STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2462 By: Turner

COMMITTEE SUBSTITUTE

An Act relating to higher education; creating the Oklahoma Student Loan Public University Competition Act; authorizing certain higher education institutions to establish tuition payback programs; specifying certain details of the program; providing for program allowing enrollment without payment of tuition or fees; providing for program where institution pays off student loan obligations; establishing maximum income percentages for student contracts; setting percentages; allowing certain students to participate in the program; directing certain institutions to establish program participation policies; requiring institution to provide certain information to students; requiring execution of a contract; specifying certain contract provisions; allowing certain institutions to pay off or assume student loan obligations; allowing certain contracts for administration of a program; authorizing certain institutions to examine certain Oklahoma Tax Commission information and returns; amending 68 O.S. 2011, Section 205, as amended by Section 20, Chapter 227, O.S.L. 2013 (68 O.S. Supp. 2013, Section 205), which relates to records and files of the Oklahoma Tax Commission; adding exception for disclosure of certain information to certain higher education institutions for certain purpose; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 694.1 of Title 70, unless there is created a duplication in numbering, reads as follows:

Section 2 of this act shall be known and may be cited as the "Oklahoma Student Loan Public University Competition Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 694.2 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Beginning with the 2015-2016 academic year, each comprehensive and regional institution within The Oklahoma State System of Higher Education may establish a tuition payback program. The program shall offer the following opportunities to eligible resident students:

1. Upon initial enrollment in a full-time undergraduate, graduate or professional program an opportunity to attend the institution without paying tuition or fees. In lieu of paying tuition and fees the student shall be required to sign a binding contract to pay to the institution a certain percentage of the annual federal adjusted gross taxable income of the student upon graduation from the institution for a specified number of years as provided for in subsection B of this section; or

2. At any point prior to graduation from a full-time undergraduate, graduate or professional program the institution will

pay off or assume the liability for any student loan obligations incurred by the student. In exchange for the institution paying off or assuming the student loan obligations the student shall be required to sign a binding contract to pay to the institution a certain percentage of the annual federal adjusted gross taxable income of the student upon graduation from the institution for a specified number of years as provided for in subsection C of this section.

B. The percentage of annual federal adjusted gross income specified in any contract executed pursuant to paragraph 1 of subsection A of this section under a tuition payback program established by an institution pursuant to the Oklahoma Student Loan Public University Competition Act shall not exceed the following percentages:

1. Two percent (2%) of the annual federal adjusted gross income of the student for one (1) academic year of full-time enrollment;

2. Three percent (3%) of the annual federal adjusted gross income of the student for two (2) academic years of full-time enrollment;

3. Four percent (4%) of the annual federal adjusted gross income of the student for three (3) academic years of full-time enrollment; and

4. Five percent (5%) of the annual federal adjusted gross income of the student for four (4) or more academic years of full-time enrollment.

C. The percentage of annual federal adjusted gross income specified in any contract executed pursuant to paragraph 2 of subsection A of this section under a tuition payback program established by an institution pursuant to the Oklahoma Student Loan Public University Competition Act shall be a percentage negotiated between the institution and the student, but in no case shall the percentage exceed five percent (5%).

D. Students meeting the criteria established by the institution shall be given the opportunity to participate in the tuition payback program.

E. Each institution establishing a tuition payback program shall determine and set by policy the student qualifications and selection process for participation in the program. Each institution shall provide students with information detailing the selection standards, payback requirements and other contractual requirements of the program prior to enrolling in the program.

F. Each program established by an institution shall require the execution of an appropriate contract or contracts with eligible students which set forth the percentage of annual federal adjusted gross income required for payback of tuition and fees, subject to the maximum percentages set forth in subsection B or C of this

section as applicable. The term of each contract may vary depending on the total cost of education at the institution but shall not exceed a maximum of twenty-five (25) years. Each contract shall contain a provision requiring payback regardless of the residency of the student. Each contract shall contain a provision requiring a student to annually provide the institution a copy of their state income tax returns if the student moves out-of-state. The duty to perform and pay back the obligation under a contract shall be discharged upon the death of the student.

G. An institution which establishes a tuition payback program may pay off or assume payment of any student loan obligations, as allowed by law, incurred by an eligible student prior to entering into participation in the tuition payback program.

H. An institution which establishes a tuition payback program may contract with any other appropriate organization or unit of government for the administration of the program.

I. An institution which establishes a tuition payback program shall have authority to examine individual information or returns filed with the Oklahoma Tax Commission for purposes of verifying the income of participating students as authorized pursuant to Section 205 of Title 68 of the Oklahoma Statutes.

SECTION 3. AMENDATORY 68 O.S. 2011, Section 205, as amended by Section 20, Chapter 227, O.S.L. 2013 (68 O.S. Supp. 2013, Section 205), is amended to read as follows:

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

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

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

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

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

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

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

5. The disclosing of information or evidence to the Oklahoma State Bureau of Investigation, Attorney General, Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, any district attorney, or agent of any federal law enforcement agency when the information or evidence is to be used by such officials to investigate or prosecute violations of the criminal provisions of

the Uniform Tax Procedure Code or of any state tax law or of any federal crime committed against this state. Any information disclosed to the Oklahoma State Bureau of Investigation, Attorney General, Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, any district attorney, or agent of any federal law enforcement agency shall be kept confidential by such person and not be disclosed except when presented to a court in a prosecution for violation of the tax laws of this state or except as specifically authorized by law, and a violation by the Oklahoma State Bureau of Investigation, Attorney General, Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, district attorney, or agent of any federal law enforcement agency by otherwise releasing the information shall be a felony;

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

7. The furnishing, at the discretion of the Tax Commission, of any information disclosed by its records or files to any official person or body of this state, any other state, the United States, or foreign country who is concerned with the administration or assessment of any similar tax in this state, any other state or the United States. The provisions of this paragraph shall include the furnishing of information by the Tax Commission to a county assessor

to determine the amount of gross household income pursuant to the provisions of Section 8C of Article X of the Oklahoma Constitution or Section 2890 of this title. The Tax Commission shall promulgate rules to give guidance to the county assessors regarding the type of information which may be used by the county assessors in determining the amount of gross household income pursuant to Section 8C of Article X of the Oklahoma Constitution or Section 2890 of this title. The provisions of this paragraph shall also include the furnishing of information to the State Treasurer for the purpose of administration of the Uniform Unclaimed Property Act;

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

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

10. The furnishing of information requested by any member of the general public and stated in the findings of the Tax Commission

as to the adjustment and equalization of the valuation of real and personal property of the counties of the state, which are submitted to and certified by the State Board of Equalization pursuant to the provisions of Section 2865 of this title and Section 21 of Article X of the Oklahoma Constitution;

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

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

13. The posting of notice of revocation of any tax permit or license upon the premises of the place of business of any business entity which has had any tax permit or license revoked by the Tax Commission as provided for by law. Such notice shall be limited to

the name of the person issued the permit or license, the name of the business entity authorized to engage in business pursuant to the permit or license, the address of the business entity, and the grounds for revocation;

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

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

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

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

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

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

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

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

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

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

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

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

to engage in business pursuant to the permit, license, exemption, deduction, credit or other tax preference;

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

the application and order shall be served upon the person or entity whose records were examined, along with a copy of the records or information actually provided by the Tax Commission;

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

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

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

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

d. the amount of funds invested in a qualified venture capital company, the amount of qualified investments in a qualified small business capital company or qualified rural small business capital company and the amount of investments made by a qualified venture capital company, qualified small business capital company, or qualified rural small business capital company;

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

29. The disclosure of specific information as required by Section 205.5 of this title; ~~or~~

30. The disclosure of specific information as required by Section 205.6 of this title; or

31. The furnishing of records, files and returns to a higher education institution that is a member of The Oklahoma State System of Higher Education which has established a tuition payback program pursuant to the Oklahoma Student Loan Public University Competition Act for the limited purpose of aiding in the verification of income of individuals who have entered into a tuition payback program contract with the requesting institution.

D. The Tax Commission shall cause to be prepared and made available for public inspection in the office of the Tax Commission in such manner as it may determine an annual list containing the

name and post office address of each person, whether individual, corporate, or otherwise, making and filing an income tax return with the Tax Commission.

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

E. The Tax Commission shall prepare or cause to be prepared a report on all provisions of state tax law that reduce state revenue through exclusions, deductions, credits, exemptions, deferrals or other preferential tax treatments. The report shall be prepared not later than October 1 of each even-numbered year and shall be submitted to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The Tax Commission may prepare and submit supplements to the report at other times of the year if additional or updated information relevant to the report becomes available. The report shall include, for the previous fiscal year, the Tax Commission's best estimate of the amount of state revenue that would have been collected but for the existence of each such exclusion, deduction, credit, exemption, deferral or other preferential tax treatment allowed by law. The Tax Commission may request the assistance of other state agencies as may be needed to prepare the report. The Tax Commission is authorized to require any recipient of a tax incentive or tax expenditure to report to the

Tax Commission such information as requested so that the Tax Commission may fulfill its obligations as required by this subsection. The Tax Commission may require this information to be submitted in an electronic format. The Tax Commission may disallow any claim of a person for a tax incentive due to its failure to file a report as required under the authority of this subsection.

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

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

H. Offenses described in Section 2376 of this title shall be reported to the appropriate district attorney of this state by the Tax Commission as soon as the offenses are discovered by the Tax Commission or its agents or employees. The Tax Commission shall make available to the appropriate district attorney or to the authorized agent of the district attorney its records and files

pertinent to prosecutions, and such records and files shall be fully admissible as evidence for the purpose of such prosecutions.

SECTION 4. This act shall become effective November 1, 2014.

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