

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 2031

By: Steele

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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 8, Chapter 278, O.S.L. 2008, 1370, as last amended by
10 Section 4, Chapter 136, O.S.L. 2007 and 2701, as last
11 amended by Section 6, Chapter 136, O.S.L. 2007 (68
12 O.S. Supp. 2008, Sections 1353, 1370 and 2701), which
13 relate to sales tax; providing for certain
14 apportionment of sales taxes to certain
15 municipalities and counties under specified
16 circumstances; exempting certain energy efficient
17 products from state sales tax under specified
18 conditions; providing exceptions to sales tax
19 exemptions; requiring Oklahoma Tax Commission to
20 promulgate rules; clarifying status of certain
21 exemptions; exempting certain items of clothing or
22 footwear from the imposition of county or authority
23 sales tax under specified conditions; clarifying
24 status of certain fund; exempting certain items of
clothing or footwear from the imposition of local
sales tax under specified conditions; providing for
codification; providing an effective 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 8, Chapter 278, O.S.L. 2008 (68 O.S. Supp.
2008, Section 1353), is amended to read as follows:

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

11 1. a. the following amounts shall be paid to the State
12 Treasurer to be placed to the credit of the General
13 Revenue Fund to be paid out pursuant to direct
14 appropriation by the Legislature:

15	Fiscal Year	Amount
16	FY 2003 and FY 2004	86.04%
17	FY 2005	85.83%
18	FY 2006	85.54%
19	FY 2007	85.04%
20	FY 2008 and each fiscal	
21	year thereafter	83.61%

22 b. in the event that additional monies are necessary
23 pursuant to paragraph 5 of this section, such
24 additional monies shall be deducted in the proportion

determined by the State Board of Equalization pursuant to paragraph 3 of Section 2355.1B of this title from the monies apportioned to the General Revenue Fund;

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

3. The following amounts shall be paid to the State Treasurer to be placed to the credit of the Teachers' Retirement System 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%
FY 2008 and each fiscal year thereafter	5.0%

4. For the fiscal year beginning July 1, 2007, and for each fiscal year thereafter, ninety-three one-hundredths percent (0.93%)

1 shall be paid to the State Treasurer to be further apportioned as
2 follows:

- 3 a. thirty-six percent (36%) shall be placed to the credit
4 of the Oklahoma Tourism Promotion Revolving Fund, and
- 5 b. sixty-four percent (64%) shall be placed to the credit
6 of the Oklahoma Tourism Capital Improvement Revolving
7 Fund; and

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

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

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

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

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

18 1. The product is a qualifying Energy Star product; and

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

22 B. As used in this section "qualifying Energy Star product"
23 means a product that qualifies under the Energy Star joint program
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1 between the United States Environmental Protection Agency and the
2 United States Department of Energy and bears the Energy Star logo.

3 C. The products qualifying for this exemption are:

4 1. Room and central air conditioners priced under Six Thousand
5 Dollars (\$6,000.00);

6 2. Clothes washers;

7 3. Ceiling fans;

8 4. Dehumidifiers;

9 5. Dishwashers;

10 6. Incandescent and fluorescent light bulbs;

11 7. Programmable thermostats; and

12 8. Refrigerators priced under Two Thousand Dollars (\$2,000.00).

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

15 SECTION 3. AMENDATORY 68 O.S. 2001, Section 1370, as
16 last amended by Section 4, Chapter 136, O.S.L. 2007 (68 O.S. Supp.
17 2008, Section 1370), is amended to read as follows:

18 Section 1370. A. Any county of this state may levy a sales tax
19 of not to exceed two percent (2%) upon the gross proceeds or gross
20 receipts derived from all sales or services in the county upon which
21 a consumer's sales tax is levied by this state. Before a sales tax
22 may be levied by the county, the imposition of the tax shall first
23 be approved by a majority of the registered voters of the county
24 voting thereon at a special election called by the board of county

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

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

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

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

20 E. Any sales tax which may be levied by a county shall be
21 designated for a particular purpose. Such purposes may include, but
22 are not limited to, projects owned by the state, any agency or
23 instrumentality thereof, the county and/or any political subdivision
24 located in whole or in part within such county, regional

1 development, economic development, common education, general
2 operations, capital improvements, county roads, weather modification
3 or any other purpose deemed, by a majority vote of the county
4 commissioners or as stated by initiative petition, to be necessary
5 to promote safety, security and the general well-being of the
6 people. The county shall identify the purpose of the sales tax when
7 it is presented to the voters pursuant to the provisions of
8 subsection A of this section. Except as otherwise provided in this
9 section, the proceeds of any sales tax levied by a county shall be
10 deposited in the general revenue or sales tax revolving fund of the
11 county and shall be used only for the purpose for which such sales
12 tax was designated. If the proceeds of any sales tax levied by a
13 county pursuant to this section are pledged for the purpose of
14 retiring indebtedness incurred for the specific purpose for which
15 the sales tax is imposed, the sales tax shall not be repealed until
16 such time as the indebtedness is retired. However, in no event
17 shall the life of the tax be extended beyond the duration approved
18 by the voters of the county.

19 F. 1. Notwithstanding any other provisions of law, any county
20 that has approved a sales tax for the construction, support or
21 operation of a county hospital may continue to collect such tax if
22 such hospital is subsequently sold. Such collection shall only
23 continue if the county remains indebted for the past construction,
24 support or operation of such hospital. The collection may continue

1 only until the debt is repaid or for the stated term of the sales
2 tax, whichever period is shorter.

3 2. If the construction, support or operation of a hospital is
4 funded through the levy of a county sales tax pursuant to this
5 section and such hospital is subsequently sold, the county levying
6 the tax may dissolve the governing board of such hospital following
7 the sale. Upon the sale of the hospital and dissolution of any
8 governing board, the county is relieved of any future liability for
9 the operation of such hospital.

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

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

18 I. There are hereby created one or more county sales tax
19 revolving funds in each county which levies a sales tax under this
20 section if any or all of the proceeds of such tax are not to be
21 deposited in the general revenue fund of the county or comply with
22 the provisions of subsection G of this section. Each such revolving
23 fund shall be designated for a particular purpose and shall consist
24 of all monies generated by such sales tax which are designated for

1 such purpose. Monies in such funds shall only be expended for the
2 purposes specifically designated as required by this section. A
3 county sales tax revolving fund shall be a continuing fund not
4 subject to fiscal year limitations.

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

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

12 SECTION 5. AMENDATORY 68 O.S. 2001, Section 2701, as
13 last amended by Section 6, Chapter 136, O.S.L. 2007 (68 O.S. Supp.
14 2008, Section 2701), is amended to read as follows:

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

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

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

4 3. The provisions of this section shall not be construed to
5 authorize imposition of any tax upon persons, firms, or corporations
6 exempted from other taxation under the provisions of Sections 348.1,
7 624 and 321 of Title 36 of the Oklahoma Statutes, by reason of
8 payment of taxes imposed under such sections;

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

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

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

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

22 B. A sales tax authorized in subsection A of this section may
23 be levied for limited purposes specified in the ordinance levying
24 the tax. Such ordinance shall be submitted to the voters for

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

21 C. The Oklahoma Tax Commission shall give notice to all vendors
22 of a rate change at least sixty (60) days prior to the effective
23 date of the rate change. Provided, for purchases from printed
24 catalogs wherein the purchaser computed the tax based upon local tax

1 rates published in the catalog, the rate change shall not be
2 effective until the first day of a calendar quarter after a minimum
3 of one hundred twenty (120) days' notice to vendors. Failure to
4 give notice as required by this section shall delay the effective
5 date of the rate change to the first day of the next calendar
6 quarter.

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

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

23 F. The sale of an article of clothing or footwear designed to
24 be worn on or about the human body shall be exempt from the sales

1 tax imposed by any incorporated city or town, in accordance with and
2 to the extent set forth in Section 3 1357.10 of this ~~act~~ title.

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

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

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

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