ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE
BILL NO. 3388

By: McCall of the House

and

Treat of the Senate

An Act relating to schools; amending Section 2, Chapter 278, O.S.L. 2023 (70 O.S. Supp. 2023, Section 28-101), which relates to the Oklahoma Parental Choice Tax Credit Act; modifying definitions; establishing credit amount for private schools serving certain student populations; prohibiting offset of credit for certain liabilities; modifying application of caps from a tax year to a fiscal year; providing for carryover of certain unused credits; exempting certain eligible taxpayers from providing additional income verification; modifying timing and procedures for application process; requiring authorization of certain credits; providing dates for installments; modifying priority of tax credit recipients in certain cases; directing taxpayers to provide notice related to a change in enrollment status; providing for reallocation of 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;

providing exemption for certain tax credits received; amending Section 2, Chapter 278, O.S.L. 2023 (70 O.S. Supp. 2023, Section 28-101), which relates to the Oklahoma Parental Choice Tax Credit Act; modifying definitions; modifying income limitations; allowing certain credit to qualifying students; establishing credit amount for private schools serving certain student populations; prohibiting the use of tax credit to offset certain accrued liabilities; modifying annual credit limitations; prohibiting the Oklahoma Tax Commission from requiring certain taxpayers to reapply for certain credit; providing for calculation of credit amount; modifying limitations on credits allowed during certain fiscal years; exempting certain eligible taxpayers from providing additional income verification; requiring submission of enrollment verification form; prescribing application period; requiring credits and payments to be allocated by certain dates; providing deadline to receive priority consideration; allowing certain reallocation of credits; requiring certain notification; requiring the Commission to update certain information monthly; requiring the Commission 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;

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

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

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

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

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

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

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

a. that a claim has been filed with the Tax Commission for any portion of the tax refund due to the debtor or defendant which would satisfy the debt, unpaid court fines and costs, or final judgment in full or in part,

b. the basis for the claim,

c. that the Tax Commission has deducted an amount from the refund and remitted it to such qualified entity,

d. that the debtor or defendant has the right to contest the claim by sending a written request to the qualified entity for a hearing to protest the claim, and if the debtor or defendant fails to apply for a hearing within sixty (60) days after the date of the mailing of the notice, the debtor or defendant shall be deemed to have waived his or her opportunity to contest the claim. Provided, if the claim was filed by the Department of Human Services, the notice shall state that the debtor must contest the claim by sending a written request to the Department within thirty (30) days after the date of the mailing of the notice, and

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

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

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

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

b. the fact that a debt, unpaid court fines and costs, or final judgment is not claimed against the taxpayer,

c. the fact that the taxpayer is entitled to receive a refund if it is due regardless of the debt, court fines and costs, or final judgment asserted against the debtor or defendant,

d. that in order to obtain the refund due, the taxpayer must apply, in writing, for a hearing with the qualified entity named in the notice within sixty (60) days after the date of the mailing of the notice. Provided, if the claim was filed by the Department of Human Services, the notice shall state that the taxpayer must apply, in writing, for a hearing with the Department within thirty (30) days after the date of the mailing of the notice, and

e. if the taxpayer against whom no debt, no unpaid court fines and costs, or final judgment is claimed fails to apply in writing for a hearing within sixty (60) days after the mailing of the notice, the taxpayer shall have waived his or her right to a refund. Provided, if the claim was filed by the Department of Human Services, the notice shall state that if the taxpayer fails to apply in writing for a hearing with the Department within thirty (30) days after the date of the mailing of the notice, the taxpayer shall have waived his or her right to a refund.

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

D. Upon final determination at a hearing, as provided for in subsection C of this section, of the amount of the debt, unpaid court fines and costs, or final judgment, or upon failure of the debtor or taxpayer against whom no debt, no unpaid court fines and costs, or final judgment is claimed to request such a hearing, the qualified entity shall apply the amount of the claim to the debt owed. Any amounts held by the qualified entity in excess of the final determination of the debt and collection expense shall be refunded by the qualified entity to the taxpayer. However, if the tax refund due is inadequate to pay the collection expense and debt, unpaid court fines and costs, or final judgment, the balance due the qualified entity shall be a continuing debt or final judgment until paid in full.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. For carryovers and carrybacks to taxable years beginning after December 31, 1980, the amount of any net operating loss deduction allowed for the taxable year shall be an amount equal to the aggregate of the Oklahoma net operating loss carryovers and carrybacks to such year. Oklahoma net operating losses shall be separately determined by reference to Section 172 of the Internal Revenue Code, 26 U.S.C., Section 172, as modified by the Oklahoma Income Tax Act, Section 2351 et seq. of this title, and shall be allowed without regard to the existence of a federal net operating loss. For tax years beginning after December 31, 2000, and ending before January 1, 2008, the years to which such losses may be carried shall be determined solely by reference to Section 172 of the Internal Revenue Code, 26 U.S.C., Section 172, with the exception that the terms "net operating loss" and "taxable income" shall be replaced with "Oklahoma net operating loss" and "Oklahoma taxable income". For tax years beginning after December 31, 2007, and ending before January 1, 2009, years to which such losses may be carried back shall be limited to two (2) years. For tax years beginning after December 31, 2008, the years to which such losses may be carried back shall be determined solely by reference to Section 172 of the Internal Revenue Code, 26 U.S.C., Section 172, with the exception that the terms "net operating loss" and "taxable income" shall be replaced with "Oklahoma net operating loss" and "Oklahoma taxable income".

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

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

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

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

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

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

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

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

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

d. In the case of a manufacturing or processing enterprise the business of which in ~~Oklahoma~~ <u>this state</u> consists solely of marketing its products by:

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

(2) sales of the product stored in public warehouses within the state pursuant to “in transit”

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

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

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

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

(1) except as otherwise provided by division (2) of this subparagraph, taxable income of an insurance company for a taxable year shall be apportioned to this state by multiplying such income by a fraction, the numerator of which is the direct premiums written for insurance on property or risks in this state, and the denominator of which is the direct premiums written for insurance on property or risks everywhere. For purposes of this subsection, the term “direct premiums written” means the total amount of direct premiums written, assessments and annuity considerations as reported for the taxable year on the annual statement filed by the company with the Insurance Commissioner in the form approved by the National Association of Insurance Commissioners, or such other form as may be prescribed in lieu thereof,

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

premiums written for insurance on property or risks in this state, plus (b) premiums written for reinsurance accepted in respect of property or risks in this state, and the denominator of which is the sum of (c) direct premiums written for insurance on property or risks everywhere, plus (d) premiums written for reinsurance accepted in respect of property or risks everywhere. For purposes of this paragraph, premiums written for reinsurance accepted in respect of property or risks in this state, whether or not otherwise determinable, may at the election of the company be determined on the basis of the proportion which premiums written for insurance accepted from companies commercially domiciled in ~~Oklahoma~~ this state bears to premiums written for reinsurance accepted from all sources, or alternatively in the proportion which the sum of the direct premiums written for insurance on property or risks in this state by each ceding company from which reinsurance is accepted bears to the sum of the total direct premiums written by each such ceding company for the taxable year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

For purposes of this paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. For purposes of this subsection:

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

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

(2) Having at least fifty percent (50%) of its employees and assets located in ~~Oklahoma~~ this state at the time of the transfer, and

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

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

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

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

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

2. As used in this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Twenty-five Thousand Dollars ($25,000.00) if married and filing jointly;

(2) Twelve Thousand Five Hundred Dollars ($12,500.00) if married and filing separately;

(3) Fifteen Thousand Dollars ($15,000.00) if single; and

(4) Nineteen Thousand Dollars ($19,000.00) if a qualifying head of household.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Eight Thousand Five Hundred Dollars ($8,500.00), if the filing status is married filing joint or qualifying widow, or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Such individual shall return to the United States if the extension is granted pursuant to subparagraph a of this paragraph, return to ~~the State of Oklahoma~~ this state if the extension is granted pursuant to subparagraph b of this paragraph or be discharged from such hospital if the extension is granted pursuant to subparagraph c of this paragraph; or

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

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

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

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

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

Oklahoma adjusted gross income to federal adjusted gross income.

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

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

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

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

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

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

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

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

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

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

(1) the adoption of a minor, or

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

may be deducted from the Oklahoma adjusted gross income.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

d. If a taxpayer elects to take a rollover on a contribution for which a deduction has been taken pursuant to subparagraph b of this paragraph within one (1) year of the date of contribution, the amount of such rollover shall be included in the adjusted gross income of the taxpayer in the taxable year of the rollover.

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

f. As used in this paragraph:

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

(a) a qualified withdrawal,

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

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

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

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

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

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

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

a. in the taxable year beginning January 1, 2007, twenty percent (20%) of such benefits shall be exempt,

b. in the taxable year beginning January 1, 2008, forty percent (40%) of such benefits shall be exempt,

c. in the taxable year beginning January 1, 2009, sixty percent (60%) of such benefits shall be exempt,

d. in the taxable year beginning January 1, 2010, eighty percent (80%) of such benefits shall be exempt, and

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

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

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

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

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

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

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

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

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

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

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

succeeding tax year, or through the due date of a taxpayer's state income tax return excluding extensions, whichever is later. Provided, a deduction for the same contribution may not be taken in more than one (1) tax year.

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

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

2. As used in this subsection:

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

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

transaction from which such net capital gains arise,

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

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

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

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

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

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

(1) With respect to sales of real property or tangible personal property located within ~~Oklahoma~~ this state, the deduction described in this subsection shall not apply unless the pass-through entity that makes the sale has held the property for not less than five (5) uninterrupted

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

(2) With respect to sales of stock or ownership interest in or sales of all or substantially all of the assets of an Oklahoma company, limited liability company, partnership or Oklahoma proprietorship business enterprise, the deduction described in this subsection shall not apply unless the pass-through entity that makes the sale has held the stock or ownership interest for not less than two (2) uninterrupted years prior to the date of the transaction that created the capital gain, and each pass-through entity included in the chain of ownership has been a member, partner or shareholder of the pass-through entity in the tier immediately below it for an uninterrupted period of not less than two (2) years. For purposes of this division, uninterrupted ownership prior to July 1, 2007,

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

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

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

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

a. the term “real estate investment trust” or “REIT” means the meaning ascribed to such term in Section 856 of the Internal Revenue Code,

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

(1) treated as an association taxable as a corporation under the Internal Revenue Code, and

(2) not exempt from federal income tax pursuant to the provisions of Section 501(a) of the Internal Revenue Code.

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

c. the term “association taxable as a corporation” shall not include the following entities:

(1) any real estate investment trust as defined in paragraph a of this subsection other than a ~~"captive real estate investment trust"~~ captive real estate investment trust, or

(2) any qualified real estate investment trust subsidiary under Section 856(i) of the Internal Revenue Code, other than a qualified REIT subsidiary of a ~~"captive real estate investment trust"~~ captive real estate investment trust, or

(3) any ~~Listed Australian Property Trust~~ listed Australian property trust (meaning an Australian unit trust registered as a ~~"Managed Investment Scheme"~~ "managed investment scheme" under the Australian Corporations Act 2001 in which the principal class of units is listed on a recognized stock exchange in Australia and is regularly traded on an established securities market), or an entity organized as a trust, provided that a ~~Listed Australian Property Trust~~ listed Australian property trust owns or controls, directly or indirectly, seventy-five percent (75%) or more of the voting power or value of the beneficial interests or shares of such trust, or

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

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

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

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

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

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

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

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

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

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

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

1. "Commission" means the Oklahoma Tax Commission;

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

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

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

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

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

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

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

a. tuition and fees for nonpublic ~~online~~ learning programs, online or in person,

b. academic tutoring services provided by an individual or a private academic tutoring facility,

c. textbooks, curriculum, or other instructional materials including, but not limited to, supplemental materials or associated online instruction required by an education service provider, and

d. fees for nationally standardized assessments including, but not limited to, assessments used to determine college admission and advanced placement examinations as well as tuition and fees for tutoring or preparatory courses for the assessments; and

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

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

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

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

a. ~~(1)~~ Seven Thousand Five Hundred Dollars ($7,500.00) or the amount of tuition and fees for the private school, whichever is less, if the combined adjusted gross income of the parents or legal guardians of the eligible student ~~is a member of a household in which the total adjusted gross income~~ during the second preceding tax year does not exceed Seventy-five Thousand Dollars ($75,000.00),

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

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

~~(4)~~ d. Six Thousand Dollars ($6,000.00) or the amount of tuition and fees for the private school, whichever is less, if the combined adjusted gross income of the parents or legal guardians of the eligible student ~~is a member of a household in which the total adjusted gross income~~ during the second preceding tax year is more than Two Hundred Twenty-five Thousand Dollars ($225,000.00) but does not exceed Two Hundred Fifty Thousand Dollars ($250,000.00), or

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

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

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

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

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

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

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

a. delinquent tax liability,

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

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

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

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

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

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

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

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

E. The Commission shall prescribe applications for the purposes of claiming the credits authorized by the Oklahoma Parental Choice Tax Credit Act and a deadline by which applications shall be submitted. A taxpayer claiming the credit authorized by ~~subparagraph a of~~ paragraph 1 of subsection C of this section shall submit an application prescribed by the Commission to receive the credit in two installments, each of which shall be half of the expected amount of tuition and fees for the private school based on the ~~affidavit~~ enrollment verification form submitted pursuant to this subsection, but in no event shall an installment payment exceed ~~half~~ the amount of the credit authorized by ~~subparagraph a of~~ paragraph 1 of subsection C of this section. If an eligible taxpayer provides documentation on the application that he or she is a recipient of income-based government benefits including the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), or SoonerCare, the eligible taxpayer shall not be required to provide additional income verification. A taxpayer claiming the credit authorized by ~~subparagraph a of~~ paragraph 1 of subsection C of this section shall submit to the Commission an ~~affidavit~~ enrollment verification form from the private school in which the eligible student is enrolled or is expected to enroll with the tuition and fees to be charged the taxpayer for the applicable school year. In reviewing applications submitted by eligible taxpayers to determine whether they qualify for a credit authorized by ~~subparagraph a of~~ paragraph 1 of subsection C of this section, the Commission shall give first preference in making installments to taxpayers who qualify pursuant to ~~divisions (1) and (2) of subparagraph a~~ subparagraphs a and b of paragraph 1 of subsection C of this section. ~~The Commission shall make the installments based on the expected amount of tuition and fee amounts on the affidavit submitted pursuant to this subsection.~~ For credits issued in the 2025-2026 school year and subsequent school years, the application period shall open on February 15 prior to the beginning of each school year. For any eligible student whose parents or legal guardians have a combined adjusted gross income that does not exceed One Hundred Fifty Thousand Dollars ($150,000.00), applications shall be submitted to the Commission within the first sixty (60) days of the opening of the application period to receive priority consideration. For students enrolled in the full school year, the credit shall be paid in two installments, one per school semester, to be paid no later than August 30 and January 15, each of which shall be half of the total expected amount of tuition and fees on the enrollment verification form submitted pursuant to this subsection.

F. In the event there are more applications submitted by eligible taxpayers for a credit authorized by paragraph 1 of subsection C of this section than available credits pursuant to subsection D of this section, then the Commission shall give first preference in authorizing credits for eligible students of taxpayers who qualify pursuant to subparagraphs a and b of paragraph 1 of subsection C of this section and have received the credit in the prior year.

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

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

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

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

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

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

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

b. enrolls in a nonaccredited private school,

c. graduates from high school, or

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

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

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

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

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

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

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

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

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

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

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

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

4. The total number of applications denied and total amount of credits the denied applications represent for each fiscal year.

L. Credits received pursuant to the Oklahoma Parental Choice Tax Credit Act shall not constitute taxable income to a taxpayer who received the credit on behalf of an eligible student.

SECTION 4. It being immediately necessary for the preservation of the public peace, health, or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the Senate the 25th day of April, 2024.

____
Presiding Officer of the Senate

Passed the House of Representatives the ____ day of __________, 2024.

____
Presiding Officer of the House of Representatives

ENGROSSED HOUSE
BILL NO. 3388 By: McCall of the House

and

Treat of the Senate

An Act relating to schools; amending Section 2, Chapter 278, O.S.L. 2023 (70 O.S. Supp. 2023, Section 28-101), which relates to the Oklahoma Parental Choice Tax Credit Act; modifying definitions; establishing credit amount for private schools serving certain student populations; prohibiting offset of credit for certain liabilities; modifying application of caps from a tax year to a fiscal year; providing for carryover of certain unused credits; exempting certain eligible taxpayers from providing additional income verification; modifying timing and procedures for application process; requiring authorization of certain credits; providing dates for installments; modifying priority of tax credit recipients in certain cases; directing taxpayers to provide notice related to a change in enrollment status; providing for reallocation of 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:

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

1. "Commission" means the Oklahoma Tax Commission;

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

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

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

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

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

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

a. tuition and fees for nonpublic online or in-person learning programs,

b. academic tutoring services provided by an individual or a private academic tutoring facility,

c. textbooks, curriculum, or other instructional materials including, but not limited to, supplemental materials or associated online instruction required by an education service provider, and

d. fees for nationally standardized assessments including, but not limited to, assessments used to determine college admission and advanced placement examinations as well as tuition and fees for tutoring or preparatory courses for the assessments; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. delinquent tax liability,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. First, received the credit the prior year;

2. Second, qualify pursuant to divisions (1) and (2) of subparagraph a of paragraph 1 of subsection C of this section; and

3. Third, are siblings of eligible students of taxpayers who received the credit in the prior year.

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

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

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

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

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

5. Notify the Commission no later than the thirtieth day after the date on which the eligible student:

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

b. enrolls in a nonaccredited private school,

c. graduates from high school, or

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

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

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

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

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

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

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

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

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

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

SECTION 6. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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

____
Presiding Officer of the House
of Representatives

Passed the Senate the ___ day of __________, 2024.

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Presiding Officer of the Senate