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05/06/2014 10:47:47 AM

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB1875

By: McCall of the House and Jolley of the Senate

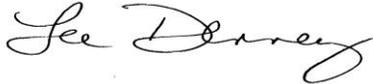
Title: Revenue and taxation; sales and use tax; apportionment; General Revenue Fund;
municipalities and counties.

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 amendments; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

HB1875 CCR (B)
HOUSE CONFEREES

| | | | |
|-------------------|---|---------------------|---|
| Armes, Don |  | Billy, Lisa J. | <hr/> |
| Brown, Mike |  | Christian, Mike | <hr/> |
| Coody, Ann |  | Cox, Doug | <hr/> |
| Denney, Lee |  | Dorman, Joe | <hr/> |
| Hoskin, Chuck |  | Kern, Sally |  |
| Martin, Scott |  | McCullough, Mark | <hr/> |
| McDaniel, Jeannie |  | McNiel, Skye |  |
| McPeak, Jerry | <hr/> | Morrisette, Richard | <hr/> |
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| Osborn, Leslie |  | Ownbey, Pat |  |
| Proctor, Eric | <hr/> | Ritze, Mike | <hr/> |
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| Schwartz, Colby | <hr/> | Sears, Earl |  |
| Sherrer, Ben |  | Watson, Weldon | <hr/> |
| Wesselhoft, Paul |  | | |

HB1875 CCR B

SENATE CONFEREES

Bass _____

Branan _____

Brinkley [Signature]

Coates _____

Crain [Signature]

David [Signature]

Ellis [Signature]

Fields [Signature]

Ford [Signature]

Griffin _____

Halligan [Signature]

Holt [Signature]

Ivester [Signature]

C. Johnson _____

R. Johnson [Signature]

Jolley [Signature]

Justice [Signature]

Marlatt _____

Mazzei _____

Newberry [Signature]

Paddack _____

Standridge [Signature]

Stanislawski [Signature]

Sykes [Signature]

Treat [Signature]

Wyrick [Signature]

House Action _____ Date _____ Senate Action _____ Date _____

AUTHOR(s)/COAUTHOR(s)CURRENTLY IN THE QUEUE for HB1875

As of 5/5/2014 4:04:51 PM

Add as coauthor Representative Roberts (Dustin)

Add as coauthor Representative Hoskin

Add as coauthor Representative Sherrer

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 1875

By: McCall of the House

and

Jolley and Sharp of the
Senate

8
9
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to revenue and taxation; amending 68
12 O.S. 2011, Sections 265, as amended by Section 536,
13 Chapter 304, O.S.L. 2012, 1371 and 2702, as amended
14 by Section 566, Chapter 304, O.S.L. 2012 (68 O.S.
15 Supp. 2013, Sections 265 and 2702), which relate to
16 retainage of certain revenues by the Oklahoma Tax
17 Commission; providing for apportionment of certain
18 revenues; modifying percentage of revenues to be
19 retained by the Oklahoma Tax Commission; and
20 providing an effective date.

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

22 SECTION 1. AMENDATORY 68 O.S. 2011, Section 265, as
23 amended by Section 536, Chapter 304, O.S.L. 2012 (68 O.S. Supp.
24 2013, Section 265), is amended to read as follows:

Section 265. A. There is hereby created in the State Treasury
a fund for the Oklahoma Tax Commission to be known as the "Oklahoma
Tax Commission and Office of Management and Enterprise Services

1 Joint Computer Enhancement Fund". The fund shall be a continuing
2 fund, not subject to fiscal year limitations, and shall consist of
3 all monies deposited to the fund pursuant to law. All monies
4 accruing to the credit of said fund are hereby appropriated and may
5 be budgeted and expended for the purposes authorized by subsection B
6 of this section. Expenditures from said fund shall be made upon
7 warrants issued by the State Treasurer against claims filed as
8 prescribed by law with the Director of the Office of Management and
9 Enterprise Services for approval and payment.

10 B. Monies in the Oklahoma Tax Commission and Office of
11 Management and Enterprise Services Joint Computer Enhancement Fund
12 shall be expended for the following purposes:

13 1. To make payments on an agreement authorized by Section 5,
14 Chapter 278, O.S.L. 2008;

15 2. To make payments authorized by Section 34.33 of Title 62 of
16 the Oklahoma Statutes; and

17 3. To the extent not needed for the above-listed purposes to be
18 expended on other ~~computer~~ projects as specifically authorized by
19 the Legislature.

20 C. Notwithstanding any other provision of law, there shall be
21 apportioned to the Oklahoma Tax Commission and Office of Management
22 and Enterprise Services Joint Computer Enhancement Fund from the
23 monies that would otherwise be apportioned by Section 2352 of this
24 title, the revenue received as a result of any contracts entered

1 into by the Oklahoma Tax Commission pursuant to Section 264 of this
2 title.

3 D. The Tax Commission is hereby authorized to deposit to the
4 credit of the Oklahoma Tax Commission and Office of Management and
5 Enterprise Services Joint Computer Enhancement Fund any monies in
6 excess of the amounts necessary to pay all claims presented to its
7 cash security reserve fund. When monies are deposited to the credit
8 of the Computer Enhancement Fund, the right of any person to present
9 a claim for refund of a cash security shall be preserved and the
10 value thereof shall be paid from the cash security reserve fund.

11 E. For the fiscal year beginning ~~July 1, 2010,~~ and
12 ~~notwithstanding the provisions of Section 2352 of this title, the~~
13 ~~first Five Million Dollars (\$5,000,000.00) of revenue derived~~
14 ~~pursuant to the provisions of subsections A, B and E of Section 2355~~
15 ~~of this title shall be apportioned to the Oklahoma Tax Commission~~
16 ~~and Office of Management and Enterprise Services Joint Computer~~
17 ~~Enhancement Fund. For the fiscal year beginning July 1, 2010, the~~
18 ~~Tax Commission shall apportion the first Five Million Dollars~~
19 ~~(\$5,000,000.00) that would be apportioned pursuant to subsection C~~
20 ~~of this section according to the provisions of Section 2352 of this~~
21 ~~title July 1, 2015, and thereafter a portion of the revenue~~
22 ~~apportioned to the Oklahoma Tax Commission and Office of Management~~
23 ~~and Enterprise Services Joint Computer Enhancement Fund pursuant to~~
24 ~~Sections 1353, 1403 and 2352 of this title shall be credited to the~~

1 Oklahoma Tax Commission, in an amount which is equal to the sum of
2 one-half of one percent (0.5%) of gross collections of sales and use
3 tax levied by counties of this state pursuant to Section 1370 of
4 this title and one-half of one percent (0.5%) of sales and use tax
5 levied by municipalities of this state pursuant to Section 2701 of
6 this title.

7 SECTION 2. AMENDATORY 68 O.S. 2011, Section 1371, is
8 amended to read as follows:

9 Section 1371. Any sales tax levied by a county pursuant to the
10 provisions of Section 1370 of this title shall be paid by the
11 consumer to the vendor. The board of county commissioners and the
12 Oklahoma Tax Commission shall enter into a contract whereby the Tax
13 Commission shall have authority to assess, collect, and enforce the
14 sales tax, and any penalties or interest thereon, levied by such
15 county, and to remit the same to the county. Such assessment,
16 collection, and enforcement authority shall apply to any sales tax,
17 and any penalty or interest liability existing at the time of
18 contracting. Upon contracting, the Tax Commission shall have the
19 power of enforcement of the sales tax, and any penalties or interest
20 that are vested in the county. The contract shall provide for the
21 assessment, collection, and enforcement of the sales tax, and the
22 penalties or interest, in the same manner as the administration,
23 collection, and enforcement of the state sales tax by the Tax
24 Commission. For providing such collection assistance, the Tax

1 Commission shall charge the county a fee of ~~one percent (1%)~~ one-
2 half of one percent (0.5%) of the gross collection proceeds.

3 The Tax Commission shall place all sales taxes, including
4 penalties and interest, collected on behalf of a county pursuant to
5 the provisions of this section in the Sales Tax Remitting Account as
6 provided in Section 1373 of this title. As used in this section and
7 Sections 1372, 1373 and 1374 of this title, "sales tax" includes any
8 tax imposed pursuant to the provisions of Section ~~4~~ 1370.9 of this
9 ~~act~~ title.

10 SECTION 3. AMENDATORY 68 O.S. 2011, Section 2702, as
11 amended by Section 566, Chapter 304, O.S.L. 2012 (68 O.S. Supp.
12 2013, Section 2702), is amended to read as follows:

13 Section 2702. A. The governing body of any incorporated city
14 or town and the Oklahoma Tax Commission shall enter into contractual
15 agreements whereby the Tax Commission shall have authority to
16 assess, to collect and to enforce any taxes or, penalties or
17 interest thereon, levied by such incorporated city or town, and
18 remit the same to such municipality. Said assessment, collection,
19 and enforcement authority shall apply to any taxes, penalty or
20 interest liability existing at the time of contracting. Upon
21 contracting, the Tax Commission shall have all the powers of
22 enforcement in regard to such taxes, penalties and interest as are
23 granted to or vested in the contracting municipality. Such
24 agreement shall provide for the assessment, collection, enforcement,

1 and prosecution of such municipal tax, penalties and interest, in
2 the same manner as and in accordance with the administration,
3 collection, enforcement, and prosecution by the Tax Commission of
4 any similar state tax except as provided by agreement. Such
5 agreement shall authorize the Tax Commission to retain an amount not
6 to exceed ~~one and three-fourths percent (1 3/4%)~~ one-half of one
7 percent (0.5%) as a retention fee of municipal tax collected for
8 services rendered in connection with such collections; provided, if
9 a municipality files an action resulting in collection of delinquent
10 state and municipal taxes, the Tax Commission shall remit one-half
11 (1/2) of the retention fee applied to the amount of such taxes to
12 the municipality to be apportioned as are other sales tax revenue.
13 All funds retained by the Tax Commission for the collection services
14 to municipalities shall be deposited in the Oklahoma Tax Commission
15 Revolving Fund in the State Treasury. The municipality shall agree
16 to refrain from any assessment, collection, or enforcement of the
17 municipal tax except as specified in an agreement made pursuant to
18 subsections A, C, D and E of this section.

19 B. The Tax Commission shall place all sales taxes, including
20 penalties and interest, collected on behalf of a municipality
21 pursuant to the provisions of this section and all use taxes,
22 including penalties and interest, collected on behalf of a
23 municipality pursuant to the provisions of Section 1411 of this
24

1 title in the Sales Tax Remitting Account as provided in Section 1373
2 of this title.

3 C. Notwithstanding the provisions of subsection E of this
4 section, the Tax Commission and the governing body of any
5 incorporated city or town may enter into contractual agreements
6 whereby the municipality would be authorized to implement or augment
7 the enforcement, collection and prosecution of the municipal tax in
8 those contracting municipalities and to provide for the satisfaction
9 of refunds or credits to taxpayers. Such agreements shall and are
10 hereby authorized to provide that the municipality and the Tax
11 Commission may exchange necessary information to effectively carry
12 out the terms of such agreements. The municipality, its officers
13 and employees shall preserve the confidentiality of such information
14 in the same manner and be subject to the same penalties as provided
15 by Section 205 of this title, provided that the municipal prosecutor
16 and other municipal enforcement personnel may receive all
17 information necessary to implement or augment the enforcement and
18 prosecution of municipal sales tax ordinances.

19 D. Provided further that, upon the request of any incorporated
20 city or town, the Tax Commission shall enter into contractual
21 agreements with such municipality whereby the municipality would be
22 authorized to implement or augment the enforcement, either directly
23 or through contract with private auditors or audit firms, of the
24 municipal tax. Any person performing an audit shall first be

1 approved by the Tax Commission and, once approved, shall be
2 appointed as an agent of the Tax Commission for purposes of the
3 audit. Contracts with a private auditor or audit firm shall not be
4 subject to the limitations of Section 262 of this title and shall
5 and are hereby authorized to provide that the municipality, private
6 auditors or audit firms and the Tax Commission may exchange
7 necessary information to effectively carry out the terms of such
8 agreements. The municipality, its officers and employees and
9 private auditors or audit firms may receive all information
10 necessary to perform audits and shall preserve the confidentiality
11 of such information in the same manner and be subject to the same
12 penalties as provided by Section 205 of this title. Municipalities
13 conducting audits directly or by contracting for private auditors or
14 audit firms pursuant to this subsection shall furnish to the Tax
15 Commission the audit results and all relevant supporting
16 documentation. Further, such municipalities shall provide for the
17 payment of private auditors or audit firms by deduction from the tax
18 assessment resulting from the audit conducted by said private
19 auditors or audit firms unless a municipality contracts with the
20 auditor or audit firm for another method of payment. Any municipal
21 sales tax funds recovered as a result of the services provided under
22 this subsection will not be included in calculating the retention
23 fee retained by the Tax Commission pursuant to subsection A of this
24 section. The contracts authorized by subsection A of this section

1 shall provide that the Tax Commission shall not have any obligations
2 thereunder to any municipality that does not participate in an audit
3 conducted under this subsection.

4 E. 1. Pursuant to the provisions of this subsection, upon the
5 request of any municipality, the Tax Commission shall enter into a
6 contractual agreement with the municipality whereby the municipality
7 would be authorized to engage in compliance activities, either
8 directly or through contract with private persons or entities, to
9 augment the collection of the municipal tax by the Tax Commission.
10 The sole responsibility for the administration of any and all such
11 compliance activities shall remain with the Tax Commission to ensure
12 that sellers and purchasers shall only be required to register, file
13 returns, and remit state and local taxes to one single authority,
14 and that no enforcement activities are duplicated.

15 2. Any contractual agreement entered into pursuant to paragraph
16 1 of this subsection and any person or entity who will be performing
17 compliance activities shall first be approved by the Tax Commission
18 in its sole discretion. Once approved, the private person or entity
19 shall be appointed as an agent of the Tax Commission for purposes of
20 such compliance activities. Any agreements entered into pursuant to
21 paragraph 1 of this subsection shall provide that the municipality,
22 private persons or entities appointed as an agent and the Tax
23 Commission may exchange necessary information to effectively carry
24 out the terms of the agreements. The municipality, its officers and

1 employees and any private person or entity appointed as an agent of
2 the Tax Commission may receive all information necessary for
3 compliance activities and shall preserve the confidentiality of the
4 information in the same manner and be subject to the same penalties
5 as provided by Section 205 of this title. Municipalities conducting
6 compliance activities directly or by contracting with private
7 persons or entities pursuant to this subsection shall furnish to the
8 Tax Commission the compliance results and all relevant supporting
9 documentation and the Tax Commission shall take such information and
10 issue proposed assessments or conduct other such administrative
11 action as is necessary.

12 3. There is hereby created in the State Treasury a revolving
13 fund for the Oklahoma Tax Commission to be known as the "Tax
14 Commission Compliance Fund". The fund shall be a continuing fund,
15 not subject to fiscal year limitations, and notwithstanding any
16 other provisions of law, shall consist of the first three-fourths of
17 one percent ($3/4$ of 1%) of enhanced collections of state sales and
18 use taxes collected pursuant to an agreement entered into pursuant
19 to paragraph 1 of this subsection. All monies accruing to the
20 credit of the fund are hereby appropriated and may be budgeted and
21 expended by the Oklahoma Tax Commission for the purpose of
22 reimbursing a municipality for enhanced collections of state sales
23 taxes pursuant to an agreement entered into pursuant to paragraph 1
24 of this subsection. Expenditures from the fund shall be made upon

1 warrants issued by the State Treasurer against claims filed as
2 prescribed by law with the Director of the Office of Management and
3 Enterprise Services for approval and payment.

4 4. The Director of the Office of Management and Enterprise
5 Services shall form an Implementation Working Group composed of
6 representatives of municipalities and of the Tax Commission and
7 shall adopt a plan to implement this subsection by September 30,
8 2011. The plan shall ensure that the Tax Commission shall maintain
9 a central point of collection and centralized administration and
10 enforcement and further shall be consistent with all applicable
11 state laws.

12 F. Any sum or sums collected or required to be collected
13 pursuant to a municipal sales tax levy shall be deemed to be held in
14 trust for the municipality, and, as trustee, the collecting vendor
15 shall have a fiduciary duty to the municipality in regards to such
16 sums and shall be subject to the trust laws of this state.

17 SECTION 4. This act shall become effective July 1, 2015.

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19 54-2-10915 MAH 04/16/14

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