

THE HOUSE OF REPRESENTATIVES
Monday, March 2, 2009

House Bill No. 2031

HOUSE BILL NO. 2031 - By: STEELE, SHERRER AND DORMAN of the House and NEWBERRY of the Senate.

(revenue and taxation - exempting certain energy efficient products from state sales tax under specified conditions - codification - effective date - emergency)

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

1 SECTION 1. AMENDATORY 68 O.S. 2001, Section 1353, as last amended by
2 Section 8, Chapter 278, O.S.L. 2008 (68 O.S. Supp. 2008, Section 1353), is amended to
3 read as follows:
4 Section 1353. A. It is hereby declared to be the purpose of the Oklahoma Sales Tax
5 Code to provide funds for the financing of the program provided for by the Oklahoma
6 Social Security Act and to provide revenues for the support of the functions of the state
7 government of Oklahoma, and for this purpose it is hereby expressly provided that,
8 revenues derived pursuant to the provisions of the Oklahoma Sales Tax Code, subject to
9 the apportionment requirements for the Oklahoma Tax Commission and Office of State
10 Finance Joint Computer Enhancement Fund provided by Section ~~6~~ 265 of this ~~act~~ title,
11 shall be apportioned as follows:

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

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

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

- 13 a. thirty-six percent (36%) shall be placed to the credit of the Oklahoma
14 Tourism Promotion Revolving Fund, and
- 15 b. sixty-four percent (64%) shall be placed to the credit of the Oklahoma
16 Tourism Capital Improvement Revolving Fund; and

17 5. During the first fiscal year after the State Board of Equalization has made a
18 determination as provided in Section 2355.1B of this title, regarding a baseline amount
19 of revenue apportioned pursuant to paragraph 3 of this section, and for each fiscal year
20 thereafter, in no event shall monies apportioned pursuant to paragraph 3 of this section,
21 paragraph 3 of Section 1403 of this title and subparagraph c of paragraph 1 of Section
22 2352 of this title be less than such baseline amount.

1 B. Provided, for the fiscal year beginning July 1, 2007, and every fiscal year
2 thereafter, an amount of revenue shall be apportioned to each municipality or county
3 which levies a sales tax subject to the provisions of Section 1357.10 of this title and
4 subsection F of Section 2701 of this title equal to the amount of sales tax revenue of such
5 municipality or county exempted by the provisions of Section 1357.10 of this title and
6 subsection F of Section 2701 of this title. The Oklahoma Tax Commission shall
7 promulgate and adopt rules necessary to implement the provisions of this subsection.

8 C. Provided, for the fiscal year beginning July 1, 2009, and every fiscal year
9 thereafter, an amount of revenue shall be apportioned to each municipality or county
10 which levies a sales tax subject to the provisions of Section 2 of this act and subsection G
11 of Section 2701 of this title equal to the amount of sales tax revenue of such municipality
12 or county exempted by the provisions of Section 2 of this act and subsection G of Section
13 2701 of this title. The Oklahoma Tax Commission shall promulgate and adopt rules
14 necessary to implement the provisions of this subsection.

15 SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma
16 Statutes as Section 68 of Title 1357.11, unless there is created a duplication in
17 numbering, reads as follows:

18 A. The sale of a qualifying Energy Star product shall be exempt from the tax
19 imposed by Section 1354 of Title 68 of the Oklahoma Statutes if:

- 20 1. The product is a qualifying Energy Star product; and

1 2. The sale takes place during a period beginning at 12:01 a.m. on the Friday prior
2 to Memorial Day and ending at 12 midnight on Memorial Day, covering a period of four
3 (4) days.

4 B. As used in this section “qualifying Energy Star product” means a product that
5 qualifies under the Energy Star joint program between the United States Environmental
6 Protection Agency and the United States Department of Energy and bears the Energy
7 Star logo.

8 C. The products qualifying for this exemption are:

- 9 1. Room and central air conditioners priced under Six Thousand Dollars
- 10 (\$6,000.00);
- 11 2. Clothes washers;
- 12 3. Ceiling fans;
- 13 4. Dehumidifiers;
- 14 5. Dishwashers;
- 15 6. Incandescent and fluorescent light bulbs;
- 16 7. Programmable thermostats; and
- 17 8. Refrigerators priced under Two Thousand Dollars (\$2,000.00).

18 D. The Oklahoma Tax Commission shall promulgate any necessary rules to
19 implement the provisions of this section.

20 SECTION 3. AMENDATORY 68 O.S. 2001, Section 1370, as last amended by
21 Section 4, Chapter 136, O.S.L. 2007 (68 O.S. Supp. 2008, Section 1370), is amended to
22 read as follows:

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

1 Section 1370. A. Any county of this state may levy a sales tax of not to exceed two
2 percent (2%) upon the gross proceeds or gross receipts derived from all sales or services
3 in the county upon which a consumer's sales tax is levied by this state. Before a sales tax
4 may be levied by the county, the imposition of the tax shall first be approved by a
5 majority of the registered voters of the county voting thereon at a special election called
6 by the board of county commissioners or by initiative petition signed by not less than five
7 percent (5%) of the registered voters of the county who were registered at the time of the
8 last general election. However, if a majority of the registered voters of a county voting
9 fail to approve such a tax, the board of county commissioners shall not call another
10 special election for such purpose for six (6) months. Any sales tax approved by the
11 registered voters of a county shall be applicable only when the point of sale is within the
12 territorial limits of such county. Any sales tax levied or any change in the rate of a sales
13 tax levied pursuant to the provisions of this section shall become effective on the first day
14 of the calendar quarter following approval by the voters of the county unless another
15 effective date, which shall also be on the first day of a calendar quarter, is specified in the
16 ordinance or resolution levying the sales tax or changing the rate of sales tax.

17 B. The Oklahoma Tax Commission shall give notice to all vendors of a rate change
18 at least sixty (60) days prior to the effective date of the rate change. Provided, for
19 purchases from printed catalogs wherein the purchaser computed the tax based upon
20 local tax rates published in the catalog, the rate change shall not be effective until the
21 first day of a calendar quarter after a minimum of one hundred twenty (120) days' notice

1 to vendors. Failure to give notice as required by this section shall delay the effective date
2 of the rate change to the first day of the next calendar quarter.

3 C. Initiative petitions calling for a special election concerning county sales tax
4 proposals shall be in accordance with Sections 2, 3, 3.1, 6, 18 and 24 of Title 34 of the
5 Oklahoma Statutes. Petitions shall be submitted to the office of county clerk for
6 approval as to form prior to circulation. Following approval, the petitioner shall have
7 ninety (90) days to secure the required signatures. After securing the requisite number
8 of signatures, the petitioner shall submit the petition and signatures to the county clerk.
9 Following the verification of signatures, the county clerk shall present the petition to the
10 board of county commissioners. The special election shall be held within sixty (60) days
11 of receiving the petition. The ballot title presented to the voters at the special election
12 shall be identical to the ballot as presented in the initiative petition.

13 D. Subject to the provisions Section 1357.10 of this title and Section ~~3~~ 2 of this act,
14 all items that are exempt from the state sales tax shall be exempt from any sales tax
15 levied by a county.

16 E. Any sales tax which may be levied by a county shall be designated for a
17 particular purpose. Such purposes may include, but are not limited to, projects owned by
18 the state, any agency or instrumentality thereof, the county and/or any political
19 subdivision located in whole or in part within such county, regional development,
20 economic development, common education, general operations, capital improvements,
21 county roads, weather modification or any other purpose deemed, by a majority vote of
22 the county commissioners or as stated by initiative petition, to be necessary to promote

1 safety, security and the general well-being of the people. The county shall identify the
2 purpose of the sales tax when it is presented to the voters pursuant to the provisions of
3 subsection A of this section. Except as otherwise provided in this section, the proceeds of
4 any sales tax levied by a county shall be deposited in the general revenue or sales tax
5 revolving fund of the county and shall be used only for the purpose for which such sales
6 tax was designated. If the proceeds of any sales tax levied by a county pursuant to this
7 section are pledged for the purpose of retiring indebtedness incurred for the specific
8 purpose for which the sales tax is imposed, the sales tax shall not be repealed until such
9 time as the indebtedness is retired. However, in no event shall the life of the tax be
10 extended beyond the duration approved by the voters of the county.

11 F. 1. Notwithstanding any other provisions of law, any county that has approved a
12 sales tax for the construction, support or operation of a county hospital may continue to
13 collect such tax if such hospital is subsequently sold. Such collection shall only continue
14 if the county remains indebted for the past construction, support or operation of such
15 hospital. The collection may continue only until the debt is repaid or for the stated term
16 of the sales tax, whichever period is shorter.

17 2. If the construction, support or operation of a hospital is funded through the levy
18 of a county sales tax pursuant to this section and such hospital is subsequently sold, the
19 county levying the tax may dissolve the governing board of such hospital following the
20 sale. Upon the sale of the hospital and dissolution of any governing board, the county is
21 relieved of any future liability for the operation of such hospital.

1 G. Proceeds from any sales tax levied that is designated to be used solely by the
2 sheriff for the operation of the office of sheriff shall be placed in the special revenue
3 account of the sheriff.

4 H. The life of the tax could be limited or unlimited in duration. The county shall
5 identify the duration of the tax when it is presented to the voters pursuant to the
6 provisions of subsections A and C of this section.

7 I. There are hereby created one or more county sales tax revolving funds in each
8 county which levies a sales tax under this section if any or all of the proceeds of such tax
9 are not to be deposited in the general revenue fund of the county or comply with the
10 provisions of subsection G of this section. Each such revolving fund shall be designated
11 for a particular purpose and shall consist of all monies generated by such sales tax which
12 are designated for such purpose. Monies in such funds shall only be expended for the
13 purposes specifically designated as required by this section. A county sales tax revolving
14 fund shall be a continuing fund not subject to fiscal year limitations.

15 SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma
16 Statutes as Section 1378 of Title 68, unless there is created a duplication in numbering,
17 reads as follows:

18 The sales tax imposed by any county or authority authorized by law to levy a sales
19 tax shall not be imposed upon the sale of a qualifying Energy Star product in accordance
20 with and to the extent set forth in Section 2 of this act.

1 SECTION 5. AMENDATORY 68 O.S. 2001, Section 2701, as last amended by
2 Section 6, Chapter 136, O.S.L. 2007 (68 O.S. Supp. 2008, Section 2701), is amended to
3 read as follows:

4 Section 2701. A. Any incorporated city or town in this state is hereby authorized to
5 assess, levy, and collect taxes for general and special purposes of municipal government
6 as the Legislature may levy and collect for purposes of state government, subject to the
7 provisions of ~~subsection~~ subsections F and G of this section, except ad valorem property
8 taxes. Provided:

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

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

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

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

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

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

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

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

1 purpose tax fund shall be expended only as accumulated and only for the purposes
2 specifically described in the taxing ordinance as approved by the voters.

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

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

13 E. If the proceeds of any sales tax levied by a municipality pursuant to subsection B
14 of this section are being used by the municipality for the purpose of retiring indebtedness
15 incurred by the municipality or by a public trust of which the municipality is a
16 beneficiary for the specific purpose for which the sales tax was imposed, the sales tax
17 shall not be repealed until such time as the indebtedness is retired. However, in no
18 event shall the life of the tax be extended beyond the duration approved by the voters of
19 the municipality. The provisions of this subsection shall apply to all sales tax levies
20 imposed by a municipality and being used by the municipality for the purposes set forth
21 in this subsection prior to or after July 1, 1995.

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

4 G. The sale of a qualifying Energy Star product shall be exempt from the sales tax
5 imposed by any incorporated city or town, in accordance with and to the extent set forth
6 in Section 2 of this act.

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

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

11 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,
12 dated 02-26-09 - DO PASS, As Amended and Coauthored.