

1 ENGROSSED SENATE AMENDMENT  
TO

2 ENGROSSED HOUSE  
BILL NO. 3388

By: McCall of the House

3  
4 and

Treat of the Senate

5  
6  
7 An Act relating to schools; amending Section 2,  
8 Chapter 278, O.S.L. 2023 (70 O.S. Supp. 2023,  
9 Section 28-101), which relates to the Oklahoma  
10 Parental Choice Tax Credit Act; modifying  
11 definitions; establishing credit amount for private  
12 schools serving certain student populations;  
13 prohibiting offset of credit for certain liabilities;  
14 modifying application of caps from a tax year to a  
15 fiscal year; providing for carryover of certain  
16 unused credits; exempting certain eligible taxpayers  
17 from providing additional income verification;  
18 modifying timing and procedures for application  
19 process; requiring authorization of certain credits;  
20 providing dates for installments; modifying priority  
21 of tax credit recipients in certain cases; directing  
22 taxpayers to provide notice related to a change in  
23 enrollment status; providing for reallocation of  
24 certain credits; excluding credits from taxable  
income; prohibiting issuance of Form 1099s; and  
declaring an emergency.

AMENDMENT NO. 1. Page 1, strike the title, enacting clause and  
entire bill and insert

"An Act relating to income tax credit; amending 68  
O.S. 2021, Section 205.2, which relates to claims for  
deduction of refund; prohibiting claims for deduction  
from certain tax credit; amending 68 O.S. 2021,  
Section 2358, as amended by Section 1, Chapter 377,  
O.S.L. 2022 (68 O.S. Supp. 2023, Section 2358), which  
relates to adjustments to arrive at taxable income;

1 providing exemption for certain tax credits received;  
2 amending Section 2, Chapter 278, O.S.L. 2023 (70 O.S.  
3 Supp. 2023, Section 28-101), which relates to the  
4 Oklahoma Parental Choice Tax Credit Act; modifying  
5 definitions; modifying income limitations; allowing  
6 certain credit to qualifying students; establishing  
7 credit amount for private schools serving certain  
8 student populations; prohibiting the use of tax  
9 credit to offset certain accrued liabilities;  
10 modifying annual credit limitations; prohibiting the  
11 Oklahoma Tax Commission from requiring certain  
12 taxpayers to reapply for certain credit; providing  
13 for calculation of credit amount; modifying  
14 limitations on credits allowed during certain fiscal  
15 years; exempting certain eligible taxpayers from  
16 providing additional income verification; requiring  
17 submission of enrollment verification form;  
18 prescribing application period; requiring credits and  
19 payments to be allocated by certain dates; providing  
20 deadline to receive priority consideration; allowing  
21 certain reallocation of credits; requiring certain  
22 notification; requiring the Commission to update  
23 certain information monthly; requiring the Commission  
24 to publish additional information; prohibiting  
credits from being considered taxable income;  
updating statutory references; updating statutory  
language; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 205.2, is  
amended to read as follows:

Section 205.2. A. For purposes of this section, a "qualified  
entity" shall mean a:

1. State agency;
2. Municipal court;
3. District court;

1 4. Public housing authority operating pursuant to Section 1062  
2 of Title 63 of the Oklahoma Statutes;

3 5. District attorney seeking to collect unpaid court-ordered  
4 monetary obligations; or

5 6. The designee of an entity described in paragraphs 1 through  
6 5 of this subsection.

7 B. A qualified entity seeking to collect a debt, unpaid  
8 municipal or district court fines and costs or final judgment of at  
9 least Fifty Dollars (\$50.00) from an individual who has filed a  
10 state income tax return may file a claim with the Oklahoma Tax  
11 Commission requesting that the amount owed to the qualified entity  
12 be deducted from any state income tax refund due to that individual.  
13 The claim shall be filed electronically in a form prescribed by the  
14 Tax Commission and shall contain information necessary to identify  
15 the person owing the debt, including the full name and Social  
16 Security number of the debtor.

17 1. Upon receiving a claim from a qualified entity, the Tax  
18 Commission shall deduct the claim amount, plus collection expenses  
19 as provided in this section, from the tax refund due to the debtor  
20 and transfer the amount to the qualified entity. Provided, the Tax  
21 Commission need not report available funds of less than Fifty  
22 Dollars (\$50.00).

23 2. The qualified entity shall send notice to the debtor by  
24 regular mail at the last-known address of the debtor as shown by the

1 records of the Tax Commission when seeking to collect a debt not  
2 reduced to final judgment. The qualified entity shall send notice  
3 to the judgment debtor or defendant by first-class mail at the last-  
4 known address of the judgment debtor or defendant as shown by the  
5 records of the Tax Commission when seeking to collect a final  
6 judgment or unpaid court fines and costs. The Tax Commission shall  
7 provide in an agreed electronic format to the Department of Human  
8 Services the amount withheld by the Tax Commission, the home address  
9 and the Social Security number of the taxpayer. The notice shall  
10 state:

- 11 a. that a claim has been filed with the Tax Commission  
12 for any portion of the tax refund due to the debtor or  
13 defendant which would satisfy the debt, unpaid court  
14 fines and costs, or final judgment in full or in part,
- 15 b. the basis for the claim,
- 16 c. that the Tax Commission has deducted an amount from  
17 the refund and remitted it to such qualified entity,
- 18 d. that the debtor or defendant has the right to contest  
19 the claim by sending a written request to the  
20 qualified entity for a hearing to protest the claim,  
21 and if the debtor or defendant fails to apply for a  
22 hearing within sixty (60) days after the date of the  
23 mailing of the notice, the debtor or defendant shall  
24 be deemed to have waived his or her opportunity to

1 contest the claim. Provided, if the claim was filed  
2 by the Department of Human Services, the notice shall  
3 state that the debtor must contest the claim by  
4 sending a written request to the Department within  
5 thirty (30) days after the date of the mailing of the  
6 notice, and

7 e. that a collection expense of five percent (5%) of the  
8 gross proceeds owed to the qualified entity has been  
9 charged to the debtor or defendant and withheld from  
10 the refund.

11 3. If the qualified entity determines that a refund is due to  
12 the taxpayer, the qualified entity shall reimburse the amount  
13 claimed plus the five-percent collection expense to the taxpayer.  
14 The qualified entity may request reimbursement of the two-percent  
15 collection expense retained by the Tax Commission. Such request  
16 must be made within ninety (90) days of reimbursement to the  
17 taxpayer. If timely requested, the Tax Commission shall make such  
18 reimbursement to the qualified entity within ninety (90) days of the  
19 request.

20 4. In the case of a joint return, the notice shall state:

21 a. the name of any taxpayer named in the return against  
22 whom no debt, no unpaid court fines and costs, or  
23 final judgment is claimed,  
24

- 1           b.    the fact that a debt, unpaid court fines and costs, or  
2                final judgment is not claimed against the taxpayer,  
3           c.    the fact that the taxpayer is entitled to receive a  
4                refund if it is due regardless of the debt, court  
5                fines and costs, or final judgment asserted against  
6                the debtor or defendant,  
7           d.    that in order to obtain the refund due, the taxpayer  
8                must apply, in writing, for a hearing with the  
9                qualified entity named in the notice within sixty (60)  
10              days after the date of the mailing of the notice.  
11              Provided, if the claim was filed by the Department of  
12              Human Services, the notice shall state that the  
13              taxpayer must apply, in writing, for a hearing with  
14              the Department within thirty (30) days after the date  
15              of the mailing of the notice, and  
16           e.    if the taxpayer against whom no debt, no unpaid court  
17                fines and costs, or final judgment is claimed fails to  
18                apply in writing for a hearing within sixty (60) days  
19                after the mailing of the notice, the taxpayer shall  
20                have waived his or her right to a refund.  Provided,  
21                if the claim was filed by the Department of Human  
22                Services, the notice shall state that if the taxpayer  
23                fails to apply in writing for a hearing with the  
24                Department within thirty (30) days after the date of

1           the mailing of the notice, the taxpayer shall have  
2           waived his or her right to a refund.

3           C. If the qualified entity asserting the claim receives a  
4 written request for a hearing from the debtor or taxpayer against  
5 whom no debt, no court fines and costs, or final judgment is  
6 claimed, the qualified entity shall grant a hearing according to the  
7 provisions of the Administrative Procedures Act. It shall be  
8 determined at the hearing whether the claimed sum is correct or  
9 whether an adjustment to the claim shall be made. Pending final  
10 determination at the hearing of the validity of the debt, unpaid  
11 court fines and costs, or final judgment asserted by the qualified  
12 entity, no action shall be taken in furtherance of the collection of  
13 the debt, unpaid court fines and costs, or final judgment. Appeals  
14 from actions taken at the hearing shall be in accordance with the  
15 provisions of the Administrative Procedures Act.

16           D. Upon final determination at a hearing, as provided for in  
17 subsection C of this section, of the amount of the debt, unpaid  
18 court fines and costs, or final judgment, or upon failure of the  
19 debtor or taxpayer against whom no debt, no unpaid court fines and  
20 costs, or final judgment is claimed to request such a hearing, the  
21 qualified entity shall apply the amount of the claim to the debt  
22 owed. Any amounts held by the qualified entity in excess of the  
23 final determination of the debt and collection expense shall be  
24 refunded by the qualified entity to the taxpayer. However, if the

1 tax refund due is inadequate to pay the collection expense and debt,  
2 unpaid court fines and costs, or final judgment, the balance due the  
3 qualified entity shall be a continuing debt or final judgment until  
4 paid in full.

5 E. Upon receipt of a claim as provided in subsection A of this  
6 section, the Tax Commission shall:

7 1. Deduct from the refund five percent (5%) of the gross  
8 proceeds owed to the qualified entity, and distribute it by  
9 retaining two percent (2%) and transferring three percent (3%) to  
10 the qualified entity, as an expense of collection. The two percent  
11 (2%) retained by the Tax Commission shall be deposited in the  
12 Oklahoma Tax Commission Fund;

13 2. Transfer the amount of the claimed debt, unpaid court fines  
14 and costs, or final judgment or so much thereof as is available to  
15 the qualified entity;

16 3. Notify the debtor in writing as to how the refund was  
17 applied; and

18 4. Refund to the debtor any balance remaining after deducting  
19 the collection expense and debt, unpaid court fines and costs, or  
20 final judgment.

21 F. The Tax Commission shall deduct from any state tax refund  
22 due to a taxpayer the amount of delinquent state tax and penalty and  
23 interest thereon, which such taxpayer owes pursuant to any state tax  
24 law prior to payment of such refund.



1 G. The Tax Commission shall have first priority over all other  
2 qualified entities when the Tax Commission is collecting a debt,  
3 court fines and costs, or final judgment pursuant to the provisions  
4 of this section. Subsequent to the Tax Commission priority, a claim  
5 filed by the Department of Human Services for the collection of  
6 child support and spousal support shall have priority over all other  
7 claims filed pursuant to this section. Priority in multiple claims  
8 by other qualified entities pursuant to the provisions of this  
9 section shall be in the order in time in which the Tax Commission  
10 receives the claim from the qualified entities required by the  
11 provisions of subsection B of this section.

12 H. The Tax Commission shall prescribe or approve forms and  
13 promulgate rules and regulations for implementing the provisions of  
14 this section.

15 I. The information obtained by a qualified entity from the Tax  
16 Commission pursuant to the provisions of this section shall be used  
17 only to aid in collection of the debt, unpaid court fines and costs,  
18 or final judgment owed to the qualified entity. Disclosure of the  
19 information for any other purpose shall constitute a misdemeanor.  
20 Any employee of a qualified entity or person convicted of violating  
21 this provision shall be subject to a fine not exceeding One Thousand  
22 Dollars (\$1,000.00) or imprisonment in the county jail for a term  
23 not exceeding one (1) year, or both fine and imprisonment and, if  
24

1 still employed by the qualified entity, shall be dismissed from  
2 employment.

3 J. The Tax Commission may employ the procedures provided by  
4 this section in order to collect a debt owed to the Internal Revenue  
5 Service if the Internal Revenue Service requires such procedure as a  
6 condition to providing information to the Commission concerning  
7 federal income tax.

8 K. The provisions of this section shall not apply to claims  
9 filed under the provisions of Section 2906 or Section 5011 of this  
10 title or Section 28-101 of Title 70.

11 SECTION 2. AMENDATORY 68 O.S. 2021, Section 2358, as  
12 amended by Section 1, Chapter 377, O.S.L. 2022 (68 O.S. Supp. 2023,  
13 Section 2358), is amended to read as follows:

14 Section 2358. For all tax years beginning after December 31,  
15 1981, taxable income and adjusted gross income shall be adjusted to  
16 arrive at Oklahoma taxable income and Oklahoma adjusted gross income  
17 as required by this section.

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

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

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

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

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

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

18 b. For carryovers and carrybacks to taxable years  
19 beginning after December 31, 1980, the amount of any  
20 net operating loss deduction allowed for the taxable  
21 year shall be an amount equal to the aggregate of the  
22 Oklahoma net operating loss carryovers and carrybacks  
23 to such year. Oklahoma net operating losses shall be  
24 separately determined by reference to Section 172 of

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

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

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

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

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

1 separate commercial or business situs insofar as  
2 undistributed income is concerned, but shall not  
3 be treated as having a separate commercial or  
4 business situs insofar as distributed income is  
5 concerned,

6 (2) for taxable years beginning after December 31,  
7 2003, capital or ordinary gains or losses from  
8 the sale of an ownership interest in a publicly  
9 traded partnership, as defined by Section 7704(b)  
10 of the Internal Revenue Code, shall be allocated  
11 to this state in the ratio of the original cost  
12 of such partnership's tangible property in this  
13 state to the original cost of such partnership's  
14 tangible property everywhere, as determined at  
15 the time of the sale; if more than fifty percent  
16 (50%) of the value of the partnership's assets  
17 consists of intangible assets, capital or  
18 ordinary gains or losses from the sale of an  
19 ownership interest in the partnership shall be  
20 allocated to this state in accordance with the  
21 sales factor of the partnership for its first  
22 full tax period immediately preceding its tax  
23 period during which the ownership interest in the  
24 partnership was sold; the provisions of this

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

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

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

16 d. In the case of a manufacturing or processing  
17 enterprise the business of which in ~~Oklahoma~~ this  
18 state consists solely of marketing its products by:

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

23 (2) sales of the product stored in public warehouses  
24 within the state pursuant to "in transit"

1 tariffs, as prescribed and allowed by the  
2 Interstate Commerce Commission, to a purchaser  
3 within the state,

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

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

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



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

19 (2) if the principal source of premiums written by an  
20 insurance company consists of premiums for  
21 reinsurance accepted by it, the taxable income of  
22 such company shall be apportioned to this state  
23 by multiplying such income by a fraction, the  
24 numerator of which is the sum of (a) direct

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

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

1 percent (50%) of the apportionment factor. The apportionment  
2 factors shall be computed as follows:

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

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

23 (2) Property owned by the taxpayer is valued at its  
24 original cost. Property rented by the taxpayer

1 is valued at eight times the net annual rental  
2 rate. Net annual rental rate is the annual  
3 rental rate paid by the taxpayer, less any annual  
4 rental rate received by the taxpayer from  
5 subrentals,

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

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

22 (1) In the case of a transportation enterprise, the  
23 numerator of the fraction shall include a portion  
24 of such expenditure in connection with employees

1 operating equipment over a fixed route, such as  
2 railroad employees, airline pilots, or bus  
3 drivers, in this state only a part of the time,  
4 in the proportion that mileage traveled in  
5 ~~Oklahoma~~ this state bears to total mileage  
6 traveled by such employees,

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

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

22 (1) Sales of tangible personal property have a situs  
23 in this state if the property is delivered or  
24 shipped to a purchaser other than the United

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

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

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

22 (4) In the case of an oil, gasoline or gas pipeline  
23 enterprise, the numerator of the fraction shall  
24 be either the total of traffic units of the

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

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



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

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

1 this state must not be inherently arbitrary, and application of the  
2 recomputed final apportionment to the net income of the enterprise  
3 must attribute to ~~Oklahoma~~ this state only a reasonable portion  
4 thereof.

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

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

6 For purposes of this paragraph:

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

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

20 (1) the processing of agricultural commodities,  
21 including receiving or storing agricultural  
22 commodities, or the production of milk at a dairy  
23 operation,

24

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

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

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

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

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

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

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

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

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

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

1 be allocated to a member or to an indirect member of an electing  
2 pass-through entity pursuant to Section 2351 et seq. of this title,  
3 if (i) the electing pass-through entity has accounted for such item  
4 in computing its Oklahoma net entity income or loss pursuant to the  
5 provisions of the Pass-Through Entity Tax Equity Act of 2019, and  
6 (ii) the total amount of tax attributable to any resulting Oklahoma  
7 net entity income has been paid. The Oklahoma Tax Commission shall  
8 promulgate rules for the reporting of such exclusion to direct and  
9 indirect members of the electing pass-through entity. As used in  
10 this paragraph, "electing pass-through entity", "indirect member",  
11 and "member" shall be defined in the same manner as prescribed by  
12 Section 2355.1P-2 of this title. Notwithstanding the application of  
13 this paragraph, the adjusted tax basis of any ownership interest in  
14 a pass-through entity for purposes of Section 2351 et seq. of this  
15 title shall be equal to its adjusted tax basis for federal income  
16 tax purposes.

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

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

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

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

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

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

21        2. For purposes of this subsection:

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



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

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

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

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

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

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

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

4 2. As used in this subsection:

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

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

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

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

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

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

24

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

- 14 f. For taxable years beginning on or after January 1,  
15 2010, and ending on December 31, 2016, in the case of  
16 individuals who use the standard deduction in  
17 determining taxable income, there shall be added or  
18 deducted, as the case may be, the difference necessary  
19 to allow a standard deduction equal to the standard  
20 deduction allowed by the Internal Revenue Code, based  
21 upon the amount and filing status prescribed by such  
22 Code for purposes of filing federal individual income  
23 tax returns.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

23

24

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

4            (1) the adoption of a minor, or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

11 f. As used in this paragraph:

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

15 (a) a qualified withdrawal,

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

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

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

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

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

10 18. For tax years 2006 through 2021, retirement benefits  
11 received by an individual from any component of the Armed Forces of  
12 the United States in an amount not to exceed the greater of seventy-  
13 five percent (75%) of such benefits or Ten Thousand Dollars  
14 (\$10,000.00) shall be exempt from taxable income but in no case less  
15 than the amount of the exemption provided by paragraph 14 of this  
16 subsection. For tax year 2022 and subsequent tax years, retirement  
17 benefits received by an individual from any component of the Armed  
18 Forces of the United States shall be exempt from taxable income.

19 19. For taxable years beginning after December 31, 2006,  
20 retirement benefits received by federal civil service retirees,  
21 including survivor annuities, paid in lieu of Social Security  
22 benefits shall be exempt from taxable income to the extent such  
23 benefits are included in the federal adjusted gross income pursuant  
24

1 to the provisions of Section 86 of the Internal Revenue Code, 26  
2 U.S.C., Section 86, according to the following schedule:

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

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

1           claimed in the taxable year in which the human organ  
2           transplantation occurs.

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

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

13          21.  For taxable years beginning after December 31, 2009, there  
14          shall be exempt from taxable income any amount received by the  
15          beneficiary of the death benefit for an emergency medical technician  
16          or a registered emergency medical responder provided by Section 1-  
17          2505.1 of Title 63 of the Oklahoma Statutes.

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

22          23.  For taxable years beginning after December 31, 2008, there  
23          shall be exempt from taxable income any payment in an amount less  
24          than Six Hundred Dollars (\$600.00) received by a person as an award

1 for participation in a competitive livestock show event. For  
2 purposes of this paragraph, the payment shall be treated as a  
3 scholarship amount paid by the entity sponsoring the event and the  
4 sponsoring entity shall cause the payment to be categorized as a  
5 scholarship in its books and records.

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

13 25. For taxable years beginning after December 31, 2020, each  
14 taxpayer shall be allowed a deduction for contributions to accounts  
15 established pursuant to the Achieving a Better Life Experience  
16 (ABLE) Program as established in Section 4001.1 et seq. of Title 56  
17 of the Oklahoma Statutes. For any tax year, the deduction provided  
18 for in this paragraph shall not exceed Ten Thousand Dollars  
19 (\$10,000.00) for an individual taxpayer or Twenty Thousand Dollars  
20 (\$20,000.00) for taxpayers filing a joint return. Any amount of  
21 contribution not deducted by the taxpayer in the tax year for which  
22 the contribution is made may be carried forward as a deduction from  
23 income for up to five (5) tax years. Deductions may be taken for  
24 contributions made during the tax year and through April 15 of the

1 succeeding tax year, or through the due date of a taxpayer's state  
2 income tax return excluding extensions, whichever is later.

3 Provided, a deduction for the same contribution may not be taken in  
4 more than one (1) tax year.

5 26. For tax year 2024 and subsequent tax years, tax credits  
6 received pursuant to the Oklahoma Parental Choice Tax Credit Act in  
7 Section 28-101 of Title 70 of the Oklahoma Statutes shall be exempt  
8 from taxable income.

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

14 2. As used in this subsection:

15 a. "qualifying gains receiving capital treatment" means  
16 the amount of net capital gains, as defined in Section  
17 1222(11) of the Internal Revenue Code, included in an  
18 individual taxpayer's federal income tax return that  
19 result from:

20 (1) the sale of real property or tangible personal  
21 property located within ~~Oklahoma~~ this state that  
22 has been directly or indirectly owned by the  
23 individual taxpayer for a holding period of at  
24 least five (5) years prior to the date of the



1 transaction from which such net capital gains  
2 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~~ this state as part of the sale of  
15 all or substantially all of the assets of an  
16 Oklahoma 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,

- 1           b. "holding period" means an uninterrupted period of  
2           time. The holding period shall include any additional  
3           period when the property was held by another  
4           individual or entity, if such additional period is  
5           included in the taxpayer's holding period for the  
6           asset pursuant to the Internal Revenue Code,
- 7           c. "Oklahoma company," "limited liability company," or  
8           "partnership" means an entity whose primary  
9           headquarters have been located in ~~Oklahoma~~ this state  
10          for at least three (3) uninterrupted years prior to  
11          the date of the transaction from which the net capital  
12          gains arise,
- 13          d. "direct" means the individual taxpayer directly owns  
14          the asset,
- 15          e. "indirect" means the individual taxpayer owns an  
16          interest in a pass-through entity (or chain of pass-  
17          through entities) that sells the asset that gives rise  
18          to the qualifying gains receiving capital treatment.
- 19          (1) With respect to sales of real property or  
20          tangible personal property located within  
21          ~~Oklahoma~~ this state, the deduction described in  
22          this subsection shall not apply unless the pass-  
23          through entity that makes the sale has held the  
24          property for not less than five (5) uninterrupted

1 years prior to the date of the transaction that  
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 July 1, 2007,

1 shall be included in the determination of the  
2 required holding period prescribed by this  
3 division, and

4 f. "Oklahoma proprietorship business enterprise" means a  
5 business enterprise whose income and expenses have  
6 been reported on Schedule C or F of an individual  
7 taxpayer's federal income tax return, or any similar  
8 successor schedule published by the Internal Revenue  
9 Service and whose primary headquarters have been  
10 located in ~~Oklahoma~~ this state for at least three (3)  
11 uninterrupted years prior to the date of the  
12 transaction from which the net capital gains arise.

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

19 2. For purposes of computing its Oklahoma taxable income under  
20 this section, a taxpayer shall add back otherwise deductible rents  
21 and interest expenses paid to a captive real estate investment trust  
22 that is not subject to the provisions of paragraph 1 of this  
23 subsection. As used in this subsection:  
24

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

4 b. the term "captive real estate investment trust" means  
5 a real estate investment trust, the shares or  
6 beneficial interests of which are not regularly traded  
7 on an established securities market and more than  
8 fifty percent (50%) of the voting power or value of  
9 the beneficial interests or shares of which are owned  
10 or controlled, directly or indirectly, or  
11 constructively, by a single entity that is:

- 12 (1) treated as an association taxable as a  
13 corporation under the Internal Revenue Code, and  
14 (2) not exempt from federal income tax pursuant to  
15 the provisions of Section 501(a) of the Internal  
16 Revenue Code.

17 The term shall not include a real estate investment  
18 trust that is intended to be regularly traded on an  
19 established securities market, and that satisfies the  
20 requirements of Section 856(a)(5) and (6) of the U.S.  
21 Internal Revenue Code by reason of Section 856(h)(2)  
22 of the Internal Revenue Code,

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

- 1 (1) any real estate investment trust as defined in  
2 paragraph a of this subsection other than a  
3 ~~"captive real estate investment trust"~~ captive  
4 real estate investment trust, or
- 5 (2) any qualified real estate investment trust  
6 subsidiary under Section 856(i) of the Internal  
7 Revenue Code, other than a qualified REIT  
8 subsidiary of a ~~"captive real estate investment~~  
9 ~~trust"~~ captive real estate investment trust, or
- 10 (3) any ~~Listed Australian Property Trust~~ listed  
11 Australian property trust (meaning an Australian  
12 unit trust registered as a ~~"Managed Investment~~  
13 ~~Scheme"~~ "managed investment scheme" under the  
14 Australian Corporations Act 2001 in which the  
15 principal class of units is listed on a  
16 recognized stock exchange in Australia and is  
17 regularly traded on an established securities  
18 market), or an entity organized as a trust,  
19 provided that a ~~Listed Australian Property Trust~~  
20 listed Australian property trust owns or  
21 controls, directly or indirectly, seventy-five  
22 percent (75%) or more of the voting power or  
23 value of the beneficial interests or shares of  
24 such trust, or

1           (4) any ~~Qualified Foreign Entity~~ qualified foreign  
2           entity, meaning a corporation, trust, association  
3           or partnership organized outside the laws of the  
4           United States and which satisfies the following  
5           criteria:

6           (a) at least seventy-five percent (75%) of the  
7           entity's total asset value at the close of  
8           its taxable year is represented by real  
9           estate assets, as defined in Section  
10           856(c) (5) (B) of the Internal Revenue Code,  
11           thereby including shares or certificates of  
12           beneficial interest in any real estate  
13           investment trust, cash and cash equivalents,  
14           and U.S. Government securities,

15           (b) the entity receives a dividend-paid  
16           deduction comparable to Section 561 of the  
17           Internal Revenue Code, or is exempt from  
18           entity level tax,

19           (c) the entity is required to distribute at  
20           least eighty-five percent (85%) of its  
21           taxable income, as computed in the  
22           jurisdiction in which it is organized, to  
23           the holders of its shares or certificates of  
24           beneficial interest on an annual basis,

1 (d) not more than ten percent (10%) of the  
2 voting power or value in such entity is held  
3 directly or indirectly or constructively by  
4 a single entity or individual, or the shares  
5 or beneficial interests of such entity are  
6 regularly traded on an established  
7 securities market, and

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

10 3. For purposes of this subsection, the constructive ownership  
11 rules of Section 318(a) of the Internal Revenue Code, as modified by  
12 Section 856(d) (5) of the Internal Revenue Code, shall apply in  
13 determining the ownership of stock, assets, or net profits of any  
14 person.

15 4. A real estate investment trust that does not become  
16 regularly traded on an established securities market within one (1)  
17 year of the date on which it first becomes a real estate investment  
18 trust shall be deemed not to have been regularly traded on an  
19 established securities market, retroactive to the date it first  
20 became a real estate investment trust, and shall file an amended  
21 return reflecting such retroactive designation for any tax year or  
22 part year occurring during its initial year of status as a real  
23 estate investment trust. For purposes of this subsection, a real  
24 estate investment trust becomes a real estate investment trust on



1 the first day it has both met the requirements of Section 856 of the  
2 Internal Revenue Code and has elected to be treated as a real estate  
3 investment trust pursuant to Section 856(c)(1) of the Internal  
4 Revenue Code.

5 SECTION 3. AMENDATORY Section 2, Chapter 278, O.S.L.  
6 2023 (70 O.S. Supp. 2023, Section 28-101), is amended to read as  
7 follows:

8 Section 28-101. A. As used in the Oklahoma Parental Choice Tax  
9 Credit Act:

10 1. "Commission" means the Oklahoma Tax Commission;

11 2. "Curriculum" means a complete course of study for a  
12 particular content area or grade level;

13 3. "Department" means the State Department of Education;

14 4. "Education service provider" means a person, business,  
15 public school district, public charter school, magnet school, or  
16 organization that provides educational goods and/or services to  
17 eligible students in this state;

18 5. "Eligible student" means a resident of this state who is  
19 eligible to enroll in a public school in this state. Eligible  
20 student shall include a student who is enrolled in and attends or is  
21 expected to enroll in a private school in this state accredited by  
22 the State Board of Education or another accrediting association or a  
23 student who is educated pursuant to the other means of education  
24

1 exception provided for in subsection A of Section 10-105 of ~~Title 70~~  
2 ~~of the Oklahoma Statutes~~ this title;

3 6. "Qualified expense" for the purpose of claiming the credit  
4 authorized by ~~subparagraph a~~ of paragraph 1 of subsection C of this  
5 section means tuition and fees at a private school in this state  
6 accredited by the State Board of Education or another accrediting  
7 association. Provided, the amount of tuition and fees considered a  
8 qualified expense pursuant to this paragraph shall not include  
9 tuition and fees paid with any scholarship or tuition and fees  
10 discounted or otherwise reduced by the school;

11 7. "Qualified expense" for the purpose of claiming the credit  
12 authorized by ~~subparagraph b~~ of paragraph ~~1~~ 2 of subsection C of  
13 this section means the following expenditures:

- 14 a. tuition and fees for nonpublic ~~online~~ learning  
15 programs, online or in person,
- 16 b. academic tutoring services provided by an individual  
17 or a private academic tutoring facility,
- 18 c. textbooks, curriculum, or other instructional  
19 materials including, but not limited to, supplemental  
20 materials or associated online instruction required by  
21 an education service provider, and
- 22 d. fees for nationally standardized assessments  
23 including, but not limited to, assessments used to  
24 determine college admission and advanced placement

1 examinations as well as tuition and fees for tutoring  
2 or preparatory courses for the assessments; and

3 8. "Taxpayer" means a biological or adoptive parent,  
4 grandparent, aunt, uncle, legal guardian, custodian, or other person  
5 with legal authority to act on behalf of an eligible student.

6 B. There is hereby created the Oklahoma Parental Choice Tax  
7 Credit Program to provide an income tax credit to a taxpayer for  
8 qualified expenses to support the education of eligible students in  
9 this state.

10 C. For the tax year 2024 and subsequent tax years, and fiscal  
11 year 2026 and subsequent fiscal years, there shall be allowed  
12 against the tax imposed by Section 2355 of Title 68 of the Oklahoma  
13 Statutes a credit for any Oklahoma taxpayer who incurs a qualified  
14 expense on behalf of an eligible student, to be administered subject  
15 to the following amounts ~~for each tax year~~:

16 1. If the eligible student attends a private school in this  
17 state accredited by the State Board of Education or another  
18 accrediting association, the annual maximum credit amount for tax  
19 year 2024, fiscal year 2026, and each subsequent fiscal year shall  
20 be:

21 a. ~~(1)~~ Seven Thousand Five Hundred Dollars (\$7,500.00) or  
22 the amount of tuition and fees for the private school,  
23 whichever is less, if the combined adjusted gross  
24 income of the parents or legal guardians of the

1 eligible student ~~is a member of a household in which~~  
2 ~~the total adjusted gross income~~ during the second  
3 preceding tax year does not exceed Seventy-five  
4 Thousand Dollars (\$75,000.00),

5 ~~(2)~~ b. Seven Thousand Dollars (\$7,000.00) or the amount of  
6 tuition and fees for the private school, whichever is  
7 less, if the combined adjusted gross income of the  
8 parents or legal guardians of the eligible student ~~is~~  
9 ~~a member of a household in which the total adjusted~~  
10 ~~gross income~~ during the second preceding tax year is  
11 more than Seventy-five Thousand Dollars (\$75,000.00)  
12 but does not exceed One Hundred Fifty Thousand Dollars  
13 (\$150,000.00),

14 ~~(3)~~ c. Six Thousand Five Hundred Dollars (\$6,500.00) or the  
15 amount of tuition and fees for the private school,  
16 whichever is less, if the combined adjusted gross  
17 income of the parents or legal guardians of the  
18 eligible student ~~is a member of a household in which~~  
19 ~~the total adjusted gross income~~ during the second  
20 preceding tax year is more than One Hundred Fifty  
21 Thousand Dollars (\$150,000.00) but does not exceed Two  
22 Hundred Twenty-five Thousand Dollars (\$225,000.00),

23 ~~(4)~~ d. Six Thousand Dollars (\$6,000.00) or the amount of  
24 tuition and fees for the private school, whichever is

1 less, if the combined adjusted gross income of the  
2 parents or legal guardians of the eligible student is  
3 ~~a member of a household in which the total adjusted~~  
4 ~~gross income~~ during the second preceding tax year is  
5 more than Two Hundred Twenty-five Thousand Dollars  
6 (\$225,000.00) but does not exceed Two Hundred Fifty  
7 Thousand Dollars (\$250,000.00), or

8 ~~(5)~~ e. Five Thousand Dollars (\$5,000.00) or the amount of  
9 tuition and fees for the private school, whichever is  
10 less, if the combined adjusted gross income of the  
11 parents or legal guardians of the eligible student is  
12 ~~a member of a household in which the total adjusted~~  
13 ~~gross income~~ during the second preceding tax year is  
14 more than Two Hundred Fifty Thousand Dollars  
15 (\$250,000.00), ~~and;~~

16 ~~b.~~ 2. For tax year 2024 and subsequent tax years, the maximum  
17 credit amount shall be One Thousand Dollars (\$1,000.00) in qualified  
18 expenses per eligible student in each tax year if the eligible  
19 student is educated pursuant to the other means of education  
20 exception provided for in subsection A of Section 10-105 of Title 70  
21 of the Oklahoma Statutes this title. To claim the credit, the  
22 taxpayer shall submit to the Commission receipts for qualified  
23 expenses as defined by paragraph 7 of subsection A of this section;  
24

1       3. If the eligible student attends a private school in this  
2 state, accredited by the State Board of Education or another  
3 accrediting association, that exclusively serves students  
4 experiencing homelessness, the credit amount shall be Seven Thousand  
5 Five Hundred Dollars (\$7,500.00) or the amount of the cost to  
6 educate the eligible student at the private school, whichever is  
7 less;

8       4. If the eligible student attends a private school in this  
9 state, accredited by the State Board of Education or another  
10 accrediting association, that primarily serves financially  
11 disadvantaged students, the credit amount shall be the maximum  
12 credit amount authorized by paragraph 1 of this subsection or the  
13 amount of the cost to educate the eligible student at the private  
14 school, whichever is less. The cost to educate the eligible student  
15 shall be equal to the average cost to educate all students attending  
16 the private school, which shall be calculated by dividing the  
17 private school's total expenditures in the previous year by the  
18 total enrollment in the previous school year. A private school  
19 shall be deemed to be primarily serving financially disadvantaged  
20 students if ninety percent (90%) of the private school's admissions  
21 are based on enrolling students whose gross family income is two  
22 hundred fifty percent (250%) of the federal poverty threshold or  
23 below;

1       ~~2.~~ 5. The taxpayer shall retain all receipts of qualified  
2 expenses as proof of the amounts paid each tax year the credit is  
3 claimed and shall submit them to the Commission upon request; ~~and~~

4       ~~3.~~ 6. If the credit exceeds the tax imposed by Section 2355 of  
5 Title 68 of the Oklahoma Statutes, the excess amount shall be  
6 refunded to the taxpayer; and

7       7. Credits claimed by a taxpayer pursuant to the provisions of  
8 this section shall not be used to offset or pay the following:

9           a. delinquent tax liability,

10          b. accrued penalty or interest from the failure to file a  
11           report or return,

12          c. accrued penalty or interest from the failure to pay a  
13           state tax within the statutory period allowed for its  
14           payment,

15          d. tax liability of the taxpayer from any prior tax year,  
16           or

17          e. any debt, unpaid fine, final judgment, or claim filed  
18           with the Commission by a qualified entity as defined  
19           in Section 205.2 of Title 68 of the Oklahoma Statutes.

20       D. 1. a. For tax year 2024, the total amount of credits  
21           authorized by ~~subparagraph a~~ of paragraph 1 of  
22           subsection C of this section shall not exceed One  
23           Hundred Fifty Million Dollars (\$150,000,000.00).  
24

1           b. For ~~tax year 2025~~ the period of January 1, 2025,  
2           through June 30, 2025, the total amount of credits  
3           authorized by ~~subparagraph a~~ of paragraph 1 of  
4           subsection C of this section shall not exceed ~~Two~~  
5           ~~Hundred Million Dollars (\$200,000,000.00)~~ One Hundred  
6           Million Dollars (\$100,000,000.00). The Commission  
7           shall not require a taxpayer who received a credit  
8           pursuant to paragraph 1 of subsection C of this  
9           section in tax year 2024 to reapply for a credit  
10          payable during the period described in this  
11          subparagraph. The Commission shall base the credit  
12          amount payable for the spring 2025 on the fall 2024  
13          installment disbursement payment amount.

14          c. For ~~tax year 2026, and subsequent tax years~~ fiscal  
15          year 2026 and subsequent fiscal years, the total  
16          amount of credits authorized by ~~subparagraph a~~ of  
17          paragraph 1 of subsection C of this section shall not  
18          exceed Two Hundred Fifty Million Dollars  
19          (\$250,000,000.00).

20          2. For tax year 2025~~7~~ and subsequent tax years, the total  
21          amount of credits authorized by ~~subparagraph b~~ of paragraph ~~1~~ 2 of  
22          subsection C of this section shall not exceed Five Million Dollars  
23          (\$5,000,000.00).



1 E. The Commission shall prescribe applications for the purposes  
2 of claiming the credits authorized by the Oklahoma Parental Choice  
3 Tax Credit Act and a deadline by which applications shall be  
4 submitted. A taxpayer claiming the credit authorized by  
5 ~~subparagraph a of~~ paragraph 1 of subsection C of this section shall  
6 submit an application prescribed by the Commission to receive the  
7 credit in two installments, each of which shall be half of the  
8 expected amount of tuition and fees for the private school based on  
9 the ~~affidavit~~ enrollment verification form submitted pursuant to  
10 this subsection, but in no event shall an installment payment exceed  
11 ~~half~~ the amount of the credit authorized by ~~subparagraph a of~~  
12 paragraph 1 of subsection C of this section. If an eligible  
13 taxpayer provides documentation on the application that he or she is  
14 a recipient of income-based government benefits including the  
15 Supplemental Nutrition Assistance Program (SNAP), Temporary  
16 Assistance for Needy Families (TANF), or SoonerCare, the eligible  
17 taxpayer shall not be required to provide additional income  
18 verification. A taxpayer claiming the credit authorized by  
19 ~~subparagraph a of~~ paragraph 1 of subsection C of this section shall  
20 submit to the Commission an ~~affidavit~~ enrollment verification form  
21 from the private school in which the eligible student is enrolled or  
22 is expected to enroll with the tuition and fees to be charged the  
23 taxpayer for the applicable school year. In reviewing applications  
24 submitted by eligible taxpayers to determine whether they qualify

1 for a credit authorized by ~~subparagraph a~~ of paragraph 1 of  
2 subsection C of this section, the Commission shall give first  
3 preference in making installments to taxpayers who qualify pursuant  
4 to ~~divisions (1) and (2) of subparagraph a~~ subparagraphs a and b of  
5 paragraph 1 of subsection C of this section. ~~The Commission shall~~  
6 ~~make the installments based on the expected amount of tuition and~~  
7 ~~fee amounts on the affidavit submitted pursuant to this subsection.~~  
8 For credits issued in the 2025-2026 school year and subsequent  
9 school years, the application period shall open on February 15 prior  
10 to the beginning of each school year. For any eligible student  
11 whose parents or legal guardians have a combined adjusted gross  
12 income that does not exceed One Hundred Fifty Thousand Dollars  
13 (\$150,000.00), applications shall be submitted to the Commission  
14 within the first sixty (60) days of the opening of the application  
15 period to receive priority consideration. For students enrolled in  
16 the full school year, the credit shall be paid in two installments,  
17 one per school semester, to be paid no later than August 30 and  
18 January 15, each of which shall be half of the total expected amount  
19 of tuition and fees on the enrollment verification form submitted  
20 pursuant to this subsection.

21 F. In the event there are more applications submitted by  
22 eligible taxpayers for a credit authorized by paragraph 1 of  
23 subsection C of this section than available credits pursuant to  
24 subsection D of this section, then the Commission shall give first

1 preference in authorizing credits for eligible students of taxpayers  
2 who qualify pursuant to subparagraphs a and b of paragraph 1 of  
3 subsection C of this section and have received the credit in the  
4 prior year.

5 ~~F.~~ G. Taxpayers claiming the credit shall:

6 1. Only claim the credit for qualified expenses as defined in  
7 paragraphs 6 and 7 of subsection A of this section to provide an  
8 education for an eligible student;

9 2. Ensure no other person is claiming a credit for the eligible  
10 student;

11 3. Not claim the credit for an eligible student who enrolls as  
12 a full-time student in a public school district, public charter  
13 school, public virtual charter school, or magnet school; ~~and~~

14 4. Comply with rules and requirements established by the  
15 Commission for administration of the Oklahoma Parental Choice Tax  
16 Credit Program; and

17 5. Notify the Commission not later than thirty (30) days after  
18 the date on which the eligible student:

19 a. enrolls in a public school, including an open-  
20 enrollment charter school,

21 b. enrolls in a nonaccredited private school,

22 c. graduates from high school, or

23 d. is no longer utilizing credits authorized by paragraph  
24 1 of subsection C of this section for any reason.

1        ~~G.~~ H. Eligible students may accept a scholarship from the  
2 Lindsey Nicole Henry Scholarships for Students with Disabilities  
3 Program created by Section 13-101.2 of ~~Title 70 of the Oklahoma~~  
4 ~~Statutes~~ this title while participating in the Oklahoma Parental  
5 Choice Tax Credit Program.

6        ~~H.~~ I. 1. The Commission shall have the authority to conduct an  
7 audit or contract for the auditing of receipts for qualified  
8 expenses submitted pursuant to ~~subparagraph b of paragraph 1~~ 2 of  
9 subsection C of this section.

10        2. The Commission shall be authorized to recapture the credits  
11 otherwise authorized by the provisions of ~~this act~~ the Oklahoma  
12 Parental Choice Tax Credit Act on a prorated basis if an audit  
13 conducted pursuant to this subsection shows that the credit was  
14 claimed for expenditures that were not qualified expenses or it  
15 finds that the taxpayer has claimed an eligible student who no  
16 longer attends a private school or has enrolled in a public school  
17 in the state.

18        3. The Commission shall be authorized to reallocate credits to  
19 the next eligible taxpayer in line when a taxpayer, on behalf of an  
20 eligible student in the program, chooses not to participate, is no  
21 longer eligible to participate, or chooses to forgo participation in  
22 the program for any reason.

23        4. The Commission shall provide notification of approval status  
24 to applicants within thirty (30) days of closure of the application

1 window. Notice to applicants with an eligible student whose parents  
2 or legal guardians have a combined adjusted gross income of more  
3 than One Hundred Fifty Thousand Dollars (\$150,000.00) shall be sent  
4 within thirty (30) days or no later than thirty (30) days after the  
5 last day of the priority consideration period.

6 ~~F.~~ J. In the event of a failure of revenue pursuant to the  
7 Oklahoma State Finance Act, the tax credits otherwise authorized in  
8 subsection C of this section shall be reduced proportionately to the  
9 reduction in the amount of money appropriated to the State Board of  
10 Education for the financial support of public schools for the fiscal  
11 year in which the failure of revenue occurs.

12 ~~J.~~ K. The Commission shall make available on its website ~~the~~ to  
13 be updated monthly:

14 1. The total amount of credits claimed each ~~tax~~ year pursuant  
15 to ~~subparagraphs a and b of paragraph 1~~ paragraphs 1 through 4 of  
16 subsection C of this section;

17 2. The amount of credits claimed and number of students awarded  
18 each fiscal year pursuant to paragraph 1 of subsection C of this  
19 section disaggregated by income categories;

20 3. The total amount of credits claimed and number of students  
21 awarded who attended a public school in the semester immediately  
22 preceding the school year for which the application is made each  
23 year; and

24



1 ENGROSSED HOUSE  
2 BILL NO. 3388

By: McCall of the House

and

Treat of the Senate

3  
4  
5  
6  
7 An Act relating to schools; amending Section 2,  
8 Chapter 278, O.S.L. 2023 (70 O.S. Supp. 2023,  
9 Section 28-101), which relates to the Oklahoma  
10 Parental Choice Tax Credit Act; modifying  
11 definitions; establishing credit amount for private  
12 schools serving certain student populations;  
13 prohibiting offset of credit for certain liabilities;  
14 modifying application of caps from a tax year to a  
15 fiscal year; providing for carryover of certain  
16 unused credits; exempting certain eligible taxpayers  
17 from providing additional income verification;  
18 modifying timing and procedures for application  
19 process; requiring authorization of certain credits;  
20 providing dates for installments; modifying priority  
21 of tax credit recipients in certain cases; directing  
22 taxpayers to provide notice related to a change in  
23 enrollment status; providing for reallocation of  
24 certain credits; excluding credits from taxable  
income; prohibiting issuance of Form 1099s; and  
declaring an emergency.

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

SECTION 5. AMENDATORY Section 2, Chapter 278, O.S.L.  
2023 (70 O.S. Supp. 2023, Section 28-101), is amended to read as  
follows:

1 Section 28-101. A. As used in the Oklahoma Parental Choice Tax  
2 Credit Act:

3 1. "Commission" means the Oklahoma Tax Commission;

4 2. "Curriculum" means a complete course of study for a  
5 particular content area or grade level;

6 3. "Department" means the State Department of Education;

7 4. "Education service provider" means a person, business,  
8 public school district, public charter school, magnet school, or  
9 organization that provides educational goods and/or services to  
10 eligible students;

11 5. "Eligible student" means a resident of this state who is  
12 eligible to enroll in a public school in this state. Eligible  
13 student shall include a student who is enrolled in and attends or is  
14 expected to enroll in a private school accredited by the State Board  
15 of Education or another accrediting association or a student who is  
16 educated pursuant to the other means of education exception provided  
17 for in subsection A of Section 10-105 of ~~Title 70 of the Oklahoma~~  
18 ~~Statutes~~ this title;

19 6. "Qualified expense" for the purpose of claiming the credit  
20 authorized by subparagraph a of paragraph 1 of subsection C of this  
21 section means tuition and fees at a private school accredited by the  
22 State Board of Education or another accrediting association;

23

24



1           7. "Qualified expense" for the purpose of claiming the credit  
2 authorized by subparagraph b of paragraph 1 of subsection C of this  
3 section means the following expenditures:

- 4           a. tuition and fees for nonpublic online or in-person  
5           learning programs,
- 6           b. academic tutoring services provided by an individual  
7           or a private academic tutoring facility,
- 8           c. textbooks, curriculum, or other instructional  
9           materials including, but not limited to, supplemental  
10           materials or associated online instruction required by  
11           an education service provider, and
- 12           d. fees for nationally standardized assessments  
13           including, but not limited to, assessments used to  
14           determine college admission and advanced placement  
15           examinations as well as tuition and fees for tutoring  
16           or preparatory courses for the assessments; and

17           8. "Taxpayer" means a biological or adoptive parent,  
18 grandparent, aunt, uncle, legal guardian, custodian, or other person  
19 with legal authority to act on behalf of an eligible student.

20           B. There is hereby created the Oklahoma Parental Choice Tax  
21 Credit Program to provide an income tax credit to a taxpayer for  
22 qualified expenses to support the education of eligible students in  
23 this state.

1 C. For the tax year 2024 and subsequent tax years, there shall  
2 be allowed against the tax imposed by Section 2355 of Title 68 of  
3 the Oklahoma Statutes a credit for any Oklahoma taxpayer who incurs  
4 a qualified expense on behalf of an eligible student, to be  
5 administered subject to the following amounts for each tax year:

6 1. If the eligible student attends a private school in  
7 Oklahoma, accredited by the State Board of Education or another  
8 accrediting association, the maximum credit amount shall be:

9 a. (1) Seven Thousand Five Hundred Dollars (\$7,500.00)  
10 or the amount of tuition and fees for the private  
11 school, whichever is less, if the eligible  
12 student is a member of a household in which the  
13 total adjusted gross income during the second  
14 preceding tax year does not exceed Seventy-five  
15 Thousand Dollars (\$75,000.00),

16 (2) Seven Thousand Dollars (\$7,000.00) or the amount  
17 of tuition and fees for the private school,  
18 whichever is less, if the eligible student is a  
19 member of a household in which the total adjusted  
20 gross income during the second preceding tax year  
21 is more than Seventy-five Thousand Dollars  
22 (\$75,000.00) but does not exceed One Hundred  
23 Fifty Thousand Dollars (\$150,000.00),  
24

1 (3) Six Thousand Five Hundred Dollars (\$6,500.00) or  
2 the amount of tuition and fees for the private  
3 school, whichever is less, if the eligible  
4 student is a member of a household in which the  
5 total adjusted gross income during the second  
6 preceding tax year is more than One Hundred Fifty  
7 Thousand Dollars (\$150,000.00) but does not  
8 exceed Two Hundred Twenty-five Thousand Dollars  
9 (\$225,000.00),

10 (4) Six Thousand Dollars (\$6,000.00) or the amount of  
11 tuition and fees for the private school,  
12 whichever is less, if the eligible student is a  
13 member of a household in which the total adjusted  
14 gross income during the second preceding tax year  
15 is more than Two Hundred Twenty-five Thousand  
16 Dollars (\$225,000.00) but does not exceed Two  
17 Hundred Fifty Thousand Dollars (\$250,000.00), or

18 (5) Five Thousand Dollars (\$5,000.00) or the amount  
19 of tuition and fees for the private school,  
20 whichever is less, if the eligible student is a  
21 member of a household in which the total adjusted  
22 gross income during the second preceding tax year  
23 is more than Two Hundred Fifty Thousand Dollars  
24 (\$250,000.00), and

1           b.    One Thousand Dollars (\$1,000.00) in qualified expenses  
2                   per eligible student in each tax year if the eligible  
3                   student is educated pursuant to the other means of  
4                   education exception provided for in subsection A of  
5                   Section 10-105 of ~~Title 70 of the Oklahoma Statutes~~  
6                   this title. To claim the credit, the taxpayer shall  
7                   submit to the Commission receipts for qualified  
8                   expenses as defined by paragraph 7 of subsection A of  
9                   this section;

10           2.   If the eligible student attends a private school in  
11 Oklahoma, accredited by the State Board of Education or another  
12 accrediting association, that exclusively serves students  
13 experiencing homelessness, the credit amount shall be Seven Thousand  
14 Five Hundred Dollars (\$7,500.00) or the amount of the cost to  
15 educate the eligible student at the private school, whichever is  
16 less;

17           3.   If the eligible student attends a private school in  
18 Oklahoma, accredited by the State Board of Education or another  
19 accrediting association, that primarily serves financially  
20 disadvantaged students, the credit amount shall be the maximum  
21 credit amount authorized by subparagraph a of paragraph 1 of this  
22 subsection or the amount of the cost to educate the eligible student  
23 at the private school, whichever is less. The cost to educate the  
24 eligible student shall be equal to the average cost to educate all

1 students attending the private school, which shall be calculated by  
2 dividing the private school's total expenditures in the previous  
3 year by the total enrollment in the previous school year. A private  
4 school shall be deemed to be primarily serving financially  
5 disadvantaged students if the private school's admissions are based  
6 on enrolling students whose gross family income is two hundred fifty  
7 percent (250%) of the federal poverty threshold or below;

8 4. The taxpayer shall retain all receipts of qualified expenses  
9 as proof of the amounts paid each tax year the credit is claimed and  
10 shall submit them to the Commission upon request; ~~and~~

11 ~~3.~~ 5. If the credit exceeds the tax imposed by Section 2355 of  
12 Title 68 of the Oklahoma Statutes, the excess amount shall be  
13 refunded to the taxpayer; and

14 6. Credits claimed by a taxpayer pursuant to the provisions of  
15 this section shall not be used to offset or pay the following:

- 16 a. delinquent tax liability,
  - 17 b. accrued penalty or interest from the failure to file a  
18 report or return,
  - 19 c. accrued penalty or interest from the failure to pay a  
20 state tax within the statutory period allowed for its  
21 payment,
  - 22 d. liability of the taxpayer from any prior tax year, or
- 23  
24

1           e. any debt, unpaid fine, final judgement, or claim filed  
2           with the Commission by a qualified entity as defined  
3           in Section 205.2 of Title 68 of the Oklahoma Statutes.

4           D. 1. a. For ~~tax~~ fiscal year 2024, the total amount of credits  
5           authorized by subparagraph a of paragraph 1 of  
6           subsection C of this section shall not exceed One  
7           Hundred Fifty Million Dollars (\$150,000,000.00). Any  
8           unused credits from fiscal year 2024 shall be carried  
9           over to fiscal year 2025.

10           b. For ~~tax~~ fiscal year 2025, the total amount of credits  
11           authorized by subparagraph a of paragraph 1 of  
12           subsection C of this section shall not exceed Two  
13           Hundred Million Dollars (\$200,000,000.00), except for  
14           unused credits carried over from fiscal year 2024  
15           pursuant to subparagraph a of this paragraph.

16           c. For ~~tax~~ fiscal year 2026, and subsequent ~~tax~~ fiscal  
17           years, the total amount of credits authorized by  
18           subparagraph a of paragraph 1 of subsection C of this  
19           section shall not exceed Two Hundred Fifty Million  
20           Dollars (\$250,000,000.00).

21           d. Credits authorized by subparagraph a of paragraph 1 of  
22           subsection C of this section shall be applied to the  
23           fiscal year in which the installment payment provided  
24           in subsection E of this section is made.

1        2. For ~~tax~~ fiscal year 2025, and subsequent ~~tax~~ fiscal years,  
2 the total amount of credits authorized by subparagraph b of  
3 paragraph 1 of subsection C of this section shall not exceed Five  
4 Million Dollars (\$5,000,000.00).

5        E. 1. The Commission shall prescribe applications for the  
6 purposes of claiming the credits authorized by the Oklahoma Parental  
7 Choice Tax Credit Act and a deadline by which applications shall be  
8 submitted. A taxpayer claiming the credit authorized by  
9 subparagraph a of paragraph 1 of subsection C of this section shall  
10 submit an application prescribed by the Commission to receive the  
11 credit. If an eligible taxpayer provides documentation on the  
12 application that he or she is a recipient of income-based government  
13 benefits including the Supplemental Nutrition Assistance Program  
14 (SNAP), Temporary Assistance for Needy Families (TANF), or  
15 SoonerCare, the eligible taxpayer shall not be required to provide  
16 additional income verification.

17        2. To ensure educational continuity for students, the  
18 application process shall be administered based on the school year.  
19 The first application aligned to the school year shall open on May  
20 1, 2024, for the 2024-2025 school year. Prior to authorizing any  
21 credits for the 2024-2025 school year to taxpayers who did not  
22 receive an allocation of credits for the fall semester of 2024, the  
23 Commission shall first automatically authorize the same amount of  
24 credits to taxpayers who were authorized credits prior to May 1,

1 2024, for the fall semester of 2024. Beginning in the 2025-2026  
2 school year and subsequent years, the application period shall open  
3 on January 15 prior to the beginning of each school year. For any  
4 eligible student who is a member of a household in which the total  
5 federal adjusted gross income does not exceed One Hundred Fifty  
6 Thousand Dollars (\$150,000.00), applications shall be submitted to  
7 the Commission within the first sixty (60) days of the opening of  
8 the application period to receive priority consideration. Any  
9 taxpayer who receives an allocation of tax credits shall also have  
10 priority consideration in any subsequent period; provided, that an  
11 application is submitted within the first sixty (60) days of the  
12 application period. For students enrolled in the full school year,  
13 the credit shall be paid in two installments, one per school  
14 semester, to be paid no later than August 30 and January 15, each of  
15 which shall be half of the total expected amount of tuition and fees  
16 for the private school based on the ~~affidavit~~ enrollment  
17 verification form submitted pursuant to this subsection, but in no  
18 event shall an installment payment exceed half the amount of the  
19 credit authorized by subparagraph a of paragraph 1 of subsection C  
20 of this section.

21 3. For students enrolled in less than the full school year, the  
22 credit shall be prorated by semester and issued no later than thirty  
23 (30) days after the application is approved or during the first  
24 thirty (30) days of the semester in which the student is enrolled,



1 whichever is later. The prorated installment payment shall not be  
2 less than fifty percent (50%) of the total expected amount of  
3 tuition and fees for the private school based on the enrollment  
4 verification form submitted pursuant to this subsection, but in no  
5 event shall an installment payment exceed the amount of the credit  
6 authorized by subparagraph a of paragraph 1 of subsection C of this  
7 section.

8 4. A taxpayer claiming the credit authorized by subparagraph a  
9 of paragraph 1 of subsection C of this section shall submit to the  
10 Commission an ~~affidavit~~ enrollment verification form from the  
11 private school in which the eligible student is enrolled or is  
12 expected to enroll with the tuition and fees to be charged the  
13 taxpayer for the applicable school year. The Commission shall make  
14 installment payments based on the expected tuition and fee amounts  
15 provided on the enrollment verification form and submitted pursuant  
16 to this subsection.

17 F. In ~~reviewing~~ the event there are more applications submitted  
18 by eligible taxpayers ~~to determine whether they qualify~~ for a credit  
19 authorized by subparagraph a of paragraph 1 of subsection C of this  
20 section, than available credits pursuant to subsection D of this  
21 section, then the Commission shall give first preference in ~~making~~  
22 ~~installments~~ authorizing credits to eligible students of taxpayers  
23 who ~~qualify pursuant to divisions (1) and (2) of subparagraph a of~~  
24 ~~paragraph 1 of subsection C of this section.~~ The Commission shall

1 ~~make the installments based on the expected amount of tuition and~~  
2 ~~fee amounts on the affidavit submitted pursuant to this subsection:~~

- 3 1. First, received the credit the prior year;
- 4 2. Second, qualify pursuant to divisions (1) and (2) of  
5 subparagraph a of paragraph 1 of subsection C of this section; and
- 6 3. Third, are siblings of eligible students of taxpayers who  
7 received the credit in the prior year.

8 ~~F.~~ G. Taxpayers claiming the credit shall:

- 9 1. Only claim the credit for qualified expenses as defined in  
10 paragraphs 6 and 7 of subsection A of this section to provide an  
11 education for an eligible student;
- 12 2. Ensure no other person is claiming a credit for the eligible  
13 student;
- 14 3. Not claim the credit for an eligible student who enrolls as  
15 a full-time student in a public school district, public charter  
16 school, public virtual charter school, or magnet school; ~~and~~
- 17 4. Comply with rules and requirements established by the  
18 Commission for administration of the Oklahoma Parental Choice Tax  
19 Credit Program; and
- 20 5. Notify the Commission no later than the thirtieth day after  
21 the date on which the eligible student:
  - 22 a. enrolls in a public school, including an open-  
23 enrollment charter school,
  - 24 b. enrolls in a nonaccredited private school,

- 1           c. graduates from high school, or  
2           d. is no longer utilizing credits authorized by  
3           subparagraph a of paragraph 1 of subsection C of this  
4           section for any reason.

5           ~~G.~~ H. Eligible students may accept a scholarship from the  
6 Lindsey Nicole Henry Scholarships for Students with Disabilities  
7 Program created by Section 13-101.2 of ~~Title 70 of the Oklahoma~~  
8 ~~Statutes~~ this title while participating in the Oklahoma Parental  
9 Choice Tax Credit Program.

10           ~~H. 1.~~ I. The Commission shall ~~have:~~

11           1. Have the authority to conduct an audit or contract for the  
12 auditing of receipts for qualified expenses submitted pursuant to  
13 subparagraph b of paragraph 1 of subsection C of this section;

14           ~~2. The Commission shall be~~ Be authorized to recapture the  
15 credits otherwise authorized by the provisions of this act on a  
16 prorated by semester basis if an audit conducted pursuant to this  
17 subsection shows that the credit was claimed for expenditures that  
18 were not qualified expenses or it finds that the taxpayer has  
19 claimed an eligible student who no longer attends a private school  
20 or has enrolled in a public school in the state; and

21           3. Reallocate credits within thirty (30) days of receipt of  
22 notice from a taxpayer pursuant to paragraph 5 of subsection G of  
23 this section to the next eligible taxpayer in line when a taxpayer,  
24 on behalf of an eligible student in the program, chooses not to

1 participate, is no longer eligible to participate, or chooses to  
2 forgo participation in the program for any reason.

3 ~~I.~~ J. In the event of a failure of revenue pursuant to the  
4 Oklahoma State Finance Act, the tax credits otherwise authorized in  
5 subsection C of this section shall be reduced proportionately to the  
6 reduction in the amount of money appropriated to the State Board of  
7 Education for the financial support of public schools for the fiscal  
8 year in which the failure of revenue occurs.

9 ~~J.~~ K. The Commission shall make available on its website the  
10 amount of credits claimed each tax year pursuant to subparagraphs a  
11 and b of paragraph 1 of subsection C of this section.

12 L. Credits received pursuant to this act shall not constitute  
13 taxable income to a taxpayer who received the credit on behalf of an  
14 eligible student. The Commission shall not issue any Form 1099s to  
15 taxpayers.

16 SECTION 6. It being immediately necessary for the preservation  
17 of the public peace, health or 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.

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1 Passed the House of Representatives the 13th day of March, 2024.

2  
3 \_\_\_\_\_  
4 Presiding Officer of the House  
5 of Representatives

6 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2024.

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8 \_\_\_\_\_  
9 Presiding Officer of the Senate