

05/19/2022 10:11:53 AM

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB4085

By: Wallace of the House and Howard of the Senate

Title: Revenue and taxation; creating Rural Jobs Act; tax credit; investment; ownership; reporting;
effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendment; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action _____ Date _____ Senate Action _____ Date _____

HB4085 CCR (A)
HOUSE CONFEREES

Baker, Rhonda

Bennett, Forrest

Blancett, Meloyde

Boatman, Jeff



Dills, Sheila

Echols, Jon



Fetgatter, Scott



Ford, Ross



Goodwin, Regina

Hill, Brian



Kannady, Chris



Lawson, Mark



Lepak, Mark

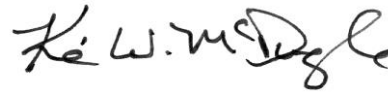
Martinez, Ryan



McBride, Mark



McDugle, Kevin



McEntire, Marcus



Miller, Nicole



Mize, Garry



Munson, Cyndi

Newton, Carl

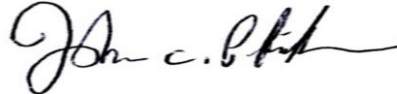
Nichols, Monroe

O'Donnell, Terry

Osburn, Mike



Pfeiffer, John



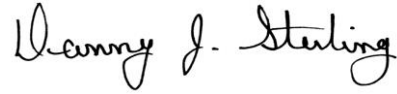
Roberts, Dustin



Roberts, Sean

Russ, Todd

Sterling, Danny



Strom, Judd

Virgin, Emily

Walke, Collin

Wallace, Kevin

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West, Josh

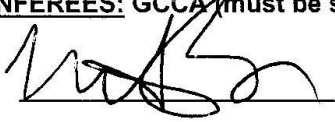
Handwritten signature of Josh West in black ink.

West, Tammy

HB4085 CCR A

SENATE CONFEREES: GCCA (must be signed out at a Senate GCCA meeting)

Brooks



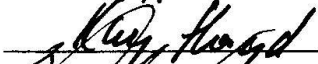
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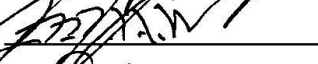
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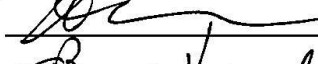
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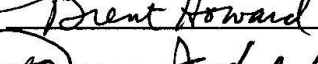
Hall



Haste



Howard



Jech



Kidd



Kirt



Matthews



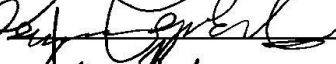
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Newhouse



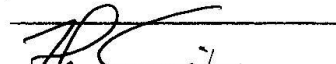
Pederson



Pemberton



Rader



Rosino



Simpson



Weaver



Thompson

House Action _____ Date _____ Senate Action _____ Date _____

House Action _____ Date _____ Senate Action _____ Date _____

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 4085

By: Wallace, Dempsey, and Lowe
(Dick) of the House

and

Howard, Jech, and Kirt of
the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; creating the Oklahoma Rural Jobs Act; defining terms; establishing requirements; establishing application process; providing for a tax credit; establishing an authorization amount limit; establishing investment requirements; allowing for lapse in certification; creating a credit; allowing for transfer of credit; providing for recapture of credits; determining how recaptured credits are to be allocated; creating ownership limitations; creating reporting requirements; creating a program exit process; establishing a sunset date; amending 68 O.S. 2021, Section 205, which relates to certain tax information; providing exception related to certain tax credits; providing for codification; and providing an effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3930 of Title 68, unless there
3 is created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as the "Oklahoma Rural
5 Jobs Act".

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 3931 of Title 68, unless there
8 is created a duplication in numbering, reads as follows:

9 As used in this act:

10 1. "Affiliate" means an entity that directly, or indirectly
11 through one or more intermediaries, controls, or is controlled by,
12 or is under the common control with another entity. An entity is
13 controlled by another entity if the controlling entity holds,
14 directly or indirectly, the majority of voting or ownership interest
15 in the controlled entity or has control over day-to-day operations
16 of the controlled entity by contract or by law;

17 2. "Applicable percentage" means zero percent (0%) for the
18 first two credit allowance dates, and fifteen percent (15%) for the
19 next four credit allowance dates;

20 3. "Capital investment" means any equity investment in a rural
21 fund by a rural investor which:

22 a. is acquired after the effective date of this act at
23 its original issuance solely in exchange for cash,
24

1 b. has one hundred percent (100%) of its cash purchase
2 price used by the rural fund to make qualified
3 investments in eligible businesses located in this
4 state by the third anniversary of the initial credit
5 allowance date, and

6 c. is designated by the rural fund as a capital
7 investment under this act and is certified by the
8 Department under the provisions of Section 3 of this
9 act. This shall include any capital investment that
10 does not meet the provisions of paragraph 1 of
11 subsection A of Section 3 of this act, if such
12 investment was a capital investment in the hands of a
13 prior holder;

14 4. "Credit allowance date" means the date on which the
15 Department certifies a rural fund's capital investment and each of
16 the five anniversary dates of such date thereafter;

17 5. "Department" means the Oklahoma Department of Commerce;

18 6. "Eligible business" means a business that, at the time of
19 the initial qualified investment in the business:

20 a. has fewer than two hundred fifty employees, and

21 b. has its principal business operations in the state.

22 Any business which is classified as an eligible business at the
23 time of the initial investment in such business by a rural fund
24 shall remain classified as an eligible business and may receive

1 follow-on investments from any rural fund, and such follow-on
2 investments shall be qualified investments even though such business
3 may not meet the definition of an eligible business at the time of
4 such follow-on investment;

5 7. "Principal business operations" means the location where at
6 least sixty percent (60%) of a business's employees work or where
7 employees who are paid at least sixty percent (60%) of such
8 business's payroll work. A business that has agreed to relocate
9 employees using the proceeds of a qualified investment to establish
10 its principal business operations in a new location shall be deemed
11 to have its principal business operations in such new location if it
12 satisfied the requirements of this paragraph no later than one
13 hundred eighty (180) days after receiving a qualified investment;

14 8. "Purchase price" means the amount paid to the rural fund
15 that issues a capital investment which shall not exceed the amount
16 of capital investment authority certified under the provisions of
17 Section 3 of this act;

18 9. "Qualified investment" means any investment in an eligible
19 business or any loan to an eligible business with a stated maturity
20 date of at least one (1) year after the date of issuance, excluding
21 revolving lines of credit and senior-secured debt unless the chief
22 executive or similar officer of the eligible business certifies that
23 the eligible business sought and was denied similar financing from a
24 depository institution, by a rural fund; provided that, with respect

1 to any one eligible business, the maximum amount of investments made
2 in such business by one or more rural funds, on a collective basis
3 with all of the businesses' affiliates, with the proceeds of the
4 capital investments, shall be the greater of twenty percent (20%) of
5 the rural fund's capital investment authority or Six Million Five
6 Hundred Thousand Dollars (\$6,500,000.00), exclusive of investments
7 made with repaid or redeemed investments or interest or profits
8 realized thereon;

9 10. "Rural area" means any county of this state that has a
10 population of less than seventy-five thousand (75,000) or any city
11 or town of this state that has a population not to exceed seven
12 thousand (7,000) according to the 2020 Federal Decennial Census of
13 the United States;

14 11. "Rural fund" means an entity certified by the Department
15 under the provisions of Section 3 of this act;

16 12. "Rural investor" means an entity that makes a capital
17 investment in a rural fund;

18 13. "Senior-secured debt" means any loan that is secured by a
19 first mortgage on real estate with a loan-to-value ratio of less
20 than eighty percent (80%); and

21 14. "State tax liability" means the tax imposed under Section
22 2355, 2355.1P-4, or 2370 of Title 68 of the Oklahoma Statutes or
23 Section 624 or 628 of Title 36 of the Oklahoma Statutes. An
24 insurance company claiming a credit against state premium tax or

1 retaliatory tax or any other tax imposed by Section 624 or 628 of
2 Title 36 of the Oklahoma Statutes shall not be required to pay any
3 additional retaliatory tax under Section 628 of Title 36 of the
4 Oklahoma Statutes as a result of claiming the credit. The credit
5 may fully offset any retaliatory tax imposed by Section 628 of Title
6 36 of the Oklahoma Statutes.

7 SECTION 3. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 3932 of Title 68, unless there
9 is created a duplication in numbering, reads as follows:

10 A. A rural fund that seeks to have an equity investment
11 certified as a capital investment eligible for credits authorized
12 under the provisions of this act shall apply to the Department. The
13 Department shall begin accepting applications within ninety (90)
14 days of the effective date of this act. The application shall
15 include:

- 16 1. The amount of capital investment requested;
- 17 2. A copy of the applicant's or an affiliate of the applicant's
18 licenses as a rural business investment company under 7 U.S.C.,
19 Section 2009cc or as a small business investment company under 15
20 U.S.C., Section 681, and a certificate executed by an executive
21 officer of the applicant attesting that such license remains in
22 effect and has not been revoked;
- 23 3. Evidence that, as of the date the application is submitted,
24 the applicant or affiliates of the applicant have invested at least

1 One Hundred Million Dollars (\$100,000,000.00) in nonpublic companies
2 located in counties within the United States with a population of
3 less than seventy-five thousand (75,000) according to the 2010
4 Federal Decennial Census of the United States;

5 4. A business plan that includes a revenue-impact assessment
6 projecting state and local tax revenue to be generated by the
7 applicant's proposed qualified investments, prepared by a nationally
8 recognized, third-party, independent economic forecasting firm using
9 a dynamic economic forecasting model that analyzes the applicant's
10 business plan over the ten (10) years following the date the
11 application is submitted to the Department. Such plan shall include
12 an estimate of the number of jobs created and jobs retained in this
13 state as a result of the applicant's qualified investments; and

14 5. A nonrefundable application fee of Five Thousand Dollars
15 (\$5,000.00) payable to the Department.

16 B. Within thirty (30) days after the receipt of a completed
17 application, the Department shall grant or deny the application in
18 full or in part. The Department shall deny the application if:

19 1. The applicant does not satisfy all the criteria provided
20 under subsection A of this section;

21 2. The revenue-impact assessment submitted with the application
22 does not demonstrate that the applicant's business plan will result
23 in a positive fiscal impact on the state over a ten-year period that
24

1 exceeds the cumulative amount of tax credits that would be issued to
2 the applicant if the application was approved; or

3 3. The Department has already approved the maximum amount of
4 capital investment authority under Section 4 of this act.

5 C. If the Department denies any part of the application, it
6 shall inform the applicant of the grounds for such denial. If the
7 applicant provides any additional information required by the
8 Department or otherwise completes its application within fifteen
9 (15) days of the notice of denial, the application shall be
10 considered complete as of the original date of submission. If the
11 applicant fails to provide the information or fails to complete its
12 application within the fifteen-day period, the application shall
13 remain denied and must be resubmitted with a new submission date and
14 a new application fee.

15 D. Upon approval of an application, the Department shall
16 certify the proposed equity investment as a capital investment
17 eligible for credits under this act, subject to limitations laid out
18 in Section 4 of this act. The Department shall provide written
19 notice of the certification to the applicant which shall include the
20 amount of the applicant's capital investment authority. The
21 Department shall certify capital investments in the order that the
22 application is received by the Department. Applications received on
23 the same day shall be deemed to have been received simultaneously.
24 For applications that are complete and received on the same day, the

1 Department shall certify applications in proportionate percentages
2 based upon the ratio of the amount of capital investment authority
3 requested in all applications.

4 SECTION 4. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 3933 of Title 68, unless there
6 is created a duplication in numbering, reads as follows:

7 A. The Department shall certify capital investment authority
8 under the provisions of this act in amounts that would not authorize
9 more than Fifteen Million Dollars (\$15,000,000.00) in state tax
10 credits to be claimed against state tax liability in any calendar
11 year, excluding any credit amounts carried forward as provided under
12 subsection A of Section 5 of this act. Within ninety (90) days of
13 the applicant receiving notice of certification, the rural fund
14 shall issue the capital investment to, and receive cash in the
15 amount of the certified amount from a rural investor. At least ten
16 percent (10%) of the rural investor's capital investment shall be
17 composed of capital raised by the rural investor directly or
18 indirectly from sources including directors, members, employees,
19 officers, and affiliates of the rural investor, other than the
20 amount invested by the allocatee claiming the tax credits in
21 exchange for such allocation of tax credits. The rural fund shall
22 provide the Department with evidence of the receipt of the cash
23 investment within ninety-five (95) days of the applicant receiving
24 notice of certification.

1 B. If the rural fund does not receive the cash investment and
2 issue the capital investment within such time period following
3 receipt of the certificate notice, the certification shall lapse and
4 the rural fund shall not issue the capital investment without
5 reapplying to the Department for certification. Lapsed
6 certifications shall revert to the Department and shall be reissued
7 pro rata to applicants whose capital investment allocations were
8 reduced in accordance with the application process provided under
9 subsection D of Section 3 of this act.

10 C. A rural fund, before making a qualified investment, may
11 request from the Department a written opinion as to whether the
12 business in which it proposes to invest is an eligible business.
13 The Department, no later than fifteen (15) business days after the
14 date of receipt of such request, shall notify the rural fund of its
15 determination. If the Department fails to notify the rural fund of
16 its determination by the twentieth business day, the business in
17 which the rural fund proposes to invest shall be deemed an eligible
18 business.

19 SECTION 5. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 3934 of Title 68, unless there
21 is created a duplication in numbering, reads as follows:

22 A. Upon making a capital investment in a rural fund, a rural
23 investor shall have a right to a credit against such entity's state
24 tax liability that may be utilized on each credit allowance date of

1 such capital investment in an amount equal to the applicable
2 percentage for such credit allowance date multiplied by the purchase
3 price paid to the rural fund for the capital investment. The amount
4 of the credit claimed by a rural investor shall not exceed the
5 amount of such entity's state tax liability for the tax year for
6 which the credit is claimed. Any amount of credit that a rural
7 investor is prohibited from claiming in a tax year as a result of
8 this section may be carried forward for use in any of the five (5)
9 subsequent tax years, but shall not be carried back to prior tax
10 years. It is the intent of this act that a rural investor claiming
11 a credit under this act is not required to pay any additional tax
12 that may arise as a result of claiming such credit.

13 B. No credit claimed under the provisions of this act shall be
14 refundable or saleable on the open market. Credits earned by or
15 allocated to a partnership, limited liability company, or S-
16 corporation may be allocated to the partners, members, or
17 shareholders of such entity for their direct use in accordance with
18 the provisions of any agreement among such partners, members, or
19 shareholders, and a rural fund shall notify the Department of the
20 names of the entities that are eligible to utilize transfer of a
21 capital investment upon such allocation, change, or transfer. Such
22 allocation shall not be considered a sale for the purpose of this
23 section.

24

1 C. The Department may recapture credits from a taxpayer that
2 claimed a credit authorized under this section if:

3 1. The rural fund does not invest sixty percent (60%) of its
4 capital investment authority in qualified investments in this state
5 within two (2) years of the credit allowance date, and one hundred
6 percent (100%) of its capital investment authority in qualified
7 investments in this state within three (3) years of the credit
8 allowance date; provided, that at least seventy percent (70%) of
9 these initial qualified investments must be made in eligible
10 businesses located in rural areas;

11 2. The rural fund fails to maintain qualified investments equal
12 to ninety percent (90%) of its capital investment authority from the
13 third anniversary until the sixth anniversary of the credit
14 allowance date, with seventy percent (70%) of such investments
15 maintained in eligible businesses located in rural areas. For each
16 year the rural fund fails to maintain such investments, the
17 Department may recapture an amount of such year's allowed credits
18 equal to the percentage difference between ninety percent (90%) of a
19 rural fund's capital investment authority and the actual amount of
20 qualified investments maintained for such year. For the purposes of
21 this subsection, a qualified investment is considered even if the
22 qualified investment was sold or repaid so long as the rural fund
23 reinvests an amount equal to the capital returned or recovered or
24 repaid by the rural fund from the original investment, exclusive of

1 any profits realized, in other qualified investments in this state
2 within twelve (12) months of receipt of such capital. Amounts
3 received periodically by a rural fund shall be treated as
4 continually invested in qualified investments if the amounts are
5 reinvested in one or more qualified investments by the end of the
6 following calendar year. A rural fund shall not be required to
7 reinvest capital returned from qualified investments after the fifth
8 anniversary of the credit allowance date, and such qualified
9 investments shall be considered held continuously by the rural fund
10 through the sixth anniversary of the credit allowance date;

11 3. Prior to the earlier of exiting the program in accordance
12 with this act or thirty (30) days after the sixth anniversary of the
13 credit allowance date, the rural fund makes a distribution or
14 payment that results in the rural fund having less than one hundred
15 percent (100%) of its capital investment authority invested in
16 qualified investments in the state or held in cash or other
17 marketable securities; or

18 4. The rural fund violates the provisions of Section 6 of this
19 act, in which case the Department may recapture an amount equal to
20 the amount of the rural fund's capital investment authority found to
21 be in violation of such provisions.

22 For the purposes of meeting and maintaining the objectives
23 established for investment in paragraphs 1 and 2 of this subsection,
24 a rural fund's qualified investments shall be multiplied by a factor

1 of one and one-quarter (1 1/4) in counties with less than thirty
2 thousand (30,000) in population and more than thirteen thousand
3 (13,000) in population and shall be multiplied by a factor of one
4 and one-half (1 1/2) in counties with a population of thirteen
5 thousand (13,000) or less.

6 D. Recaptured credits and related capital investment authority
7 shall revert to the Department and shall be reissued pro rata to
8 applicants whose capital investment allocations were reduced in
9 accordance with the application process provided under subsection D
10 of Section 3 of this act.

11 E. No recapture shall occur until the rural fund has been given
12 notice of noncompliance and afforded six (6) months from the date of
13 such notice to cure the noncompliance.

14 SECTION 6. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 3935 of Title 68, unless there
16 is created a duplication in numbering, reads as follows:

17 No eligible business that receives a qualified investment under
18 the provisions of this act, or any affiliates of such eligible
19 business, shall directly or indirectly:

20 1. Own or have the right to acquire an ownership interest in a
21 rural fund or member or affiliate of a rural fund including, but not
22 limited to, a holder of a capital investment issued by a rural fund;
23 or
24

1 2. Loan to or invest in a rural fund or any member or affiliate
2 of a rural fund including, but not limited to, a holder of capital
3 investment issued by a rural fund, where the proceeds of such loan
4 or investment are directly or indirectly used to fund or refinance
5 the purchase of capital investments under this act.

6 SECTION 7. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 3936 of Title 68, unless there
8 is created a duplication in numbering, reads as follows:

9 A. Rural funds shall submit a report to the Department within
10 the first fifteen (15) business days after the second and third
11 anniversary of the initial credit allowance date. The report
12 following the second anniversary shall provide documentation as to
13 the investment of sixty percent (60%) of the purchase price of such
14 capital investment in qualified investments. The report following
15 the third anniversary shall provide documentation as to the
16 investment of one hundred percent (100%) of the purchase price of
17 such capital investment in qualified investments. Unless previously
18 reported pursuant to this subsection, such reports shall also
19 include:

20 1. The name and location of each eligible business receiving a
21 qualified investment;

22 2. Bank statements of such rural fund evidencing each qualified
23 investment;

1 3. A copy of the written opinion of the Department, as provided
2 in subsection C of Section 4 of this act, or evidence that such
3 business was an eligible business at the time of such qualified
4 investment, as applicable;

5 4. The number of jobs created and jobs retained as a result of
6 each qualified investment;

7 5. The average salary of positions described in paragraph 4 of
8 this subsection; and

9 6. Such other information as required by the Department.

10 B. For all subsequent years, rural funds shall submit an annual
11 report to the Department within ninety (90) days of the beginning of
12 the calendar year during the compliance period. The report shall
13 include, but is not limited to, the following:

14 1. The number of jobs created and jobs retained as a result of
15 qualified investments;

16 2. The average annual salary of positions described in
17 paragraph 1 of this subsection; and

18 3. Such other information as required by the Department.

19 C. On or after the sixth anniversary of the credit allowance
20 date, a rural fund may apply to the Department to exit the program
21 and no longer be subject to the regulation hereunder. The
22 Department shall respond to the exit application within fifteen (15)
23 days of receipt. In evaluating the exit application, the fact that
24 no credits have been recaptured and that the rural fund has not

1 received a notice of recapture that has not been cured pursuant to
2 subsection E of Section 5 of this act shall be sufficient evidence
3 to prove that the rural fund is eligible for exit. The Department
4 shall not unreasonably deny an exit application submitted under this
5 section. If an exit application is denied, the notice shall include
6 the reasons for the determination.

7 SECTION 8. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 3937 of Title 68, unless there
9 is created a duplication in numbering, reads as follows:

10 The Department shall accept no new applications for tax credits
11 authorized under this act after December 1, 2032.

12 SECTION 9. AMENDATORY 68 O.S. 2021, Section 205, is
13 amended to read as follows:

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

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

15 C. The provisions of this section shall not prevent the Tax
16 Commission, or with respect to the Oklahoma Department of Commerce
17 in administration of the Oklahoma Rural Jobs Act as provided by
18 paragraph 22 of this subsection, from disclosing the following
19 information and no liability whatsoever, civil or criminal, shall
20 attach to any member of the Tax Commission, or the Oklahoma
21 Department of Commerce as applicable, or any employee thereof for
22 any error or omission in the disclosure of such information:

23 1. The delivery to a taxpayer or a duly authorized
24 representative of the taxpayer of a copy of any report or any other

1 paper filed by the taxpayer pursuant to the provisions of the
2 Uniform Tax Procedure Code or of any state tax law;

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

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

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

12 5. The disclosing of information or evidence to the Oklahoma
13 State Bureau of Investigation, Attorney General, Oklahoma State
14 Bureau of Narcotics and Dangerous Drugs Control, any district
15 attorney or agent of any federal law enforcement agency when the
16 information or evidence is to be used by such officials to
17 investigate or prosecute violations of the criminal provisions of
18 the Uniform Tax Procedure Code or of any state tax law or of any
19 federal crime committed against this state. Any information
20 disclosed to the Oklahoma State Bureau of Investigation, Attorney
21 General, Oklahoma State Bureau of Narcotics and Dangerous Drugs
22 Control, any district attorney or agent of any federal law
23 enforcement agency shall be kept confidential by such person and not
24 be disclosed except when presented to a court in a prosecution for

1 violation of the tax laws of this state or except as specifically
2 authorized by law, and a violation by the Oklahoma State Bureau of
3 Investigation, Attorney General, Oklahoma State Bureau of Narcotics
4 and Dangerous Drugs Control, district attorney or agent of any
5 federal law enforcement agency by otherwise releasing the
6 information shall be a felony;

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

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

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

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

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

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

23 11. The furnishing of information as to the issuance or
24 revocation of any tax permit, license or exemption by the Tax

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

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

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

19 14. After the filing of a tax warrant pursuant to law, the
20 furnishing of information upon written request by any member of the
21 general public as to any agreement entered into by the Tax
22 Commission concerning a compromise of tax liability for an amount
23 less than the amount of tax liability stated on such warrant;
24

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

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

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

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

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

17 20. The disclosure of information directly involved in the
18 resolution of the protest by a taxpayer to an assessment of tax or
19 additional tax or the resolution of a claim for refund filed by a
20 taxpayer, including the disclosure of the pendency of an
21 administrative proceeding involving such protest or claim, to a
22 person called by the Tax Commission as an expert witness or as a
23 witness whose area of knowledge or expertise specifically addresses
24 the issue addressed in the protest or claim for refund. Such

1 disclosure to a witness shall be limited to information pertaining
2 to the specific knowledge of that witness as to the transaction or
3 relationship between taxpayer and witness;

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

10 22. The furnishing of information regarding incentive payments
11 made pursuant to the provisions of Sections 3601 through 3609 of
12 this title, ~~or~~ incentive payments made pursuant to the provisions of
13 Sections 3501 through 3508 of this title, or tax credits claimed
14 pursuant to the provisions of Sections 1 through 8 of this act;

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

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

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

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

15 26. The disclosure of information, as prescribed by this
16 paragraph, which is related to the proposed or actual usage of tax
17 credits pursuant to Section 2357.7 of this title, the Small Business
18 Capital Formation Incentive Act or the Rural Venture Capital
19 Formation Incentive Act. Unless the context clearly requires
20 otherwise, the terms used in this paragraph shall have the same
21 meaning as defined by Section 2357.7, 2357.61 or 2357.72 of this
22 title. The disclosure of information authorized by this paragraph
23 shall include:
24

- 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;

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

28. The disclosure of specific information as required by Section 205.5 of this title;

1 29. The disclosure of specific information as required by
2 Section 205.6 of this title;

3 30. The disclosure of information to the State Treasurer
4 necessary to implement Section 2368.27 of this title;

5 31. The disclosure of specific information to the Oklahoma
6 Health Care Authority for purposes of determining eligibility for
7 current or potential recipients of assistance from the Oklahoma
8 Medicaid Program; or

9 32. The disclosure of information to the Oklahoma Department of
10 Veterans Affairs including but not limited to the name and basis for
11 eligibility of each individual who qualifies for the sales tax
12 exemption authorized in paragraph 34 of Section 1357 of this title.

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

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

23 E. The Tax Commission shall prepare or cause to be prepared a
24 report on all provisions of state tax law that reduce state revenue

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

22 F. It is further provided that the provisions of this section
23 shall be strictly interpreted and shall not be construed as
24 permitting the disclosure of any other information contained in the

1 records and files of the Tax Commission relating to income tax or to
2 any other taxes.

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

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

18 SECTION 10. This act shall become effective November 1, 2022.
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