

ENGROSSED HOUSE AMENDMENT

TO

ENGROSSED SENATE BILL NO. 315

By: Mazzei, Aldridge, Johnson  
(Mike) and Branan of the  
Senate

and

Hickman of the House

( revenue and taxation - modifying income tax rate -  
deleting contingency - repealing requirement -  
effective date )

AUTHORS: Add the following House Coauthors: Fields, Kern, Liebmann  
and Thompson

AMENDMENT NO. 1. Strike the stricken title, enacting clause and  
entire bill and insert

“( revenue and taxation - modifying income tax rate -  
deleting contingency - repealing requirement -  
exemption - livestock events - income tax  
exemption - payments resulting from death of  
certain persons in combat zone - codification -  
effective date )

SECTION 6. AMENDATORY 68 O.S. 2001, Section 2355, as last amended by Section 7, Chapter 136, O.S.L. 2007 (68 O.S. Supp. 2008, Section 2355), is amended to read as follows:

Section 2355. A. Individuals. For all taxable years beginning after December 31, 1998 and before January 1, 2006, a tax is hereby imposed upon the Oklahoma taxable income of every resident or nonresident individual, which tax shall be computed at the option of the taxpayer under one of the two following methods:

1. METHOD 1.

a. Single individuals and married individuals filing separately not deducting federal income tax:

- (1) 1/2% tax on first \$1,000.00 or part thereof,
- (2) 1% tax on next \$1,500.00 or part thereof,
- (3) 2% tax on next \$1,250.00 or part thereof,
- (4) 3% tax on next \$1,150.00 or part thereof,
- (5) 4% tax on next \$1,300.00 or part thereof,
- (6) 5% tax on next \$1,500.00 or part thereof,
- (7) 6% tax on next \$2,300.00 or part thereof, and
- (8) (a) for taxable years beginning after December 31, 1998, and before January 1, 2002, 6.75% tax on the remainder,  
(b) for taxable years beginning on or after January 1, 2002, and before January 1, 2004, 7% tax on the remainder, and

(c) for taxable years beginning on or after  
January 1, 2004, 6.65% tax on the remainder.

b. Married individuals filing jointly and surviving  
spouse to the extent and in the manner that a  
surviving spouse is permitted to file a joint return  
under the provisions of the Internal Revenue Code and  
heads of households as defined in the Internal Revenue  
Code not deducting federal income tax:

(1) 1/2% tax on first \$2,000.00 or part thereof,

(2) 1% tax on next \$3,000.00 or part thereof,

(3) 2% tax on next \$2,500.00 or part thereof,

(4) 3% tax on next \$2,300.00 or part thereof,

(5) 4% tax on next \$2,400.00 or part thereof,

(6) 5% tax on next \$2,800.00 or part thereof,

(7) 6% tax on next \$6,000.00 or part thereof, and

(8) (a) for taxable years beginning after December  
31, 1998, and before January 1, 2002, 6.75%  
tax on the remainder,

(b) for taxable years beginning on or after  
January 1, 2002, and before January 1, 2004,  
7% tax on the remainder, and

(c) for taxable years beginning on or after  
January 1, 2004, 6.65% tax on the remainder.

## 2. METHOD 2.

a. Single individuals and married individuals filing separately deducting federal income tax:

- (1) 1/2% tax on first \$1,000.00 or part thereof,
- (2) 1% tax on next \$1,500.00 or part thereof,
- (3) 2% tax on next \$1,250.00 or part thereof,
- (4) 3% tax on next \$1,150.00 or part thereof,
- (5) 4% tax on next \$1,200.00 or part thereof,
- (6) 5% tax on next \$1,400.00 or part thereof,
- (7) 6% tax on next \$1,500.00 or part thereof,
- (8) 7% tax on next \$1,500.00 or part thereof,
- (9) 8% tax on next \$2,000.00 or part thereof,
- (10) 9% tax on next \$3,500.00 or part thereof, and
- (11) 10% tax on the remainder.

b. Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code deducting federal income tax:

- (1) 1/2% tax on the first \$2,000.00 or part thereof,
- (2) 1% tax on the next \$3,000.00 or part thereof,
- (3) 2% tax on the next \$2,500.00 or part thereof,
- (4) 3% tax on the next \$1,400.00 or part thereof,
- (5) 4% tax on the next \$1,500.00 or part thereof,

- (6) 5% tax on the next \$1,600.00 or part thereof,
- (7) 6% tax on the next \$1,250.00 or part thereof,
- (8) 7% tax on the next \$1,750.00 or part thereof,
- (9) 8% tax on the next \$3,000.00 or part thereof,
- (10) 9% tax on the next \$6,000.00 or part thereof, and
- (11) 10% tax on the remainder.

B. Individuals. For all taxable years beginning on or after January 1, 2008, a tax is hereby imposed upon the Oklahoma taxable income of every resident or nonresident individual, which tax shall be computed as follows:

1. Single individuals and married individuals filing separately:

- (a) 1/2% tax on first ~~\$1,000.00~~ \$1,250.00 or part thereof,
- (b) 1% tax on next ~~\$1,500.00~~ \$1,150.00 or part thereof,
- (c) 2% tax on next ~~\$1,250.00~~ \$2,300.00 or part thereof,
- (d) 3% tax on next ~~\$1,150.00~~ \$1,500.00 or part thereof, and
- (e) 4% tax on ~~next \$2,300.00 or part thereof,~~
- ~~(f) 5% tax on next \$1,500.00 or part thereof,~~
- ~~(g) 5.50% tax on the remainder for the 2008 tax year and~~  
~~any subsequent tax year unless the rate prescribed by~~  
~~subparagraph (h) of this paragraph is in effect, and~~

~~(h) 5.25% tax on the remainder for the 2009 and subsequent tax years. The decrease in the top marginal individual income tax rate otherwise authorized by this subparagraph shall be contingent upon the determination required to be made by the State Board of Equalization pursuant to Section 2355.1A of this title the remainder.~~

2. Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code:

- (a) 1/2% tax on first ~~\$2,000.00~~ \$2,500.00 or part thereof,
- (b) 1% tax on next ~~\$3,000.00~~ \$2,300.00 or part thereof,
- (c) 2% tax on next ~~\$2,500.00~~ \$2,400.00 or part thereof,
- (d) 3% tax on next ~~\$2,300.00~~ \$2,800.00 or part thereof, and
- (e) 4% tax on ~~next \$2,400.00 or part thereof,~~
- ~~(f) 5% tax on next \$2,800.00 or part thereof,~~
- ~~(g) 5.50% tax on the remainder for the 2008 tax year and any subsequent tax year unless the rate prescribed by subparagraph (h) of this paragraph is in effect, and~~

~~(h) 5.25% tax on the remainder for the 2009 and subsequent tax years. The decrease in the top marginal individual income tax rate otherwise authorized by this subparagraph shall be contingent upon the determination required to be made by the State Board of Equalization pursuant to Section 2355.1A of this title the remainder.~~

No deduction for federal income taxes paid shall be allowed to any taxpayer to arrive at taxable income.

C. Nonresident aliens. In lieu of the rates set forth in subsection A above, there shall be imposed on nonresident aliens, as defined in the Internal Revenue Code, a tax of eight percent (8%) instead of thirty percent (30%) as used in the Internal Revenue Code, with respect to the Oklahoma taxable income of such nonresident aliens as determined under the provision of the Oklahoma Income Tax Act.

Every payer of amounts covered by this subsection shall deduct and withhold from such amounts paid each payee an amount equal to eight percent (8%) thereof. Every payer required to deduct and withhold taxes under this subsection shall for each quarterly period on or before the last day of the month following the close of each such quarterly period, pay over the amount so withheld as taxes to the Tax Commission, and shall file a return with each such payment. Such return shall be in such form as the Tax Commission shall

prescribe. Every payer required under this subsection to deduct and withhold a tax from a payee shall, as to the total amounts paid to each payee during the calendar year, furnish to such payee, on or before January 31, of the succeeding year, a written statement showing the name of the payer, the name of the payee and the payee's social security account number, if any, the total amount paid subject to taxation, and the total amount deducted and withheld as tax and such other information as the Tax Commission may require. Any payer who fails to withhold or pay to the Tax Commission any sums herein required to be withheld or paid shall be personally and individually liable therefor to the State of Oklahoma.

D. Corporations. For all taxable years beginning after December 31, 1989, a tax is hereby imposed upon the Oklahoma taxable income of every corporation doing business within this state or deriving income from sources within this state in an amount equal to six percent (6%) thereof.

There shall be no additional Oklahoma income tax imposed on accumulated taxable income or on undistributed personal holding company income as those terms are defined in the Internal Revenue Code.

E. Certain foreign corporations. In lieu of the tax imposed in the first paragraph of subsection C of this section, for all taxable years beginning after December 31, 1989, there shall be imposed on foreign corporations, as defined in the Internal Revenue Code, a tax



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2 of six percent (6%) instead of thirty percent (30%) as used in the  
3 Internal Revenue Code, where such income is received from sources  
4 within Oklahoma, in accordance with the provisions of the Internal  
5 Revenue Code and the Oklahoma Income Tax Act.

6 Every payer of amounts covered by this subsection shall deduct  
7 and withhold from such amounts paid each payee an amount equal to  
8 six percent (6%) thereof. Every payer required to deduct and  
9 withhold taxes under this subsection shall for each quarterly period  
10 on or before the last day of the month following the close of each  
11 such quarterly period, pay over the amount so withheld as taxes to  
12 the Tax Commission, and shall file a return with each such payment.  
13 Such return shall be in such form as the Tax Commission shall  
14 prescribe. Every payer required under this subsection to deduct and  
15 withhold a tax from a payee shall, as to the total amounts paid to  
16 each payee during the calendar year, furnish to such payee, on or  
17 before January 31, of the succeeding year, a written statement  
18 showing the name of the payer, the name of the payee and the payee's  
19 social security account number, if any, the total amounts paid  
20 subject to taxation, the total amount deducted and withheld as tax  
21 and such other information as the Tax Commission may require. Any  
22 payer who fails to withhold or pay to the Tax Commission any sums  
23 herein required to be withheld or paid shall be personally and  
24 individually liable therefor to the State of Oklahoma.

F. Fiduciaries. A tax is hereby imposed upon the Oklahoma

taxable income of every trust and estate at the same rates as are provided in subsection B of this section for single individuals. Fiduciaries are not allowed a deduction for any federal income tax paid.

G. Tax rate tables. For all taxable years beginning after December 31, 1991, in lieu of the tax imposed by subsection A or B of this section, as applicable there is hereby imposed for each taxable year on the taxable income of every individual, whose taxable income for such taxable year does not exceed the ceiling amount, a tax determined under tables, applicable to such taxable year which shall be prescribed by the Tax Commission and which shall be in such form as it determines appropriate. In the table so prescribed, the amounts of the tax shall be computed on the basis of the rates prescribed by subsections A and B of this section. For purposes of this subsection, the term "ceiling amount" means, with respect to any taxpayer, the amount determined by the Tax Commission for the tax rate category in which such taxpayer falls.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-735.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A person or business entity recognized by the laws of this state that engages in, or is associated with a business entity that engages in, the following acts in violation of Oklahoma law shall not be eligible for any Oklahoma income tax credits or incentive

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2 payments:

3 1. Knowingly conducting nontherapeutic research that destroys a  
4 human embryo or subjects a human embryo to substantial risk of  
5 injury or death;

6 2. Transferring a human embryo with the knowledge that the  
7 embryo will be subjected to nontherapeutic research; or

8 3. Using for research purposes cells or tissues that the person  
9 knows were obtained by performing activities in violation of this  
10 section.

11 B. No state agency shall invest in a business entity that  
12 engages in the acts prohibited by this section.

13 SECTION 6. AMENDATORY 68 O.S. 2001, Section 2358, as  
14 last amended by Section 3, Chapter 395, O.S.L. 2008 (68 O.S. Supp.  
15 2008, Section 2358), is amended to read as follows:

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

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

23 1. There shall be added interest income on obligations of any  
24 state or political subdivision thereto which is not otherwise  
exempted pursuant to other laws of this state, to the extent that

such interest is not included in taxable income and adjusted gross income.

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

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

- a. For carryovers and carrybacks to taxable years beginning before January 1, 1981, the amount of any net operating loss deduction allowed to a taxpayer for federal income tax purposes shall be reduced to an amount which is the same portion thereof as the loss from sources within this state, as determined pursuant to this section and Section 2362 of this title, for the taxable year in which such loss is sustained is of the total loss for such year;
- b. For carryovers and carrybacks to taxable years beginning after December 31, 1980, the amount of any net operating loss deduction allowed for the taxable year shall be an amount equal to the aggregate of the Oklahoma net operating loss carryovers and carrybacks to such year. Oklahoma net operating losses shall be separately determined by reference to Section 172 of

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2 the Internal Revenue Code, 26 U.S.C., Section 172, as  
3 modified by the Oklahoma Income Tax Act, Section 2351  
4 et seq. of this title, and shall be allowed without  
5 regard to the existence of a federal net operating  
6 loss. For tax years beginning after December 31,  
7 2000, the years to which such losses may be carried  
8 shall be determined solely by reference to Section 172  
9 of the Internal Revenue Code, 26 U.S.C., Section 172,  
10 with the exception that the terms "net operating loss"  
11 and "taxable income" shall be replaced with "Oklahoma  
12 net operating loss" and "Oklahoma taxable income".

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

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

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

- (1) where such property has acquired a nonunitary business or commercial situs apart from the domicile of the taxpayer such income shall be allocated in accordance with such business or commercial situs; interest income from investments held to generate working capital for a unitary business enterprise shall be included in apportionable income; a resident trust or resident estate shall be treated as having a separate commercial or business situs insofar as undistributed income is concerned, but shall not be treated as having a separate commercial or business situs insofar as distributed income is concerned,
- (2) for taxable years beginning after December 31, 2003, capital or ordinary gains or losses from the sale of an ownership interest in a publicly traded partnership, as defined by Section 7704(b) of the Internal Revenue Code of 1986, as amended, shall be allocated to this state in the ratio of the original cost of such partnership's tangible property in this state to the original cost of

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

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

24 c. Net income or loss from a business activity which is  
not a part of business carried on within or without

the state of a unitary character shall be separately allocated to the state in which such activity is conducted;

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

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

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

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

the Oklahoma net income shall, at the option of the taxpayer, be that portion of the total net income of the taxpayer for federal income tax purposes derived



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2 from the manufacture and/or processing and sales  
3 everywhere as determined by the ratio of the sales  
4 defined in this section made to the purchaser within  
5 the state to the total sales everywhere. The term  
6 "public warehouse" as used in this subparagraph means  
7 a licensed public warehouse, the principal business of  
8 which is warehousing merchandise for the public;

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

14 (1) except as otherwise provided by division (2) of  
15 this subparagraph, taxable income of an insurance  
16 company for a taxable year shall be apportioned  
17 to this state by multiplying such income by a  
18 fraction, the numerator of which is the direct  
19 premiums written for insurance on property or  
20 risks in this state, and the denominator of which  
21 is the direct premiums written for insurance on  
22 property or risks everywhere. For purposes of  
23 this subsection, the term "direct premiums  
24 written" means the total amount of direct  
premiums written, assessments and annuity

considerations as reported for the taxable year on the annual statement filed by the company with the Insurance Commissioner in the form approved by the National Association of Insurance Commissioners, or such other form as may be prescribed in lieu thereof,

- (2) if the principal source of premiums written by an insurance company consists of premiums for reinsurance accepted by it, the taxable income of such company shall be apportioned to this state by multiplying such income by a fraction, the numerator of which is the sum of (a) direct premiums written for insurance on property or risks in this state, plus (b) premiums written for reinsurance accepted in respect of property or risks in this state, and the denominator of which is the sum of (c) direct premiums written for insurance on property or risks everywhere, plus (d) premiums written for reinsurance accepted in respect of property or risks everywhere. For purposes of this paragraph, premiums written for reinsurance accepted in respect of property or risks in this state, whether or not otherwise determinable, may at the

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2 election of the company be determined on the  
3 basis of the proportion which premiums written  
4 for insurance accepted from companies  
5 commercially domiciled in Oklahoma bears to  
6 premiums written for reinsurance accepted from  
7 all sources, or alternatively in the proportion  
8 which the sum of the direct premiums written for  
9 insurance on property or risks in this state by  
10 each ceding company from which reinsurance is  
11 accepted bears to the sum of the total direct  
12 premiums written by each such ceding company for  
13 the taxable year.

14 5. The net income or loss remaining after the separate  
15 allocation in paragraph 4 of this subsection, being that which is  
16 derived from a unitary business enterprise, shall be apportioned to  
17 this state on the basis of the arithmetical average of three factors  
18 consisting of property, payroll and sales or gross revenue  
19 enumerated as subparagraphs a, b and c of this paragraph. Net  
20 income or loss as used in this paragraph includes that derived from  
21 patent or copyright royalties, purchase discounts, and interest on  
22 accounts receivable relating to or arising from a business activity,  
23 the income from which is apportioned pursuant to this subsection,  
24 including the sale or other disposition of such property and any  
other property used in the unitary enterprise. Deductions used in

computing such net income or loss shall not include taxes based on or measured by income. Provided, for corporations whose property for purposes of the tax imposed by Section 2355 of this title has an initial investment cost equaling or exceeding Two Hundred Million Dollars (\$200,000,000.00) and such investment is made on or after July 1, 1997, or for corporations which expand their property or facilities in this state and such expansion has an investment cost equaling or exceeding Two Hundred Million Dollars (\$200,000,000.00) over a period not to exceed three (3) years, and such expansion is commenced on or after January 1, 2000, the three factors shall be apportioned with property and payroll, each comprising twenty-five percent (25%) of the apportionment factor and sales comprising fifty percent (50%) of the apportionment factor. The apportionment factors shall be computed as follows:

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

- (1) Property, the income from which is separately allocated in paragraph 4 of this subsection, shall not be included in determining this

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2 fraction. The numerator of the fraction shall  
3 include a portion of the investment in  
4 transportation and other equipment having no  
5 fixed situs, such as rolling stock, buses, trucks  
6 and trailers, including machinery and equipment  
7 carried thereon, airplanes, salespersons'  
8 automobiles and other similar equipment, in the  
9 proportion that miles traveled in Oklahoma by  
10 such equipment bears to total miles traveled,

11 (2) Property owned by the taxpayer is valued at its  
12 original cost. Property rented by the taxpayer  
13 is valued at eight times the net annual rental  
14 rate. Net annual rental rate is the annual  
15 rental rate paid by the taxpayer, less any annual  
16 rental rate received by the taxpayer from  
17 subrentals,

18 (3) The average value of property shall be determined  
19 by averaging the values at the beginning and  
20 ending of the tax period but the Oklahoma Tax  
21 Commission may require the averaging of monthly  
22 values during the tax period if reasonably  
23 required to reflect properly the average value of  
24 the taxpayer's property;

b. The payroll factor is a fraction, the numerator of

which is the total compensation for services rendered in the state during the tax period, and the denominator of which is the total compensation for services rendered everywhere during the tax period.

"Compensation", as used in this subsection means those paid-for services to the extent related to the unitary business but does not include officers' salaries, wages and other compensation.

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

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

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2 c. The sales factor is a fraction, the numerator of which  
3 is the total sales or gross revenue of the taxpayer in  
4 this state during the tax period, and the denominator  
5 of which is the total sales or gross revenue of the  
6 taxpayer everywhere during the tax period. "Sales",  
7 as used in this subsection does not include sales or  
8 gross revenue which are separately allocated in  
9 paragraph 4 of this subsection.

10 (1) Sales of tangible personal property have a situs  
11 in this state if the property is delivered or  
12 shipped to a purchaser other than the United  
13 States government, within this state regardless  
14 of the FOB point or other conditions of the sale;  
15 or the property is shipped from an office, store,  
16 warehouse, factory or other place of storage in  
17 this state and (a) the purchaser is the United  
18 States government or (b) the taxpayer is not  
19 doing business in the state of the destination of  
20 the shipment.

21 (2) In the case of a railroad or interurban railway  
22 enterprise, the numerator of the fraction shall  
23 not be less than the allocation of revenues to  
24 this state as shown in its annual report to the  
Corporation Commission.

- (3) In the case of an airline, truck or bus enterprise or freight car, tank car, refrigerator car or other railroad equipment enterprise, the numerator of the fraction shall include a portion of revenue from interstate transportation in the proportion that interstate mileage traveled in Oklahoma bears to total interstate mileage traveled.
- (4) In the case of an oil, gasoline or gas pipeline enterprise, the numerator of the fraction shall be either the total of traffic units of the enterprise within Oklahoma or the revenue allocated to Oklahoma based upon miles moved, at the option of the taxpayer, and the denominator of which shall be the total of traffic units of the enterprise or the revenue of the enterprise everywhere as appropriate to the numerator. A "traffic unit" is hereby defined as the transportation for a distance of one (1) mile of one (1) barrel of oil, one (1) gallon of gasoline or one thousand (1,000) cubic feet of natural or casinghead gas, as the case may be.
- (5) In the case of a telephone or telegraph or other communication enterprise, the numerator of the



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

19 In any case where the apportionment of the three factors  
20 prescribed in this paragraph attributes to Oklahoma a portion of net  
21 income of the enterprise out of all appropriate proportion to the  
22 property owned and/or business transacted within this state, because  
23 of the fact that one or more of the factors so prescribed are not  
24 employed to any appreciable extent in furtherance of the enterprise;  
or because one or more factors not so prescribed are employed to a

considerable extent in furtherance of the enterprise; or because of other reasons, the Tax Commission is empowered to permit, after a showing by taxpayer that an excessive portion of net income has been attributed to Oklahoma, or require, when in its judgment an insufficient portion of net income has been attributed to Oklahoma, the elimination, substitution, or use of additional factors, or reduction or increase in the weight of such prescribed factors. Provided, however, that any such variance from such prescribed factors which has the effect of increasing the portion of net income attributable to Oklahoma must not be inherently arbitrary, and application of the recomputed final apportionment to the net income of the enterprise must attribute to Oklahoma only a reasonable portion thereof.

6. For calendar years 1997 and 1998, the owner of a new or expanded agricultural commodity processing facility in this state may exclude from Oklahoma taxable income, or in the case of an 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 (\$1,000,000.00) annually. The Tax Commission shall promulgate rules  
2 for determining the percentage of the investment which each eligible  
3 taxpayer may exclude. The exclusion provided by this paragraph  
4 shall be taken in the taxable year when the investment is made. In  
5 the event the total reduction in tax liability authorized by this  
6 paragraph exceeds One Million Dollars (\$1,000,000.00) in any  
7 calendar year, the Tax Commission shall permit any excess over One  
8 Million Dollars (\$1,000,000.00) and shall factor such excess into  
9 the percentage for subsequent years. Any amount of the exemption  
10 permitted to be excluded pursuant to the provisions of this  
11 paragraph but not used in any year may be carried forward as an  
12 exemption from income pursuant to the provisions of this paragraph  
13 for a period not exceeding six (6) years following the year in which  
14 the investment was originally made.  
15

16 For purposes of this paragraph:

- 17 a. "Agricultural commodity processing facility" means  
18 building, structures, fixtures and improvements used  
19 or operated primarily for the processing or production  
20 of marketable products from agricultural commodities.  
21 The term shall also mean a dairy operation that  
22 requires a depreciable investment of at least Two  
23 Hundred Fifty Thousand Dollars (\$250,000.00) and which  
24 produces milk from dairy cows. The term does not  
include a facility that provides only, and nothing

more than, storage, cleaning, drying or transportation of agricultural commodities, and

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

- (1) the processing of agricultural commodities, including receiving or storing agricultural commodities, or the production of milk at a dairy operation,
- (2) transporting the agricultural commodities or product before, during or after the processing, or
- (3) packaging or otherwise preparing the product for sale or shipment.

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

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

1  
2       8. In taxable years beginning after December 31, 1995, all  
3 qualified wages equal to the federal income tax credit set forth in  
4 26 U.S.C.A., Section 45A, shall be deducted from taxable income.  
5 The deduction allowed pursuant to this paragraph shall only be  
6 permitted for the tax years in which the federal tax credit pursuant  
7 to 26 U.S.C.A., Section 45A, is allowed. For purposes of this  
8 paragraph, "qualified wages" means those wages used to calculate the  
9 federal credit pursuant to 26 U.S.C.A., Section 45A.

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

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

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

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

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

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

1  
2 qualified small businesses located in Oklahoma. Such transferor  
3 corporation shall be allowed an exemption from taxable income of an  
4 amount equal to the amount of royalty payment received as a result  
5 of such transfer; provided, however, such amount shall not exceed  
6 ten percent (10%) of the amount of gross proceeds received by such  
7 transferor corporation as a result of the technology transfer. Such  
8 exemption shall be allowed for a period not to exceed ten (10) years  
9 from the date of receipt of the first royalty payment accruing from  
10 such transfer. No exemption may be claimed for transfers of  
11 technology to qualified small businesses made prior to January 1,  
12 1988.

13 2. For purposes of this subsection:

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

- b. "Technology" means a proprietary process, formula, pattern, device or compilation of scientific or technical information which is not in the public domain;
- c. "Transferor corporation" means a corporation which is the exclusive and undisputed owner of the technology at the time the transfer is made; and
- d. "Gross proceeds" means the total amount of consideration for the transfer of technology, whether the consideration is in money or otherwise.

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

2. As used in this subsection:

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



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

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

17 (3) the sale of real property, tangible personal  
18 property or intangible personal property located  
19 within Oklahoma as part of the sale of all or  
20 substantially all of the assets of an Oklahoma  
21 company, limited liability company, or  
22 partnership where such property has been directly  
23 or indirectly owned by such entity owned by the  
24 owners of such entity, and used in or derived  
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  
2 through entity that makes the sale has held the  
3 property for not less than five (5) uninterrupted  
4 years prior to the date of the transaction that  
5 created the capital gain, and each pass-through  
6 entity included in the chain of ownership has  
7 been a member, partner, or shareholder of the  
8 pass-through entity in the tier immediately below  
9 it for an uninterrupted period of not less than  
10 five (5) years.

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

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

1. a. In the case of individuals, there shall be added or deducted, as the case may be, the difference necessary to allow personal exemptions of One Thousand Dollars (\$1,000.00) in lieu of the personal exemptions allowed by the Internal Revenue Code.
- b. There shall be allowed an additional exemption of One Thousand Dollars (\$1,000.00) for each taxpayer or spouse who is blind at the close of the tax year. For purposes of this subparagraph, an individual is blind only if the central visual acuity of the individual does not exceed 20/200 in the better eye with correcting lenses, or if the visual acuity of the individual is greater than 20/200, but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty (20) degrees.
- c. There shall be allowed an additional exemption of One Thousand Dollars (\$1,000.00) for each taxpayer or spouse who is sixty-five (65) years of age or older at the close of the tax year based upon the filing status and federal adjusted gross income of the taxpayer.

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

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

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

- 21 d. For taxable years beginning after December 31, 1990,  
22 and beginning before January 1, 1992, there shall be  
23 allowed a one-time additional exemption of Four  
24 Hundred Dollars (\$400.00) for each taxpayer or spouse  
who is a member of the National Guard or any reserve

unit of the Armed Forces of the United States and who was at any time during such taxable year deployed in active service during a time of war or conflict with an enemy of the United States.

2. a. For taxable years beginning on or before December 31, 2005, 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 the larger of fifteen percent (15%) of the Oklahoma adjusted gross income or One Thousand Dollars (\$1,000.00), but not to exceed Two Thousand Dollars (\$2,000.00), except that in the case of a married individual filing a separate return such deduction shall be the larger of fifteen percent (15%) of such Oklahoma adjusted gross income or Five Hundred Dollars (\$500.00), but not to exceed the maximum amount of One Thousand Dollars (\$1,000.00),
- b. For taxable years beginning on or after January 1, 2006, and before January 1, 2007, 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

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

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

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

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

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

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

22 (3) Two Thousand Seven Hundred Fifty Dollars  
23 (\$2,750.00), if the filing status is single or  
24 married filing separate.

d. For the taxable year beginning on January 1, 2008, and

ending December 31, 2008, 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) 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



1  
2 (2) Six Thousand Three Hundred Seventy-five Dollars  
3 (\$6,375.00) for a head of household, or

4 (3) Four Thousand Two Hundred Fifty Dollars  
5 (\$4,250.00), if the filing status is single or  
6 married filing separate.

7 f. For taxable years beginning on or after January 1,  
8 2010, in the case of individuals who use the standard  
9 deduction in determining taxable income, there shall  
10 be added or deducted, as the case may be, the  
11 difference necessary to allow a standard deduction  
12 equal to the standard deduction allowed by the  
13 Internal Revenue Code of 1986, as amended, based upon  
14 the amount and filing status prescribed by such Code  
15 for purposes of filing federal individual income tax  
16 returns.

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

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

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

1  
2 a. absence from the United States, which term includes  
3 only the states and the District of Columbia;  
4 b. absence from the State of Oklahoma while on active  
5 duty; or  
6 c. confinement in a hospital within the United States for  
7 treatment of wounds, injuries or disease,  
8 the time for filing a return and paying an income tax shall  
9 be and is hereby extended without incurring liability for  
10 interest or penalties, to the fifteenth day of the third  
11 month following the month in which:

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

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

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

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

6. The salary or any other form of compensation, received from the United States by a member of any component of the Armed Forces of the United States, shall be deducted from taxable income during the time in which the person is detained by the enemy in a conflict, is a prisoner of war or is missing in action and not deceased.

7. Notwithstanding anything in the Internal Revenue Code or in the Oklahoma Income Tax Act to the contrary, it is expressly provided that, in the case of resident individuals, amounts received as dividends or distributions of earnings from savings and loan associations or credit unions located in Oklahoma, and interest received on savings accounts and time deposits from such sources or from state and national banks or trust companies located in Oklahoma, shall qualify as dividends for the purpose of the dividend exclusion, and taxable income shall be adjusted accordingly to arrive at Oklahoma taxable income; provided, however, that the dividend, distribution of earnings and/or interest exclusion provided for hereinabove shall not be cumulative to the maximum dividend exclusion allowed by the Internal Revenue Code. Any dividend exclusion already allowed by the Internal Revenue Code and

1  
2 reflected in the taxpayer's Oklahoma taxable income together with  
3 exclusion allowed herein shall not exceed the total of One Hundred  
4 Dollars (\$100.00) per individual or Two Hundred Dollars (\$200.00)  
5 per couple filing a joint return.

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

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

19       c.   For the purpose of this paragraph, "federal income  
20               taxes paid" shall mean federal income taxes, surtaxes  
21               imposed on incomes or excess profits taxes, as though  
22               the taxpayer was on the accrual basis. In determining  
23               the amount of deduction for federal income taxes for  
24               tax year 2001, the amount of the deduction shall not  
             be adjusted by the amount of any accelerated ten

percent (10%) tax rate bracket credit or advanced refund of the credit received during the tax year provided pursuant to the federal Economic Growth and Tax Relief Reconciliation Act of 2001, P.L. No. 107-16, and the advanced refund of such credit shall not be subject to taxation.

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

9. Retirement benefits not to exceed 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, which are received by an individual from the civil service of the United States, the Oklahoma Public Employees Retirement System, the Teachers' Retirement System of Oklahoma, the Oklahoma Law Enforcement Retirement System, the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the employee retirement systems created by counties pursuant to Section 951 et seq. of Title 19 of the Oklahoma Statutes, the Uniform Retirement System for Justices and Judges, the Oklahoma Wildlife Conservation Department Retirement Fund, the Oklahoma Employment Security Commission Retirement Plan, or the employee retirement systems created by municipalities pursuant to Section 48-

1  
2 101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt  
3 from taxable income.

4 10. In taxable years beginning after December 31, 1984, Social  
5 Security benefits received by an individual shall be exempt from  
6 taxable income, to the extent such benefits are included in the  
7 federal adjusted gross income pursuant to the provisions of Section  
8 86 of the Internal Revenue Code, 26 U.S.C., Section 86.

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

23 12. In taxable years beginning after December 31, 1995,  
24 contributions made to and interest received from a medical savings  
account established pursuant to Sections 2621 through 2623 of Title

63 of the Oklahoma Statutes shall be exempt from taxable income.

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

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

- (1) the adoption of a minor, or
- (2) a proposed adoption of a minor which did not result in a decreed adoption,

may be deducted from the Oklahoma adjusted gross income.

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



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

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

15. a. In taxable years beginning before January 1, 2005,

retirement benefits not to exceed the amounts specified in this paragraph, which are received by an individual sixty-five (65) years of age or older and whose Oklahoma adjusted gross income is Twenty-five Thousand Dollars (\$25,000.00) or less if the filing status is single, head of household, or married filing separate, or Fifty Thousand Dollars (\$50,000.00) or less if the filing status is married filing joint or qualifying widow, shall be exempt from taxable income. In taxable years beginning after December 31, 2004, retirement benefits not to exceed the amounts specified in this paragraph, which are received by an individual whose Oklahoma adjusted gross income is less than the qualifying amount specified in this paragraph, shall be exempt from taxable income.

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

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

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

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

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

- (1) an employee pension benefit plan which satisfies the requirements of Section 401 of the Internal Revenue Code, 26 U.S.C., Section 401,
- (2) an eligible deferred compensation plan that satisfies the requirements of Section 457 of the Internal Revenue Code, 26 U.S.C., Section 457,
- (3) an individual retirement account, annuity or trust or simplified employee pension that satisfies the requirements of Section 408 of the Internal Revenue Code, 26 U.S.C., Section 408,
- (4) an employee annuity subject to the provisions of Section 403(a) or (b) of the Internal Revenue Code, 26 U.S.C., Section 403(a) or (b),
- (5) United States Retirement Bonds which satisfy the requirements of Section 86 of the Internal Revenue Code, 26 U.S.C., Section 86, or
- (6) lump-sum distributions from a retirement plan which satisfies the requirements of Section

1  
2 402(e) of the Internal Revenue Code, 26 U.S.C.,  
3 Section 402(e).

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

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

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

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

b. In taxable years beginning after December 31, 2004, each taxpayer shall be allowed a deduction for contributions to accounts established pursuant to the Oklahoma College Savings Plan Act. The maximum annual deduction shall equal the amount of contributions to all such accounts plus any contributions to such accounts by the taxpayer for prior taxable years after December 31, 2004, which were not deducted, but in no event shall the deduction for each tax year exceed Ten

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

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

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

nonqualified withdrawal, and

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

- d. If a taxpayer elects to take a rollover on a contribution for which a deduction has been taken pursuant to subparagraph b of this paragraph within one year of the date of contribution, the amount of such rollover shall be included in the adjusted gross income of the taxpayer in the taxable year of the rollover.
- e. If a taxpayer makes a nonqualified withdrawal of contributions for which a deduction was taken pursuant to subparagraph b of this paragraph, such nonqualified withdrawal and any earnings thereon shall be included in the adjusted gross income of the taxpayer in the taxable year of the nonqualified withdrawal.
- f. As used in this paragraph:
  - (1) "nonqualified withdrawal" means a withdrawal from



1  
2 an Oklahoma College Savings Plan account other  
3 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 19. For taxable years beginning after December 31, 2005,  
24 retirement benefits received by an individual from any component of  
the Armed Forces of the United States in an amount not to exceed the

greater of seventy-five percent (75%) of such benefits or Ten Thousand Dollars (\$10,000.00) shall be exempt from taxable income but in no case less than the amount of the exemption provided by paragraph 15 of this subsection.

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

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

21. a. For taxable years beginning after December 31, 2007, a resident individual may deduct up to Ten Thousand

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

- 12 b. An individual may claim this deduction only once, and  
13 the deduction may be claimed only for unreimbursed  
14 expenses that are incurred by the individual and  
15 related to the organ donation of the individual.
- 16 c. The Oklahoma Tax Commission shall promulgate rules to  
17 implement the provisions of this paragraph which shall  
18 contain a specific list of expenses which may be  
19 presumed to qualify for the deduction. The Tax  
20 Commission shall prescribe necessary requirements for  
21 verification.

22 22. For taxable years beginning after December 31, 2008, there  
23 shall be exempt from taxable income any amount received by the  
24 beneficiary of the death benefit for an emergency medical technician  
provided by Section ~~±~~ 1-2505.1 of this ~~act~~ Title 63 of the Oklahoma

Statutes.

23. For taxable years beginning after December 31, 2009, there shall be exempt from taxable income any payment received by a person as an award for participation in a competitive livestock show event. For purposes of this paragraph, the payment shall be treated as a scholarship amount paid by the entity sponsoring the event and the sponsoring entity shall cause the payment to be categorized as a scholarship in its books and records.

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

2. As used in this subsection:

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

- (1) the sale of real property or tangible personal property located within Oklahoma that has been directly or indirectly owned by the individual taxpayer for a holding period of at least five (5) years prior to the date of the transaction

1  
2 from which such net capital gains arise,

3 (2) the sale of stock or the sale of a direct or  
4 indirect ownership interest in an Oklahoma  
5 company, limited liability company, or  
6 partnership where such stock or ownership  
7 interest has been directly or indirectly owned by  
8 the individual taxpayer for a holding period of  
9 at least two (2) years prior to the date of the  
10 transaction from which the net capital gains  
11 arise, or

12 (3) the sale of real property, tangible personal  
13 property or intangible personal property located  
14 within Oklahoma as part of the sale of all or  
15 substantially all of the assets of an Oklahoma  
16 company, limited liability company, or  
17 partnership or an Oklahoma proprietorship  
18 business enterprise where such property has been  
19 directly or indirectly owned by such entity or  
20 business enterprise or owned by the owners of  
21 such entity or business enterprise for a period  
22 of at least two (2) years prior to the date of  
23 the transaction from which the net capital gains  
24 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 individual taxpayer directly owns the asset,
- e. "indirect" means the individual 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-through entity that makes the sale has held the property for not less than five (5) uninterrupted years prior to the date of the transaction that

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

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

determination of the required holding period prescribed by this division, and

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

G. 1. 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. 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



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

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

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

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

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

- (3) any Listed Australian Property Trust (meaning an 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

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

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

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

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

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

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

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

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2358.1A of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Any payment made by the United States Department of Defense as a result of the death of a member of the Armed Forces of the United States who has been killed in action in a United States Department of Defense designated combat zone shall be exempt from Oklahoma income tax during the taxable year in which the individual is declared deceased by the Armed Forces.

B. In any case where income tax has been paid upon any income exempt pursuant to subsection A of this section the tax monies shall be refunded to the person or personal representative of the person. The refund shall be made by the Oklahoma Tax Commission out of the Oklahoma Income Tax Adjustment Fund, and so much of such fund as is necessary for such purpose is hereby appropriated. The provisions of this section shall be liberally construed to accomplish its purpose and the statute of limitations with respect to refunds of income taxes shall not apply to taxpayers covered by this section.

SECTION 6. REPEALER Section 4, Chapter 42, 2nd Extraordinary Session, O.S.L. 2006, as last amended by Section 13, Chapter 378, O.S.L. 2008 (68 O.S. Supp. 2008, Section 2355.1A), is hereby repealed.

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2 SECTION 6. This act shall become effective November 1, 2009."

3 Passed the House of Representatives the 21st day of April, 2009.  
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6 \_\_\_\_\_  
7 Presiding Officer of the House of  
8 Representatives

9 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2009.  
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11 \_\_\_\_\_  
12 Presiding Officer of the Senate  
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