

THE HOUSE OF REPRESENTATIVES
Monday, April 2, 2007

Committee Substitute for
ENGROSSED
Senate Bill No. 1

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 1 - By:
BROGDON, IVESTER, GUMM, FORD, PADDACK, NICHOLS, ANDERSON, BROWN,
MAZZEI, CRAIN, WILCOXSON, LAMB, ALDRIDGE, BRANAN, COFFEE, SYKES,
SCHULZ, BARRINGTON, BINGMAN, REYNOLDS, JOHNSON (MIKE) AND JOLLEY
of the Senate and WESSELHOFT, BILLY, JACKSON, LIEBMANN, MARTIN (SCOTT),
MARTIN (STEVE), THOMPSON AND WRIGHT of the House.

(public finance - Taxpayer Transparency Act – web site - confidentiality of
certain information – codification -
effective date)

1 SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 46 of Title 62, unless there is created a duplication in numbering,
3 reads as follows:
4 A. This act shall be known and may be cited as the "Taxpayer Transparency Act".
5 B. As used in the Taxpayer Transparency Act:
6 1. "Searchable web site" means a web site that allows the public to search and
7 aggregate information identified in subsection C of this section; and
8 2. "Expenditure of state funds" means the expenditure of all appropriated or
9 nonappropriated funds by a state entity from the State Treasury in forms including, but
10 not limited to:

- 1 a. grants,
2 b. contracts,
3 c. subcontracts,
4 d. tax credits pursuant to the Oklahoma Income Tax Act, excluding the
5 child care credit and credit for taxes paid to another state provided
6 pursuant to the provisions of Section 2357 of Title 68 of the Oklahoma
7 Statutes, and those credits provided pursuant to Sections 2357.29 and
8 2357.43 of Title 68 of the Oklahoma Statutes,
9 e. payments made under the Oklahoma Quality Jobs Program Act,
10 Saving Quality Jobs Act, Oklahoma Quality Jobs Incentive Leverage
11 Act, Small Employer Quality Jobs Incentive Act, Oklahoma Specialized
12 Quality Investment Act and Oklahoma Quality Investment Act,
13 f. expenditures from the Constitutional Reserve Fund, and
14 g. expenditures pursuant to any compact between the Governor and a
15 federally recognized Indian tribe or nation in this state.

16 "Expenditure of state funds" shall not mean the transfer of funds between two state
17 agencies or payments of state or federal assistance to an individual.

18 C. No later than January 1, 2008, the Office of State Finance shall develop and
19 operate a single, searchable website accessible by the public at no cost to access, that
20 includes:

21 1. For each expenditure, information including, but not limited to:

- 1 a. the name and principal location or residence of the entity and/or
- 2 recipients of the funds,
- 3 b. the amount of state funds expended,
- 4 c. the type of transaction,
- 5 d. the funding or expending agency,
- 6 e. the budget program source,
- 7 f. a descriptive purpose of the funding action or expenditure, and
- 8 g. any other relevant information specified by the Office of State Finance;
- 9 and

10 2. The complete contents of the Tax Expenditure Report published by the
11 Oklahoma Tax Commission pursuant to subsection E of Section 205 of Title 68 of the
12 Oklahoma Statutes.

13 D. The single web site provided for in subsection C of this section shall include data
14 for the fiscal year 2007 and each fiscal year thereafter. Such data shall be available on
15 the single web site no later than thirty (30) days after the last day of the preceding fiscal
16 year.

17 E. The Oklahoma Tax Commission, the Office of the State Treasurer and any other
18 state agency shall provide to the Office of State Finance such information as is necessary
19 to accomplish the purposes of this act.

20 F. Nothing in this act shall require the disclosure of information which is
21 considered confidential by state or federal law.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

4 Section 205. A. The records and files of the Oklahoma Tax Commission concerning
5 the administration of the Uniform Tax Procedure Code or of any state tax law shall be
6 considered confidential and privileged, except as otherwise provided for by law, and
7 neither the Tax Commission nor any employee engaged in the administration of the Tax
8 Commission or charged with the custody of any such records or files nor any person who
9 may have secured information from the Tax Commission shall disclose any information
10 obtained from the records or files or from any examination or inspection of the premises
11 or property of any person.

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

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

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

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

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

14 4. The examination of records and files by the State Auditor and Inspector or the
15 duly authorized agents of the State Auditor and Inspector;

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

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

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

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

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1 provisions of this paragraph shall also include the furnishing of information to the State
2 Treasurer for the purpose of administration of the Uniform Unclaimed Property Act;

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

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

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

17 11. The furnishing of information to an Oklahoma wholesaler of low-point beer,
18 licensed under the provisions of Section 163.1 et seq. of Title 37 of the Oklahoma
19 Statutes, of the licensed retailers authorized by law to purchase low-point beer in this
20 state or the furnishing of information to a licensed Oklahoma wholesaler of shipments by
21 licensed manufacturers into this state;

1 12. The furnishing of information as to the issuance or revocation of any tax
2 permit, license or exemption by the Tax Commission as provided for by law. Such
3 information shall be limited to the name of the person issued the permit, license or
4 exemption, the name of the business entity authorized to engage in business pursuant to
5 the permit, license or exemption, the address of the business entity, and the grounds for
6 revocation;

7 13. The posting of notice of revocation of any tax permit or license upon the
8 premises of the place of business of any business entity which has had any tax permit or
9 license revoked by the Tax Commission as provided for by law. Such notice shall be
10 limited to the name of the person issued the permit or license, the name of the business
11 entity authorized to engage in business pursuant to the permit or license, the address of
12 the business entity, and the grounds for revocation;

13 14. The furnishing of information upon written request by any member of the
14 general public as to the outstanding and unpaid amount due and owing by any taxpayer
15 of this state for any delinquent tax, together with penalty and interest, for which a tax
16 warrant or a certificate of indebtedness has been filed pursuant to law;

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

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

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

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

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

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

15 21. The disclosure of information directly involved in the resolution of the protest
16 by a taxpayer to an assessment of tax or additional tax or the resolution of a claim for
17 refund filed by a taxpayer, including the disclosure of the pendency of an administrative
18 proceeding involving such protest or claim, to a person called by the Tax Commission as
19 an expert witness or as a witness whose area of knowledge or expertise specifically
20 addresses the issue addressed in the protest or claim for refund. Such disclosure to a
21 witness shall be limited to information pertaining to the specific knowledge of that
22 witness as to the transaction or relationship between taxpayer and witness;

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

6 23. The furnishing of information regarding incentive payments made pursuant to
7 the provisions of Sections 3601 through 3609 of this title or incentive payments made
8 pursuant to the provisions of Sections 3501 through 3508 of this title;

9 24. The furnishing to a prospective purchaser of any business, or his or her
10 authorized representative, of information relating to any liabilities, delinquencies,
11 assessments or warrants of the prospective seller of the business which have not been
12 filed of record, established, or become final and which relate solely to the seller's
13 business. Any disclosure under this paragraph shall only be allowed upon the
14 presentment by the prospective buyer, or the buyer's authorized representative, of the
15 purchase contract and a written authorization between the parties;

16 25. The furnishing of information as to the amount of state revenue affected by the
17 issuance or granting of any tax permit, license, exemption, deduction, credit or other tax
18 preference by the Tax Commission as provided for by law. Such information shall be
19 limited to the type of permit, license, exemption, deduction, credit or other tax preference
20 issued or granted, the date and duration of such permit, license, exemption, deduction,
21 credit or other tax preference and the amount of such revenue. The provisions of this
22 paragraph shall not authorize the disclosure of the name of the person issued such

1 permit, license, exemption, deduction, credit or other tax preference, or the name of the
2 business entity authorized to engage in business pursuant to the permit, license,
3 exemption, deduction, credit or other tax preference;

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

1 27. The disclosure of information, as prescribed by this paragraph, which is related
2 to the proposed or actual usage of tax credits pursuant to Section 2357.7 of this title, the
3 Small Business Capital Formation Incentive Act or the Rural Venture Capital Formation
4 Incentive Act. Unless the context clearly requires otherwise, the terms used in this
5 paragraph shall have the same meaning as defined by Section 2357.7, 2357.61 or 2357.72
6 of this title. The disclosure of information authorized by this paragraph shall include:

- 7 a. the legal name of any qualified venture capital company, qualified
8 small business capital company, or qualified rural small business
9 capital company,
10 b. the identity or legal name of any person or entity that is a shareholder
11 or partner of a qualified venture capital company, qualified small
12 business capital company, or qualified rural small business capital
13 company,
14 c. the identity or legal name of any Oklahoma business venture,
15 Oklahoma small business venture, or Oklahoma rural small business
16 venture in which a qualified investment has been made by a capital
17 company, or
18 d. the amount of funds invested in a qualified venture capital company,
19 the amount of qualified investments in a qualified small business
20 capital company or qualified rural small business capital company and
21 the amount of investments made by a qualified venture capital

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

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

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

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

13 E. The Tax Commission shall prepare or cause to be prepared a report on all
14 provisions of state tax law that reduce state revenue through exclusions, deductions,
15 credits, exemptions, deferrals or other preferential tax treatments. The report shall be
16 prepared not later than October 1 of each even-numbered year and shall be submitted to
17 the Governor, the President Pro Tempore of the Senate and the Speaker of the House of
18 Representatives. The Tax Commission may prepare and submit supplements to the
19 report at other times of the year if additional or updated information relevant to the
20 report becomes available. The report shall include, for the previous fiscal year, the Tax
21 Commission's best estimate of the amount of state revenue that would have been
22 collected but for the existence of each such exclusion, deduction, credit, exemption,

1 deferral or other preferential tax treatment allowed by law. The Tax Commission may
2 request the assistance of other state agencies as may be needed to prepare the report.
3 The Tax Commission is authorized to require any recipient of a tax incentive or tax
4 expenditure to report to the Tax Commission such information as requested so that the
5 Tax Commission may provide the information to the Incentive Review Committee or
6 fulfill its obligations as required by this subsection. The Tax Commission may require
7 this information to be submitted in an electronic format. The Tax Commission may
8 disallow any claim of a person for a tax incentive due to its failure to file a report as
9 required under the authority of this subsection. The Tax Commission may consult with
10 the Incentive Review Committee to develop a reporting system to obtain the information
11 requested in a manner that is the least burdensome on the taxpayer.

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

16 G. Unless otherwise provided for in this section, any violation of the provisions of
17 this section shall constitute a misdemeanor and shall be punishable by the imposition of
18 a fine not exceeding One Thousand Dollars (\$1,000.00) or by imprisonment in the county
19 jail for a term not exceeding one (1) year, or by both such fine and imprisonment, and the
20 offender shall be removed or dismissed from office.

21 H. Offenses described in Section 2376 of this title shall be reported to the
22 appropriate district attorney of this state by the Tax Commission as soon as the offenses

1 are discovered by the Tax Commission or its agents or employees. The Tax Commission
2 shall make available to the appropriate district attorney or to the authorized agent of the
3 district attorney its records and files pertinent to prosecutions, and such records and files
4 shall be fully admissible as evidence for the purpose of such prosecutions.

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

6 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT AND
7 TRANSPORTATION, dated 03-29-07 - DO PASS, As Amended and Coauthored.