

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL 1

6 By: Brogdon, Ivester, Gumm,
7 Ford, Paddock, Nichols,
8 Anderson, Brown, Mazzei,
9 Crain, Wilcoxson, Lamb,
10 Aldridge, Branan, Coffee,
11 Sykes, Schulz, Barrington,
12 Bingman, Reynolds, Johnson
13 (Mike) and Jolley of the
14 Senate

15 and

16 Wesselhoft, Billy, Jackson,
17 Liebmann, Martin (Scott),
18 Martin (Steve), Thompson,
19 Wright, Cannaday, Dank,
20 Enns, Faught, Inman, Kern,
21 McDaniel (Randy), Murphey,
22 Peterson (Pam), Proctor,
23 Pruett, Reynolds, Sears,
24 Sherrer, Shumate, Sullivan,
Terrill, Tibbs and Worthen
of the House

17 CONFERENCE COMMITTEE SUBSTITUTE

18 An Act relating to public finance; creating the
19 Taxpayer Transparency Act; defining terms; requiring
20 the Office of State Finance to develop and operate a
21 specified website; enumerating information which
22 shall be made available on such website by specified
23 dates; establishing time period covered for
24 information on such website; requiring specified
agencies to provide certain information; providing
for nondisclosure of certain information; limiting
liability for disclosure of certain information or
for error or omission in disclosure; amending 68 O.S.
Supp. 2001, Section 205, as last amended by Section
1, Chapter 281, O.S.L. 2006 (68 O.S. Supp. 2006,

1 Section 205), which relates to confidentiality of
2 certain information; modifying confidentiality
3 requirement; providing for codification; and
4 providing an effective date.

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

6 SECTION 1. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 46 of Title 62, unless there is
8 created a duplication in numbering, reads as follows:

9 A. This act shall be known and may be cited as the "Taxpayer
10 Transparency Act."

11 B. As used in the Taxpayer Transparency Act:

12 1. "Single website" means a website that allows the public to
13 access information identified in subsection C of this section
14 without any fee or charge to the public for such access;

15 2. "Expenditure of state funds" means the disbursement of state
16 funds, whether appropriated or nonappropriated, excluding:

17 a. the transfer of funds between two state agencies,

18 b. payments of state or federal assistance to an
19 individual,

20 c. child support payments, and

21 d. refunds issued by the Oklahoma Tax Commission
22 resulting from the overpayment of tax;

23 3. "Incentive payments" means payments made under the Oklahoma
24 Quality Jobs Program Act, Saving Quality Jobs Act, Oklahoma Quality

1 Jobs Incentive Leverage Act, Small Employer Quality Jobs Incentive
2 Act, Oklahoma Specialized Quality Investment Act and Oklahoma
3 Quality Investment Act; and

4 4. "Tax credit" means a credit pursuant to the Oklahoma Income
5 Tax Act against tax liability which is taken by a taxpayer,
6 excluding credits authorized under paragraphs 1 and 2 of subsection
7 B of Section 2357 and Sections 2357.29 and 2357.43 of Title 68 of
8 the Oklahoma Statutes.

9 C. No later than January 1, 2008, the Office of State Finance
10 shall develop and operate a single website accessible by the public.
11 The website shall include aggregate information on state revenue,
12 expenditures and incentive payments and information on state tax
13 preferences as contained in the tax expenditure report published by
14 the Oklahoma Tax Commission pursuant to subsection E of Section 205
15 of Title 68 of the Oklahoma Statutes. No later than January 1,
16 2009, the website shall include search capabilities.

17 D. As soon as practicable after January 1, 2008, such website
18 shall also include, but not be limited to:

- 19 1. For the expenditure of state funds or incentive payments:
- 20 a. the name and principal location of the entity and/or
 - 21 recipients of the funds, excluding release of
 - 22 information relating to an individual's place of
 - 23 residence, release of information prohibited by
 - 24 subsection D of Section 24A.7 of Title 51 of the

1 Oklahoma Statutes or by federal law relating to
2 privacy rights,

- 3 b. the amount of state funds expended,
- 4 c. the type of transaction,
- 5 d. the funding or expending agency, and
- 6 e. a descriptive purpose of the funding action or
7 expenditure; and

8 2. For each tax credit, information, including but not limited
9 to:

- 10 a. the name of each taxpayer to which a credit has been
11 granted,
- 12 b. the amount of such credit, and
- 13 c. the specific provision under which a credit has been
14 granted.

15 E. The single website provided for in subsection C of this
16 section shall include data on state revenue, expenditures and
17 incentive payments for the fiscal year 2007 and each fiscal year
18 thereafter and on state tax credits for tax year 2007 and each tax
19 year thereafter. Such data shall be available on the single website
20 no later than one hundred twenty (120) days after the last day of
21 the preceding fiscal year.

22 F. The Oklahoma Tax Commission, the Office of the State
23 Treasurer, all institutions of The Oklahoma State System of Higher
24 Education and any other state agency shall provide to the Office of

1 State Finance such information as is necessary to accomplish the
2 purposes of this act.

3 G. So that the Tax Commission may fulfill its obligations as
4 required by this section, all recipients of tax credits, as that
5 term is defined herein, shall file their reports or returns claiming
6 the tax credits in an electronic format, as may be required by the
7 Tax Commission. The Tax Commission may disallow any claim of a
8 person for a tax credit due to its failure to file a report or
9 return as required under the authority of this paragraph.

10 H. Nothing in this act shall require the disclosure of
11 information which is required confidential by state or federal law.

12 I. The disclosure of information required by this section shall
13 create no liability whatsoever, civil or criminal, to the State of
14 Oklahoma or any member of the Office of State Finance or any
15 employee thereof for disclosure of the information or for any error
16 or omission in the disclosure.

17 SECTION 2. AMENDATORY 68 O.S. 2001, Section 205, as last
18 amended by Section 1, Chapter 281, O.S.L. 2006 (68 O.S. Supp. 2006,
19 Section 205), is amended to read as follows:

20 Section 205. A. The records and files of the Oklahoma Tax
21 Commission concerning the administration of the Uniform Tax
22 Procedure Code or of any state tax law shall be considered
23 confidential and privileged, except as otherwise provided for by
24 law, and neither the Tax Commission nor any employee engaged in the

1 administration of the Tax Commission or charged with the custody of
2 any such records or files nor any person who may have secured
3 information from the Tax Commission shall disclose any information
4 obtained from the records or files or from any examination or
5 inspection of the premises or property of any person.

6 B. Except as provided in paragraph 26 of subsection C of this
7 section, neither the Tax Commission nor any employee engaged in the
8 administration of the Tax Commission or charged with the custody of
9 any such records or files shall be required by any court of this
10 state to produce any of the records or files for the inspection of
11 any person or for use in any action or proceeding, except when the
12 records or files or the facts shown thereby are directly involved in
13 an action or proceeding pursuant to the provisions of the Uniform
14 Tax Procedure Code or of the state tax law, or when the
15 determination of the action or proceeding will affect the validity
16 or the amount of the claim of the state pursuant to any state tax
17 law, or when the information contained in the records or files
18 constitutes evidence of violation of the provisions of the Uniform
19 Tax Procedure Code or of any state tax law.

20 C. The provisions of this section shall not prevent the Tax
21 Commission from disclosing the following information and no
22 liability whatsoever, civil or criminal, shall attach to any member
23 of the Tax Commission or any employee thereof for any error or
24 omission in the disclosure of such information:

1 1. The delivery to a taxpayer or a duly authorized
2 representative of the taxpayer of a copy of any report or any other
3 paper filed by the taxpayer pursuant to the provisions of the
4 Uniform Tax Procedure Code or of any state tax law;

5 2. The exchange of information that is not protected by the
6 federal Privacy Protection Act, 42 U.S.C., Section 2000aa et seq.,
7 pursuant to reciprocal agreements entered into by the Tax Commission
8 and other state agencies or agencies of the federal government;

9 3. The publication of statistics so classified as to prevent
10 the identification of a particular report and the items thereof;

11 4. The examination of records and files by the State Auditor
12 and Inspector or the duly authorized agents of the State Auditor and
13 Inspector;

14 5. The disclosing of information or evidence to the Oklahoma
15 State Bureau of Investigation, Attorney General, Oklahoma State
16 Bureau of Narcotics and Dangerous Drugs Control, any district
17 attorney, or agent of any federal law enforcement agency when the
18 information or evidence is to be used by such officials to
19 investigate or prosecute violations of the criminal provisions of
20 the Uniform Tax Procedure Code or of any state tax law or of any
21 federal crime committed against this state. Any information
22 disclosed to the Oklahoma State Bureau of Investigation, Attorney
23 General, Oklahoma State Bureau of Narcotics and Dangerous Drugs
24 Control, any district attorney, or agent of any federal law

1 enforcement agency shall be kept confidential by such person and not
2 be disclosed except when presented to a court in a prosecution for
3 violation of the tax laws of this state or except as specifically
4 authorized by law, and a violation by the Oklahoma State Bureau of
5 Investigation, Attorney General, Oklahoma State Bureau of Narcotics
6 and Dangerous Drugs Control, district attorney, or agent of any
7 federal law enforcement agency by otherwise releasing the
8 information shall be a felony;

9 6. The use by any division of the Tax Commission of any
10 information or evidence in the possession of or contained in any
11 report or return filed with any other division of the Tax
12 Commission;

13 7. The furnishing, at the discretion of the Tax Commission, of
14 any information disclosed by its records or files to any official
15 person or body of this state, any other state, the United States, or
16 foreign country who is concerned with the administration or
17 assessment of any similar tax in this state, any other state or the
18 United States. The provisions of this paragraph shall include the
19 furnishing of information by the Tax Commission to a county assessor
20 to determine the amount of gross household income pursuant to the
21 provisions of Section 8C of Article X of the Oklahoma Constitution
22 or Section 2890 of this title. The Tax Commission shall promulgate
23 rules to give guidance to the county assessors regarding the type of
24 information which may be used by the county assessors in determining

1 the amount of gross household income pursuant to Section 8C of
2 Article X of the Oklahoma Constitution or Section 2890 of this
3 title. The provisions of this paragraph shall also include the
4 furnishing of information to the State Treasurer for the purpose of
5 administration of the Uniform Unclaimed Property Act;

6 8. The furnishing of information to other state agencies for
7 the limited purpose of aiding in the collection of debts owed by
8 individuals to such requesting agencies;

9 9. The furnishing of information requested by any member of the
10 general public and stated in the sworn lists or schedules of taxable
11 property of public service corporations organized, existing, or
12 doing business in this state which are submitted to and certified by
13 the State Board of Equalization pursuant to the provisions of
14 Section 2858 of this title and Section 21 of Article X of the
15 Oklahoma Constitution, provided such information would be a public
16 record if filed pursuant to Sections 2838 and 2839 of this title on
17 behalf of a corporation other than a public service corporation;

18 10. The furnishing of information requested by any member of
19 the general public and stated in the findings of the Tax Commission
20 as to the adjustment and equalization of the valuation of real and
21 personal property of the counties of the state, which are submitted
22 to and certified by the State Board of Equalization pursuant to the
23 provisions of Section 2865 of this title and Section 21 of Article X
24 of the Oklahoma Constitution;

1 11. The furnishing of information to an Oklahoma wholesaler of
2 low-point beer, licensed under the provisions of Section 163.1 et
3 seq. of Title 37 of the Oklahoma Statutes, of the licensed retailers
4 authorized by law to purchase low-point beer in this state or the
5 furnishing of information to a licensed Oklahoma wholesaler of
6 shipments by licensed manufacturers into this state;

7 12. The furnishing of information as to the issuance or
8 revocation of any tax permit, license or exemption by the Tax
9 Commission as provided for by law. Such information shall be
10 limited to the name of the person issued the permit, license or
11 exemption, the name of the business entity authorized to engage in
12 business pursuant to the permit, license or exemption, the address
13 of the business entity, and the grounds for revocation;

14 13. The posting of notice of revocation of any tax permit or
15 license upon the premises of the place of business of any business
16 entity which has had any tax permit or license revoked by the Tax
17 Commission as provided for by law. Such notice shall be limited to
18 the name of the person issued the permit or license, the name of the
19 business entity authorized to engage in business pursuant to the
20 permit or license, the address of the business entity, and the
21 grounds for revocation;

22 14. The furnishing of information upon written request by any
23 member of the general public as to the outstanding and unpaid amount
24 due and owing by any taxpayer of this state for any delinquent tax,

1 together with penalty and interest, for which a tax warrant or a
2 certificate of indebtedness has been filed pursuant to law;

3 15. After the filing of a tax warrant pursuant to law, the
4 furnishing of information upon written request by any member of the
5 general public as to any agreement entered into by the Tax
6 Commission concerning a compromise of tax liability for an amount
7 less than the amount of tax liability stated on such warrant;

8 16. The disclosure of information necessary to complete the
9 performance of any contract authorized by Sections 255 and 262 of
10 this title to any person with whom the Tax Commission has
11 contracted;

12 17. The disclosure of information to any person for a purpose
13 as authorized by the taxpayer pursuant to a waiver of
14 confidentiality. The waiver shall be in writing and shall be made
15 upon such form as the Tax Commission may prescribe;

16 18. The disclosure of information required in order to comply
17 with the provisions of Section 2369 of this title;

18 19. The disclosure to an employer, as defined in Sections
19 2385.1 and 2385.3 of this title, of information required in order to
20 collect the tax imposed by Section 2385.2 of this title;

21 20. The disclosure to a plaintiff of a corporation's last-known
22 address shown on the records of the Franchise Tax Division of the
23 Tax Commission in order for such plaintiff to comply with the
24 requirements of Section 2004 of Title 12 of the Oklahoma Statutes;

1 21. The disclosure of information directly involved in the
2 resolution of the protest by a taxpayer to an assessment of tax or
3 additional tax or the resolution of a claim for refund filed by a
4 taxpayer, including the disclosure of the pendency of an
5 administrative proceeding involving such protest or claim, to a
6 person called by the Tax Commission as an expert witness or as a
7 witness whose area of knowledge or expertise specifically addresses
8 the issue addressed in the protest or claim for refund. Such
9 disclosure to a witness shall be limited to information pertaining
10 to the specific knowledge of that witness as to the transaction or
11 relationship between taxpayer and witness;

12 22. The disclosure of information necessary to implement an
13 agreement authorized by Section 2702 of this title when such
14 information is directly involved in the resolution of issues arising
15 out of the enforcement of a municipal sales tax ordinance. Such
16 disclosure shall be to the governing body or to the municipal
17 attorney, if so designated by the governing body;

18 23. The furnishing of information regarding incentive payments
19 made pursuant to the provisions of Sections 3601 through 3609 of
20 this title or incentive payments made pursuant to the provisions of
21 Sections 3501 through 3508 of this title;

22 24. The furnishing to a prospective purchaser of any business,
23 or his or her authorized representative, of information relating to
24 any liabilities, delinquencies, assessments or warrants of the

1 prospective seller of the business which have not been filed of
2 record, established, or become final and which relate solely to the
3 seller's business. Any disclosure under this paragraph shall only
4 be allowed upon the presentment by the prospective buyer, or the
5 buyer's authorized representative, of the purchase contract and a
6 written authorization between the parties;

7 25. The furnishing of information as to the amount of state
8 revenue affected by the issuance or granting of any tax permit,
9 license, exemption, deduction, credit or other tax preference by the
10 Tax Commission as provided for by law. Such information shall be
11 limited to the type of permit, license, exemption, deduction, credit
12 or other tax preference issued or granted, the date and duration of
13 such permit, license, exemption, deduction, credit or other tax
14 preference and the amount of such revenue. The provisions of this
15 paragraph shall not authorize the disclosure of the name of the
16 person issued such permit, license, exemption, deduction, credit or
17 other tax preference, or the name of the business entity authorized
18 to engage in business pursuant to the permit, license, exemption,
19 deduction, credit or other tax preference;

20 26. The examination of records and files of a person or entity
21 by the Oklahoma State Bureau of Narcotics and Dangerous Drugs
22 Control pursuant to a court order by a magistrate in whose
23 territorial jurisdiction the person or entity resides, or where the
24 Tax Commission records and files are physically located. Such an

1 order may only be issued upon a sworn application by an agent of the
2 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,
3 certifying that the person or entity whose records and files are to
4 be examined is the target of an ongoing investigation of a felony
5 violation of the Uniform Controlled Dangerous Substances Act and
6 that information resulting from such an examination would likely be
7 relevant to that investigation. Any records or information obtained
8 pursuant to such an order may only be used by the Oklahoma State
9 Bureau of Narcotics and Dangerous Drugs Control in the investigation
10 and prosecution of a felony violation of the Uniform Controlled
11 Dangerous Substances Act. Any such order issued pursuant to this
12 paragraph, along with the underlying application, shall be sealed
13 and not disclosed to the person or entity whose records were
14 examined, for a period of ninety (90) days. The issuing magistrate
15 may grant extensions of such period upon a showing of good cause in
16 furtherance of the investigation. Upon the expiration of ninety
17 (90) days and any extensions granted by the magistrate, a copy of
18 the application and order shall be served upon the person or entity
19 whose records were examined, along with a copy of the records or
20 information actually provided by the Tax Commission; ~~or~~

21 27. The disclosure of information, as prescribed by this
22 paragraph, which is related to the proposed or actual usage of tax
23 credits pursuant to Section 2357.7 of this title, the Small Business
24 Capital Formation Incentive Act or the Rural Venture Capital

1 Formation Incentive Act. Unless the context clearly requires
2 otherwise, the terms used in this paragraph shall have the same
3 meaning as defined by Section 2357.7, 2357.61 or 2357.72 of this
4 title. The disclosure of information authorized by this paragraph
5 shall include:

6 a. the legal name of any qualified venture capital
7 company, qualified small business capital company, or
8 qualified rural small business capital company,

9 b. the identity or legal name of any person or entity
10 that is a shareholder or partner of a qualified
11 venture capital company, qualified small business
12 capital company, or qualified rural small business
13 capital company,

14 c. the identity or legal name of any Oklahoma business
15 venture, Oklahoma small business venture, or Oklahoma
16 rural small business venture in which a qualified
17 investment has been made by a capital company, or

18 d. the amount of funds invested in a qualified venture
19 capital company, the amount of qualified investments
20 in a qualified small business capital company or
21 qualified rural small business capital company and the
22 amount of investments made by a qualified venture
23 capital company, qualified small business capital
24

1 company, or qualified rural small business capital
2 company; or

3 28. The disclosure of specific information as required by
4 Section 1 of this act.

5 D. The Tax Commission shall cause to be prepared and made
6 available for public inspection in the office of the Tax Commission
7 in such manner as it may determine an annual list containing the
8 name and post office address of each person, whether individual,
9 corporate, or otherwise, making and filing an income tax return with
10 the Tax Commission.

11 It is specifically provided that no liability whatsoever, civil
12 or criminal, shall attach to any member of the Tax Commission or any
13 employee thereof for any error or omission of any name or address in
14 the preparation and publication of the list.

15 E. The Tax Commission shall prepare or cause to be prepared a
16 report on all provisions of state tax law that reduce state revenue
17 through exclusions, deductions, credits, exemptions, deferrals or
18 other preferential tax treatments. The report shall be prepared not
19 later than October 1 of each even-numbered year and shall be
20 submitted to the Governor, the President Pro Tempore of the Senate
21 and the Speaker of the House of Representatives. The Tax Commission
22 may prepare and submit supplements to the report at other times of
23 the year if additional or updated information relevant to the report
24 becomes available. The report shall include, for the previous

1 fiscal year, the Tax Commission's best estimate of the amount of
2 state revenue that would have been collected but for the existence
3 of each such exclusion, deduction, credit, exemption, deferral or
4 other preferential tax treatment allowed by law. The Tax Commission
5 may request the assistance of other state agencies as may be needed
6 to prepare the report. The Tax Commission is authorized to require
7 any recipient of a tax incentive or tax expenditure to report to the
8 Tax Commission such information as requested so that the Tax
9 Commission may provide the information to the Incentive Review
10 Committee or fulfill its obligations as required by this subsection.
11 The Tax Commission may require this information to be submitted in
12 an electronic format. The Tax Commission may disallow any claim of
13 a person for a tax incentive due to its failure to file a report as
14 required under the authority of this subsection. The Tax Commission
15 may consult with the Incentive Review Committee to develop a
16 reporting system to obtain the information requested in a manner
17 that is the least burdensome on the taxpayer.

18 F. It is further provided that the provisions of this section
19 shall be strictly interpreted and shall not be construed as
20 permitting the disclosure of any other information contained in the
21 records and files of the Tax Commission relating to income tax or to
22 any other taxes.

23 G. Unless otherwise provided for in this section, any violation
24 of the provisions of this section shall constitute a misdemeanor and

1 shall be punishable by the imposition of a fine not exceeding One
2 Thousand Dollars (\$1,000.00) or by imprisonment in the county jail
3 for a term not exceeding one (1) year, or by both such fine and
4 imprisonment, and the offender shall be removed or dismissed from
5 office.

6 H. Offenses described in Section 2376 of this title shall be
7 reported to the appropriate district attorney of this state by the
8 Tax Commission as soon as the offenses are discovered by the Tax
9 Commission or its agents or employees. The Tax Commission shall
10 make available to the appropriate district attorney or to the
11 authorized agent of the district attorney its records and files
12 pertinent to prosecutions, and such records and files shall be fully
13 admissible as evidence for the purpose of such prosecutions.

14 SECTION 3. This act shall become effective November 1, 2007.

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