student, or consumable education supplies, including but not  
13 limited to paper, pens or markers.

14 C. Agreements shall be executed on forms provided by the Office  
15 of the State Treasurer, who shall verify compliance with the  
16 agreements.

17 D. A signed agreement pursuant to this section shall constitute  
18 compulsory attendance required by Section 10-105 of Title 70 of the  
19 Oklahoma Statutes.

20 E. The parent or legal guardian of a qualified student shall  
21 notify the State Department of Education of the date the qualified  
22 student withdraws from the resident district to participate in the  
23 Oklahoma Education Empowerment Scholarship Savings Program.  
24

1 F. A parent or legal guardian must renew a qualified student's  
2 education empowerment scholarship savings card application on an  
3 annual basis. The parent or legal guardian shall notify the Office  
4 of the State Treasurer and the State Department of Education if the  
5 qualified student enrolls in a resident district.

6 G. A qualified student shall no longer be eligible for an  
7 education empowerment scholarship savings card upon high school  
8 graduation or upon reaching age twenty-one (21), whichever comes  
9 first.

10 H. Monies received pursuant to the Oklahoma Education  
11 Empowerment Scholarship Savings Program shall not constitute taxable  
12 income to the parent or legal guardian of the qualified student or  
13 the qualified student.

14 SECTION 4. NEW LAW A new section of law to be codified  
15 in the Statutes as Section 28-104 of Title 70, unless there is  
16 created a duplication in numbering, reads as follows:

17 A. The Office of the State Treasurer may remove any parent or  
18 legal guardian of a qualified student from eligibility for the  
19 Oklahoma Education Empowerment Scholarship Savings Program if the  
20 parent or legal guardian fails to comply with the terms of the  
21 contract or applicable laws, rules or orders or misuses monies or  
22 fails to comply with the terms of the contract with intent to  
23 defraud. The Office of the State Treasurer shall suspend the  
24 education empowerment scholarship savings card of the parent or

1 legal guardian and shall notify the parent or legal guardian in  
2 writing that the education empowerment scholarship savings card has  
3 been suspended and that no further transactions shall be allowed.  
4 The notification shall specify the reason for the suspension and  
5 state that the parent or legal guardian has ten (10) days, not  
6 including weekends, to respond and take corrective action. If the  
7 parent or legal guardian refuses or fails to contact the Office of  
8 the State Treasurer, furnish any information or make any report that  
9 may be required for reinstatement within the ten-day period, the  
10 Office of the State Treasurer may remove the parent or legal  
11 guardian from participation in the Oklahoma Education Empowerment  
12 Scholarship Savings Program.

13 B. The parent or legal guardian of a qualified student may  
14 appeal the Office of the State Treasurer's decision pursuant to the  
15 Administrative Procedures Act.

16 C. The Office of the State Treasurer shall notify the State  
17 Department of Education of the removal of a parent or legal guardian  
18 of a qualified student from participation in the Oklahoma Education  
19 Empowerment Scholarship Savings Program.

20 D. The Office of the State Treasurer may refer cases of  
21 substantial misuse of monies to the attorney general for  
22 investigation if the Office obtains evidence of fraudulent use of an  
23 education empowerment scholarship savings card.  
24

1       SECTION 5.       NEW LAW       A new section of law to be codified  
2 in the Oklahoma Statutes as Section 28-105 of Title 70, unless there  
3 is created a duplication in numbering, reads as follows:

4       A. The Office of the State Treasurer shall determine a period  
5 of each year during which it will accept applications for the  
6 Oklahoma Education Empowerment Scholarship Savings Program for the  
7 following school fiscal year. On or before July 15 of each year,  
8 the Office of the State Treasurer shall provide the State Department  
9 of Education the names of qualified students who shall receive  
10 education empowerment scholarship savings cards for the following  
11 fiscal year.

12       B. For each qualified student who is accepted into the Oklahoma  
13 Education Empowerment Scholarship Savings Program pursuant to  
14 Section 3 of this act, the State Department of Education shall  
15 calculate the amount required to fund the education empowerment  
16 scholarship savings card for the following fiscal year. The State  
17 Department of Education shall transfer to the Office of the State  
18 Treasurer an annual amount equal to eighty percent (80%) of the  
19 total **amount of total state funding from the State Department of**  
20 **Education, exclusive of local ad valorem funding and federal**  
21 **funding, that otherwise would have been received by the local school**  
22 **district for expenditure in educating** each qualified student for the  
23 applicable school year. Of the funds transferred to the Office of  
24 the State Treasurer for this program, an amount not exceeding three

1 percent (3%) may be retained by the Office of the State Treasurer  
2 for administration of the Oklahoma Education Empowerment Scholarship  
3 Savings Program.

4 C. The parent or legal guardian of a qualified student shall  
5 submit receipts for qualified expenditures to the Office of the  
6 State Treasurer upon request. All funds that are unused shall  
7 accrue to the following year to be provided for qualified expenses  
8 for that qualified student. Any funds remaining to the credit of an  
9 education empowerment scholarship savings card by July 31 following  
10 graduation of the student shall be transferred into an Oklahoma  
11 College Savings Plan account created in the name of the qualified  
12 student to be used for qualified higher education expenses as  
13 defined by Section 3970.3 of Title 70 of the Oklahoma Statutes.

14 D. A provider of services pursuant to paragraph 1 of Section 2  
15 of this act shall not share, refund or rebate any amount expended  
16 from an education empowerment scholarship savings card with the  
17 parent or qualified student in any manner.

18 E. The parent or legal guardian of an Oklahoma College Savings  
19 Account Program participant who fails to comply with the  
20 requirements of the Program shall reimburse the Office of the State  
21 Treasurer an amount equivalent to the funds deposited to the credit  
22 of an education empowerment scholarship savings card. No interest  
23 or penalties shall be applicable to the reimbursement amount,  
24

1 subject to adherence to a repayment schedule established by the  
2 Office of the State Treasurer.

3 SECTION 6. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 28-106 of Title 70, unless there  
5 is created a duplication in numbering, reads as follows:

6 **The remaining twenty percent (20%) of total state funding from**  
7 **the State Department of Education, exclusive of local ad valorem**  
8 **funding and federal funding, shall be distributed by the State Board**  
9 **of Education to the same local school district in which the**  
10 **qualified student would otherwise attend to be expended in a manner**  
11 **decided by the local school district. Additionally, nothing herein**  
12 **shall be construed to require the local ad valorem funding which is**  
13 **paid by the qualified student's parent and/or federal funding**  
14 **received for the benefit of the student to be utilized in the**  
15 **funding of the Education Empowerment Savings and Scholarship Account**  
16 **and shall continue to be utilized by the local school district as**  
17 **provided by applicable law.**

18 SECTION 7. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 28-107 of Title 70, unless there  
20 is created a duplication in numbering, reads as follows:

21 There is hereby created in the State Treasury a revolving fund  
22 for the Office of the State Treasurer to be designated the "Oklahoma  
23 Education Empowerment Scholarship Savings Revolving Fund". The fund  
24 shall be a continuing fund, not subject to fiscal year limitations,

1 and shall consist of all monies received by the Office of the State  
2 Treasurer from the State Department of Education pursuant to  
3 subsection B of Section 5 of this act. All monies accruing to the  
4 credit of the fund are hereby appropriated and may be budgeted and  
5 expended by the Office of the State Treasurer for the purpose of  
6 funding education empowerment scholarship savings cards.  
7 Expenditures from the fund shall be made upon warrants issued by the  
8 State Treasurer against claims filed as prescribed by law with the  
9 Director of the Office of Management and Enterprise Services for  
10 approval and payment.

11 SECTION 8. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 28-108 of Title 70, unless there  
13 is created a duplication in numbering, reads as follows:

14 A public school district or charter school may apply to the  
15 State Department of Education for a waiver from participating in the  
16 Oklahoma Education Empowerment Scholarship Savings Program if the  
17 district board of education provides evidence showing that the  
18 district's per-pupil State Aid funding would decrease if it accepted  
19 qualified students.

20 SECTION 9. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 28-109 of Title 70, unless there  
22 is created a duplication in numbering, reads as follows:  
23  
24

1       The State Board of Education and the Office of the State  
2       Treasurer shall promulgate rules necessary to implement the  
3       provisions of this act.

4       SECTION 10.       AMENDATORY       68 O.S. 2011, Section 2358, as  
5       last amended by Section 1, Chapter 138, O.S.L. 2014 (68 O.S. Supp.  
6       2014, Section 2358), is amended to read as follows:

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

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

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

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

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

- 1           a.   For carryovers and carrybacks to taxable years  
2               beginning before January 1, 1981, the amount of any  
3               net operating loss deduction allowed to a taxpayer for  
4               federal income tax purposes shall be reduced to an  
5               amount which is the same portion thereof as the loss  
6               from sources within this state, as determined pursuant  
7               to this section and Section 2362 of this title, for  
8               the taxable year in which such loss is sustained is of  
9               the total loss for such year;
- 10          b.   For carryovers and carrybacks to taxable years  
11               beginning after December 31, 1980, the amount of any  
12               net operating loss deduction allowed for the taxable  
13               year shall be an amount equal to the aggregate of the  
14               Oklahoma net operating loss carryovers and carrybacks  
15               to such year. Oklahoma net operating losses shall be  
16               separately determined by reference to Section 172 of  
17               the Internal Revenue Code, 26 U.S.C., Section 172, as  
18               modified by the Oklahoma Income Tax Act, ~~Section 2351~~  
19               ~~et seq. of this title~~, and shall be allowed without  
20               regard to the existence of a federal net operating  
21               loss. For tax years beginning after December 31,  
22               2000, and ending before January 1, 2008, the years to  
23               which such losses may be carried shall be determined  
24               solely by reference to Section 172 of the Internal

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

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

21 a. Income from real and tangible personal property, such  
22 as rents, oil and mining production or royalties, and  
23 gains or losses from sales of such property, shall be  
24

1 allocated in accordance with the situs of such  
2 property;

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

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

22 (2) for taxable years beginning after December 31,  
23 2003, capital or ordinary gains or losses from  
24 the sale of an ownership interest in a publicly

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

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

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

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

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

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

22 (3) sales of the product stored in public warehouses  
23 within the state where the shipment to such  
24 warehouses is not covered by "in transit"

1 tariffs, as prescribed and allowed by the  
2 Interstate Commerce Commission, to a purchaser  
3 within or without the state,

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

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

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

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

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

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

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

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

- 21 a. The property factor is a fraction, the numerator of  
22 which is the average value of the taxpayer's real and  
23 tangible personal property owned or rented and used in  
24 this state during the tax period and the denominator

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

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

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

23 (3) The average value of property shall be determined  
24 by averaging the values at the beginning and

1 ending of the tax period but the Oklahoma Tax  
2 Commission may require the averaging of monthly  
3 values during the tax period if reasonably  
4 required to reflect properly the average value of  
5 the taxpayer's property;

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

15 (1) In the case of a transportation enterprise, the  
16 numerator of the fraction shall include a portion  
17 of such expenditure in connection with employees  
18 operating equipment over a fixed route, such as  
19 railroad employees, airline pilots, or bus  
20 drivers, in this state only a part of the time,  
21 in the proportion that mileage traveled in  
22 Oklahoma bears to total mileage traveled by such  
23 employees,  
24

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

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

16 (1) Sales of tangible personal property have a situs  
17 in this state if the property is delivered or  
18 shipped to a purchaser other than the United  
19 States government, within this state regardless  
20 of the FOB point or other conditions of the sale;  
21 or the property is shipped from an office, store,  
22 warehouse, factory or other place of storage in  
23 this state and (a) the purchaser is the United  
24 States government or (b) the taxpayer is not

1                   doing business in the state of the destination of  
2                   the shipment.

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

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

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

1 "traffic unit" is hereby defined as the  
2 transportation for a distance of one (1) mile of  
3 one (1) barrel of oil, one (1) gallon of gasoline  
4 or one thousand (1,000) cubic feet of natural or  
5 casinghead gas, as the case may be.

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

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

21 6. For calendar years 1997 and 1998, the owner of a new or  
22 expanded agricultural commodity processing facility in this state  
23 may exclude from Oklahoma taxable income, or in the case of an  
24 individual, the Oklahoma adjusted gross income, fifteen percent

(15%) of the investment by the owner in the new or expanded agricultural commodity processing facility. For calendar year 1999, and all subsequent years, the percentage, not to exceed fifteen percent (15%), available to the owner of a new or expanded agricultural commodity processing facility in this state claiming the exemption shall be adjusted annually so that the total estimated reduction in tax liability does not exceed One Million Dollars (\$1,000,000.00) annually. The Tax Commission shall promulgate rules for determining the percentage of the investment which each eligible taxpayer may exclude. The exclusion provided by this paragraph shall be taken in the taxable year when the investment is made. In the event the total reduction in tax liability authorized by this paragraph exceeds One Million Dollars (\$1,000,000.00) in any calendar year, the Tax Commission shall permit any excess over One Million Dollars (\$1,000,000.00) and shall factor such excess into the percentage for subsequent years. Any amount of the exemption permitted to be excluded pursuant to the provisions of this paragraph but not used in any year may be carried forward as an exemption from income pursuant to the provisions of this paragraph for a period not exceeding six (6) years following the year in which the investment was originally made.

For purposes of this paragraph:

- a. "Agricultural commodity processing facility" means building, structures, fixtures and improvements used

1 or operated primarily for the processing or production  
2 of marketable products from agricultural commodities.  
3 The term shall also mean a dairy operation that  
4 requires a depreciable investment of at least Two  
5 Hundred Fifty Thousand Dollars (\$250,000.00) and which  
6 produces milk from dairy cows. The term does not  
7 include a facility that provides only, and nothing  
8 more than, storage, cleaning, drying or transportation  
9 of agricultural commodities, and

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

- 12 (1) the processing of agricultural commodities,  
13 including receiving or storing agricultural  
14 commodities, or the production of milk at a dairy  
15 operation,  
16 (2) transporting the agricultural commodities or  
17 product before, during or after the processing,  
18 or  
19 (3) packaging or otherwise preparing the product for  
20 sale or shipment.

21 7. Despite any provision to the contrary in paragraph 3 of this  
22 subsection, for taxable years beginning after December 31, 1999, in  
23 the case of a taxpayer which has a farming loss, such farming loss  
24 shall be considered a net operating loss carryback in accordance

1 with and to the extent of the Internal Revenue Code, 26 U.S.C.,  
2 Section 172(b)(G). However, the amount of the net operating loss  
3 carryback shall not exceed the lesser of:

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

9 8. In taxable years beginning after December 31, 1995, all  
10 qualified wages equal to the federal income tax credit set forth in  
11 26 U.S.C.A., Section 45A, shall be deducted from taxable income.  
12 The deduction allowed pursuant to this paragraph shall only be  
13 permitted for the tax years in which the federal tax credit pursuant  
14 to 26 U.S.C.A., Section 45A, is allowed. For purposes of this  
15 paragraph, "qualified wages" means those wages used to calculate the  
16 federal credit pursuant to 26 U.S.C.A., Section 45A.

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

23 10. For taxable years beginning on or after January 1, 2010,  
24 there shall be added to Oklahoma taxable income an amount equal to

1 the amount of deferred income not included in such taxable income  
2 pursuant to Section 108(i)(1) of the Internal Revenue Code of 1986  
3 as amended by Section 1231 of the American Recovery and Reinvestment  
4 Act of 2009 (P.L. No. 111-5). There shall be subtracted from  
5 Oklahoma taxable income an amount equal to the amount of deferred  
6 income included in such taxable income pursuant to Section 108(i)(1)  
7 of the Internal Revenue Code of 1986, as amended by Section 1231 of  
8 the American Recovery and Reinvestment Act of 2009 (P.L. No. 111-5).

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

1 all Oklahoma income tax purposes through the final disposition of  
2 such assets.

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

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

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

22 C. 1. For taxable years beginning after December 31, 1987, the  
23 taxable income of any corporation shall be further adjusted to  
24 arrive at Oklahoma taxable income for transfers of technology to

1 qualified small businesses located in Oklahoma. Such transferor  
2 corporation shall be allowed an exemption from taxable income of an  
3 amount equal to the amount of royalty payment received as a result  
4 of such transfer; provided, however, such amount shall not exceed  
5 ten percent (10%) of the amount of gross proceeds received by such  
6 transferor corporation as a result of the technology transfer. Such  
7 exemption shall be allowed for a period not to exceed ten (10) years  
8 from the date of receipt of the first royalty payment accruing from  
9 such transfer. No exemption may be claimed for transfers of  
10 technology to qualified small businesses made prior to January 1,  
11 1988.

12 2. For purposes of this subsection:

13 a. "Qualified small business" means an entity, whether  
14 organized as a corporation, partnership, or  
15 proprietorship, organized for profit with its  
16 principal place of business located within this state  
17 and which meets the following criteria:

- 18 (1) Capitalization of not more than Two Hundred Fifty  
19 Thousand Dollars (\$250,000.00),  
20 (2) Having at least fifty percent (50%) of its  
21 employees and assets located in Oklahoma at the  
22 time of the transfer, and  
23 (3) Not a subsidiary or affiliate of the transferor  
24 corporation;

1           b. "Technology" means a proprietary process, formula,  
2           pattern, device or compilation of scientific or  
3           technical information which is not in the public  
4           domain;

5           c. "Transferor corporation" means a corporation which is  
6           the exclusive and undisputed owner of the technology  
7           at the time the transfer is made; and

8           d. "Gross proceeds" means the total amount of  
9           consideration for the transfer of technology, whether  
10          the consideration is in money or otherwise.

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

19          2. As used in this subsection:

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

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

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

16 (3) the sale of real property, tangible personal  
17 property or intangible personal property located  
18 within Oklahoma as part of the sale of all or  
19 substantially all of the assets of an Oklahoma  
20 company, limited liability company, or  
21 partnership where such property has been directly  
22 or indirectly owned by such entity owned by the  
23 owners of such entity, and used in or derived  
24 from such entity for a period of at least three

(3) years prior to the date of the transaction  
from which the net capital gains arise,

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

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

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

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

(1) With respect to sales of real property or  
tangible personal property located within  
Oklahoma, the deduction described in this  
subsection shall not apply unless the pass-

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

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

1 E. The Oklahoma adjusted gross income of any individual  
2 taxpayer shall be further adjusted as follows to arrive at Oklahoma  
3 taxable income:

4 1. a. In the case of individuals, there shall be added or  
5 deducted, as the case may be, the difference necessary  
6 to allow personal exemptions of One Thousand Dollars  
7 (\$1,000.00) in lieu of the personal exemptions allowed  
8 by the Internal Revenue Code.

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

20 c. There shall be allowed an additional exemption of One  
21 Thousand Dollars (\$1,000.00) for each taxpayer or  
22 spouse who is sixty-five (65) years of age or older at  
23 the close of the tax year based upon the filing status  
24 and federal adjusted gross income of the taxpayer.

1 Taxpayers with the following filing status may claim  
2 this exemption if the federal adjusted gross income  
3 does not exceed:

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

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

- 20 2. a. For taxable years beginning on or before December 31,  
21 2005, in the case of individuals who use the standard  
22 deduction in determining taxable income, there shall  
23 be added or deducted, as the case may be, the  
24 difference necessary to allow a standard deduction in

1 lieu of the standard deduction allowed by the Internal  
2 Revenue Code, in an amount equal to the larger of  
3 fifteen percent (15%) of the Oklahoma adjusted gross  
4 income or One Thousand Dollars (\$1,000.00), but not to  
5 exceed Two Thousand Dollars (\$2,000.00), except that  
6 in the case of a married individual filing a separate  
7 return such deduction shall be the larger of fifteen  
8 percent (15%) of such Oklahoma adjusted gross income  
9 or Five Hundred Dollars (\$500.00), but not to exceed  
10 the maximum amount of One Thousand Dollars  
11 (\$1,000.00).

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

- 20 (1) Three Thousand Dollars (\$3,000.00), if the filing  
21 status is married filing joint, head of household  
22 or qualifying widow; or  
23 (2) Two Thousand Dollars (\$2,000.00), if the filing  
24 status is single or married filing separate.

1 c. For the taxable year beginning on January 1, 2007, and  
2 ending December 31, 2007, in the case of individuals  
3 who use the standard deduction in determining taxable  
4 income, there shall be added or deducted, as the case  
5 may be, the difference necessary to allow a standard  
6 deduction in lieu of the standard deduction allowed by  
7 the Internal Revenue Code, in an amount equal to:

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

11 (2) Four Thousand One Hundred Twenty-five Dollars  
12 (\$4,125.00) for a head of household; or

13 (3) Two Thousand Seven Hundred Fifty Dollars  
14 (\$2,750.00), if the filing status is single or  
15 married filing separate.

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

- (1) Six Thousand Five Hundred Dollars (\$6,500.00), if the filing status is married filing joint or qualifying widow, or
- (2) Four Thousand Eight Hundred Seventy-five Dollars (\$4,875.00) for a head of household, or
- (3) Three Thousand Two Hundred Fifty Dollars (\$3,250.00), if the filing status is single or married filing separate.

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

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

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

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

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

1 deductions and personal exemptions shall be subject to proration as  
2 provided by law.

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

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

21 b. On or after July 1, 2010, one hundred percent (100%)  
22 of the income received by any person from the United  
23 States as salary or compensation in any form, other  
24 than retirement benefits, as a member of any component

1 of the Armed Forces of the United States shall be  
2 deducted from taxable income.

3 c. Whenever the filing of a timely income tax return by a  
4 member of the Armed Forces of the United States is  
5 made impracticable or impossible of accomplishment by  
6 reason of:

7 (1) absence from the United States, which term  
8 includes only the states and the District of  
9 Columbia;

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

12 (3) confinement in a hospital within the United  
13 States for treatment of wounds, injuries or  
14 disease,

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

19 (a) Such individual shall return to the United  
20 States if the extension is granted pursuant  
21 to subparagraph a of this paragraph, return  
22 to the State of Oklahoma if the extension is  
23 granted pursuant to subparagraph b of this  
24 paragraph or be discharged from such

1 hospital if the extension is granted  
2 pursuant to subparagraph c of this  
3 paragraph; or

4 (b) An executor, administrator, or conservator  
5 of the estate of the taxpayer is appointed,  
6 whichever event occurs the earliest.

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

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

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

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

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

12 c. For the purpose of this paragraph, "federal income  
13 taxes paid" shall mean federal income taxes, surtaxes  
14 imposed on incomes or excess profits taxes, as though  
15 the taxpayer was on the accrual basis. In determining  
16 the amount of deduction for federal income taxes for  
17 tax year 2001, the amount of the deduction shall not  
18 be adjusted by the amount of any accelerated ten  
19 percent (10%) tax rate bracket credit or advanced  
20 refund of the credit received during the tax year  
21 provided pursuant to the federal Economic Growth and  
22 Tax Relief Reconciliation Act of 2001, P.L. No. 107-  
23 16, and the advanced refund of such credit shall not  
24 be subject to taxation.

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

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

21          9.    In taxable years beginning after December 31, 1984, Social  
22   Security benefits received by an individual shall be exempt from  
23   taxable income, to the extent such benefits are included in the  
24

1 federal adjusted gross income pursuant to the provisions of Section  
2 86 of the Internal Revenue Code, 26 U.S.C., Section 86.

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

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

21 12. For taxable years beginning after December 31, 1996, the  
22 Oklahoma adjusted gross income of any individual taxpayer who is a  
23 swine or poultry producer may be further adjusted for the deduction  
24 for depreciation allowed for new construction or expansion costs

1 which may be computed using the same depreciation method elected for  
2 federal income tax purposes except that the useful life shall be  
3 seven (7) years for purposes of this paragraph. If depreciation is  
4 allowed as a deduction in determining the adjusted gross income of  
5 an individual, any depreciation calculated and claimed pursuant to  
6 this section shall in no event be a duplication of any depreciation  
7 allowed or permitted on the federal income tax return of the  
8 individual.

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

12 (1) the adoption of a minor, or

13 (2) a proposed adoption of a minor which did not  
14 result in a decreed adoption,

15 may be deducted from the Oklahoma adjusted gross  
16 income.

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

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

1 Commission shall prescribe necessary requirements for  
2 verification.

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

20 14. a. In taxable years beginning before January 1, 2005,  
21 retirement benefits not to exceed the amounts  
22 specified in this paragraph, which are received by an  
23 individual sixty-five (65) years of age or older and  
24 whose Oklahoma adjusted gross income is Twenty-five

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

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

- 14 (1) in taxable years beginning after December 31,  
15 2004, and prior to January 1, 2007, the  
16 qualifying amount shall be Thirty-seven Thousand  
17 Five Hundred Dollars (\$37,500.00) or less if the  
18 filing status is single, head of household, or  
19 married filing separate, or Seventy-Five Thousand  
20 Dollars (\$75,000.00) or less if the filing status  
21 is married filing jointly or qualifying widow,  
22 (2) in the taxable year beginning January 1, 2007,  
23 the qualifying amount shall be Fifty Thousand  
24 Dollars (\$50,000.00) or less if the filing status

1 is single, head of household, or married filing  
2 separate, or One Hundred Thousand Dollars

3 (\$100,000.00) or less if the filing status is  
4 married filing jointly or qualifying widow,

5 (3) in the taxable year beginning January 1, 2008,  
6 the qualifying amount shall be Sixty-two Thousand  
7 Five Hundred Dollars (\$62,500.00) or less if the  
8 filing status is single, head of household, or  
9 married filing separate, or One Hundred Twenty-  
10 five Thousand Dollars (\$125,000.00) or less if  
11 the filing status is married filing jointly or  
12 qualifying widow,

13 (4) in the taxable year beginning January 1, 2009,  
14 the qualifying amount shall be One Hundred  
15 Thousand Dollars (\$100,000.00) or less if the  
16 filing status is single, head of household, or  
17 married filing separate, or Two Hundred Thousand  
18 Dollars (\$200,000.00) or less if the filing  
19 status is married filing jointly or qualifying  
20 widow, and

21 (5) in the taxable year beginning January 1, 2010,  
22 and subsequent taxable years, there shall be no  
23 limitation upon the qualifying amount.  
24

1 c. For purposes of this paragraph, "retirement benefits"  
2 means the total distributions or withdrawals from the  
3 following:

- 4 (1) an employee pension benefit plan which satisfies  
5 the requirements of Section 401 of the Internal  
6 Revenue Code, 26 U.S.C., Section 401,  
7  
8 (2) an eligible deferred compensation plan that  
9 satisfies the requirements of Section 457 of the  
10 Internal Revenue Code, 26 U.S.C., Section 457,  
11  
12 (3) an individual retirement account, annuity or  
13 trust or simplified employee pension that  
14 satisfies the requirements of Section 408 of the  
15 Internal Revenue Code, 26 U.S.C., Section 408,  
16  
17 (4) an employee annuity subject to the provisions of  
18 Section 403(a) or (b) of the Internal Revenue  
19 Code, 26 U.S.C., Section 403(a) or (b),  
20  
21 (5) United States Retirement Bonds which satisfy the  
22 requirements of Section 86 of the Internal  
23 Revenue Code, 26 U.S.C., Section 86, or  
24  
25 (6) lump-sum distributions from a retirement plan  
26 which satisfies the requirements of Section  
27 402(e) of the Internal Revenue Code, 26 U.S.C.,  
28 Section 402(e).

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

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

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

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

15       b. In taxable years beginning after December 31, 2004,  
16 each taxpayer shall be allowed a deduction for  
17 contributions to accounts established pursuant to the  
18 Oklahoma College Savings Plan Act. The maximum annual  
19 deduction shall equal the amount of contributions to  
20 all such accounts plus any contributions to such  
21 accounts by the taxpayer for prior taxable years after  
22 December 31, 2004, which were not deducted, but in no  
23 event shall the deduction for each tax year exceed Ten  
24 Thousand Dollars (\$10,000.00) for each individual

1 taxpayer or Twenty Thousand Dollars (\$20,000.00) for  
2 taxpayers filing a joint return. Any amount of a  
3 contribution that is not deducted by the taxpayer in  
4 the year for which the contribution is made may be  
5 carried forward as a deduction from income for the  
6 succeeding five (5) years. For taxable years  
7 beginning after December 31, 2005, deductions may be  
8 taken for contributions and rollovers made during a  
9 taxable year and up to April 15 of the succeeding  
10 year, or the due date of a taxpayer's state income tax  
11 return, excluding extensions, whichever is later.  
12 Provided, a deduction for the same contribution may  
13 not be taken for two (2) different taxable years.

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

18 (1) for a taxpayer who qualified for the five-year  
19 carryforward election and who takes a rollover or  
20 nonqualified withdrawal during that period, the  
21 tax deduction otherwise available pursuant to  
22 subparagraph b of this paragraph shall be reduced  
23 by the amount which is equal to the rollover or  
24 nonqualified withdrawal, and

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

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

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

22 f. As used in this paragraph:  
23  
24

1 (1) "non-qualified withdrawal" means a withdrawal  
2 from an Oklahoma College Savings Plan account  
3 other than one of the following:  
4 (a) a qualified withdrawal,  
5 (b) a withdrawal made as a result of the death  
6 or disability of the designated beneficiary  
7 of an account,  
8 (c) a withdrawal that is made on the account of  
9 a scholarship or the allowance or payment  
10 described in Section 135(d)(1)(B) or (C) or  
11 by the Internal Revenue Code, received by  
12 the designated beneficiary to the extent the  
13 amount of the refund does not exceed the  
14 amount of the scholarship, allowance, or  
15 payment, or  
16 (d) a rollover or change of designated  
17 beneficiary as permitted by subsection F of  
18 Section 3970.7 of Title 70 of Oklahoma  
19 Statutes, and

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

23 18. For taxable years beginning after December 31, 2005,  
24 retirement benefits received by an individual from any component of

1 the Armed Forces of the United States in an amount not to exceed the  
2 greater of seventy-five percent (75%) of such benefits or Ten  
3 Thousand Dollars (\$10,000.00) shall be exempt from taxable income  
4 but in no case less than the amount of the exemption provided by  
5 paragraph 14 of this subsection.

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

- 13 a. in the taxable year beginning January 1, 2007, twenty  
14 percent (20%) of such benefits shall be exempt,
- 15 b. in the taxable year beginning January 1, 2008, forty  
16 percent (40%) of such benefits shall be exempt,
- 17 c. in the taxable year beginning January 1, 2009, sixty  
18 percent (60%) of such benefits shall be exempt,
- 19 d. in the taxable year beginning January 1, 2010, eighty  
20 percent (80%) of such benefits shall be exempt, and  
21 e. in the taxable year beginning January 1, 2011, and  
22 subsequent taxable years, one hundred percent (100%)  
23 of such benefits shall be exempt.  
24

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

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

17      c. The Oklahoma Tax Commission shall promulgate rules to  
18      implement the provisions of this paragraph which shall  
19      contain a specific list of expenses which may be  
20      presumed to qualify for the deduction. The Tax  
21      Commission shall prescribe necessary requirements for  
22      verification.

23      21. For taxable years beginning after December 31, 2009, there  
24      shall be exempt from taxable income any amount received by the

1 beneficiary of the death benefit for an emergency medical technician  
2 or a registered emergency medical responder provided by Section 1-  
3 2505.1 of Title 63 of the Oklahoma Statutes.

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

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

16 24. For taxable years beginning after December 31, 2015, there  
17 shall be exempt from taxable income any monies received pursuant to  
18 the Oklahoma Education Empowerment Scholarship Savings Program as  
19 established in Sections 28-101 through 28-109 of Title 70 of the  
20 Oklahoma Statutes.

21 F. 1. For taxable years beginning after December 31, 2004, a  
22 deduction from the Oklahoma adjusted gross income of any individual  
23 taxpayer shall be allowed for qualifying gains receiving capital  
24

1 treatment that are included in the federal adjusted gross income of  
2 such individual taxpayer during the taxable year.

3 2. As used in this subsection:

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

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

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

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

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

20 c. "Oklahoma company," "limited liability company," or  
21 "partnership" means an entity whose primary  
22 headquarters have been located in Oklahoma for at  
23 least three (3) uninterrupted years prior to the date  
24

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

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

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

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

22 (2) With respect to sales of stock or ownership  
23 interest in or sales of all or substantially all  
24 of the assets of an Oklahoma company, limited

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

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

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

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

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

- a. the term "real estate investment trust" or "REIT" means the meaning ascribed to such term in Section 856 of the Internal Revenue Code of 1986, as amended,
- b. the term "captive real estate investment trust" means a real estate investment trust, the shares or beneficial interests of which are not regularly traded on an established securities market and more than fifty percent (50%) of the voting power or value of the beneficial interests or shares of which are owned or controlled, directly or indirectly, or constructively, by a single entity that is:

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

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

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

- 15 (1) any real estate investment trust as defined in  
16 paragraph a of this subsection other than a  
17 "captive real estate investment trust", or  
18 (2) any qualified real estate investment trust  
19 subsidiary under Section 856(i) of the Internal  
20 Revenue Code of 1986, as amended, other than a  
21 qualified REIT subsidiary of a "captive real  
22 estate investment trust", or  
23 (3) any Listed Australian Property Trust (meaning an  
24 Australian unit trust registered as a "Managed

Investment Scheme" under the Australian Corporations Act in which the principal class of units is listed on a recognized stock exchange in Australia and is regularly traded on an established securities market), or an entity organized as a trust, provided that a Listed Australian Property Trust owns or controls, directly or indirectly, seventy-five percent (75%) or more of the voting power or value of the beneficial interests or shares of such trust, or

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

(a) at least seventy-five percent (75%) of the entity's total asset value at the close of its taxable year is represented by real estate assets, as defined in Section 856(c)(5)(B) of the Internal Revenue Code of 1986, as amended, thereby including shares or certificates of beneficial interest in any real estate investment trust, cash and cash equivalents, and U.S. Government securities,

- 1 (b) the entity receives a dividend-paid  
2 deduction comparable to Section 561 of the  
3 Internal Revenue Code of 1986, as amended,  
4 or is exempt from entity level tax,
- 5 (c) the entity is required to distribute at  
6 least eighty-five percent (85%) of its  
7 taxable income, as computed in the  
8 jurisdiction in which it is organized, to  
9 the holders of its shares or certificates of  
10 beneficial interest on an annual basis,
- 11 (d) not more than ten percent (10%) of the  
12 voting power or value in such entity is held  
13 directly or indirectly or constructively by  
14 a single entity or individual, or the shares  
15 or beneficial interests of such entity are  
16 regularly traded on an established  
17 securities market, and
- 18 (e) the entity is organized in a country which  
19 has a tax treaty with the United States.

20 3. For purposes of this subsection, the constructive ownership  
21 rules of Section 318(a) of the Internal Revenue Code of 1986, as  
22 amended, as modified by Section 856(d)(5) of the Internal Revenue  
23 Code of 1986, as amended, shall apply in determining the ownership  
24 of stock, assets, or net profits of any person.

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

15       ~~SECTION 11. This act shall become effective July 1, 2015.~~

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

20 COMMITTEE REPORT BY: COMMITTEE ON FINANCE  
February 24, 2015 - DO PASS AS AMENDED  
21  
22  
23  
24