

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1798

By: Wilson

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68
8 O.S. 2001, Sections 1353, as last amended by Section
9 3, Chapter 366, O.S.L. 2007 and 1403, as last amended
10 by Section 4, Chapter 366, O.S.L. 2007 (68 O.S. Supp.
11 2007, Sections 1353 and 1403), which relate to sales
12 and use tax; modifying apportionment of sales tax;
13 updating references; requiring the Oklahoma Tax
14 Commission to distribute certain portion of revenue
15 to certain jurisdictions; mandating that such revenue
16 be used for specified purposes; providing for
17 calculation of revenue to be distributed and creating
18 exception thereto; defining terms; requiring certain
19 report be filed with State Auditor and Inspector;
20 requiring Auditor and Inspector to provide form for
21 report and specifying contents thereof; providing
22 penalty for taxing jurisdiction not in compliance;
23 providing for codification; providing an effective
24 date; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 1353, as
last amended by Section 3, Chapter 366, O.S.L. 2007 (68 O.S. Supp.
2007, Section 1353), is amended to read as follows:

Section 1353. It is hereby declared to be the purpose of the
Oklahoma Sales Tax Code to provide funds for the financing of the

1 program provided for by the Oklahoma Social Security Act and to
2 provide revenues for the support of the functions of the state
3 government of Oklahoma, and for this purpose it is hereby expressly
4 provided that, revenues derived pursuant to the provisions of the
5 Oklahoma Sales Tax Code shall be apportioned as follows:

6 1. a. except as provided in paragraphs 5 and 6 of this
7 section, the following amounts shall be paid to the
8 State Treasurer to be placed to the credit of the
9 General Revenue Fund to be paid out pursuant to direct
10 appropriation by the Legislature:

Fiscal Year	Amount
FY 2003 and FY 2004	86.04%
FY 2005	85.83%
FY 2006	85.54%
FY 2007	85.04%
FY 2008 and each fiscal year thereafter	83.61%

18 b. in the event that additional monies are necessary
19 pursuant to paragraph 5 of this section, such
20 additional monies shall be deducted in the proportion
21 determined by the State Board of Equalization pursuant
22 to paragraph 3 of ~~Section 2 of this act~~ Section
23 2355.1B of this title from the monies apportioned to
24 the General Revenue Fund;

1 2. For FY 2003, FY 2004 and FY 2005, ten and forty-two one-
2 hundredths percent (10.42%), shall be paid to the State Treasurer to
3 be placed to the credit of the Education Reform Revolving Fund of
4 the State Department of Education and for FY 2006 and each fiscal
5 year thereafter, ten and forty-six one hundredths percent (10.46%)
6 shall be paid to the State Treasurer to be placed to the credit of
7 the Education Reform Revolving Fund of the State Department of
8 Education;

9 3. The following amounts shall be paid to the State Treasurer
10 to be placed to the credit of the Teachers' Retirement System
11 Dedicated Revenue Revolving Fund:

12	Fiscal Year	Amount
13	FY 2003 and FY 2004	3.54%
14	FY 2005	3.75%
15	FY 2006	4.0%
16	FY 2007	4.5%
17	FY 2008 and each fiscal	
18	year thereafter	5.0%

19 4. For the fiscal year beginning July 1, 2007, and for each
20 fiscal year thereafter, ninety-three one hundredths percent (0.93%)
21 shall be paid to the State Treasurer to be further apportioned as
22 follows:

23 a. thirty-six percent (36%) shall be placed to the credit
24 of the Oklahoma Tourism Promotion Revolving Fund, and

1 b. sixty-four percent (64%) shall be placed to the credit
2 of the Oklahoma Tourism Capital Improvement Revolving
3 Fund; ~~and~~

4 5. During the first fiscal year after the State Board of
5 Equalization has made a determination as provided in ~~Section 2 of~~
6 ~~Enrolled Senate Bill No. 357 of the 1st Session of the 51st Oklahoma~~
7 ~~Legislature, as amended by Section 2 of this act~~ Section 2355.1B of
8 this title, regarding a baseline amount of revenue apportioned
9 pursuant to paragraph 3 of this section, and for each fiscal year
10 thereafter, in no event shall monies apportioned pursuant to
11 paragraph 3 of this section, paragraph 3 of Section 1403 of this
12 title and subparagraph c of paragraph 1 of Section 2352 of this
13 title be less than such baseline amount; and

14 6. Of the monies which would be apportioned to the General
15 Revenue Fund pursuant to paragraph 1 of this section, an amount
16 shall first be distributed by the Oklahoma Tax Commission pursuant
17 to the provisions of Section 2 of this act.

18 SECTION 2. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1353.1 of Title 68, unless there
20 is created a duplication in numbering, reads as follows:

21 A. Beginning July 1, 2008 and on July 1 each year thereafter,
22 the Oklahoma Tax Commission shall distribute to each participating
23 taxing jurisdiction a portion, as calculated pursuant to subsection
24 B of this section, of the revenue collected during the previous

1 fiscal year pursuant to Sections 1353 and 1403 of Title 68 of the
2 Oklahoma Statutes. All revenue distributed pursuant to this section
3 shall be used exclusively for the direct costs of construction or
4 repair of roads, streets or bridges within the boundaries of the
5 taxing jurisdiction.

6 B. The Tax Commission shall calculate the portion of revenue to
7 be distributed based on the amount of state sales and use tax
8 generated by each taxing jurisdiction during the previous fiscal
9 year as follows:

10 1. Except as provided in paragraph 2 of this subsection, for
11 each participating taxing jurisdiction, of the four and one-half
12 percent (4.5%) levied pursuant to Sections 1354 and 1402 of Title 68
13 of the Oklahoma Statutes and generated by the participating taxing
14 jurisdiction, four percent (4%) shall be retained by the state and
15 apportioned as otherwise provided by statute and one-half percent
16 (0.5%) shall be distributed to the participating taxing
17 jurisdiction;

18 2. If the amount calculated by the Tax Commission is equal to
19 or less than Seven Thousand Dollars (\$7,000.00), the amount to be
20 distributed shall be as follows:

21 a. Three Thousand Dollars (\$3,000.00) where the
22 calculated amount is less than or equal to Three
23 Thousand Dollars (\$3,000.00),
24

1 b. Five Thousand Dollars (\$5,000.00) where the calculated
2 amount is equal to or greater than Three Thousand One
3 Dollars (\$3,001.00) but less than Five Thousand
4 Dollars (\$5,000.00), and

5 c. Seven Thousand Dollars (\$7,000.00) where the
6 calculated amount is equal to or greater than Five
7 Thousand One Dollars (\$5,001.00) but less than Seven
8 Thousand One Dollars (\$7,001.00).

9 C. As used in this section:

10 1. "Direct costs" means the engineering costs and costs of
11 materials, equipment or supplies associated with the construction or
12 repair of roads, streets and bridges and the costs of a public
13 construction contract pursuant to Section 102 of Title 61 of the
14 Oklahoma Statutes; provided, direct costs shall not include the
15 personnel or administrative expenses of participating taxing
16 jurisdiction;

17 2. "Participating taxing jurisdiction" means any county or any
18 city or town incorporated pursuant to Title 11 of the Oklahoma
19 Statutes or a home rule charter unless the jurisdiction has adopted
20 and provided to the Tax Commission a resolution opting out of
21 participation.

22 D. Beginning June 1, 2009 and on June 1 each year thereafter,
23 each participating taxing jurisdiction shall file with the State
24 Auditor and Inspector a report of its expenditures from the

1 distribution made pursuant to this section. The State Auditor and
2 Inspector shall provide a form for such report, which shall include:
3 1. Total amounts distributed to the jurisdiction;
4 2. A listing of line item expenditures made for direct costs;
5 3. Any amounts encumbered for uncompleted projects;
6 4. Amounts not spent or encumbered from the distribution; and
7 5. A sworn statement certifying that all revenue distributed
8 pursuant to this section has been encumbered, earmarked or expended
9 solely for the construction or repair of roads, streets and bridges
10 in the taxing jurisdiction.

11 Any participating taxing jurisdiction that makes expenditures
12 from a distribution for purposes other than the direct costs of
13 construction or repair of roads, streets and bridges in the taxing
14 jurisdiction shall be ineligible to receive future distributions for
15 a period of five (5) years or such time as the amount of withheld
16 distributions is equal to twice the amount of expenditures for
17 unauthorized purposes, whichever is longer.

18 SECTION 3. AMENDATORY 68 O.S. 2001, Section 1403, as
19 last amended by Section 4, Chapter 366, O.S.L. 2007 (68 O.S. Supp.
20 2007, Section 1403), is amended to read as follows:

21 Section 1403. It is hereby declared to be the purpose of
22 Section 1401 et seq. of this title to provide for the support of the
23 functions of the state and local government of Oklahoma; and for
24

1 this purpose and to this end, it is hereby expressly provided that
2 the revenues derived hereunder are hereby apportioned as follows:

- 3 1. a. except as provided in paragraphs 5 and 6 of this
4 section, the following amounts shall be paid by the
5 Tax Commission to the State Treasurer and placed to
6 the credit of the General Revenue Fund to be paid out
7 pursuant to direct appropriation by the Legislature:

8 Fiscal Year	Amount
9 FY 2004	85.35%
10 FY 2005	85.14%
11 FY 2006	85.54%
12 FY 2007	85.04%
13 FY 2008 and each fiscal	
14 year thereafter	83.61%

- 15 b. in the event that additional monies are necessary
16 pursuant to paragraph 5 of this section, such
17 additional monies shall be deducted in the proportion
18 determined by the State Board of Equalization pursuant
19 to paragraph 3 of ~~Section 2 of this act~~ Section
20 2355.1B of this title from the monies apportioned to
21 the General Revenue Fund;

- 22 2. Ten and forty-six one hundredths percent (10.46%) shall be
23 paid to the State Treasurer to be placed to the credit of the
24

1 Education Reform Revolving Fund of the State Department of
2 Education;

3 3. The following amounts shall be paid to the State Treasurer
4 to be placed to the credit of the Teachers' Retirement System
5 Dedicated Revenue Revolving Fund:

6 Fiscal Year	Amount
7 FY 2003 and FY 2004	3.54%
8 FY 2005	3.75%
9 FY 2006	4.0%
10 FY 2007	4.5%
11 FY 2008 and each fiscal	
12 year thereafter	5.0%

13 4. For the fiscal year beginning July 1, 2007, and for each
14 fiscal year thereafter, ninety-three one hundredths percent (0.93%)
15 shall be paid to the State Treasurer to be further apportioned as
16 follows:

- 17 a. thirty-six percent (36%) shall be placed to the credit
18 of the Oklahoma Tourism Promotion Revolving Fund, and
- 19 b. sixty-four percent (64%) shall be placed to the credit
20 of the Oklahoma Tourism Capital Improvement Revolving
21 Fund; and

22 5. During the first fiscal year after the State Board of
23 Equalization has made a determination as provided in ~~Section 2 of~~
24 ~~Enrolled Senate Bill No. 357 of the 1st Session of the 51st Oklahoma~~

1 ~~Legislature, as amended by Section 2 of this act~~ Section 2355.1B of
2 this title regarding a baseline amount of revenue apportioned
3 pursuant to paragraph 3 of this section, and for each fiscal year
4 thereafter, in no event shall monies apportioned pursuant to
5 paragraph 3 of this section, paragraph 3 of Section 1353 of this
6 title and subparagraph c of paragraph 1 of Section 2352 of this
7 title be less than such baseline amount.

8 6. Of the monies which would be apportioned to the General
9 Revenue Fund pursuant to paragraph 1 of this section, an amount
10 shall first be distributed by the Oklahoma Tax Commission pursuant
11 to the provisions of Section 2 of this act.

12 SECTION 4. This act shall become effective July 1, 2008.

13 SECTION 5. It being immediately necessary for the preservation
14 of the public peace, health and safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

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