

STATE OF OKLAHOMA

1st Extraordinary Session of the 56th Legislature (2017)

COMMITTEE SUBSTITUTE  
FOR

SENATE BILL NO. 23X

By: Treat of the Senate

and

Echols of the House

COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 68 O.S. 2011, Section 1355, as last amended by Section 1, Chapter 356, O.S.L. 2017 (68 O.S. Supp. 2017, Section 1355), which relates to sales tax exemptions subject to other taxes; partially eliminating sales tax exemption for motor fuels; amending 68 O.S. 2011, Section 1361, as last amended by Section 3, Chapter 356, O.S.L. 2017 (68 O.S. Supp. 2017, Section 1361), which relates to payment and collection responsibilities for sales taxes; providing certain sales taxes be collected under certain methods; amending 68 O.S. 2011, Section 1362, as last amended by Section 2, Chapter 329, O.S.L. 2014 (68 O.S. Supp. 2017, Section 1362), which relates to remittance of sales taxes; referencing method whereby sales taxes on motor fuels shall be collected; amending 68 O.S. 2011, Section 500.22, as amended by Section 1, Chapter 237, O.S.L. 2017 (68 O.S. Supp. 2017, Section 500.22), which relates to the precollection and remittance of certain tax; requiring additional precollection; amending 68 O.S. 2011, Section 1353, as last amended by Section 1, Chapter 349, O.S.L. 2015 (68 O.S. Supp. 2017, Section 1353), which relates to apportionment of sales tax revenues; requiring certain monthly apportionment; amending 69 O.S. 2011, Section 1521, as last amended by Section 93, Chapter 15, O.S.L. 2013 (69 O.S. Supp. 2017, Section 1521), which relates to the Rebuilding Oklahoma Access and Driver Safety Fund; modifying

1 calculation of certain annual apportionments;  
2 providing a model offer to supplement existing state-  
3 tribal compacts related to motor fuel sales;  
4 providing terms; providing method of acceptance;  
5 providing for compact renewal upon acceptance of  
6 offer; providing method for calculating amount of  
7 sales tax to be collected on motor fuels; requiring  
8 periodic publications by the Tax Commission; and  
9 providing for codification.

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

11 SECTION 1. AMENDATORY 68 O.S. 2011, Section 1355, as  
12 last amended by Section 1, Chapter 356, O.S.L. 2017 (68 O.S. Supp.  
13 2017, Section 1355), is amended to read as follows:

14 Section 1355. There are hereby specifically exempted from the  
15 tax levied pursuant to the provisions of Section 1350 et seq. of  
16 this title:

17 1. Sale of ~~gasoline, motor fuel,~~ methanol, "M-85" which is a  
18 mixture of methanol and gasoline containing at least eighty-five  
19 percent (85%) methanol, ~~compressed natural gas, liquefied natural~~  
20 ~~gas,~~ or liquefied petroleum gas on which the ~~Motor Fuel Tax,~~  
21 ~~Gasoline Excise Tax,~~ Special Fuels Tax or the fee in lieu of Special  
22 Fuels Tax levied in ~~Section 500.1 et seq.,~~ Section 601 et seq. or  
23 Section 701 et seq. of this title has been, or will be paid, and any  
24 portion of the price per gallon, or gallon equivalent, greater than  
One Dollar and sixty-six cents (\$1.66) for gasoline, motor fuel,  
compressed natural gas and liquefied natural gas on which the tax  
levied in Section 500.1 et seq. of this title has been or will be

1 paid. Provided, the sale of all such fuels described in this  
2 paragraph shall not be subject to any sales and use taxes levied by  
3 cities, counties or other jurisdictions of the state, unless such  
4 sales are exempt, pursuant to Section 500.10 of this title, from the  
5 tax levied in Section 500.1 et seq. of this title;

6       2. For the sale of motor vehicles or any optional equipment or  
7 accessories attached to motor vehicles on which the Oklahoma Motor  
8 Vehicle Excise Tax levied in Section 2101 et seq. of this title has  
9 been, or will be paid, all but a portion of the levy provided under  
10 Section 1354 of this title, equal to one and twenty-five-hundredths  
11 percent (1.25%) of the gross receipts of such sales. Provided, the  
12 sale of motor vehicles shall not be subject to any sales and use  
13 taxes levied by cities, counties or other jurisdictions of the  
14 state;

15       3. Sale of crude petroleum or natural or casinghead gas and  
16 other products subject to gross production tax pursuant to the  
17 provisions of Section 1001 et seq. and Section 1101 et seq. of this  
18 title. This exemption shall not apply when such products are sold  
19 to a consumer or user for consumption or use, except when used for  
20 injection into the earth for the purpose of promoting or  
21 facilitating the production of oil or gas. This paragraph shall not  
22 operate to increase or repeal the gross production tax levied by the  
23 laws of this state;

1       4. Sale of aircraft on which the tax levied pursuant to the  
2 provisions of Sections 6001 through 6007 of this title has been, or  
3 will be paid or which are specifically exempt from such tax pursuant  
4 to the provisions of Section 6003 of this title;

5       5. Sales from coin-operated devices on which the fee imposed by  
6 Sections 1501 through 1512 of this title has been paid;

7       6. Leases of twelve (12) months or more of motor vehicles in  
8 which the owners of the vehicles have paid the vehicle excise tax  
9 levied by Section 2103 of this title;

10       7. Sales of charity game equipment on which a tax is levied  
11 pursuant to the Oklahoma Charity Games Act, Section 401 et seq. of  
12 Title 3A of the Oklahoma Statutes, or which is sold to an  
13 organization that is:

14           a. a veterans' organization exempt from taxation pursuant  
15 to the provisions of paragraph (4), (7), (8), (10) or  
16 (19) of subsection (c) of Section 501 of the United  
17 States Internal Revenue Code of 1986, as amended, 26  
18 U.S.C., Section 501(c) et seq.,

19           b. a group home for mentally disabled individuals exempt  
20 from taxation pursuant to the provisions of paragraph  
21 (3) of subsection (c) of Section 501 of the United  
22 States Internal Revenue Code of 1986, as amended, 26  
23 U.S.C., Section 501(c) et seq., or  
24

1           c.    a charitable healthcare organization which is exempt  
2                from taxation pursuant to the provisions of paragraph  
3                (3) of subsection (c) of Section 501 of the United  
4                States Internal Revenue Code of 1986, as amended, 26  
5                U.S.C., Section 501(c) et seq.;

6       8.   Sales of cigarettes or tobacco products to:

7           a.    a federally recognized Indian tribe or nation which  
8                has entered into a compact with the State of Oklahoma  
9                pursuant to the provisions of subsection C of Section  
10              346 of this title or to a licensee of such a tribe or  
11              nation, upon which the payment in lieu of taxes  
12              required by the compact has been paid, or

13          b.    a federally recognized Indian tribe or nation or to a  
14              licensee of such a tribe or nation upon which the tax  
15              levied pursuant to the provisions of Section 349.1 or  
16              Section 426 of this title has been paid;

17       9.   Leases of aircraft upon which the owners have paid the  
18   aircraft excise tax levied by Section 6001 et seq. of this title or  
19   which are specifically exempt from such tax pursuant to the  
20   provisions of Section 6003 of this title;

21       10.   The sale of low-speed or medium-speed electrical vehicles  
22   on which the Oklahoma Motor Vehicle Excise Tax levied in Section  
23   2101 et seq. of this title has been or will be paid; and  
24

1        11. Effective January 1, 2005, sales of cigarettes on which the  
2 tax levied in Section 301 et seq. of this title or tobacco products  
3 on which the tax levied in Section 401 et seq. of this title has  
4 been paid.

5        SECTION 2.        AMENDATORY        68 O.S. 2011, Section 1361, as  
6 last amended by Section 3, Chapter 356, O.S.L. 2017 (68 O.S. Supp.  
7 2017, Section 1361), is amended to read as follows:

8        Section 1361. A. 1. Except as otherwise provided by  
9 ~~subsection~~ subsections C, G and H of this section, the tax levied by  
10 Section 1350 et seq. of this title shall be paid by the consumer or  
11 user to the vendor as trustee for and on account of this state.  
12 Except as otherwise provided by ~~subsection~~ subsections C, G and H of  
13 this section, each and every vendor in this state shall collect from  
14 the consumer or user the full amount of the tax levied by Section  
15 1350 et seq. of this title, or an amount equal as nearly as possible  
16 or practicable to the average equivalent thereof. Every person  
17 required to collect any tax imposed by Section 1350 et seq. of this  
18 title shall be personally liable for the tax.

19        2. However, the Oklahoma Tax Commission shall relieve sellers  
20 or certified service providers that follow the requirements of this  
21 section from the tax otherwise applicable if it is determined that  
22 the purchaser improperly claimed an exemption and to hold the  
23 purchaser liable for the nonpayment of tax. This relief from  
24 liability does not apply to:

- a. a seller or certified service provider (CSP) who fraudulently fails to collect tax,
- b. a seller who solicits purchasers to participate in the unlawful claim of an exemption, or
- c. a seller who accepts an exemption certificate when the purchaser claims an entity-based exemption when:
  - (1) the subject of the transaction sought to be covered by the exemption certificate is actually received by the purchaser at a location operated by the seller, and
  - (2) the Tax Commission provides an exemption certificate that clearly and affirmatively indicates that the claimed exemption is not available in this state.

3. The Tax Commission shall relieve a seller or CSP of the tax otherwise applicable if the seller obtains a fully completed exemption certificate or captures the relevant data elements required by the Tax Commission within ninety (90) days subsequent to the date of sale.

If the seller or CSP has not obtained an exemption certificate or all relevant data elements as provided by the Tax Commission, the seller may, within one hundred twenty (120) days subsequent to a request for substantiation, either prove that the transaction was

1 not subject to tax by other means or obtain a fully completed  
2 exemption certificate from the purchaser, taken in good faith.

3 The Tax Commission shall relieve a seller or CSP of the tax  
4 otherwise applicable if it obtains a blanket exemption certificate  
5 for a purchaser with which the seller has a recurring business  
6 relationship. The Tax Commission shall not request from the seller  
7 or CSP renewal of blanket certificates or updates of exemption  
8 certificate information or data elements when there is a recurring  
9 business relationship between the buyer and seller. For purposes of  
10 this section, a recurring business relationship exists when a period  
11 of no more than twelve (12) months elapses between sales  
12 transactions.

13 4. Upon the granting of relief from liability to the vendor as  
14 provided in this section, the purchaser shall be liable for the  
15 remittance of the tax, interest and penalty due thereon and the Tax  
16 Commission shall pursue collection thereof from the purchaser in any  
17 manner in which sales tax may be collected from a vendor.

18 B. Except as otherwise provided by subsection C of this  
19 section, vendors shall add the tax imposed by Section 1350 et seq.  
20 of this title, or the average equivalent thereof, to the sales  
21 price, charge, consideration, gross receipts or gross proceeds of  
22 the sale of tangible personal property or services taxed by Section  
23 1350 et seq. of this title, and when added such tax shall constitute  
24 a part of such price or charge, shall be a debt from the consumer or



1 user to vendor until paid, and shall be recoverable at law in the  
2 same manner as other debts.

3 C. A person who has obtained a direct payment permit as  
4 provided in Section 1364.1 of this title shall accrue all taxes  
5 imposed pursuant to Section 1354 or 1402 of this title on all  
6 purchases made by the person pursuant to the permit at the time the  
7 purchased items are first used or consumed in a taxable manner and  
8 pay the accrued tax directly to the Oklahoma Tax Commission on  
9 reports as required by Section 1365 of this title.

10 D. Except as otherwise provided by ~~subsection~~ subsections C, G  
11 and H of this section, a vendor who willfully or intentionally  
12 fails, neglects or refuses to collect the full amount of the tax  
13 levied by Section 1350 et seq. of this title, or willfully or  
14 intentionally fails, neglects or refuses to comply with the  
15 provisions of Section 1350 et seq. of this title, or remits or  
16 rebates to a consumer or user, either directly or indirectly, and by  
17 whatsoever means, all or any part of the tax levied by Section 1350  
18 et seq. of this title, or makes in any form of advertising, verbally  
19 or otherwise, any statement which implies that the vendor is  
20 absorbing the tax, or paying the tax for the consumer or user by an  
21 adjustment of prices or at a price including the tax, or in any  
22 manner whatsoever, shall be deemed guilty of a misdemeanor, and upon  
23 conviction thereof shall be fined not more than Five Hundred Dollars  
24 (\$500.00), and upon conviction for a second or other subsequent

1 offense shall be fined not more than One Thousand Dollars  
2 (\$1,000.00), or incarcerated for not more than sixty (60) days, or  
3 both. Provided, sales by vending machines may be made at a stated  
4 price which includes state and any municipal sales tax.

5 E. A consumer or user who willfully or intentionally fails,  
6 neglects or refuses to pay the full amount of tax levied by Section  
7 1350 et seq. of this title or willfully or intentionally uses a  
8 sales tax permit or direct payment permit which is invalid, expired,  
9 revoked, canceled or otherwise limited to a specific line of  
10 business or willfully or intentionally issues a resale certificate  
11 to a vendor to evade the tax levied by Section 1350 et seq. of this  
12 title shall be subject to a penalty in the amount of Five Hundred  
13 Dollars (\$500.00) per reporting period upon determination thereof,  
14 which shall be apportioned as provided for the apportionment of the  
15 tax.

16 F. Any sum or sums collected or accrued or required to be  
17 collected or accrued in Section 1350 et seq. of this title shall be  
18 deemed to be held in trust for the State of Oklahoma, and, as  
19 trustee, the collecting vendor or holder of a direct payment permit  
20 as provided for in Section 1364.1 of this title shall have a  
21 fiduciary duty to the State of Oklahoma in regards to such sums and  
22 shall be subject to the trust laws of this state.

23 G. Notwithstanding the provisions of this section, the sales  
24 tax associated with the purchase of a motor vehicle shall be paid by

1 the consumer in the same manner and time as the motor vehicle excise  
2 tax for said motor vehicle is due.

3 H. Notwithstanding the provisions of this section, the sales  
4 tax associated with the sale of motor fuels shall be precollected in  
5 the same manner and time as the motor fuels tax levied in Section  
6 500.1 et seq. of this title; provided however, an amount equal to  
7 the total value of sales tax associated with the sale of motor fuels  
8 by a federally recognized Indian tribe or nation which has entered  
9 into a compact with the State of Oklahoma pursuant to Section 500.63  
10 of this title, and has accepted the offer made in Section 7 of this  
11 act, shall be included as part of the precollection by the  
12 applicable licensed occasional importer, licensed bonded importer,  
13 or supplier under the provisions of the applicable compact and  
14 applicable state law.

15 SECTION 3. AMENDATORY 68 O.S. 2011, Section 1362, as  
16 last amended by Section 2, Chapter 329, O.S.L. 2014 (68 O.S. Supp.  
17 2017, Section 1362), is amended to read as follows:

18 Section 1362. A. Except as otherwise provided by Section 1361  
19 of this title, the tax levied pursuant to the provisions of the  
20 Oklahoma Sales Tax Code shall be remitted or paid to the Oklahoma  
21 Tax Commission by the vendor of tangible personal property,  
22 services, privileges, admissions, dues, fees, or any other item  
23 subject to the tax levied pursuant to the provisions of the Oklahoma  
24 Sales Tax Code.

1       B. The amount of tax to be collected by the vendor or to be  
2 remitted by the holder of a direct payment permit on each sale shall  
3 be the applicable percentage of the gross receipts or gross proceeds  
4 thereof as provided by Section 1354 of this title. The applicable  
5 percentage shall equal the combination of the state and any  
6 applicable municipal and county sales tax rates. The amount of tax  
7 to be precollected on the sale of motor fuels also subject to the  
8 motor fuels tax levied in Section 500.1 et seq. of this title shall  
9 be calculated pursuant to the provisions of Section 8 of this act.  
10 In computing the tax to be collected or remitted as the result of  
11 any transaction, the tax amount must be carried to the third decimal  
12 place when the tax amount is expressed in dollars. The tax must be  
13 rounded to a whole cent using a method that rounds up to the next  
14 cent whenever the third decimal place is greater than four. The  
15 vendor or direct payment permit holder may elect to compute the tax  
16 due on transactions on an item or invoice basis.

17       C. For the convenience of the vendor or direct payment permit  
18 holder, the Tax Commission is hereby authorized to establish and  
19 revise, when necessary, bracket system guidelines to be followed in  
20 collecting the tax levied pursuant to the provisions of the Oklahoma  
21 Sales Tax Code, any municipal sales tax, or county sales tax.

22       The use of bracket system guidelines does not relieve the vendor  
23 or direct payment permit holder from the duty and liability to remit  
24 to the Tax Commission, an amount equal to the applicable percentage

1 of the gross receipts or gross proceeds derived from all sales  
2 during the taxable period as provided by Section 1354 of this title.

3 D. Except as otherwise provided by Section 1361 of this title,  
4 each person required pursuant to the provisions of the Oklahoma  
5 Sales Tax Code to make a sales tax report shall include in the gross  
6 proceeds derived from sales to consumers or users, the sales value  
7 of all tangible personal property which has been purchased for  
8 resale, manufacturing, or further processing, and withdrawn from  
9 stock in trade for use or consumption during the taxable period  
10 covered by such report, and shall pay the tax on the sales value of  
11 this tangible personal property withdrawn from stock in trade for  
12 consumption or use; provided, such tax shall not be due on such  
13 tangible personal property which has been donated for the purpose of  
14 assisting persons affected by the tornadoes in the calendar year  
15 2013 or any subsequent year for which a Presidential Major Disaster  
16 Declaration was issued or a tornado occurring in the calendar year  
17 2012 or calendar year 2013 for which a Presidential Major Disaster  
18 Declaration was not issued.

19 E. All persons, either within or without the state, selling  
20 merchandise or other tangible personal property in this state  
21 through peddlers, solicitors, or other salespersons who do not have  
22 established places of business in this state, shall remit or pay the  
23 tax levied pursuant to the provisions of the Oklahoma Sales Tax Code  
24 and shall be required to file reports and pay the taxes due on all

1 sales made to consumers or users by themselves or by their peddlers,  
2 solicitors, or other salespersons.

3 F. All persons defined as Group Five vendors remitting sales  
4 tax based upon use of motor fuel or diesel fuel as a sale shall  
5 include in a monthly sales tax report the number of gallons of fuel  
6 so used and the sales price of the motor fuel or diesel fuel. The  
7 amount of tax to be remitted by the Group Five vendor shall be the  
8 applicable percentage as provided by Section 1354 of this title, of  
9 the sales price of the fuel used during the applicable reporting  
10 period.

11 SECTION 4. AMENDATORY 68 O.S. 2011, Section 500.22, as  
12 amended by Section 1, Chapter 237, O.S.L. 2017 (68 O.S. Supp. 2017,  
13 Section 500.22), is amended to read as follows:

14 Section 500.22 Each supplier and bonded importer who sells  
15 motor fuel shall precollect and remit on behalf of and from the  
16 purchaser the motor fuel tax imposed under Section 500.4 of this  
17 title, and the tax on the sale of such fuel imposed under Section  
18 1354 of this title. At the election of an eligible purchaser, which  
19 notice shall be evidenced by a written statement from the Commission  
20 as to the purchaser eligibility status as determined under Section  
21 500.23 of this title, the seller shall not require a payment of  
22 motor fuel tax on transport truck loads from the purchaser sooner  
23 than two (2) business days prior to the date on which the tax is  
24 required to be remitted by the supplier or bonded importer under

1 Section 500.20 of this title. This election shall be subject to a  
2 condition that the remittances by the eligible purchaser of all  
3 amounts of tax due the seller shall be paid on the basis of:

4 1. Ninety-eight and four-tenths percent (98.4%) for gasoline  
5 until July 1, 2022; thereafter remittance shall be paid on the basis  
6 of one hundred percent (100%); and

7 2. Ninety-eight and one-tenth percent (98.1%) for diesel fuel  
8 until July 1, 2022; thereafter remittance shall be paid on the basis  
9 of one hundred percent (100%),

10 which shall be paid by electronic funds transfer on or before the  
11 second preceding day prior to the date of the remittance by the  
12 supplier to the Commission, and the election by the eligible  
13 purchaser under this section may be terminated by the seller if the  
14 eligible purchaser does not make timely payments to the seller as  
15 required by this section.

16 SECTION 5. AMENDATORY 68 O.S. 2011, Section 1353, as  
17 last amended by Section 1, Chapter 349, O.S.L. 2015 (68 O.S. Supp.  
18 2017, Section 1353), is amended to read as follows:

19 Section 1353. A. It is hereby declared to be the purpose of  
20 the Oklahoma Sales Tax Code to provide funds for the financing of  
21 the program provided for by the Oklahoma Social Security Act and to  
22 provide revenues for the support of the functions of the state  
23 government of Oklahoma, and for this purpose it is hereby expressly  
24 provided that revenues derived pursuant to the provisions of the

Oklahoma Sales Tax Code, subject to the apportionment requirements for the Oklahoma Tax Commission and Office of Management and Enterprise Services Joint Computer Enhancement Fund provided by Section 265 of this title, shall be apportioned, after the apportionment provided in subsection C of this section, as follows:

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

- b. in the event that additional monies are necessary pursuant to paragraph 6 of this subsection, such 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



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

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

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

17 4. a. except as otherwise provided in subparagraph b of this  
18 paragraph, for the fiscal year beginning July 1, 2015,  
19 and for each fiscal year thereafter, eighty-seven one-  
20 hundredths percent (0.87%) shall be paid to the State  
21 Treasurer to be further apportioned as follows:

22 (1) thirty-six percent (36%) shall be placed to the  
23 credit of the Oklahoma Tourism Promotion  
24 Revolving Fund, but in no event shall such

1                   apportionment exceed Five Million Dollars  
2                   (\$5,000,000.00) in any fiscal year, and

3                   (2) sixty-four percent (64%) shall be placed to the  
4                   credit of the Oklahoma Tourism Capital  
5                   Improvement Revolving Fund, but in no event shall  
6                   such apportionment exceed Nine Million Dollars  
7                   (\$9,000,000.00) in any fiscal year, and

8                   b. any amounts which exceed the limitations of  
9                   subparagraph a of this paragraph shall be placed to  
10                  the credit of the General Revenue Fund;

11                5. For the fiscal year beginning July 1, 2015, and for each  
12                fiscal year thereafter, six one-hundredths percent (0.06%) shall be  
13                placed to the credit of the Oklahoma Historical Society Capital  
14                Improvement and Operations Revolving Fund, but in no event shall  
15                such apportionment exceed the total amount apportioned pursuant to  
16                this paragraph for the fiscal year ending on June 30, 2015. Any  
17                amounts which exceed the limitations of this paragraph shall be  
18                placed to the credit of the General Revenue Fund; and

19                6. During the first fiscal year after the State Board of  
20                Equalization has made a determination as provided in Section 2355.1B  
21                of this title, regarding a baseline amount of revenue apportioned  
22                pursuant to paragraph 3 of this subsection, and for each fiscal year  
23                thereafter, in no event shall monies apportioned pursuant to  
24                paragraph 3 of this subsection, paragraph 3 of Section 1403 of this

1 title and subparagraph c of paragraph 1 of Section 2352 of this  
2 title be less than such baseline amount.

3 B. Provided, for the fiscal year beginning July 1, 2007, 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 1357.10 of this title and  
7 subsection F of Section 2701 of this title equal to the amount of  
8 sales tax revenue of such municipality or county exempted by the  
9 provisions of Section 1357.10 of this title and subsection F of  
10 Section 2701 of this title. The Oklahoma Tax Commission shall  
11 promulgate and adopt rules necessary to implement the provisions of  
12 this subsection.

13 C. The first Fifteen Million Dollars (\$15,000,000.00) of  
14 revenue derived each month pursuant to the provisions of the  
15 Oklahoma Sales Tax Code which result from the implementation of  
16 Section 1 of this act shall be apportioned to the General Revenue  
17 Fund before July 1, 2018. On or after July 1, 2018, such revenue  
18 shall be apportioned to the Rebuilding Oklahoma Access and Driver  
19 Safety Fund created in Section 1521 of Title 69 of the Oklahoma  
20 Statutes.

21 SECTION 6. AMENDATORY 69 O.S. 2011, Section 1521, as  
22 last amended by Section 93, Chapter 15, O.S.L. 2013 (69 O.S. Supp.  
23 2017, Section 1521), is amended to read as follows:  
24

1       Section 1521. A. There is hereby created in the State Treasury  
2 a fund to be known as the "Rebuilding Oklahoma Access and Driver  
3 Safety Fund". The fund shall be a continuing fund, not subject to  
4 fiscal year limitations, and shall consist of all appropriations and  
5 transfers made by the Legislature. All monies accruing to the  
6 credit of the fund are hereby appropriated and may be budgeted and  
7 expended each fiscal year by the Department of Transportation for  
8 the purposes authorized by subsection G of this section.

9 Expenditures from the fund shall be made upon warrants issued by the  
10 State Treasurer against claims filed as prescribed by law with the  
11 Director of the Office of Management and Enterprise Services for  
12 approval and payment.

13       B. ~~There~~ Except for an amount equivalent to the amount of  
14 revenue apportioned pursuant to Section 1353 of Title 68 of the  
15 Oklahoma Statutes, there shall be apportioned to the funds specified  
16 in this subsection from the monies that would otherwise be  
17 apportioned to the General Revenue Fund by Section 2352 of Title 68  
18 of the Oklahoma Statutes from the revenues derived pursuant to  
19 subsections A, B and E of Section 2355 of Title 68 of the Oklahoma  
20 Statutes amounts as follows:

21       1. For each fiscal year, subject to the provisions of paragraph  
22 3 of this subsection, and, except for the amount prescribed by  
23 subparagraph a of this paragraph, subject to any reductions required  
24

1 by subsection F of this section, there shall be apportioned to the  
2 Rebuilding Oklahoma Access and Driver Safety Fund:

3       a.   for the fiscal year beginning July 1, 2011, the first  
4           Thirty-five Million Seven Hundred Thousand Dollars  
5           (\$35,700,000.00), for the fiscal year beginning July  
6           1, 2012, the first Forty-one Million Seven Hundred  
7           Thousand Dollars (\$41,700,000.00) and for the fiscal  
8           year beginning July 1, 2013, and for each fiscal year  
9           thereafter, Fifty-nine Million Seven Hundred Thousand  
10          Dollars (\$59,700,000.00), which shall be allocated and  
11          used by the Department of Transportation first for the  
12          purpose of making any required payments for principal,  
13          interest or other costs of borrowing with respect to  
14          the obligations issued pursuant to Section 341 of  
15          Title 73 of the Oklahoma Statutes and after any such  
16          required payment has been made then for the purposes  
17          otherwise authorized by this section, plus

18       b.   the total amount apportioned to the Rebuilding  
19          Oklahoma Access and Driver Safety Fund for the  
20          preceding fiscal year which, except for the amount  
21          prescribed by subparagraph a of this paragraph, shall  
22          be apportioned before any other amount is apportioned  
23          pursuant to Section 2352 of Title 68 of the Oklahoma  
24          Statutes, plus

1           c.    an additional incremental amount which shall not be in  
2                excess of the amount prescribed by subparagraph a of  
3                this paragraph and that is required in order for the  
4                total apportionment to the Rebuilding Oklahoma Access  
5                and Driver Safety Fund from all sources for such  
6                fiscal year to equal Five Hundred Seventy-five Million  
7                Dollars (\$575,000,000.00).

8           All amounts apportioned pursuant to this paragraph shall be  
9           divided into twelve equal amounts to be apportioned each month  
10          during the fiscal year except the amount specified in subparagraph a  
11          of this paragraph which amount shall be allocated in its full amount  
12          in cash not later than July 30 each year or such later date as may  
13          be required in order for the amount to be allocated in cash;

14          2.   For each fiscal year after the apportionments required by  
15          paragraph 1 of this subsection have been made:

16               a.   the next Two Million Dollars (\$2,000,000.00) shall be  
17                    apportioned to the Oklahoma Tourism and Passenger Rail  
18                    Revolving Fund created pursuant to Section 325 of  
19                    Title 66 of the Oklahoma Statutes to be used for  
20                    capital and operating costs for the "Heartland Flyer"  
21                    rail project, and

22               b.   the next Three Million Dollars (\$3,000,000.00) shall  
23                    be apportioned to the Public Transit Revolving Fund  
24                    created pursuant to Section 4031 of this title to be

1           used for purposes authorized by law other than the  
2           purpose described by subparagraph a of this paragraph.

3       All amounts apportioned pursuant to this paragraph shall be  
4 divided into twelve equal amounts to be apportioned each month  
5 during the fiscal year; and

6       3. For each fiscal year after the first fiscal year in which  
7 the total apportionment to the Rebuilding Oklahoma Access and Driver  
8 Safety Fund as provided by paragraph 1 of this subsection and from  
9 other sources equals Five Hundred Seventy-five Million Dollars  
10 (\$575,000,000.00), except for an amount equivalent to the amount of  
11 revenue apportioned pursuant to Section 1353 of Title 68 of the  
12 Oklahoma Statutes, the first Five Hundred Seventy-five Million  
13 Dollars (\$575,000,000.00) collected pursuant to subsections A, B and  
14 E of Section 2355 of Title 68 of the Oklahoma Statutes and  
15 apportioned pursuant to Section 2352 of Title 68 of the Oklahoma  
16 Statutes that would otherwise be apportioned to the General Revenue  
17 Fund shall be apportioned to the Rebuilding Oklahoma Access and  
18 Driver Safety Fund. With the exception of the amount prescribed by  
19 subparagraph a of paragraph 1 of this subsection, all amounts  
20 apportioned pursuant to this paragraph shall be divided into twelve  
21 equal amounts to be apportioned each month during the fiscal year.

22       C. The apportionments of revenues required by subparagraphs a,  
23 b and c of paragraph 1 of subsection B of this section shall be made  
24 until the total annual apportionment from such sources in addition

1 to the apportionment made pursuant to Section 1353 of Title 68 of  
2 the Oklahoma Statutes to the Rebuilding Oklahoma Access and Driver  
3 Safety Fund equals Five Hundred Seventy-five Million Dollars  
4 (\$575,000,000.00). After such annual apportionment level is  
5 reached, the apportionment to the fund shall be governed by the  
6 provisions of paragraph 3 of subsection B of this section.

7 D. The monies apportioned to the Rebuilding Oklahoma Access and  
8 Driver Safety Fund shall not be used to supplant or replace existing  
9 state funds used for transportation purposes.

10 E. In order to ensure that the funds from the ROADS Fund are  
11 used to enhance and not supplant state funding for the Department of  
12 Transportation, the State Board of Equalization shall examine and  
13 investigate expenditures from the fund each year. For purposes of  
14 this examination, monies used to retire outstanding debt obligations  
15 for which the Department of Transportation is responsible shall be  
16 excluded. At the meeting of the State Board of Equalization held  
17 within five (5) days after the monthly apportionment in February of  
18 each year, the State Board of Equalization shall issue a finding and  
19 report which shall state whether expenditures from the ROADS Fund  
20 were used to enhance or supplant state funding for the Department of  
21 Transportation. If the State Board of Equalization finds that state  
22 funding for the Department of Transportation was supplanted by funds  
23 from the ROADS Fund, the Board shall specify the amount by which  
24 such funding was supplanted. In this event, the Legislature shall



1 not make any appropriations for the ensuing fiscal year until an  
2 appropriation in that amount is made to replenish state funding for  
3 the Department of Transportation.

4 F. In the event that the Director of the Office of Management  
5 and Enterprise Services declares a General Revenue Fund revenue  
6 failure pursuant to Section 34.49 of Title 62 of the Oklahoma  
7 Statutes, and agency allocations are reduced pursuant to the  
8 provisions of Section 34.49 of Title 62 of the Oklahoma Statutes,  
9 the amounts that would otherwise be apportioned to the ROADS Fund  
10 by:

11 1. Subparagraph a of paragraph 1 of subsection B of this  
12 section, only to the extent that the amount is not required for debt  
13 service related to the obligations authorized pursuant to Section  
14 341 of Title 73 of the Oklahoma Statutes;

15 2. Subparagraphs b and c of paragraph 1 of subsection B of this  
16 section; and

17 3. Subparagraphs a and b of paragraph 2 of subsection B of this  
18 section,  
19 shall be reduced by a percentage equal to that required of the  
20 General Revenue Fund appropriations to state agencies and such  
21 reductions shall occur during the entire fiscal year and for any  
22 month during which such reductions are required by the Office of  
23 Management and Enterprise Services and by the same percentage as  
24

1 that required of the agencies for such General Revenue Fund  
2 appropriations.

3 G. The Department of Transportation shall use the monies in the  
4 Rebuilding Oklahoma Access and Driver Safety Fund for:

5 1. The construction and maintenance of state roads, bridges and  
6 highways;

7 2. The direct expenses of operating and maintaining the state  
8 highway system, including bridges;

9 3. Direct expenses incurred in constructing, repairing, and  
10 maintaining state highways, farm-to-market roads, county highways  
11 and bridges as authorized by law;

12 4. Matching federal funds;

13 5. The purchase of materials, tools, machinery, motor vehicles,  
14 and equipment necessary or convenient for the construction and  
15 maintenance of the state highway system and bridges;

16 6. Debt service incurred prior to January 1, 2006, for Capital  
17 Improvement Program bonds sold pursuant to Section 2001 of this  
18 title; and

19 7. Debt service incurred on or after July 1, 2009, with respect  
20 to obligations authorized to be issued pursuant to Section 341 of  
21 Title 73 of the Oklahoma Statutes.

22 H. From the monies allocated pursuant to the provisions of  
23 subparagraph a of paragraph 1 of subsection B of this section each  
24 fiscal year, the Department of Transportation shall make payments

1 required for the payment of principal, interest and other costs  
2 related to the obligations issued by the Oklahoma Capitol  
3 Improvement Authority as authorized by Section 341 of Title 73 of  
4 the Oklahoma Statutes and such payments shall be made by the  
5 Department each fiscal year before such monies are used for any  
6 other purpose.

7 SECTION 7. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 500.63A of Title 68, unless  
9 there is created a duplication in numbering, reads as follows:

10 The State of Oklahoma hereby makes the following offer to all  
11 federally recognized Indian tribes within this state which, if  
12 accepted, will constitute a supplement to any existing contract  
13 entered pursuant to Section 500.63 of Title 68 of the Oklahoma  
14 Statutes, subject therefore to all other terms of such contracts:

15 1. An amount equal to the total value of sales tax associated  
16 with the sale of motor fuels by a federally recognized Indian tribe  
17 or nation which has entered into a compact with the State of  
18 Oklahoma pursuant to Section 500.63 of Title 68 of the Oklahoma  
19 Statutes shall be included as part of the precollection by the  
20 applicable licensed occasional importer, licensed bonded importer,  
21 or supplier under the provisions of the applicable compact and  
22 applicable state law;

23 2. Tax revenue collected pursuant to the sale of motor fuels  
24 shall be considered and treated as a component of gross motor fuel

1 revenues and gross state motor fuel revenues for tribes that have  
2 accepted the offer made in this section, provided such revenue is  
3 also considered and treated as state motor fuel taxes on the sale of  
4 such products by such tribes, for purposes of the provisions of  
5 state-tribal compacts relating to motor fuel sales;

6 3. Acceptance of this offer by a tribe shall be made in the  
7 same manner as provided in paragraph 8 of subsection C of Section  
8 500.63 of Title 68 of the Oklahoma Statutes; and

9 4. Acceptance of this offer by a tribe shall renew any existing  
10 compact entered pursuant to Section 500.63 of Title 68 of the  
11 Oklahoma Statutes for a new term equal to said compact's initial  
12 term.

13 SECTION 8. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 1362.1 of Title 68, unless there  
15 is created a duplication in numbering, reads as follows:

16 A. The amount of sales tax to be precollected on the sale of  
17 motor fuels subject to the motor fuels tax levied in Section 500.1  
18 et seq. of Title 68 of the Oklahoma Statutes shall be collected in  
19 the same manner and time as the motor fuels tax; provided, that such  
20 sales tax shall be calculated as provided in subsection B of this  
21 section.

22 B. The calculation referenced in subsection A of this section  
23 shall be made on a cents-per-gallon rate determined by the Tax  
24

1 Commission and shall be based on the applicable sales tax percentage  
2 applied to the lesser of:

3 1. The average retail price of a gallon, or gallon equivalent,  
4 of such motor fuel as certified by the Commission, pursuant to the  
5 provisions of subsection C of this section; or

6 2. The maximum nonexempt price per gallon, or gallon  
7 equivalent, of One Dollar and sixty-six cents (\$1.66).

8 The cents-per-gallon rate calculation shall be rounded up to the  
9 nearest one-tenth (1/10) of one cent (\$0.01).

10 C. The Tax Commission on a monthly basis shall publish no later  
11 than the tenth day of each month the average retail price per  
12 gallon, or gallon equivalent for the prior month, for each motor  
13 fuel type subject to the tax levied pursuant to the provisions of  
14 Section 1350 et seq. of Title 68 of the Oklahoma Statutes. For each  
15 month the cents-per-gallon rate calculation provided for in  
16 subsection B of this section shall consider and utilize if  
17 applicable the average retail price per gallon, or gallon  
18 equivalent, published by the Tax Commission in the preceding month.

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