

THE HOUSE OF REPRESENTATIVES
Thursday, April 9, 2009

Committee Substitute for
ENGROSSED
Senate Bill No. 982

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 982 - By: FORD of the Senate and THOMSEN of the House.

(higher education - Oklahoma Higher Learning Access Program Act -
codification - effective date -
emergency)

1 SECTION 1. AMENDATORY 70 O.S. 2001, Section 2603, as last amended by
2 Section 32 of Enrolled Senate Bill No. 764 of the 1st Session of the 52nd Oklahoma
3 Legislature, is amended to read as follows:

4 Section 2603. A. Except as otherwise provided for in this section, to be eligible to
5 participate in the Oklahoma Higher Learning Access Program and to qualify for an
6 award which includes payment of an amount equivalent to resident tuition or other
7 tuition pursuant to Section 2604 of this title for the first semester or other academic unit
8 of postsecondary enrollment, a student shall:

9 1. Be a resident of this state or be enrolled in a school district located in this state
10 that serves students who reside in both this state and an adjacent state pursuant to a
11 contract as authorized in Section 5-117.1 of this title;

1 2. Be a United States citizen or lawfully present in the United States. A student
2 who is not a United States citizen or lawfully present in the United States shall not be
3 eligible to participate in the Oklahoma Higher Learning Access Program and to qualify
4 for an award notwithstanding the provisions of Section 3242 of this title. The provisions
5 of this paragraph shall not apply to any student who was enrolled in the Oklahoma
6 Higher Learning Access Program prior to the end of the 2006-2007 school year;

7 3. Have a record of satisfactory compliance with agreements executed pursuant to
8 Section 2605 of this title;

9 4. a. have graduated within the previous three (3) years from a high school
10 accredited by the State Board of Education, or the Oklahoma School of
11 Science and Mathematics with a minimum 2.5 cumulative grade point
12 average on a 4.0 scale for all work attempted in grades nine through
13 twelve,

14 b. have graduated within the previous three (3) years from a high school
15 not accredited by the State Board of Education with a minimum 2.5
16 cumulative grade point average on a 4.0 scale for all work attempted in
17 grades nine through twelve and have achieved a composite score of 22
18 or higher on the ACT test, or

19 c. have satisfactorily completed within the previous three (3) years an
20 educational program that was provided through a means other than a
21 public or private school and have achieved a composite score of 22 or
22 higher on the ACT test;

1 5. Have completed the curricular requirements for admission to an institution
2 within The Oklahoma State System of Higher Education and one additional unit or set of
3 competencies in a course that meets college admission requirements. The curriculum
4 requirements shall include two units or sets of competencies in foreign or non-English
5 language or technology courses that meet the college admission requirements and one
6 unit or set of competencies of a fine arts course. Students shall also have attained a 2.5
7 grade point average in the core curriculum courses. Students who attended a high school
8 which did not offer all the core curriculum courses or students who were educated by
9 other means and were not offered all the core curriculum courses shall be allowed to
10 satisfy this curriculum requirement by participating in a program approved by the State
11 Regents for remediation of high school curricular deficiencies;

12 6. Have satisfied admission standards as determined by the Oklahoma State
13 Regents for Higher Education for first-time-entering students for the appropriate type of
14 institution, or, if attending a private institution, have satisfied admission standards as
15 determined by the private institution. No student participating in the Oklahoma Higher
16 Learning Access Program shall be admitted into an institution of higher education by
17 special admission standards;

18 7. Have secured admission to, and enrolled in, an institution which is a member of
19 The Oklahoma State System of Higher Education, a postsecondary vocational-technical
20 program offered pursuant to a duly approved cooperative agreement between a
21 technology center school and an institution of The Oklahoma State System of Higher

1 Education, or a private institution of higher learning located within this state and
2 accredited pursuant to Section 4103 of this title; and

- 3 8. a. have established financial need according to the provisions of
4 subsection D of Section 2605 of this title and standards and provisions
5 promulgated by the Oklahoma State Regents for Higher Education,
6 b. if the student was adopted between birth and twelve (12) years of age
7 while in the permanent custody of the Department of Human Services,
8 in the court-ordered custody of a licensed private nonprofit child-
9 placing agency, or federally recognized Indian tribe, as defined by the
10 federal Indian Child Welfare Act, have established financial need
11 according to the provisions of paragraph 1 of subsection E of Section
12 2605 of this title and standards and provisions promulgated by the
13 Oklahoma State Regents for Higher Education, or
14 c. if the student was adopted between thirteen (13) and seventeen (17)
15 years of age while in the permanent custody of the Department of
16 Human Services, in the court-ordered custody of a licensed private
17 nonprofit child-placing agency, or federally recognized Indian tribe, as
18 defined by the federal Indian Child Welfare Act, have established
19 financial need according to the provisions of paragraph 2 of subsection
20 E of Section 2605 of this title and standards and provisions
21 promulgated by the Oklahoma State Regents for Higher Education.

1 B. To retain eligibility while pursuing the program of higher learning in which
2 enrolled, the student shall:

3 ~~1. Achieve a minimum cumulative grade point average of 2.0 on a 4.0 scale or its~~
4 ~~equivalent for courses taken through the student's sophomore year and achieve a~~
5 ~~minimum grade point average of 2.5 on a 4.0 scale or its equivalent for courses taken~~
6 ~~during the student's junior year and thereafter. The provisions of this paragraph shall~~
7 ~~not apply to any student who has received an Oklahoma Higher Learning Access~~
8 ~~Program benefit award prior to the 2010-2011 school year;~~

9 ~~2.~~ Maintain good academic standing and satisfactory academic progress according
10 to standards of the Oklahoma State Regents for Higher Education and the institution of
11 higher learning in which the student is enrolled;

12 ~~3.~~ 2. Comply with the standards related to maintenance of eligibility as
13 promulgated by the Oklahoma State Regents for Higher Education; and

14 ~~4.~~ 3. Refrain from conduct that leads to expulsion or suspension of more than one
15 semester from an institution of higher education. A student who violates the provisions
16 of this paragraph shall permanently lose eligibility for program benefits. The provisions
17 of this paragraph shall become effective January 1, 2008.

18 C. The Oklahoma State Regents for Higher Education and the State Board of
19 Career and Technology Education shall promulgate rules relating to maintenance of
20 eligibility ~~under this act~~ by a student.

21 D. It is the intent of the Legislature that students in the ninth grade for the 1992-
22 93 school year who are determined to be eligible Oklahoma Higher Learning Access

1 students ~~pursuant to this act~~ shall be the first students eligible for benefits from the
2 Oklahoma Higher Learning Access Trust Fund.

3 E. The Oklahoma State Regents for Higher Education are authorized to study,
4 develop and propose criteria for determining award eligibility based upon the completion
5 of seven (7) semesters of high school coursework by a student.

6 SECTION 2. AMENDATORY 70 O.S. 2001, Section 2604, as amended by
7 Section 3, Chapter 350, O.S.L. 2008 (70 O.S. Supp. 2008, Section 2604), is amended to
8 read as follows:

9 Section 2604. A. Subject to the availability of funds, an amount equivalent to the
10 nonguaranteed resident tuition for which an eligible Oklahoma Higher Learning Access
11 Program student is obligated at an institution of The Oklahoma State System of Higher
12 Education shall be awarded by allocation from the Oklahoma Higher Learning Access
13 Trust Fund.

14 B. Subject to the availability of funds, for each eligible Oklahoma Higher Learning
15 Access Program student enrolled at a private institution of higher learning located
16 within this state and accredited pursuant to Section 4103 of this title, the Oklahoma
17 State Regents for Higher Education shall award from the Oklahoma Higher Learning
18 Access Trust Fund an amount equivalent to the amount of resident tuition for which the
19 student would be eligible if the student were enrolled in a comparable program at a
20 comparable institution of The Oklahoma State System of Higher Education.
21 Comparability shall be determined by the State Regents.

1 C. Subject to the availability of funds, an amount equivalent to the tuition for any
2 eligible Oklahoma Higher Learning Access Program student enrolled in a public
3 postsecondary vocational-technical program or course for the purpose set forth in Section
4 2602 of this title shall be awarded by allocation from the Oklahoma Higher Learning
5 Access Trust Fund. Provided, such allocation shall not exceed the amount a student
6 would have received for comparable enrollment at a two-year institution within The
7 Oklahoma State System of Higher Education.

8 D. 1. An award allowed by this section shall not be allowed for courses or other
9 postsecondary units taken in excess of the requirements for completion of a
10 baccalaureate program or taken more than five (5) years after the student's first
11 semester of postsecondary enrollment. The Oklahoma State Regents for Higher
12 Education may award the Oklahoma Higher Learning Access Program benefits for
13 courses of postsecondary units taken more than five (5) years after the student's first
14 semester of postsecondary enrollment only in hardship circumstances; provided,
15 however, no Oklahoma Higher Learning Access Program participant may receive
16 benefits beyond a cumulative time period of five (5) years.

17 2. The Oklahoma State Regents for Higher Education may award the Oklahoma
18 Higher Learning Access Program benefits for a student's first semester or other academic
19 unit of postsecondary enrollment taken more than three (3) years after the student
20 graduates from high school or completes an educational program equivalent to high
21 school graduation as authorized in Section 2603 of this title if the student is a member of
22 the Armed Forces of the United States, the Reserve Corps of the Armed Forces of the

1 United States, or the Oklahoma National Guard, and is ordered to active duty or active
2 duty for special work or training and due to the duty commitment the student is unable
3 to enroll prior to the end of the three-year period. Such three-year period shall be
4 extended by the length of the term of duty.

5 3. The Oklahoma State Regents for Higher Education may establish a maximum
6 limit on the number of courses or other postsecondary units to which Oklahoma Higher
7 Learning Access Program benefits will apply.

8 4. An award for eligible Oklahoma Higher Learning Access Program students
9 enrolled in cooperative programs pursuant to agreements between technology center
10 schools and institutions of The Oklahoma State System of Higher Education shall be
11 satisfied for both vocational-technical and college work in which enrolled pursuant to
12 such cooperative program.

13 E. Benefits awarded under the Oklahoma Higher Learning Access Program shall
14 be awarded to all eligible applicants without any limitation on the number of awards in
15 any year other than the amount of funds available for the program and the number of
16 eligible applicants. Subject to the provisions of subsection F of this section, if funds are
17 not sufficient to provide awards for all eligible applicants, the Oklahoma State Regents
18 for Higher Education shall make awards on the basis of need. Provided, the Oklahoma
19 State Regents for Higher Education shall take into consideration other grants and
20 scholarships received by an eligible applicant when making awards.

21 F. The Oklahoma State Regents for Higher Education may, at the time an award is
22 made on behalf of an Oklahoma Higher Learning Access Program student, set aside in

1 the Oklahoma Higher Learning Access Trust Fund funds for the full commitment made
2 to such Higher Learning Access Program student. For all academic years, students who
3 have previously received awards under the provisions of the Oklahoma Higher Learning
4 Access Act, Section 2601 et seq. of this title, and who have continued at all times to fulfill
5 the requirements for eligibility to receive awards provided pursuant to this program shall
6 be given an absolute priority for continued financial support by the Oklahoma Higher
7 Learning Access Program superior to any students who are applying for such benefits for
8 the first time.

9 SECTION 3. AMENDATORY 70 O.S. 2001, Section 2605, as last amended by
10 Section 34 of Enrolled Senate Bill No. 764 of the 1st Session of the 52nd Oklahoma
11 Legislature, is amended to read as follows:

12 Section 2605. A. Each school year, every fifth- through ninth-grade student in the
13 public and private schools of this state and students who are educated by other means
14 and are in the equivalent of the fifth through ninth grade shall be apprised, together
15 with the parent, custodial parent, or guardian of the student, of the opportunity for
16 access to higher learning under the Oklahoma Higher Learning Access Program. The
17 Oklahoma State Regents for Higher Education and the State Board of Education shall
18 develop, promote, and coordinate a public awareness program to be utilized in making
19 students and parents aware of the Oklahoma Higher Learning Access Program.

20 B. On a form provided by the Oklahoma State Regents for Higher Education, every
21 public school district shall designate at least one Oklahoma Higher Learning Access
22 Program contact person, who shall be a counselor or teacher, at each public school site in

1 this state in which eighth-, ninth- or tenth-grade classes are taught. When requested by
2 the State Regents, the State Board of Education shall assist the State Regents to ensure
3 the designation of contact persons. Private schools shall also designate at least one
4 school official as a contact person. For students who are educated by other means, a
5 parent or guardian or other person approved by the State Regents shall be designated
6 the contact person.

7 C. Students who qualify on the basis of financial need according to subsections D or
8 E of this section and the standards and provisions promulgated by the Oklahoma State
9 Regents for Higher Education shall be given the opportunity throughout the eighth-,
10 ninth-, and tenth-grade years, for students enrolled in a public or private school, or
11 between the ages of thirteen (13) and fifteen (15), for students who are educated by other
12 means, to enter into participation in the program by agreeing to, throughout the
13 remainder of their school years or educational program:

- 14 1. Attend school or an educational program regularly and do homework regularly;
- 15 2. Refrain from substance abuse;
- 16 3. Refrain from commission of crimes or delinquent acts;
- 17 4. Have school work and school records reviewed by mentors designated pursuant
18 to the program;
- 19 5. Provide information requested by the Oklahoma State Regents for Higher
20 Education or the State Board of Education; and
- 21 6. Participate in program activities.

1 The contact person shall maintain the agreements, which shall be executed on forms
2 provided by the Oklahoma State Regents for Higher Education and managed according
3 to regulations promulgated by the Oklahoma State Regents for Higher Education, and
4 the contact person shall monitor compliance of the student with the terms of the
5 agreement. The Oklahoma State Regents for Higher Education are authorized to process
6 student agreements and verify compliance with the agreements. Students failing to
7 comply with the terms of the agreement shall not be eligible for the awards provided in
8 Section 2604 of this title.

9 D. Except as otherwise provided for in subsection E of this section, a student shall
10 not be found to be in financial need for purposes of the Oklahoma Higher Learning
11 Access Program if:

12 1. At the time the student applies for participation in the Program during the
13 eighth, ninth or tenth grade for students enrolled in a public or private school, or
14 between the ages of thirteen (13) and fifteen (15), for students who are educated by other
15 means, the adjusted gross income from taxable and nontaxable sources for federal income
16 tax purposes of the student's parent(s) less the amount eligible for personal and
17 dependent exemptions exceeds ~~Fifty Thousand Dollars (\$50,000.00)~~ Forty-three
18 Thousand Dollars (\$43,000.00) per year, which may be based on the most recent tax year
19 or a three-year average of the most recent tax year and the two (2) preceding tax years.
20 Beginning with the 2011-2012 school year, the Legislature shall review the income limit
21 every three (3) years and consider adjusting it if necessary toward the goal of providing
22 eligibility for fifty percent (50%) of Oklahoma families; and

1 2. At the time the student begins postsecondary education and prior to receiving
2 any Oklahoma Higher Learning Access Program benefit award, the income from taxable
3 and nontaxable sources of the student's parent(s) exceeds One Hundred Thousand
4 Dollars (\$100,000.00) per year.

5 The determination of financial qualification as set forth in this paragraph shall be
6 based on the income of the student, not the income of the parent(s), if a student:

- 7 a. is determined to be independent of the student's parents for federal
8 financial aid purposes,
9 b. was in the permanent custody of the Department of Human Services at
10 the time the student enrolled in the program, or
11 c. was in the court-ordered custody of a federally recognized Indian tribe,
12 as defined by the federal Indian Child Welfare Act, at the time the
13 student enrolled in the program.

14 The provisions of this paragraph shall not apply to any student who has received an
15 Oklahoma Higher Learning Access Program benefit award prior to the ~~2010-2011~~ 2012-
16 2013 school year.

17 E. 1. A student who was adopted between birth and twelve (12) years of age while
18 in the permanent custody of the Department of Human Services, in the court-ordered
19 custody of a licensed private nonprofit child-placing agency, or federally recognized
20 Indian tribe, as defined by the federal Indian Child Welfare Act, shall not be found to be
21 in financial need for purposes of the Oklahoma Higher Learning Access Program if at the
22 time the student begins postsecondary education and prior to receiving any Oklahoma

1 Higher Learning Access Program benefit award, the income from taxable and nontaxable
2 sources of the student's parent(s) exceeds One Hundred Fifty Thousand Dollars
3 (\$150,000.00) per year.

4 2. A student who was adopted between thirteen (13) and seventeen (17) years of
5 age while in the permanent custody of the Department of Human Services, in the court-
6 ordered custody of a licensed private nonprofit child-placing agency, or federally
7 recognized Indian tribe, as defined by the federal Indian Child Welfare Act, shall not be
8 found to be in financial need for purposes of the Oklahoma Higher Learning Access
9 Program if at the time the student begins postsecondary education and prior to receiving
10 any Oklahoma Higher Learning Access Program benefit award, the income from taxable
11 and nontaxable sources of the student's parent(s) exceeds Two Hundred Thousand
12 Dollars (\$200,000.00) per year.

13 3. The determination of financial qualification as set forth in this subsection shall
14 be based on the income of the student, not the income of the parent(s), if the student is
15 determined to be independent of the student's parents for federal financial aid purposes.
16 A determination of financial qualification shall not be required for the student who meets
17 the criteria set forth in this subsection at the time the student applies for participation in
18 the program. The provisions of this subsection shall not apply to any student who has
19 received an Oklahoma Higher Learning Access Program benefit award prior to the 2008-
20 2009 school year.

21 F. The financial qualification of a student as set forth in subsections D and E of this
22 section shall be certified by the contact person or by the Oklahoma State Regents for

1 Higher Education on the agreement form provided by the Oklahoma State Regents for
2 Higher Education. The form shall be retained in the permanent record of the student
3 and a copy forwarded to the Oklahoma State Regents for Higher Education.

4 G. Agreements shall be witnessed by the parent, custodial parent, or guardian of
5 the student, who shall further agree to:

6 1. Assist the student in achieving compliance with the agreements;

7 2. Confer, when requested to do so, with the school contact person, other school
8 personnel, and program mentors;

9 3. Provide information requested by the Oklahoma State Regents for Higher
10 Education or the State Board of Education; and

11 4. Assist the student in completing forms and reports required for program
12 participation, making applications to institutions and schools of higher learning, and
13 filing applications for student grants and scholarships.

14 H. Students who are enrolled in a school district located in this state that serves
15 students who reside in both this state and an adjacent state pursuant to a contract as
16 authorized in Section 5-117.1 of this title, are in the eleventh and twelfth grades during
17 the 2006-2007 school year, and who were denied participation in the program shall be
18 allowed to enter or reenter into participation in the program by entering into agreements
19 as set forth in subsections C and D of this section by June 1, 2008.

20 I. The Oklahoma State Regents for Higher Education shall promulgate rules for the
21 determination of student compliance with agreements made pursuant to this section.

1 J. The Oklahoma State Regents for Higher Education shall designate personnel to
2 coordinate tracking of program records for the years when students participating in the
3 program are still in the schools or are being educated by other means, provide staff
4 development for contact persons in the schools, and provide liaison with the State Board
5 of Education and local organizations and individuals participating in the program.

6 K. The school district where an Oklahoma Higher Learning Access Program
7 student is enrolled when the student begins participation in the program and any
8 subsequent school district where the student enrolls shall forward information regarding
9 participation by the student in the program to a school to which the student transfers
10 upon the request of the school for the records of the student.

11 L. Students participating in the Oklahoma Higher Learning Access Program shall
12 provide their social security number or their student identification number used by their
13 school to the Oklahoma State Regents for Higher Education. The Regents shall keep the
14 numbers confidential and use them only for administrative purposes.

15 SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma
16 Statutes as Section 2606 of Title 70, unless there is created a duplication in numbering,
17 reads as follows:

18 A. Recipients of Oklahoma Higher Learning Access Program (OHLAP) awards
19 shall reside in this state for one (1) year for each full or partial year for which an OHLAP
20 award was received. The residency obligation shall be fulfilled within ten (10) years
21 after:

1 1. Completion of postsecondary education, which may include an advanced degree
2 program if the individual is continuously enrolled, whether attending an institution in
3 this state or out-of-state;

4 2. Completion of the last semester of enrollment in postsecondary education; or

5 3. Expiration of OHLAP benefits.

6 B. For the purposes of this section, residency shall be established by the filing of an
7 Oklahoma tax return as a state resident, regardless of the individual's income amount or
8 tax liability.

9 C. OHLAP award recipients who do not comply with the requirements of subsection
10 A of this section shall reimburse the Oklahoma Higher Learning Access Trust Fund in an
11 amount equivalent to the OHLAP award(s) received by the individual. Each year of
12 residency in this state established pursuant to subsection B of this section to meet the
13 requirements set forth in subsection A of this section shall reduce the amount of
14 reimbursement required in this subsection by one (1) full or partial year of OHLAP
15 award(s) received by the individual beginning with the first award received. No interest
16 or penalties shall be applicable to the reimbursement amount, subject to adherence to
17 the repayment schedule established pursuant to subsection D of this section.

18 D. The Oklahoma State Regents for Higher Education in collaboration with the
19 Oklahoma Tax Commission shall administer the provisions of this section. The Regents
20 shall establish payment schedules for individuals who are determined to be subject to
21 reimbursement of OHLAP award(s) pursuant to this section. The Regents are authorized
22 to assess interest on outstanding balances and penalties to individuals for failure to

1 make timely payments pursuant to the established payment schedules. The Regents
2 may retain ten percent (10%) of amounts collected for reimbursement of OHLAP awards
3 pursuant to this section to recover amounts expended to administer the provisions of this
4 section. The Regents shall deposit the remaining ninety percent (90%) of amounts
5 collected pursuant to this section in the Oklahoma Higher Learning Access Trust Fund.

6 E. The provisions of this section shall not apply to any Oklahoma Higher Learning
7 Access Program participant who graduates from high school or the equivalent prior to
8 the 2013-2014 school year.

9 SECTION 5. AMENDATORY 68 O.S. 2001, Section 205, as last amended by
10 Section 5, Chapter 378, O.S.L. 2008 (68 O.S. Supp. 2008, Section 205), is amended to
11 read as follows:

12 Section 205. A. The records and files of the Oklahoma Tax Commission concerning
13 the administration of the Uniform Tax Procedure Code or of any state tax law shall be
14 considered confidential and privileged, except as otherwise provided for by law, and
15 neither the Tax Commission nor any employee engaged in the administration of the Tax
16 Commission or charged with the custody of any such records or files nor any person who
17 may have secured information from the Tax Commission shall disclose any information
18 obtained from the records or files or from any examination or inspection of the premises
19 or property of any person.

20 B. Except as provided in paragraph 26 of subsection C of this section, neither the
21 Tax Commission nor any employee engaged in the administration of the Tax Commission
22 or charged with the custody of any such records or files shall be required by any court of

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

1 this state to produce any of the records or files for the inspection of any person or for use
2 in any action or proceeding, except when the records or files or the facts shown thereby
3 are directly involved in an action or proceeding pursuant to the provisions of the Uniform
4 Tax Procedure Code or of the state tax law, or when the determination of the action or
5 proceeding will affect the validity or the amount of the claim of the state pursuant to any
6 state tax law, or when the information contained in the records or files constitutes
7 evidence of violation of the provisions of the Uniform Tax Procedure Code or of any state
8 tax law.

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

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

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

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

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~~Strike thru~~ language denotes deletion from present Statutes.

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

3 5. The disclosing of information or evidence to the Oklahoma State Bureau of
4 Investigation, Attorney General, Oklahoma State Bureau of Narcotics and Dangerous
5 Drugs Control, any district attorney, or agent of any federal law enforcement agency
6 when the information or evidence is to be used by such officials to investigate or
7 prosecute violations of the criminal provisions of the Uniform Tax Procedure Code or of
8 any state tax law or of any federal crime committed against this state. Any information
9 disclosed to the Oklahoma State Bureau of Investigation, Attorney General, Oklahoma
10 State Bureau of Narcotics and Dangerous Drugs Control, any district attorney, or agent
11 of any federal law enforcement agency shall be kept confidential by such person and not
12 be disclosed except when presented to a court in a prosecution for violation of the tax
13 laws of this state or except as specifically authorized by law, and a violation by the
14 Oklahoma State Bureau of Investigation, Attorney General, Oklahoma State Bureau of
15 Narcotics and Dangerous Drugs Control, district attorney, or agent of any federal law
16 enforcement agency by otherwise releasing the information shall be a felony;

17 6. The use by any division of the Tax Commission of any information or evidence in
18 the possession of or contained in any report or return filed with any other division of the
19 Tax Commission;

20 7. The furnishing, at the discretion of the Tax Commission, of any information
21 disclosed by its records or files to any official person or body of this state, any other state,
22 the United States, or foreign country who is concerned with the administration or

1 assessment of any similar tax in this state, any other state or the United States. The
2 provisions of this paragraph shall include the furnishing of information by the Tax
3 Commission to a county assessor to determine the amount of gross household income
4 pursuant to the provisions of Section 8C of Article X of the Oklahoma Constitution or
5 Section 2890 of this title. The Tax Commission shall promulgate rules to give guidance
6 to the county assessors regarding the type of information which may be used by the
7 county assessors in determining the amount of gross household income pursuant to
8 Section 8C of Article X of the Oklahoma Constitution or Section 2890 of this title. The
9 provisions of this paragraph shall also include the furnishing of information to the State
10 Treasurer for the purpose of administration of the Uniform Unclaimed Property Act;

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

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

20 10. The furnishing of information requested by any member of the general public
21 and stated in the findings of the Tax Commission as to the adjustment and equalization
22 of the valuation of real and personal property of the counties of the state, which are

1 submitted to and certified by the State Board of Equalization pursuant to the provisions
2 of Section 2865 of this title and Section 21 of Article X of the Oklahoma Constitution;

3 11. The furnishing of information to an Oklahoma wholesaler of low-point beer,
4 licensed under the provisions of Section 163.1 et seq. of Title 37 of the Oklahoma
5 Statutes, or an association or organization whose membership is comprised of such
6 wholesalers, of the licensed retailers authorized by law to purchase low-point beer in this
7 state or the furnishing of information to a licensed Oklahoma wholesaler of low-point
8 beer of shipments by licensed manufacturers into this state;

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

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

21 14. The furnishing of information upon written request by any member of the
22 general public as to the outstanding and unpaid amount due and owing by any taxpayer

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

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

7 16. The disclosure of information necessary to complete the performance of any
8 contract authorized by this title to any person with whom the Tax Commission has
9 contracted;

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

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

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

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

21 21. The disclosure of information directly involved in the resolution of the protest
22 by a taxpayer to an assessment of tax or additional tax or the resolution of a claim for

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

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

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

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

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

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

11 26. The examination of records and files of a person or entity by the Oklahoma
12 State Bureau of Narcotics and Dangerous Drugs Control pursuant to a court order by a
13 magistrate in whose territorial jurisdiction the person or entity resides, or where the Tax
14 Commission records and files are physically located. Such an order may only be issued
15 upon a sworn application by an agent of the Oklahoma State Bureau of Narcotics and
16 Dangerous Drugs Control, certifying that the person or entity whose records and files are
17 to be examined is the target of an ongoing investigation of a felony violation of the
18 Uniform Controlled Dangerous Substances Act and that information resulting from such
19 an examination would likely be relevant to that investigation. Any records or
20 information obtained pursuant to such an order may only be used by the Oklahoma State
21 Bureau of Narcotics and Dangerous Drugs Control in the investigation and prosecution
22 of a felony violation of the Uniform Controlled Dangerous Substances Act. Any such

1 order issued pursuant to this paragraph, along with the underlying application, shall be
2 sealed and not disclosed to the person or entity whose records were examined, for a
3 period of ninety (90) days. The issuing magistrate may grant extensions of such period
4 upon a showing of good cause in furtherance of the investigation. Upon the expiration of
5 ninety (90) days and any extensions granted by the magistrate, a copy of the application
6 and order shall be served upon the person or entity whose records were examined, along
7 with a copy of the records or information actually provided by the Tax Commission;

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

- 14 a. the legal name of any qualified venture capital company, qualified
15 small business capital company, or qualified rural small business
16 capital company,
17 b. the identity or legal name of any person or entity that is a shareholder
18 or partner of a qualified venture capital company, qualified small
19 business capital company, or qualified rural small business capital
20 company,
21 c. the identity or legal name of any Oklahoma business venture,
22 Oklahoma small business venture, or Oklahoma rural small business

1 venture in which a qualified investment has been made by a capital
2 company, or
3 d. the amount of funds invested in a qualified venture capital company,
4 the amount of qualified investments in a qualified small business
5 capital company or qualified rural small business capital company and
6 the amount of investments made by a qualified venture capital
7 company, qualified small business capital company, or qualified rural
8 small business capital company; ~~or~~

9 28. The disclosure of specific information as required by Section 46 of Title 62 of the
10 Oklahoma Statutes; or

11 29. The furnishing of information to the Oklahoma State Regents for Higher
12 Education for the limited purpose of implementing the requirements of Section 4 of this
13 act. Such information shall be limited to the name and address of each individual
14 making and filing an income tax return as a state resident with the Tax Commission.

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

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

1 E. The Tax Commission shall prepare or cause to be prepared a report on all
2 provisions of state tax law that reduce state revenue through exclusions, deductions,
3 credits, exemptions, deferrals or other preferential tax treatments. The report shall be
4 prepared not later than October 1 of each even-numbered year and shall be submitted to
5 the Governor, the President Pro Tempore of the Senate and the Speaker of the House of
6 Representatives. The Tax Commission may prepare and submit supplements to the
7 report at other times of the year if additional or updated information relevant to the
8 report becomes available. The report shall include, for the previous fiscal year, the Tax
9 Commission's best estimate of the amount of state revenue that would have been
10 collected but for the existence of each such exclusion, deduction, credit, exemption,
11 deferral or other preferential tax treatment allowed by law. The Tax Commission may
12 request the assistance of other state agencies as may be needed to prepare the report.
13 The Tax Commission is authorized to require any recipient of a tax incentive or tax
14 expenditure to report to the Tax Commission such information as requested so that the
15 Tax Commission may provide the information to the Incentive Review Committee or
16 fulfill its obligations as required by this subsection. The Tax Commission may require
17 this information to be submitted in an electronic format. The Tax Commission may
18 disallow any claim of a person for a tax incentive due to its failure to file a report as
19 required under the authority of this subsection. The Tax Commission may consult with
20 the Incentive Review Committee to develop a reporting system to obtain the information
21 requested in a manner that is the least burdensome on the taxpayer.

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

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

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

16 SECTION 6. This act shall become effective July 1, 2009.

17 SECTION 7. It being immediately necessary for the preservation of the public
18 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
19 this act shall take effect and be in full force from and after its passage and approval.

20 COMMITTEE REPORT BY: COMMITTEE ON HIGHER EDUCATION AND CAREER
21 TECH, dated 04-08-09 - DO PASS, As Amended.