

1 ENGROSSED SENATE  
2 BILL NO. 1328

By: Gumm of the Senate

3 and

4 Terrill of the House

5  
6  
7 [ revenue and taxation - sales tax - codification -  
8 effective date ]  
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11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 68 O.S. 2001, Section 118, as last  
13 amended by Section 4, Chapter 378, O.S.L. 2008 (68 O.S. Supp. 2009,  
14 Section 118), is amended to read as follows:

15 Section 118. A. Upon receipt of a written request from a  
16 member or employee of the Legislature, the Oklahoma Tax Commission  
17 shall provide:

18 1. A written estimate of the revenue gain or loss to the state  
19 as a result of an actual or proposed change to a state tax law; and

20 2. A written statement of the Tax Commission's recommendation  
21 to the State Board of Equalization as to the change in the amount  
22 certified as available for appropriation by the Legislature as a  
23 result of an actual or proposed change to a state tax law.

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1       The Tax Commission shall provide such estimate and statement  
2 within two (2) weeks of the date the request was received unless the  
3 member or employee of the Legislature specifies an earlier date. If  
4 the Tax Commission determines that it is unable to provide such  
5 estimate and statement within the time period required by this  
6 section, it shall provide a written explanation and date by which  
7 the estimate and statement will be provided to the member or  
8 employee.

9       B. On or after December 31, 2009, and subject to the  
10 availability of funds, the Tax Commission shall develop the  
11 estimates and statements required by subsection A of this section  
12 utilizing a dynamic revenue estimating model. Such model shall take  
13 into consideration changes in economic activity as a result of the  
14 proposed legislation and consequent revenue gains or losses due to  
15 factors such as taxpayer behavior, employment and business  
16 investment. The Tax Commission may, subject to the laws of this  
17 state relating to confidentiality of information, contract with  
18 institutions of higher education in this state or other entities to  
19 perform its duties as set forth in this subsection. The Tax  
20 Commission is authorized to promulgate rules to carry out the  
21 implementation of this section.

22       C. For the purpose of providing an annual forecast of gross  
23 production tax revenues from the production of natural and  
24 casinghead gas to the Office of State Finance, the Tax Commission

1 shall subscribe to appropriate reference materials which provide  
2 economic outlook of future gas prices that have most closely  
3 followed the historical trend of Oklahoma gas prices. To determine  
4 the average differential between the published forecasted prices and  
5 Oklahoma gas prices, the Tax Commission shall compare prices in at  
6 least twenty-four (24) of the immediate thirty-six (36) previous  
7 months of production. The Tax Commission shall utilize the  
8 procedures provided herein to forecast the collection of gross  
9 production tax revenues from the production of natural and  
10 casinghead gas for the fiscal year beginning July 1, 2005, and each  
11 fiscal year thereafter.

12 D. At the meeting required by paragraph 3 of Section 23 of  
13 Article X of the Oklahoma Constitution to be held February 2011, and  
14 for any such subsequent February meeting of the State Board of  
15 Equalization for purposes of certifying revenue if the sales tax  
16 exemption provided for in Sections 4, 5 and 6 of this act has not  
17 become effective, the Oklahoma Tax Commission shall provide to the  
18 State Board of Equalization a written estimate of the revenue loss  
19 to the state which would result from the implementation of the sales  
20 tax exemption provided for in Sections 4, 5 and 6 of this act for  
21 the fiscal year which will begin on the July 1 date immediately  
22 following such February meeting.

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1 SECTION 2. AMENDATORY 68 O.S. 2001, Section 1353, as  
2 last amended by Section 8, Chapter 278, O.S.L. 2008 (68 O.S. Supp.  
3 2009, Section 1353), is amended to read as follows:

4 Section 1353. A. It is hereby declared to be the purpose of  
5 the Oklahoma Sales Tax Code to provide funds for the financing of  
6 the program provided for by the Oklahoma Social Security Act and to  
7 provide revenues for the support of the functions of the state  
8 government of Oklahoma, and for this purpose it is hereby expressly  
9 provided that, revenues derived pursuant to the provisions of the  
10 Oklahoma Sales Tax Code, subject to the apportionment requirements  
11 for the Oklahoma Tax Commission and Office of State Finance Joint  
12 Computer Enhancement Fund provided by Section ~~6 of this act~~ 265 of  
13 this title, shall be apportioned as follows:

14 1. a. the following amounts shall be paid to the State  
15 Treasurer to be placed to the credit of the General  
16 Revenue Fund to be paid out pursuant to direct  
17 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%

1           b.    in the event that additional monies are necessary  
2                   pursuant to paragraph 5 of this ~~section~~ subsection,  
3                   such additional monies shall be deducted in the  
4                   proportion determined by the State Board of  
5                   Equalization pursuant to paragraph 3 of Section  
6                   2355.1B of this title from the monies apportioned to  
7                   the General Revenue Fund;

8           2.    For FY 2003, FY 2004 and FY 2005, ten and forty-two one-  
9 hundredths percent (10.42%), shall be paid to the State Treasurer to  
10 be placed to the credit of the Education Reform Revolving Fund of  
11 the State Department of Education and for FY 2006 and each fiscal  
12 year thereafter, ten and forty-six one-hundredths percent (10.46%)  
13 shall be paid to the State Treasurer to be placed to the credit of  
14 the Education Reform Revolving Fund of the State Department of  
15 Education;

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

Fiscal Year	Amount
FY 2003 and FY 2004	3.54%
FY 2005	3.75%
FY 2006	4.0%
FY 2007	4.5%

1 FY 2008 and each fiscal

2 year thereafter 5.0%

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

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

9 b. sixty-four percent (64%) shall be placed to the credit  
10 of the Oklahoma Tourism Capital Improvement Revolving  
11 Fund; and

12 5. During the first fiscal year after the State Board of  
13 Equalization has made a determination as provided in Section 2355.1B  
14 of this title, regarding a baseline amount of revenue apportioned  
15 pursuant to paragraph 3 of this ~~section~~ subsection, and for each  
16 fiscal year thereafter, in no event shall monies apportioned  
17 pursuant to paragraph 3 of this ~~section~~ subsection, paragraph 3 of  
18 Section 1403 of this title and subparagraph c of paragraph 1 of  
19 Section 2352 of this title be less than such baseline amount.

20 B. Provided, for the fiscal year beginning July 1, 2007, and  
21 every fiscal year thereafter, an amount of revenue shall be  
22 apportioned to each municipality or county which levies a sales tax  
23 subject to the provisions of Section 1357.10 of this title and  
24 subsection F of Section 2701 of this title equal to the amount of

1 sales tax revenue of such municipality or county exempted by the  
2 provisions of Section 1357.10 of this title and subsection F of  
3 Section 2701 of this title. The ~~Oklahoma~~ Tax Commission shall  
4 promulgate and adopt rules necessary to implement the provisions of  
5 this subsection.

6 C. Provided, for the first fiscal year after the sales tax  
7 exemption provided for in Sections 4, 5 and 6 of this act have  
8 become effective, and every fiscal year thereafter, an amount of  
9 revenue shall be apportioned to each municipality, county or  
10 authority which levies a sales tax subject to the provisions of  
11 Sections 4, 5 and 6 of this act equal to the amount of sales tax  
12 revenue of such municipality, county or authority exempted by the  
13 provisions of Sections 4, 5 and 6 of this act. The Tax Commission  
14 shall promulgate and adopt rules necessary to implement the  
15 provisions of this subsection.

16 SECTION 3. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 1353.1 of Title 68, unless there  
18 is created a duplication in numbering, reads as follows:

19 A. The provisions of this section shall be applicable with  
20 respect to the implementation of the sales tax exemption authorized  
21 pursuant to the provisions of Sections 4, 5 and 6 of this act, which  
22 shall be contingent upon a determination by the State Board of  
23 Equalization as prescribed by this section. Such determination shall  
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1 be conducted annually until the sales tax exemption becomes  
2 effective.

3 B. In addition to any other duties prescribed by law, at the  
4 meeting required by paragraph 3 of Section 23 of Article X of the  
5 Oklahoma Constitution to be held in February 2011, and at any  
6 subsequent February meeting of the State Board of Equalization if  
7 the sales tax exemption prescribed by Sections 4, 5 and 6 of this  
8 act has not become effective, the State Board of Equalization shall  
9 determine:

10 1. The amount of revenue growth in the General Revenue Fund of  
11 the State Treasury by comparing the actual amount of revenue  
12 accruing to the General Revenue Fund for the most recently completed  
13 fiscal year to the actual amount of revenue accruing to the General  
14 Revenue Fund for the fiscal year completed on June 30, 2008; and

15 2. The amount by which the sales tax revenue for the fiscal  
16 year which will begin on the July 1 date immediately following such  
17 February meeting is estimated to be reduced by the sales tax  
18 exemption provided for in Sections 4, 5 and 6 of this act, as  
19 estimated by the Oklahoma Tax Commission pursuant to subsection D of  
20 Section 1 of this act.

21 C. 1. If the amount determined pursuant to the provisions of  
22 paragraph 1 of subsection B of this section is equal to or greater  
23 than one hundred ten percent (110%) of the amount determined  
24 pursuant to the provisions of paragraph 2 of subsection B of this

1 section, the Board shall make a finding that applicable revenue  
2 growth in the state will authorize the implementation of the  
3 provisions of Sections 4, 5 and 6 of this act beginning on the July  
4 1 date immediately following such February meeting.

5 2. If the amount determined pursuant to the provisions of  
6 paragraph 1 of subsection B of this section is less than one hundred  
7 ten percent (110%) of the amount determined pursuant to the  
8 provisions of paragraph 2 of subsection B of this section, the Board  
9 shall make a finding that applicable revenue growth in the state  
10 does not authorize the implementation of Sections 4, 5 and 6 of this  
11 act beginning on the July 1 date immediately following such February  
12 meeting.

13 D. If the Board makes a finding that applicable revenue growth  
14 in the state does not authorize the implementation of Sections 4, 5  
15 and 6 of this act beginning with fiscal year 2012, the procedures  
16 prescribed by subsections A, B and C of this section shall be  
17 repeated by the State Board of Equalization for each successive two-  
18 year comparison. Once the sales tax exemption otherwise authorized  
19 pursuant to Sections 4, 5 and 6 of this act have been implemented,  
20 such exemption shall be in effect for every fiscal year thereafter.

21 SECTION 4. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 1357.11 of Title 68, unless  
23 there is created a duplication in numbering, reads as follows:

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1           A. Beginning on July 1 of the year the State Board of  
2 Equalization makes a determination pursuant to paragraph 1 of  
3 subsection C of Section 3 of this act, the sale of all eligible food  
4 and beverages as defined in the Streamlined Sales Tax and Use  
5 Agreement shall be exempt from the tax imposed by Section 1354 of  
6 Title 68 of the Oklahoma Statutes.

7           B. The Oklahoma Tax Commission shall promulgate any necessary  
8 rules to implement the provisions of this act, including a rule  
9 defining eligible food and beverages in accordance with the  
10 Streamlined Sales and Use Tax Agreement.

11           SECTION 5.           NEW LAW           A new section of law to be codified  
12 in the Oklahoma Statutes as Section 1378 of Title 68, unless there  
13 is created a duplication in numbering, reads as follows:

14           Beginning on July 1 of the year the State Board of Equalization  
15 makes a determination pursuant to paragraph 1 of subsection C of  
16 Section 3 of this act, the sales tax imposed by any county or  
17 authority authorized by law to levy a sales tax shall not be imposed  
18 upon the sale of any eligible food and beverages as defined in the  
19 Streamlined Sales and Use Tax Agreement.

20           SECTION 6.           AMENDATORY           68 O.S. 2001, Section 2701, as  
21 last amended by Section 6, Chapter 136, O.S.L. 2007 (68 O.S. Supp.  
22 2009, Section 2701), is amended to read as follows:

23           Section 2701. A. Any incorporated city or town in this state  
24 is hereby authorized to assess, levy, and collect taxes for general

1 and special purposes of municipal government as the Legislature may  
2 levy and collect for purposes of state government, subject to the  
3 provisions of ~~subsection F~~ subsections F and G of this section,  
4 except ad valorem property taxes. Provided:

5 1. Taxes shall be uniform upon the same class subjects, and any  
6 tax, charge, or fee levied upon or measured by income or receipts  
7 from the sale of products or services shall be uniform upon all  
8 classes of taxpayers;

9 2. Motor vehicles may be taxed by the city or town only when  
10 such vehicles are primarily used or located in such city or town for  
11 a period of time longer than six (6) months of a taxable year;

12 3. The provisions of this section shall not be construed to  
13 authorize imposition of any tax upon persons, firms, or corporations  
14 exempted from other taxation under the provisions of Sections 348.1,  
15 624 and 321 of Title 36 of the Oklahoma Statutes, by reason of  
16 payment of taxes imposed under such sections;

17 4. Cooperatives and communications companies are hereby  
18 authorized to pass on to their subscribers in the incorporated city  
19 or town involved, the amount of any special municipal fee, charge or  
20 tax hereafter assessed or levied on or collected from such  
21 cooperatives or communications companies;

22 5. No earnings, payroll or income taxes may be levied on  
23 nonresidents of the cities or towns levying such tax;

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1       6. The governing body of any city or town shall be prohibited  
2 from proposing taxing ordinances more often than three times in any  
3 calendar year, or twice in any six-month period; and

4       7. Any revenues derived from a tax authorized by this  
5 subsection not dedicated to a limited purpose shall be deposited in  
6 the municipal general fund.

7       B. A sales tax authorized in subsection A of this section may  
8 be levied for limited purposes specified in the ordinance levying  
9 the tax. Such ordinance shall be submitted to the voters for  
10 approval as provided in Section 2705 of this title. Any sales tax  
11 levied or any change in the rate of a sales tax levied pursuant to  
12 the provisions of this section shall become effective on the first  
13 day of the calendar quarter following approval by the voters of the  
14 city or town unless another effective date, which shall also be on  
15 the first day of a calendar quarter, is specified in the ordinance  
16 levying the sales tax or changing the rate of sales tax. Such  
17 ordinance shall describe with specificity the projects or  
18 expenditures for which the limited-purpose tax levy would be made.  
19 The municipal governing body shall create a limited-purpose fund and  
20 deposit therein any revenue generated by any tax levied pursuant to  
21 this subsection. Money in the fund shall be accumulated from year  
22 to year. The fund shall be placed in an insured interest-bearing  
23 account and the interest which accrues on the fund shall be retained  
24 in the fund. The fund shall be nonfiscal and shall not be

1 considered in computing any levy when the municipality makes its  
2 estimate to the excise board for needed appropriations. Money in  
3 the limited-purpose tax fund shall be expended only as accumulated  
4 and only for the purposes specifically described in the taxing  
5 ordinance as approved by the voters.

6 C. The Oklahoma Tax Commission shall give notice to all vendors  
7 of a rate change at least sixty (60) days prior to the effective  
8 date of the rate change. Provided, for purchases from printed  
9 catalogs wherein the purchaser computed the tax based upon local tax  
10 rates published in the catalog, the rate change shall not be  
11 effective until the first day of a calendar quarter after a minimum  
12 of one hundred twenty (120) days' notice to vendors. Failure to  
13 give notice as required by this section shall delay the effective  
14 date of the rate change to the first day of the next calendar  
15 quarter.

16 D. The change in the boundary of a municipality shall be  
17 effective, for sales and use tax purposes only, on the first day of  
18 a calendar quarter after a minimum of sixty (60) days' notice to  
19 vendors.

20 E. If the proceeds of any sales tax levied by a municipality  
21 pursuant to subsection B of this section are being used by the  
22 municipality for the purpose of retiring indebtedness incurred by  
23 the municipality or by a public trust of which the municipality is a  
24 beneficiary for the specific purpose for which the sales tax was

1 imposed, the sales tax shall not be repealed until such time as the  
2 indebtedness is retired. However, in no event shall the life of the  
3 tax be extended beyond the duration approved by the voters of the  
4 municipality. The provisions of this subsection shall apply to all  
5 sales tax levies imposed by a municipality and being used by the  
6 municipality for the purposes set forth in this subsection prior to  
7 or after July 1, 1995.

8 F. The sale of an article of clothing or footwear designed to  
9 be worn on or about the human body shall be exempt from the sales  
10 tax imposed by any incorporated city or town, in accordance with and  
11 to the extent set forth in ~~Section 3 of this act~~ 1357.10 of this  
12 title.

13 G. Beginning on July 1 of the year the State Board of  
14 Equalization makes a determination pursuant to paragraph 1 of  
15 subsection C of Section 3 of this act, the sale of all eligible food  
16 and beverages as defined in the Streamlined Sales and Use Tax  
17 Agreement shall be exempt from the tax imposed by any incorporated  
18 city or town.

19 SECTION 7. This act shall become effective November 1, 2010.  
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